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STATE OF NEW MEXICO  
ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION  
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IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:  
Case No. 25610.

-----  
HEARING - DAY 2  
DATE: Wednesday, March 11, 2026  
TIME: 8:30 a.m.  
BEFORE: Hearing Examiner Gregory Chakalian  
LOCATION: Remote Proceeding  
Santa Fe, NM 87505  
REPORTED BY: Gerald Aragon  
JOB NO.: 7810792

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A P P E A R A N C E S

ON BEHALF OF POWDERHORN OPERATING:

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ALSO PRESENT:

Andrew Fordyce, Technical Examiner, State of  
New Mexico Conservation Division (by videoconference)  
Freya Tschantz, Law Clerk, State of New Mexico  
Oil Conservation Division

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I N D E X

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OPENING STATEMENT By Mr. Rankin 116

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P R O C E E D I N G S

THE HEARING EXAMINER: It is 8:30 a.m., on the 11th of March. We are continuing the contested hearing in case 25610.

Yesterday we heard from one witness from Powderhorn, Mr. Travis Macha, and then we heard Mr. Umekwe from Marathon, a little bit out of order.

So we're going back to Powderhorn, but before we do, are there any preliminary issues that arose last night for anyone?

MR. RANKIN: Mr. Hearing Officer, Adam Rankin for Marathon, not to my knowledge.

THE HEARING EXAMINER: Okay. Thank you.

All right. So Mr. Holliday, who do you want to call next?

MR. RANKIN: Well, we'd like to call Leonard Wood.

THE HEARING EXAMINER: Mr. Wood.

MR. WOOD: Good morning, Mr. Hearing Examiner.

THE HEARING EXAMINER: Good morning, Mr. Wood. I remind you that you're under oath.

MR. WOOD: Yes, sir.

THE HEARING EXAMINER: Mr. Holliday, go

1 right ahead.

2 MR. WOOD: I'm sorry. Is there an echo  
3 on my end?

4 MR. HOLLIDAY: Yes, I was just -- no,  
5 it's mine, but I fixed it.

6 Okay. Just one second. Share my  
7 screen. Go to the exhibits.

8 DIRECT EXAMINATION

9 BY MR. HOLLIDAY:

10 MR. HOLLIDAY: Okay. Good morning,  
11 Mr. Wood.

12 MR. WOOD: Good morning.

13 MR. HOLLIDAY: Just some preliminary  
14 matters before we get rolling. Could you just state  
15 your name and your position with Powderhorn for the  
16 record.

17 MR. WOOD: Leonard Wood. I'm the vice  
18 president of exploration and development.

19 MR. HOLLIDAY: And how long have you  
20 been -- and you're a petroleum geologist; correct?

21 MR. WOOD: Yes. I've been a geologist  
22 for almost 24 years.

23 MR. HOLLIDAY: Right. Okay.

24 MR. WOOD: For a little over 24,  
25 probably.

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1 MR. HOLLIDAY: And can you just really  
2 briefly walk through your educational background.

3 MR. WOOD: Sure. I have a bachelor's  
4 in geology from Midwestern State University in Wichita  
5 Falls. I received that in 1999. And I have a  
6 master's of geoscience from Texas Tech University. I  
7 received that in 2001.

8 MR. HOLLIDAY: Okay. Thank you.

9 And then, could you just provide a  
10 brief summary of your career prior to joining  
11 Powderhorn.

12 MR. WOOD: Yes, sure. Do you want it  
13 in reverse order or from the beginning?

14 MR. HOLLIDAY: Sure, that'd be good.

15 MR. WOOD: After graduation, I went to  
16 work for Matador Resources -- I'm sorry, Matador  
17 Petroleum Corporation, in Dallas, Texas. That company  
18 was acquired by Tom Brown, Inc., and then  
19 subsequently -- I spent four years with that  
20 organization as a geologist.

21 Left there, was at EOG eight years, in  
22 Midland. Held numerous roles as senior geologist,  
23 geological advisor. My last two years there I was  
24 division exploration manager. Left EOG and went to a  
25 private equity startup, Bold Energy III, where I was a

1 partner, was the exploration manager there.

2 And then that entity was acquired by  
3 Earthstone Energy. So between those two, I spent  
4 almost 11 years together, ending up, the last five  
5 years, I was vice president of exploration and  
6 development there.

7 Earthstone is -- was a publicly held  
8 company that was acquired by Permian Resources in  
9 2023. I was an officer at that company; did not  
10 survive the merger with Permian Resources. Started  
11 consulting. Powderhorn was one of my consulting  
12 clients, and then I came to work for them in January  
13 of 2025.

14 MR. HOLLIDAY: All right. Thank you.  
15 And you've previously testified as an  
16 expert before this Division; correct?

17 MR. WOOD: I have.

18 MR. HOLLIDAY: And you prepared a self-  
19 affirmed statement in the exhibits in this -- in  
20 Powderhorn's exhibit packet, that are marked  
21 Exhibit B; is that correct?

22 MR. WOOD: I did.

23 MR. HOLLIDAY: Okay. Do you have any  
24 additions or changes to your testimony that you want  
25 to make right now?



1 MR. WOOD: I do not.

2 MR. HOLLIDAY: Okay. I want to get  
3 into geology a little bit. Mr. Wood, can you describe  
4 the geologic characteristics of the Wolfcamp formation  
5 that underlie the proposed Super Hornet spacing unit?

6 MR. WOOD: Sure, I'd be happy to.

7 And it's my understanding that we're in  
8 agreement with Marathon on targets in geology here,  
9 but Wolfcamp is the most developed reservoir target in  
10 this area, multiple landing targets in the Wolfcamp A,  
11 XY, and the B, C, depending on intraformational  
12 nomenclature. Varies per different company, but in my  
13 testimony I'll refer to the deeper target as the B.

14 It's a mixed siliciclastic deep marine  
15 system. I think across the Super Hornet proposed  
16 interval, the upper target in the Y Sand is -- is  
17 pretty uniform, 50 to 60 feet thick. The lower B  
18 target is pretty uniform, about 125 feet thick.

19 MR. HOLLIDAY: So --

20 MR. WOOD: I'm sorry. Go ahead.

21 MR. HOLLIDAY: I'm sorry.

22 MR. WOOD: I -- I -- I think in review  
23 of Mr. Dupree's exhibits, I think our targets are  
24 equivalent.

25 MR. HOLLIDAY: And in your professional

1 opinion, does the geology, does it support developing  
2 sections 2 and 3 as a single spacing unit?

3 MR. WOOD: Yes, I believe so.

4 MR. HOLLIDAY: And you're aware that  
5 Marathon's geologist, Mr. Dupree, states there's no  
6 substantial geologic difference between Powderhorn's  
7 plan and Conoco's plan; right?

8 MR. WOOD: Yes, I agree with that.

9 MR. HOLLIDAY: And is there anything in  
10 the subsurface geology that would prevent the drilling  
11 of one-and-a-half-mile laterals in an east-west  
12 orientation --

13 MR. WOOD: Not to my --

14 MR. HOLLIDAY: -- cross sections  
15 two -- sorry -- across Section 2 and three?

16 MR. WOOD: Yeah, I -- I -- I don't  
17 believe so.

18 Sorry, Ben, I'll -- I'll wait for you  
19 to finish the question.

20 MR. HOLLIDAY: No, I'm the usual  
21 offender on that, and so I will do a better job of  
22 stopping.

23 I want to turn to Marathon's  
24 Rebuttal Exhibit Number 6.

25 MR. WOOD: Sure.

1 MR. HOLLIDAY: So we can see that there  
2 is a graph on the left-hand side of that exhibit. Can  
3 you tell me what that is?

4 MR. RANKIN: Mr. Hearing Officer, this  
5 would be surrebuttal, and I don't know that we've  
6 asked for leave to present surrebuttal testimony.

7 THE HEARING EXAMINER: Mr. Holliday.

8 MR. HOLLIDAY: This is relevant. The  
9 only argument -- only time maximum stress orientation  
10 was raised was in Marathon's rebuttal exhibits six  
11 hours -- I mean, 24 hours, or less than 24 hours  
12 before the hearing. And it's important in this case,  
13 they're standing on it, they're going to testify about  
14 it. I think it's completely adequate because they  
15 opened the door.

16 THE HEARING EXAMINER: All right, so  
17 hold on a second. Let me orient myself because I've  
18 not seen this exhibit yet.

19 What are we looking at, Mr. Holliday?

20 MR. HOLLIDAY: So if you go to Marathon  
21 Rebuttal Exhibit 6.

22 THE HEARING EXAMINER: Okay.

23 MR. HOLLIDAY: On the left side there's  
24 a blue to green picture map that's labeled "Maximum  
25 Stress Orientation."

1 THE HEARING EXAMINER: I see it now.  
2 So this exhibit was -- when did you  
3 first see this exhibit, Mr. Holliday?

4 MR. HOLLIDAY: Monday night.

5 THE HEARING EXAMINER: Monday night,  
6 okay.

7 And Mr. Rankin, your objection to their  
8 testifying in rebuttal to your rebuttal exhibit is  
9 what?

10 MR. RANKIN: This would be surrebuttal  
11 because they're responding to our rebuttal. We did  
12 raise the orientation and the preference based on -- I  
13 have to pull up his testimony, but I believe it was  
14 addressed in his direct, but this is in response to  
15 Powderhorn's failure to address well orientation and  
16 just pointing out that there is no preference based on  
17 maximum stress orientation, which was the point of  
18 this testimony.

19 THE HEARING EXAMINER: So yesterday, I  
20 remember you were saying, after Mr. Holliday's opening  
21 argument, which is not evidence, that, you know, this  
22 raised a question for you about the orientation. But  
23 it seems to me as though this exhibit opens the door  
24 to that sort of testimony. What do you have to say  
25 about that?

1 MR. RANKIN: So in their direct  
2 testimony, Mr. Examiner, they made arguments that the  
3 northeast quarter was going to be stranded.

4 THE HEARING EXAMINER: Right.

5 MR. RANKIN: And the only way that's  
6 the case, is if they fail to do a stand-up orientation  
7 well.

8 THE HEARING EXAMINER: North-south, you  
9 mean stand-up?

10 MR. RANKIN: Correct.

11 THE HEARING EXAMINER: Okay.

12 MR. RANKIN: And the only reason that  
13 would not be acceptable is if the maximum stress  
14 orientation dictates a lay-down orientation.  
15 Therefore, this testimony regarding the maximum stress  
16 should have been part of their direct case, explaining  
17 why a lay-down orientation was necessary and prevented  
18 them from doing a stand-up, thereby stranding the  
19 northeast quarter.

20 So they -- this was clearly within the  
21 scope of what they should have been putting on in  
22 their direct case, which they didn't do.

23 THE HEARING EXAMINER: So why is this  
24 diagram in your witness's rebuttal testimony?

25 MR. RANKIN: We're pointing out that

1 they failed, in their direct testimony, to put forth  
2 any evidence on maximum stress or preferred well  
3 orientation, and we're solidifying here that there is  
4 no preference based on maximum stress and based on the  
5 history of well development.

6 THE HEARING EXAMINER: And this is  
7 coming in through which of your witnesses?

8 MR. RANKIN: Our geologist.

9 THE HEARING EXAMINER: Geologist.

10 And so you wouldn't have any objection  
11 if this testimony came after your geologist testified;  
12 is that right?

13 MR. RANKIN: Well, I would just say  
14 that they would have to seek leave, I would suggest,  
15 for surrebuttal, because normally that's only at the  
16 leave of the court, and they have to demonstrate why  
17 it's appropriate for them to be given the opportunity  
18 to provide surrebuttal.

19 THE HEARING EXAMINER: Let me think,  
20 Mr. Holliday, if I need anything further from you.  
21 Let me think about this.

22 So let's see, we have an issue here  
23 about the direction of the wells, and the argument is,  
24 hey, this should have been in your direct testimony.

25 Mr. Holliday, why wasn't this part of

1 your direct case in chief?

2 MR. HOLLIDAY: Sure. I think it'd be  
3 helpful to bring us back to what we're doing here  
4 today, which is to approve Powderhorn's plan.

5 THE HEARING EXAMINER: Right.

6 MR. HOLLIDAY: Powderhorn does not plan  
7 to drill a north-south well. Our entire plan in  
8 development has been communicated as east to west.

9 Marathon does not plan to drill a  
10 north-south well. The only time we began discussing  
11 Powderhorn drilling a north-south well was when we  
12 received the rebuttal exhibits on Monday night, which  
13 depict a proposed location from Powderhorn to drill  
14 north-south, and we have this maximum stress  
15 orientation slide as support for that.

16 It's well within the scope of what  
17 we're talking about today, to have our geologist  
18 discuss why that is unacceptable to Powderhorn.

19 THE HEARING EXAMINER: So it was never  
20 Powderhorn's intent to drill a north-south well, it  
21 was always their intent to drill an east-west well?

22 MR. HOLLIDAY: That is correct.

23 THE HEARING EXAMINER: And that's why  
24 you didn't bring it up in your direct.

25 MR. RANKIN: That's correct.

1 THE HEARING EXAMINER: All right.

2 And then, Mr. Rankin, if I'm not  
3 mistaken, didn't Mr. Umekwe, yesterday, discuss this  
4 slide?

5 MR. RANKIN: Well, they -- again, in  
6 response to their engineer's direct testimony, where  
7 they said that the northeast quarter would be  
8 stranded.

9 Again, from the very beginning, if  
10 they're going to say the northeast quarter is going to  
11 be stranded, they have to say why, and they never said  
12 why. And the only reason it's possible is because of  
13 geologic reasons. And they failed to put forth any  
14 evidence in their case in chief for why geologically  
15 it's not possible for them to do north-south.

16 We understood, we learned yesterday for  
17 the first time, the true reason was because they made  
18 a contractual arrangement with Avant that would  
19 require them to only drill a lay-down east to west.

20 So for that -- that is the reason, I  
21 understand, based on Mr. Macha's testimony, that they  
22 are prohibited from considering doing a stand-up well  
23 here, not because of geology.

24 So, again, I would say the reason they  
25 didn't put forth any geologic evidence in their direct



1 was because it wasn't a geologic basis, it was a  
2 contractual basis for their insistence on doing a  
3 lay-down well. So that's why, in my view, they didn't  
4 put forward any geologic evidence in their direct.

5 And so I believe it's late and they  
6 should ask -- you know, they should just put forward a  
7 reason, a clear reason; not just because they didn't  
8 intend to do east-west, but a geologic reason why they  
9 didn't put forward this evidence in their direct case.

10 THE HEARING EXAMINER: Mr. Holliday.

11 MR. HOLLIDAY: I don't think it's  
12 common for operators to argue against their own  
13 position. Again, Powderhorn is the only party with an  
14 application pending. We're requesting to go  
15 east-west. We're not requesting to go north-south.  
16 The only party requesting north-south is Marathon,  
17 who's also planning to go east-west next door. It is  
18 completely reasonable for us to talk about why we  
19 don't agree with that proposed plan.

20 THE HEARING EXAMINER: So I have a  
21 question. This will help me, I think.

22 I understand that it wasn't in the case  
23 in chief, but I understand why. I understand that  
24 this diagram here from your geologist is being  
25 presented to show the Division that they don't have to

1 go east-west, is that what you're saying?

2 MR. RANKIN: That's correct. And I  
3 would just say that Mr. Holliday can have at our  
4 geologist on cross to explain all the reasons, but  
5 that's exactly why.

6 THE HEARING EXAMINER: Yeah, I'm not  
7 wild about parties telling each other how to build  
8 their case, so I'm not going to -- I'm not going to  
9 entertain that idea. But this exhibit here is for  
10 that purpose. Okay. Fine.

11 And yesterday, when your witness was  
12 discussing this slide, what was his point; your  
13 petroleum engineer, or reservoir engineer, what was  
14 his point?

15 MR. RANKIN: So, actually, this slide  
16 came up -- it was not presented through Mr. Umekwe.

17 THE HEARING EXAMINER: Right.

18 MR. RANKIN: Mr. Fordyce raised it with  
19 him.

20 I will say that in our direct  
21 testimony, we stated that there was no preference  
22 based on maximum stress.

23 THE HEARING EXAMINER: Right.

24 MR. RANKIN: So if Powderhorn had an  
25 issue with that, they ought to have put forth

1 something in their rebuttal, which they didn't do,  
2 okay. So that was their opportunity to respond. They  
3 didn't do it.

4 THE HEARING EXAMINER: But this was  
5 filed on Monday, I just asked Mr. Holliday, and he  
6 said he saw this -- Monday night, was it?

7 MR. HOLLIDAY: Correct.

8 THE HEARING EXAMINER: Monday night.  
9 Yesterday was the first day of the  
10 hearing. I think this is fair game. I understand the  
11 technical argument. I understand your technical  
12 argument, but we're not in a court of law. And in the  
13 administrative procedure, we have a lot of flexible  
14 rules here to allow parties to thoroughly present  
15 their case.

16 I could understand if there was some  
17 unfair prejudice to you based on this testimony, but  
18 as this is your exhibit, I don't find the argument  
19 that it should have been presented at some other point  
20 persuasive at this point.

21 MR. RANKIN: May I make one additional  
22 point, Mr. Hearing Officer?

23 THE HEARING EXAMINER: Sure.

24 MR. RANKIN: If you look at  
25 paragraph 10 of our direct evidence --

1 THE HEARING EXAMINER: I don't have  
2 that, so it would take me a moment. What are you  
3 trying to say?

4 MR. RANKIN: I can read it to you,  
5 okay. So this is our direct case that we filed more  
6 than a week ago.

7 THE HEARING EXAMINER: Okay.

8 MR. RANKIN: Okay. Our geologist says:  
9 "In my opinion, the lay-down  
10 orientation of the proposed wells is appropriate given  
11 the geologic stress in this area, which does not  
12 indicate a preferred well orientation as demonstrated  
13 by a mix of existing stand-up and lay-down Wolfcamp  
14 horizontal wells reflected on our exhibit."

15 Okay. So my point here is that if they  
16 have a concern, which they're now expressing about our  
17 statement about maximum stress, that should have come  
18 in, in rebuttal from them, and they didn't do it.

19 In my opening statement, I was going to  
20 make the remark that they'd given up the argument  
21 about stranded acreage because they failed to refute,  
22 or address in any way, the maximum stress orientation,  
23 or any geologic or technical basis for a lay-down.

24 So now, after submitting our rebuttal  
25 to the fact that they didn't address anything in their

1 direct or rebuttal, they want to bring it up. So  
2 that's my concern.

3 THE HEARING EXAMINER: I understand  
4 your concern. So we're here, as Mr. Holliday said, to  
5 either approve or deny his proposed, almost 1000-acre  
6 project, and part of why we're here is to gather  
7 relevant and material evidence to either approve or  
8 deny it.

9 Now, their plan has been to go  
10 east-west from the very beginning. This slide here,  
11 and your witness's testimony, say they don't need to  
12 go east-west, therefore they don't need to strand  
13 that -- or that acreage doesn't need to be stranded.

14 I think it's a hyper-technical argument  
15 to keep out this surrebuttal testimony from this  
16 geologist so that the Division can make an educated,  
17 meaningful decision on this case.

18 And so for that reason, and since it's  
19 not unfair, it doesn't unfairly prejudice you -- I  
20 give you a lot of latitude, Mr. Rankin, to do what you  
21 need to do to help the Division make an educated  
22 choice -- but I feel like I need to let in relevant  
23 and material evidence, so I'm overruling the  
24 objection.

25 Mr. Holliday, go ahead.

1 MR. HOLLIDAY: Thank you.

2 BY MR. HOLLIDAY:

3 MR. HOLLIDAY: So when we look at  
4 Exhibit 6, or Marathon Rebuttal Exhibit 6, what is  
5 this -- well, we've established that this is maximum  
6 stress orientation.

7 Can you explain, just in plain  
8 language, why this is important?

9 MR. WOOD: Sure. And again, I think  
10 it's been established I saw this late Monday evening,  
11 and I'd like to -- to make the statement that since  
12 Marathon and Earth -- I'm sorry, Marathon and  
13 Powderhorn had the same orientation, I thought -- I  
14 didn't think I needed to make this argument.

15 This map shows a published stress  
16 orientation map, maximum horizontal stress, from  
17 Zoback and Snee, I believe. They -- they published  
18 multiple papers on stress orientations in  
19 unconventional basins. This one shows the Greater  
20 Permian Basin, shows the stress rotation across the  
21 Greater Permian Basin. The bulk of the Midland Basin  
22 is predominantly east-west, north -- north 75, north  
23 80 east.

24 As you move west into the Delaware  
25 Basin, and the portion of -- if you look in southeast

1 New Mexico, it still has the same orientation, pretty  
2 much north 80 degrees east. As you move west across  
3 southern New Mexico, the stress field rotates, and it  
4 also rotates below the Grisham Fault in the other  
5 direction in the southern Delaware. So the stress  
6 field is complicated and well-published in the  
7 Delaware Basin.

8 In the east, in Eastern Lea County, due  
9 to the strong stress orientation, wells are drilled  
10 north-south. In Northern Eddy County, due to the  
11 strong stress orientation being -- the SH Max being  
12 north-south, the wells are drilled east-west.

13 Marathon has drawn a red box pretty  
14 much in the project area, or close. I don't have a  
15 planimeter, or digital planimeter, but that looks to  
16 be about north or north 35 east, to me. I think  
17 Mr. Fordyce pointed out in his cross-examination  
18 yesterday of Dr. Umekwe, that he -- he even said  
19 that -- thought it looked a little more preferential  
20 to drill east-west.

21 MR. HOLLIDAY: All right. And just to  
22 make sure I'm clear for the record, what is it about  
23 the maximum stress orientation that makes an east-west  
24 well plan more preferable in your opinion?

25 MR. WOOD: Sure. It's pretty common

1 in -- in horizontal plays, to try to drill as close to  
2 perpendicular to maximum horizontal stress as you can.  
3 Induced hydraulic fractures propagate in the direction  
4 of SH Max. So your horizontal wells are drilled in  
5 the -- the minimum stress direction usually.

6 It's been pointed out by Marathon that  
7 wells are drilled at both orientations. Powderhorn's  
8 960-acre proposal, we -- I think yesterday  
9 Mr. Rankin's testimony that -- or cross, was that  
10 wells could be drilled at multiple orientations for  
11 multiple reasons, timing, pre-existing wells, pooling,  
12 existing permits, existing wells.

13 Powderhorn has a greenfield 960-acre  
14 proposed unit where we can decide the orientation.  
15 Our preference here, given our -- our understanding of  
16 the stress field being north or north 35  
17 degrees -- north 30 to north 35 degrees east, we would  
18 prefer an east-west orientation, which is what we have  
19 before the Commission.

20 MR. HOLLIDAY: Let's move on from that  
21 for a little bit. We may come back, but let's talk  
22 about -- when you were at Earthstone and you were the  
23 vice president of exploration and development, did you  
24 guys drill and complete wells in the area of the  
25 proposed Super Hornet Unit?



1 MR. WOOD: Yes, we -- we had some  
2 development. Earthstone acquired a company in late  
3 2001, early 2002, Chisholm Energy. They had -- they  
4 had assets in the township to the north, 23 South, 26  
5 East.

6 MR. HOLLIDAY: Okay. And you guys  
7 drilled some wells called the Cletus wells, that were  
8 approximately two miles northwest of here; right?

9 MR. WOOD: We did.

10 MR. HOLLIDAY: And what orientation  
11 were those wells drilled?

12 MR. WOOD: North-south.

13 MR. HOLLIDAY: Would you have drilled  
14 these wells north-south if you could have chosen  
15 another way -- or let me -- wait, strike that.

16 Why were these wells drilled  
17 north-south?

18 MR. WOOD: Sure. When Earthstone  
19 acquired Chisholm -- excuse me -- those wells were  
20 pooled and permitted, I believe, pooled for sure, in a  
21 north-south orientation.

22 Plus, Chisholm had existing wells on  
23 the east and west, I believe the Dark Canyon wells are  
24 on the east and the Asteroid wells are on the west,  
25 preventing a two mile east-west orientation.

1           MR. HOLLIDAY: Do you believe that, for  
2 these Cletus wells, the completion -- would it have  
3 been more optimized if they had been drilled on a  
4 east-west orientation?

5           MR. WOOD: I believe the stress  
6 orientation is slightly more preferable to an  
7 east-west orientation. I believe the -- the wells  
8 would be slightly better.

9           MR. HOLLIDAY: Okay. And how did you  
10 sequence the Wolfcamp wells, the Wolfcamp A and the  
11 Wolfcamp B, how were those sequenced in the Cletus  
12 Unit?

13           MR. WOOD: Going back in the vault,  
14 Mr. Holliday, but I think -- I think when we acquired  
15 Chisholm, the Asteroid wells had been drilled to the  
16 west and the Dark Canyon wells had been drilled to the  
17 east.

18                   We drilled two XY wells on the east  
19 half in a stand-up orientation, and then came back, I  
20 think, say, 15 months later, plus or minus, and  
21 drilled two more XY locations and tested the B  
22 interval as a single target.

23           MR. HOLLIDAY: And do you  
24 believe -- and this is the last question I have about  
25 this.

1 MR. WOOD: Sure.

2 MR. HOLLIDAY: Do you believe that that  
3 orientation, or excuse me, that the sequencing was  
4 optimal?

5 MR. WOOD: I think with the capital  
6 restraints that Earthstone had, we -- we didn't have  
7 the budget to drill four wells at the same time, I  
8 think is my recollection, or room in the drill  
9 schedule. I think there were multiple reasons for the  
10 two-phase development.

11 MR. HOLLIDAY: Okay. If you had had  
12 the budget, would you have liked to drill all the  
13 wells at the same time?

14 MR. WOOD: Absolutely, yes.

15 MR. HOLLIDAY: Okay. I want to talk a  
16 little bit about Conoco's alternative plan for the  
17 north half of Section 2. When we look at well  
18 orientation, what's the well orientation that Marathon  
19 has proposed for its Campana wells in the north half  
20 of Section 2?

21 MR. WOOD: East-west.

22 MR. HOLLIDAY: They're east-west.

23 So I just want to make sure I'm clear.  
24 Marathon plans to drill east-west wells, but they want  
25 Powderhorn to agree, north-south wells in the east

1 half of 3.

2 Is there any geologic basis for that  
3 distinction?

4 MR. WOOD: I didn't -- excuse me -- I  
5 didn't prepare those exhibits, but it was my  
6 understanding that we -- we had competing -- competing  
7 well proposals with the same orientation and the same  
8 target. I -- I -- I didn't know we were going to have  
9 to do a stress orientation.

10 But, again, Powderhorn has a 960-acre  
11 unit that we're proposing that has no wells on it.  
12 Our preference would be, given the slight north-south  
13 bias of the stress field, we would prefer to drill  
14 east-west.

15 MR. HOLLIDAY: Yeah. And I'll say for  
16 the record that I didn't look forward to having to  
17 read the Snee and Zoback article on the airplane on  
18 the way here.

19 MR. WOOD: I understand.

20 MR. HOLLIDAY: Do you think, or in your  
21 professional opinion, does -- or I keep calling Conoco  
22 Marathon. They're synonymous in my mind.

23 Is Marathon's choice to drill its own  
24 wells east-west, does that confirm that they -- that  
25 the east-west is the preferred orientation?

1 MR. WOOD: In my opinion, yes.

2 MR. HOLLIDAY: Right. Okay. Let's  
3 move to lateral length.

4 So from a geological perspective, is  
5 there any reason Powderhorn cannot drill  
6 one-and-a-half-mile laterals across section 1 and 2?

7 MR. WOOD: Section 2 and 3?

8 MR. HOLLIDAY: I'm sorry, yeah,  
9 Section 2 and 3, sorry.

10 MR. WOOD: Yeah, I -- I -- I've already  
11 testified that -- or provided my statement that I  
12 believe that the -- the geology is uniform across the  
13 east half of 3, and Section 2.

14 MR. HOLLIDAY: So Marathon originally  
15 proposed their one-and-a-half miles also, and then  
16 they -- we've discussed ad nauseam, that they've  
17 switched to a one-mile lateral. But from a geological  
18 standpoint, is there any geological basis for  
19 shortening those laterals to one mile?

20 MR. WOOD: Not in my opinion.

21 MR. HOLLIDAY: And we, I believe we  
22 discussed in your prior testimony, that horizontal  
23 wells can be drilled in orientations other than  
24 perpendicular maximum horizontal stress; correct?

25 MR. WOOD: Sure. That's correct.

1 MR. HOLLIDAY: But does that mean that  
2 stress orientation is irrelevant to well planning?

3 MR. WOOD: No, not -- not at all. I  
4 think stress orientation is very important. But I  
5 think even Mr. Rankin pointed out yesterday that there  
6 are other reasons wells get drilled besides stress  
7 orientation.

8 MR. HOLLIDAY: But operators generally,  
9 in your experience, consider the stress direction when  
10 planning their well orientation?

11 MR. WOOD: Yes.

12 MR. HOLLIDAY: And even though there's  
13 multiple possible -- multiple orientations that are  
14 physically possible, we're not going to talk about  
15 whether they're economically preferable, but if  
16 they're physically possible, is Powderhorn's east-west  
17 orientation, is that consistent with sound geologic  
18 and engineering practice?

19 MR. WOOD: Yes, in my opinion.

20 MR. HOLLIDAY: Okay. We're pretty  
21 close. I have a few questions about Powderhorn's  
22 plan. Because we've done -- we've talked a lot about  
23 maximum stress, but I just want to make sure we've  
24 fully covered Powderhorn's plan because that's what  
25 we're here to approve or disapprove.

1           Can you describe Powderhorn's proposed  
2 development plan from a geological perspective?

3           MR. WOOD:   Sure.  We plan to drill the  
4 401 through 404 wells first, targeting the -- the  
5 Y Sand, Upper A Sand, completing those and then coming  
6 back, probably within a year or so, and drilling the B  
7 target.

8           MR. HOLLIDAY:  Okay.  And in your  
9 professional opinion, this development plan, it's  
10 geologically sound?

11          MR. WOOD:  I -- I believe so.  I think  
12 other operators in the area have drilled A wells  
13 without drilling Bs, with plans to come back later.

14          MR. HOLLIDAY:  Okay.  And just broadly,  
15 Marathon's alternative proposal in which they would  
16 also have to -- the Division would also have to deny  
17 Avant's plans for the same acreage.  So the if  
18 Conoco's alternative is accepted and Powderhorn's plan  
19 is denied and Avant's plan is denied, and Powderhorn  
20 has to drill its one mile north-southwest, do you  
21 think that makes sense from a geological perspective?

22          MR. WOOD:  I do not.

23          MR. HOLLIDAY:  All right.  I just have  
24 two more questions.

25          So based on your 24 years of experience

1 as a petroleum geologist, you know, you reviewed this  
2 acreage, the data, it's your opinion -- or is it your  
3 opinion that Powderhorn's proposed development plan is  
4 geologically reasonable and consistent with sound  
5 industry practice?

6 MR. WOOD: I do. I believe it is.

7 MR. HOLLIDAY: Right. And it's your  
8 opinion, right -- or sorry.

9 Is it your opinion that Powderhorn's  
10 proposed development plan will prevent waste and  
11 protect drill rights?

12 MR. WOOD: Yes.

13 MR. HOLLIDAY: I think that those are  
14 all my questions.

15 THE HEARING EXAMINER: I have a  
16 question before we turn to Mr. Rankin.

17 Mr. Wood, I didn't hear, maybe I missed  
18 it, I didn't hear you address the assertion yesterday  
19 from Mr. Umekwe, that there's going to be parent-child  
20 well interference. Would you talk to that?

21 MR. WOOD: Yeah, I think  
22 there's -- there's a -- the way that we would drill  
23 east-west here, Mr. Examiner, there would be minimal  
24 parent-child influence from existing wells developed  
25 by the industry.



1 I think if we drilled as proposed by  
2 Marathon, the north-south U-turn in the east half of  
3 Section 3, we would have a parent well, I believe,  
4 that was drilled five years ago -- I apologize, I  
5 don't remember the date -- some depletion.

6 But I believe -- I believe us  
7 co-developing with four -- or developing all of the  
8 XY Sand at one time would minimize parent-child in  
9 that bench, versus the plan of Marathon drilling two  
10 wells and then Powderhorn drilling two wells in  
11 the -- in the south half.

12 Did that answer your question,  
13 Mr. Examiner?

14 THE HEARING EXAMINER: Well, it begins  
15 to. I'm not sure that I --

16 MR. WOOD: Okay.

17 THE HEARING EXAMINER: -- feel  
18 confident about the answer. So --

19 MR. WOOD: Could you -- could you state  
20 the question again? I'm sorry.

21 THE HEARING EXAMINER: Well,  
22 yesterday --

23 MR. WOOD: I just want to make sure I  
24 answer it.

25 THE HEARING EXAMINER: Were you present

1 yesterday when Marathon's witness was testifying?

2 MR. WOOD: I was.

3 THE HEARING EXAMINER: Okay. And you  
4 saw the graph that he --

5 MR. WOOD: Yes.

6 THE HEARING EXAMINER: That he  
7 developed. Okay. And it showed that gap between the  
8 two, the parent and the child development?

9 MR. WOOD: Yes.

10 THE HEARING EXAMINER: Okay. There it  
11 is there.

12 MR. WOOD: Yes.

13 THE HEARING EXAMINER: So how do you  
14 address that, about 19 percent drop in production?

15 MR. WOOD: Sure, sure.

16 THE HEARING EXAMINER: And as a  
17 follow-up, what would the drop be, in your expert  
18 opinion, if there is a drop?

19 MR. WOOD: I -- I'm not disputing  
20 doctors Dr. Umekwe's evaluation of that unit. I don't  
21 believe -- I did -- I -- I do think it was pointed out  
22 yesterday that there was a three-year gap between the  
23 original parent wells and the project wells that were  
24 drilled in the deeper interval.

25 Powderhorn's intent would be to get

1 back to the deeper bench as soon as possible to  
2 minimize that 19 percent. I mean, if we got back  
3 within a year, Mr. Examiner, it -- it could be zero.  
4 I mean, it could be 2 percent. I don't -- I don't  
5 know.

6 THE HEARING EXAMINER: And how does the  
7 time -- how does the timing of the drilling of the  
8 second set of wells relate to the drop?

9 MR. WOOD: It would be pressure -- or  
10 production draw-down from the -- the upper reservoir  
11 that would lower pressure. It would -- it would  
12 cause -- I think when -- it's my understanding, I  
13 think it's generally understood, that during hydraulic  
14 fracturing, the fractures would communicate up to a  
15 lower pressured interval. This has been -- that's  
16 shown in the -- the -- Potato Baby was a three-year  
17 gap.

18 I think we -- we could get back a lot  
19 faster. Our plan is, and Mr. Tippen can speak to it,  
20 but I think our underwriting on this project with our  
21 partners was about a one year return.

22 THE HEARING EXAMINER: All right.  
23 Thank you.

24 Mr. Rankin. Or is it Ms. Vance?  
25 Mr. Rankin.

1 MR. RANKIN: Thank you very much.

2 Mr. Holliday, may I take over the  
3 sharing from you? Thank you.

4 CROSS-EXAMINATION

5 BY MR. RANKIN:

6 MR. RANKIN: Just want to hit a couple  
7 things to make sure I got it, for the record.

8 I think you did confirm that Powderhorn  
9 is not proposing to drill any of its initial wells in  
10 the Wolfcamp B target; correct?

11 MR. WOOD: Correct.

12 MR. RANKIN: And the intent is to come  
13 back within a year to target those -- the lower bench;  
14 correct?

15 MR. WOOD: That's -- that's my  
16 understanding, yes, sir.

17 MR. RANKIN: But there's nothing  
18 holding Powderhorn to that time frame, is there, even  
19 under a pooling order?

20 MR. WOOD: No, sir. Just would  
21 probably be our preference on -- on capital outlay.

22 MR. RANKIN: Okay. And just to  
23 reiterate, I mean, you're not aware of any requirement  
24 under a pooling -- I mean, you could -- Powderhorn  
25 could just drill its first bench wells and then do

1 nothing subsequent to that; correct?

2 MR. WOOD: In theory, yes, sir.

3 MR. RANKIN: Okay. Now, I want to ask  
4 you a couple questions about -- you testified about  
5 the previous development experience you had in the  
6 area, I believe it was the Cletus wells; correct?

7 MR. WOOD: Yes, sir.

8 MR. RANKIN: And you testified that  
9 during the development of that project, the operator,  
10 I think it was Chisholm at the time, targeted the XY  
11 at the top initially, correct, with two wells?

12 MR. WOOD: Earthstone drilled those  
13 wells, but the properties were acquired by Chisholm,  
14 yes, sir.

15 MR. RANKIN: Okay. So -- but they  
16 drilled the two XYs in the east half initially;  
17 correct?

18 MR. WOOD: Correct.

19 MR. RANKIN: And then they came back  
20 and they drilled the B about 15 months later; correct?

21 MR. WOOD: Two additional XY wells  
22 and -- and a B test.

23 MR. RANKIN: And one B test, okay.

24 And you testified that if Earthstone  
25 had the money, it would have preferred to drill both

1 benches at the same time; correct?

2 MR. WOOD: I -- I believe my testimony  
3 was I would have preferred to drill all four XY wells  
4 at the same time.

5 MR. RANKIN: I think -- okay. So --

6 MR. WOOD: But -- but yes, you're  
7 correct, Mr. Rankin, I -- I believe our -- our drill  
8 schedule, timing and the drill schedule and -- and  
9 capital outlay was -- was the main driver there.

10 MR. RANKIN: Preference would have been  
11 to drill both benches at once; correct?

12 MR. WOOD: No, sir. We drilled a -- a  
13 B well to test, a single B well to test its economic  
14 viability north-south.

15 MR. RANKIN: Okay. So you're telling  
16 me that your testimony was limited to drilling the  
17 single bench at one time?

18 MR. WOOD: Sure.

19 MR. RANKIN: Is that correct?

20 MR. WOOD: Yes, sir.

21 MR. RANKIN: Okay. Now, you testified  
22 that you didn't know that you're going to have to  
23 address stress orientation in this hearing; correct?

24 MR. WOOD: I -- I didn't think it  
25 necessary given the orientations were, between the two

1 companies, were identical.

2 MR. RANKIN: You're familiar with your  
3 colleague Mr. Macha's testimony, that was prepared and  
4 filed in this case?

5 MR. WOOD: I -- I -- I listened to it  
6 yesterday, yes, sir.

7 MR. RANKIN: Okay. And you're aware  
8 that he testified, in his written testimony and in his  
9 oral testimony, that the concern, Powderhorn's driving  
10 concern here is that the northeast quarter could  
11 be -- is at risk of being stranded as a result of  
12 Marathon's development?

13 MR. WOOD: Yes.

14 MR. RANKIN: I'm pointing -- I'm  
15 directing your attention to paragraph 25 of his direct  
16 written testimony.

17 MR. WOOD: Okay.

18 MR. RANKIN: You're aware --

19 MR. WOOD: I've read it.

20 MR. RANKIN: Okay. So you're aware at  
21 the time that Powderhorn's testimony was filed, that  
22 the company was making an argument that the northeast  
23 quarter, Section 3, was going to be stranded; correct?

24 MR. WOOD: Yes.

25 MR. RANKIN: Okay. And on a technical

1 basis, purely technical, what could be a  
2 reason -- what's the reason for a potential stranding  
3 of that acreage in the northeast quarter of Section 3?

4 MR. WOOD: I'm -- I'm sorry,  
5 Mr. Rankin, could you repeat the question one more  
6 time?

7 MR. RANKIN: Sure. On a technical  
8 basis, geologically, what is a reason that the  
9 northeast quarter of Section 3 could be stranded if  
10 Marathon were to do its development?

11 MR. WOOD: I think the -- the -- I  
12 think the section could be developed north-south by  
13 Powderhorn, but I -- our proposal was to drill the 960  
14 east-west and not strand that acreage.

15 MR. RANKIN: Okay. So just to be  
16 clear, I think I had understood you to say that it's  
17 possible for Powderhorn to drill a stand-up in that  
18 acreage; correct?

19 MR. WOOD: It's possible, yes, sir.

20 MR. RANKIN: Okay. And when I look at  
21 what other operators are doing in the area, and I'm  
22 talking about here -- I'm looking at Powderhorn's  
23 Exhibit A-8 -- immediately offsetting in the west half  
24 of Section 3, Permian Resources has drilled a stand-up  
25 well, north-south orientation. Do you see that?



1 MR. WOOD: Yes, sir. That well was  
2 drilled by Chisholm and is now owned by Permian  
3 Resources.

4 MR. RANKIN: Okay. So in your opinion,  
5 was the drilling of that well done through sound  
6 geologic and engineering principles?

7 MR. WOOD: I -- I don't think it's at  
8 an optimum orientation or landing.

9 MR. RANKIN: Okay. But that didn't  
10 answer my question, I guess. Do you think it was done  
11 through sound geologic engineering and --

12 MR. WOOD: I -- I -- I wasn't at  
13 Chisholm at the time and it would not have been my  
14 preferred orientation.

15 THE REPORTER: Gentlemen, this is the  
16 reporter. I'm sorry for interrupting, but if you  
17 could please wait for each other to finish speaking to  
18 answer a question. Thank you.

19 MR. WOOD: Yes, I apologize.

20 BY MR. RANKIN:

21 MR. RANKIN: So, I guess, I understand  
22 that's not your preference, but I'm asking a different  
23 question. I'm asking you whether you would agree that  
24 that well was drilled using sound geologic and  
25 engineering principles?

1 MR. WOOD: Sure, Mr. Rankin.

2 MR. RANKIN: Okay. And then you would  
3 agree with me that Mewbourne's proposed spacing unit  
4 in the west half of 35, that's a stand-up, would also  
5 be following sound geologic and engineering  
6 principles?

7 MR. WOOD: Sure.

8 MR. RANKIN: Okay. Same with Coterra's  
9 planned stand-up wells in sections 10 and 15, and 11  
10 and 14; agree?

11 MR. WOOD: I don't believe there's any  
12 wells permitted in those sections.

13 MR. RANKIN: Okay. How about the  
14 existing wells in 11 and -- in 10 and 15, would you  
15 agree that that well was drilled using sound  
16 engineering and geologic principles?

17 MR. WOOD: Yes, the -- all the wells in  
18 the area were drilled using geologic and engineering  
19 principles.

20 MR. RANKIN: Sound geologic and  
21 engineering principles; agree?

22 MR. WOOD: Sure.

23 MR. RANKIN: Not letting me switch  
24 my -- one moment. There we go.

25 And looking at Marathon Rebuttal 6, on

1 the right-hand side of the exhibit, where it's  
2 demonstrated that there -- you know, pre-2017 wells,  
3 and then wells from 2017 forward, you agree with me  
4 that the majority of the acreage drilled immediately  
5 offsetting the proposed acreage, or contested acreage  
6 in this case, all reflect stand-up orientations;  
7 agree?

8 MR. WOOD: I would agree with that  
9 statement, Mr. Rankin.

10 MR. RANKIN: And you would agree with  
11 me, based on your prior testimony, that all those  
12 wells, and the decisions to drill them, were based on  
13 sound geologic and engineering principles; agree?

14 MR. WOOD: Yes, sir.

15 MR. RANKIN: Okay. Mr. Chakalian, the  
16 hearing examiner, was asking you some questions about  
17 this exhibit that was discussed by Marathon's  
18 reservoir engineer, Rebuttal Exhibit Number 5, and I  
19 think I heard you say that if the timing is done well,  
20 that there might be zero degradation as a result of  
21 sequentially developing these benches. Is that still  
22 your testimony?

23 MR. WOOD: Yes, sir.

24 MR. RANKIN: Okay. So your opinion  
25 is -- but you're not an engineer; right?

1 MR. WOOD: I am not.

2 MR. RANKIN: Okay. And that analysis  
3 about potential degradation is usually something that  
4 an engineer addresses; correct?

5 MR. WOOD: My statement was  
6 qualitative, but engineering usually does that  
7 analysis.

8 MR. RANKIN: Okay. So you yourself  
9 haven't prepared any sort of an assessment, or done  
10 any kind of review, technical review of the potential  
11 for degradation due to sequential vertical offset  
12 development; correct?

13 MR. WOOD: No, that would be  
14 Mr. Tippen's purview.

15 MR. RANKIN: Okay. And so your opinion  
16 and your testimony to Mr. Chakalian wasn't based on  
17 any expertise in that area; correct?

18 MR. WOOD: Mr. Rankin, I've -- I've  
19 worked at multiple companies and been involved in  
20 multiple drilling programs where we've witnessed  
21 parent-child interference. I think I could make a  
22 qualitative statement on -- on depletion.

23 MR. RANKIN: Okay. But have you -- in  
24 the history of your work, have you done any technical  
25 analysis evaluating parent-child degradation --

1 MR. WOOD: Not -- not personal --

2 MR. RANKIN: -- in a top-down --

3 MR. WOOD: Not personally.

4 MR. RANKIN: Okay. So you don't have  
5 the background or expertise to testify on that, do  
6 you?

7 MR. WOOD: Correct, Mr. Rankin, I am  
8 not an engineer.

9 MR. RANKIN: You agree that the  
10 vertical offset between the upper bench and the lower  
11 bench proposed by Powderhorn is approximately 610  
12 feet?

13 MR. WOOD: That's what's shown on  
14 Marathon's exhibit. I -- I believe that's correct. I  
15 believe our targets were almost identical between the  
16 A and the B, so I would -- I would assume that footage  
17 is correct.

18 MR. RANKIN: And in your opinion -- I  
19 mean, have you discussed the potential for vertical  
20 top-down parent-child degradation with your engineers  
21 in Powderhorn's development?

22 MR. WOOD: We have discussed it, and  
23 our opinion was --

24 MR. RANKIN: You have not --

25 MR. WOOD: I'm sorry?

1 MR. RANKIN: I'm sorry. I'm sorry. I  
2 couldn't understand. But you said you have not?

3 MR. WOOD: We have. And our -- our  
4 timing -- we have discussed getting back as soon as  
5 possible, which has seemed to be geologic practice by  
6 other operators in the area. There was --

7 MR. RANKIN: So based on -- go ahead.

8 MR. WOOD: I'm sorry. There was a  
9 development two miles to the east, I believe that was  
10 a farm out from Conoco/Marathon, that was solely  
11 developed in the XYA, and the -- the B was not  
12 drilled, co-developed, in that project.

13 MR. RANKIN: So based on the  
14 discussions and the intention to come back as quickly  
15 as possible, you agree with me that there was a --  
16 there's a recognition by Powderhorn that there is a  
17 likelihood of a parent-child degradation effect as a  
18 result of top-down development?

19 MR. WOOD: I think there's potential  
20 parent-child effects if the entire -- in -- in any  
21 scenario where all wells are not drilled at the same  
22 time.

23 MR. RANKIN: Okay. I'm going to set  
24 aside the horizontal concerns for later, okay, but I'm  
25 asking you now, you agree with me that as to the

1 top-down effect when they're not -- when they're  
2 sequentially developed, there's going to be a likely  
3 impact from parent-child impacts; correct?

4 MR. WOOD: Sure.

5 MR. RANKIN: And is it your opinion,  
6 based on your discussions with your engineers, that a  
7 600 vertical offset, or slightly more than 600  
8 vertical offset, is sufficient to avoid a parent-child  
9 degradation effect?

10 MR. WOOD: I believe that we were  
11 comfortable with that distance.

12 MR. RANKIN: And what is that based off  
13 of?

14 MR. WOOD: I believe we were  
15 comfortable with that distance given the mixed  
16 lithology. There's a pretty ductile shale  
17 between -- other operators in the area are not co-  
18 developing, they're drilling the top-down bench.  
19 Based on multiple variables we -- we were comfortable  
20 with coming back.

21 MR. RANKIN: Have you or anyone at  
22 Powderhorn conducted any studies that support your  
23 opinion that a 610 vertical offset is sufficient to  
24 avoid or mitigate parent-child impacts?

25 MR. WOOD: I don't want to speak to all

1 of Mr. Tippen's reservoir studies. I'll defer that  
2 question to him.

3 MR. RANKIN: Okay. But to your  
4 knowledge, are you aware of any studies done by  
5 anybody at Powderhorn?

6 MR. WOOD: Mr. Tippen has looked at a  
7 lot of wells. I -- I -- I don't want to speak to all  
8 the patterns that he's looked at.

9 MR. RANKIN: I'm not asking you to  
10 speak for him. I'm asking you to speak for yourself.  
11 To your knowledge, personal knowledge, are you aware  
12 of any studies that were done that contributed to the  
13 determination of a 610 vertical offset here?

14 MR. WOOD: I don't recall, Mr. Rankin.

15 MR. RANKIN: Okay. In your opinion, is  
16 there any -- would there be any benefit to developing  
17 the Wolfcamp A or XY Sand and the Wolfcamp B bench  
18 simultaneously?

19 MR. WOOD: I think it would mitigate  
20 the chance for top-down parent-child.

21 MR. RANKIN: I think you picked up on  
22 something I said in one of my cross-examination  
23 questions yesterday, or one of my questions about  
24 there may be multiple reasons for operators to choose  
25 different development plans, whether it's sequential



1 development or well orientation.

2 And my question to you is that -- your  
3 testimony is that your preference, yeah, there's a  
4 slight preference for a lay-down, well orientation in  
5 this case for Powderhorn based on the geology;  
6 correct?

7 MR. WOOD: Correct.

8 MR. RANKIN: Okay. In addition to your  
9 opinion about maximum stress in the well orientation,  
10 isn't it true that Powderhorn has also entered into a  
11 contract with Avant that requires it to drill  
12 east-west oriented wells in this acreage?

13 MR. WOOD: I believe that was Mr.  
14 Macha's testimony.

15 MR. RANKIN: And isn't it true that  
16 Powderhorn prefers a longer lateral length over a  
17 shorter lateral length; correct?

18 MR. WOOD: I -- I think it's generally  
19 accepted in the industry that longer laterals  
20 are -- are more economic. Yes, Powderhorn prefers  
21 longer laterals.

22 MR. RANKIN: And the only way to do  
23 that is east-west here; correct?

24 MR. WOOD: Yes, sir.

25 MR. RANKIN: Okay. So it's not just

1 well orientation, or rather, maximum stress  
2 orientation here, there's other factors that  
3 contribute to Powderhorn's preferences; correct?

4 MR. WOOD: Yes. We -- we -- we like  
5 our plan for four 7500-foot wells.

6 MR. RANKIN: Okay. But you would agree  
7 with me that even if the geology favored a north-south  
8 orientation here, Powderhorn is under contract that  
9 requires it to drill east-west; correct?

10 MR. WOOD: We -- we -- I'm sorry,  
11 Mr. Rankin, please restate the question.

12 MR. RANKIN: Yeah. I mean, all things  
13 set aside, Powderhorn has entered into a contract  
14 requiring it to drill east-west.

15 MR. WOOD: That's correct, because  
16 we -- we prefer east-west.

17 MR. RANKIN: I have no other questions,  
18 Mr. Hearing Officer.

19 THE HEARING EXAMINER: Thank you.

20 Mr. Fordyce.

21 MR. FORDYCE: Yeah, I have maybe one  
22 follow-up question, actually --

23 MR. WOOD: Yes, sir.

24 MR. FORDYCE: -- on the slide that  
25 Mr. Wood was asked to discuss, Rebuttal Exhibit 5.

1 CROSS-EXAMINATION

2 BY MR. FORDYCE:

3 MR. FORDYCE: I'm going to say it's not  
4 completely clear what this graph is displaying in  
5 terms of the blue line just being potentially, I  
6 guess, the wells in the Keg Shell Unit, and the orange  
7 line, I would assume, being just the wells in the  
8 Potato Baby Unit.

9 But I believe it was mentioned  
10 that -- you know, we discussed here that there was a  
11 time lapse of approximately three years between the  
12 drilling and completion of parent well and project  
13 wells.

14 Mr. Wood, could you think of, you know,  
15 any other, you know, possible influences on this well  
16 performance and production that could have taken place  
17 over the course of those three years, or is the only  
18 reason that we see the difference here, the parent  
19 project well, the type of interference?

20 MR. WOOD: Sure, Mr. Fordyce, I'd love  
21 to answer that question.

22 I think the spacing looks equivalent,  
23 but the timing between the parent and child could be  
24 influenced by several other things. I believe  
25 pipeline takeaway, some of those wells could have been

1 shut in. I don't think Dr. Umekwe had any knowledge,  
2 or testified that he had any knowledge of anything  
3 that changed on the subsurface.

4 Those wells could have been pipeline  
5 constrained. They could have been down for artificial  
6 lift. There -- there's multiple variables that could  
7 have contributed to a loss of production other than  
8 just sequential timing.

9 MR. FORDYCE: So would it be fair to  
10 say that there's a lot of factors that go into this  
11 graph that we're not aware of?

12 MR. WOOD: Yes, sir, I -- I believe  
13 that's correct.

14 MR. FORDYCE: Thank you, Mr. Wood.

15 I don't have any other questions.

16 THE HEARING EXAMINER: Mr. Holliday, is  
17 there any redirect?

18 MR. HOLLIDAY: Just a few. I'll be as  
19 brief as I can.

20 REDIRECT EXAMINATION

21 BY MR. HOLLIDAY:

22 MR. HOLLIDAY: I want to -- well,  
23 first, let's talk about your decision and time  
24 constraints on coming back to drill the B. I believe  
25 it was your testimony that Powderhorn intends to come

1 back within approximately one year; is that correct?

2 MR. WOOD: That's correct.

3 MR. HOLLIDAY: And what would drive  
4 that decision to come back for -- why would Powderhorn  
5 want to come back within one year?

6 MR. WOOD: I think -- I think we want  
7 to get -- get capital to work as soon as possible. I  
8 think our current layout for east-west wells and our  
9 facility development contemplates one well. I think  
10 putting those wells on a year later would allow for  
11 the initial flowback of the -- the parent wells,  
12 allowing us not to build a giant facility.

13 Powderhorn is also engaged in  
14 additional projects. We're -- we're working on  
15 permitting an additional project to the north. So  
16 we're -- there would be other places for the rig to  
17 go. We wouldn't just plant it there. But I think  
18 coming back, it's my testimony that coming back sooner  
19 rather than later is better for the reservoir.

20 MR. HOLLIDAY: And so Powderhorn would  
21 be, is it fair to say, highly incentivized to come  
22 back within a year?

23 MR. WOOD: Yes. I mean, we're all  
24 partners and investors in the company. We want to do  
25 the best thing for our investment.

1 MR. HOLLIDAY: Okay. I want to go back  
2 to your testimony, I believe it was about the Cletus  
3 wells, and there was a question over whether -- you  
4 said: I would have liked to have drilled them all at  
5 the same time -- and I'm paraphrasing.

6 MR. WOOD: Sure.

7 MR. HOLLIDAY: I would like to drill  
8 them all at the same time, but there was capital  
9 constraints.

10 To clarify for the record, were those  
11 capital constraints preventing you from drilling the  
12 A and B simultaneously, or did they prevent you from  
13 drilling the full A bench simultaneously?

14 MR. WOOD: Again, Mr. Holliday,  
15 I -- I've slept since we were looking at that drill  
16 schedule, but Earthstone generally drilled -- is not  
17 \$150 billion company like ConocoPhillips, so we -- we  
18 drilled smaller pads, hopped around, had wells come  
19 online when we forecasted, and then we would come  
20 back. We were trying to manage capital and -- and  
21 meet our production goals as a public company.

22 MR. HOLLIDAY: Adam, can I grab the  
23 exhibits real quick?

24 I want to go to this slide, which is  
25 Marathon's Rebuttal Exhibit 4.

1 MR. WOOD: Yes, sir.

2 MR. HOLLIDAY: So if I look at this,  
3 there are offsetting north-south wells, one to the  
4 east, that's Coterra, and one to the west, that's  
5 Permian Resources; correct?

6 MR. WOOD: Yes.

7 MR. HOLLIDAY: And there's an existing  
8 north-south well approximately in the middle to the  
9 south; correct?

10 MR. WOOD: Yes, sir. That Coterra  
11 Bradley well, yes, sir.

12 MR. HOLLIDAY: Okay. Mr. Rankin asked  
13 about why Mewbourne and Coterra may be planning to  
14 drill north-south wells. Let's take a look in  
15 Section 35. If Mewbourne wanted to drill east to  
16 west, could they do that based on the existing wells  
17 in that location?

18 MR. WOOD: That map is small, but it  
19 appears that they are constrained for that  
20 orientation.

21 MR. HOLLIDAY: Okay. So the same  
22 question for the Coterra existing units to the east  
23 and the south. Let's say Coterra wanted to drill east  
24 to west, would they be constrained from doing so based  
25 on existing wells?

1 MR. WOOD: I believe due to existing  
2 wells and -- and pooling.

3 MR. HOLLIDAY: All right. So it's fair  
4 to say their decision to drill north-southwest is at  
5 least likely -- or excuse me, possible, it's based on  
6 factors other than geology, it could be based on  
7 pooling and the presence of existing wells; is that  
8 correct?

9 MR. WOOD: Correct.

10 MR. HOLLIDAY: Okay. I want to go to  
11 our exhibit, or Powderhorn's Exhibit A-8. Just give  
12 me just a second.

13 Actually, that was the slide I was  
14 going to look at, but I borrowed Marathon's.

15 Okay. I believe that's all my  
16 questions. Thank you.

17 THE HEARING EXAMINER: Does that bring  
18 up any recross for you, Mr. Rankin?

19 MR. RANKIN: No. I think we can allow  
20 Mr. Wood to be excused.

21 THE HEARING EXAMINER: Thank you.

22 Mr. Fordyce, did that bring up any  
23 additional questions for you?

24 MR. FORDYCE: I have nothing further  
25 for Mr. Wood, Mr. Hearing Examiner.



1 THE HEARING EXAMINER: Okay.

2 Thank you, Mr. Wood.

3 MR. WOOD: Thank you.

4 THE HEARING EXAMINER: Mr. Holliday, do  
5 you want to call Mr. Tippen?

6 MR. HOLLIDAY: Yes, Powderhorn calls  
7 Brendan Tippen.

8 MR. TIPPEN: Hello, Mr. Examiner.

9 THE HEARING EXAMINER: Good morning.  
10 And I remind you that you're under oath.

11 Go right ahead, Mr. Holliday.

12 DIRECT EXAMINATION

13 BY MR. HOLLIDAY:

14 MR. HOLLIDAY: All right. Good  
15 morning, Mr. Tippen. Just for the record, could you  
16 state your name and position with Powderhorn.

17 MR. TIPPEN: Yes. My name is Brendan  
18 Tippen and I'm the director of engineering.

19 MR. HOLLIDAY: Okay. And as director  
20 of an engineering, what are your responsibilities?

21 MR. TIPPEN: At Powderhorn, I oversee  
22 all of the reservoir engineering. This is everything  
23 from acquisitions, trades, all of our internal  
24 reserves, as well as development and planning.

25 I also assist our VP of exploration,

1 Lenny Wood, and our CEO, Patrick Walter, who's also a  
2 petroleum engineer, in any other engineering-related  
3 operations.

4 MR. HOLLIDAY: Okay. And can you just  
5 briefly sum up your prior industry experience.

6 MR. TIPPEN: Yes. So prior to this I  
7 started work with Piedra Resources in 2016. Piedra  
8 was a small private equity backed group. I worked  
9 with them from 2016 to 2024. When I started there,  
10 they were starting to aggregate leasehold in the  
11 Midland Basin. When I -- when I left there, we had  
12 aggregated 17,000 acres in the Northern Midland Basin  
13 and drilled over 70 wells. We sold -- in 2023.

14 MR. HOLLIDAY: And so you were there  
15 when they drilled their first horizontal wells; is  
16 that correct?

17 MR. TIPPEN: That's correct.

18 MR. HOLLIDAY: And you and at least one  
19 other member of the Powderhorn team worked together on  
20 those wells; is that correct?

21 MR. TIPPEN: That's correct.

22 MR. HOLLIDAY: So fair to say, you guys  
23 do have experience drilling wells together in a prior  
24 professional experience?

25 MR. TIPPEN: That is correct.

1 MR. HOLLIDAY: Okay. So who on  
2 Powderhorn's -- there was a question yesterday about  
3 who on Powderhorn's team is responsible for the  
4 drilling and completion aspect. Who --

5 MR. TIPPEN: Yeah, so --

6 MR. HOLLIDAY: Who is that?

7 MR. TIPPEN: Our team, right now we've  
8 got -- we just heard from Lenny Wood, our VP of  
9 exploration, myself, the director of engineering, and  
10 then our co-CEO, Patrick Walter, who has -- who's a  
11 petroleum engineer with quite a bit of operational  
12 experience, who was at Tap Rock prior to this. So he  
13 has Delaware Basin experience, as well as experience  
14 in several states, and even other countries.

15 MR. HOLLIDAY: And there was a lot of  
16 talk about the drilling contractor that you,  
17 Powderhorn, intends to use, but we didn't actually  
18 name them. So which contractor does Powderhorn intend  
19 to use? And then could you describe your --

20 MR. TIPPEN: Yeah, I -- I'm glad to --

21 MR. HOLLIDAY: I'm sorry.

22 MR. TIPPEN: I'm sorry, Ben.

23 MR. HOLLIDAY: Yeah, I'll ask it in two  
24 parts.

25 MR. TIPPEN: Yes.

1 MR. HOLLIDAY: Which one do you intend  
2 to use?

3 MR. TIPPEN: We are using Dual Drilling  
4 Consultants. We've been in negotiations with them, or  
5 talking with them since May of last year. They've  
6 helped us with planning AFEs. We are currently in the  
7 process. They're helping us with APDs. And we are  
8 talking and negotiating, picking up a rig for this  
9 development.

10 MR. HOLLIDAY: So fair to say, you  
11 expect to work with Dual Drilling Consultants on the  
12 drilling of the Super Hornet wells; correct?

13 MR. TIPPEN: That is what we expect.

14 MR. HOLLIDAY: Okay. And has  
15 Dual Drilling Consultants, have they been the drilling  
16 contractor on any adjacent projects in this area?

17 MR. TIPPEN: Yes. So Dual Drilling is  
18 currently running seven rigs in the Delaware Basin.  
19 They work for a lot of smaller groups just like us, a  
20 lot of PE groups. They've worked for Admiral.  
21 They've worked for Ridge Runner. They've worked for  
22 Flat Creek. They have developments within 20 miles,  
23 and some closer.

24 MR. HOLLIDAY: Okay. Were they the  
25 drilling contractor that was used on the Bat Bomb and

1 War Pigeon units?

2 MR. TIPPEN: They worked for Admiral,  
3 so I believe so.

4 MR. HOLLIDAY: Let's talk about  
5 Powderhorn's plan. Were you asked to evaluate  
6 Powderhorn's development plan?

7 MR. TIPPEN: Yes.

8 MR. HOLLIDAY: And then were you also  
9 asked to review Marathon's competing development  
10 proposals?

11 MR. TIPPEN: That's correct.

12 MR. HOLLIDAY: Okay. And when you were  
13 doing that review, what were the engineering factors  
14 that you focused on?

15 MR. TIPPEN: Yeah, so I really focused  
16 between the two development plans. And so I -- I  
17 think it boiled down to -- to really two things.

18 Capital efficiencies. With that, I  
19 looked at -- both of our plans have different lateral  
20 lengths, so I looked at the difference between  
21 drilling shorter and longer laterals.

22 Also, both of our plans encompassed  
23 different -- different acreage. So we're drilling  
24 eight wells total, and they're drilling four. Going  
25 back to say, we're drilling for Wolfcamp A's, and then

1 a subsequent four Wolfcamp B's. So there's  
2 efficiencies there.

3 In addition to that, I looked at  
4 another big factor here, is parent-child issues, and  
5 sequencing of this development. And so that was  
6 another major factor that I looked at.

7 MR. HOLLIDAY: Okay. Yeah, I wanted to  
8 ask you a question. You heard Mr. Woods's testimony.  
9 And I could be butchering this, but he testified to  
10 the fact that it's possible that there could be zero  
11 degradation amongst the two zones, A and B. Did I  
12 summarize that correctly?

13 MR. TIPPEN: Yes.

14 MR. HOLLIDAY: Okay. But then it was  
15 discussed that he's not an engineer and he may not be  
16 qualified to talk about that. What are your thoughts  
17 on that concept?

18 MR. TIPPEN: Yes, I think Lenny was  
19 talking in generalities and I think he said it is  
20 possible that that is the case.

21 MR. HOLLIDAY: Do you think it's  
22 possible?

23 MR. TIPPEN: Yeah, so I have a study  
24 and an exhibit that has been filed looking at A and B  
25 parent-child effects. The results of my study is that

1 it is unclear that the B -- or drilling the A prior to  
2 the B has an effect on production.

3 MR. HOLLIDAY: And so as we assess  
4 these -- I mean, I guess they're not truly competing  
5 development plans, but the two plans being offered,  
6 could you summarize, focus on Powderhorn's plan, could  
7 you summarize Powderhorn's proposed development plan?

8 MR. TIPPEN: Yes. And so in my  
9 Exhibit C-2, I show both of these plans.

10 This is a -- Powderhorn's plan is to  
11 drill four one-and-a-half-milers in the Wolfcamp A.  
12 We then plan to come back and drill an additional four  
13 one-and-a-half-milers in the Wolfcamp B. This is over  
14 a 960-acre unit.

15 Conoco's development plan is to drill a  
16 320, a half section unit, drilling two A's and two  
17 B's.

18 MR. HOLLIDAY: Okay.

19 MR. TIPPEN: You can see on this  
20 diagram right here in the bottom left corner, that's a  
21 high level summary of our development plans.

22 MR. HOLLIDAY: Okay. I'm going to stop  
23 sharing my screen for a second.

24 Okay. So we talked about -- one of the  
25 factors that you looked at was the lateral length, and

1 you felt like that was dispositive between the two  
2 plans. Why? Why is it? Why does lateral length  
3 matter in horizontal development?

4 MR. TIPPEN: Yeah, so every time we  
5 drill a horizontal well, the vertical section of the  
6 wellbore has to be drilled regardless of the lateral  
7 length. And so as we drill longer laterals, the cost  
8 of that vertical section of the wellbore gets spread  
9 across more lateral feet and we -- we gain capital  
10 efficiency.

11 MR. HOLLIDAY: Is another way to say  
12 that, economies of scale?

13 MR. TIPPEN: That would be another fair  
14 way to say that.

15 MR. HOLLIDAY: Okay. And you did  
16 evaluate the difference between the one-mile and the  
17 mile-and-a-half proposals in this case; correct?

18 MR. TIPPEN: That is correct.

19 MR. HOLLIDAY: Okay. And I'm going to  
20 show you Exhibit C-6.

21 So we looked at -- C-6 is longer  
22 laterals and capital efficiency and operational  
23 efficiency. What did you conclude, based on your  
24 review, between the mile, and mile-and-a-half  
25 laterals?



1 MR. TIPPEN: Yeah, so this is -- this  
2 is really just a comparison of the two. Both -- when  
3 we proposed these wells and when Conoco proposed their  
4 wells, we both provided other working interest owners  
5 in the unit with our best estimates of what it's going  
6 to cost to -- to drill and complete our wells. This  
7 would include facilities.

8 Comparing these two plans, Powderhorn's  
9 AFEs are roughly 20 percent lower than Conoco's on a  
10 DCNF per foot basis. This is showing that we have  
11 stronger capital efficiencies. This is due to lateral  
12 length, as well as some facility efficiencies as well,  
13 but largely driven by lateral length.

14 MR. HOLLIDAY: Okay. Thank you.

15 Let's talk about the facility  
16 efficiency a little bit. So service disturbance is a  
17 big factor for the Division when they're evaluating  
18 plans. Does the development layout that Powderhorn  
19 has proposed, does that affect the facility  
20 efficiency?

21 MR. TIPPEN: Absolutely. So we plan on  
22 drilling four Wolfcamp A wells, with an additional  
23 four Wolfcamp B wells shortly thereafter. We plan on  
24 drilling these with two pads, and we will have a  
25 central facility on one of the two pads.

1                   With that we -- we get facility  
2 efficiencies. We can build -- we can build a facility  
3 in which we can repurpose some of that to bring on the  
4 subsequent four wells. Contractor Brad Hall, at  
5 Resource Production, has helped us a lot with this.

6                   In Conoco's development plan, they will  
7 be sending four wells to one facility, and at that  
8 point will have developed their Wolfcamp, at least as  
9 proposed.

10                  MR. HOLLIDAY: So why would  
11 Powderhorn's plan versus Marathon's plan be relevant  
12 to the Division in terms of waste prevention?

13                  MR. TIPPEN: Yeah, so we can just make  
14 it more capitally efficient to drill these wells,  
15 which make them more economic. So it makes it more  
16 likely that these locations do get developed.

17                  Secondly, I think we can minimize  
18 surface impact.

19                  MR. HOLLIDAY: Okay. So let's talk  
20 about -- let's move on from that. We're going to go  
21 to parent and child effects.

22                  You discussed the parent-child effects  
23 in your testimony, and if I can show you Exhibit C-3.  
24 What does this slide say about parent-child issues?

25                  MR. TIPPEN: Yes. So this is a study

1 that we did in -- in an AOI surrounding the  
2 Super Hornet Unit. So you can see in my map right  
3 there, you can see the Super Hornet Unit and you can  
4 see the study area. Part of the reason that it's  
5 skewed slightly east is because moving west from here,  
6 we essentially get out of the basin. As far as, at  
7 least, the basin that's been developed.

8 What I did here is I defined a child,  
9 and defining a child, I said, this is a well that's  
10 less than 200 vertical feet, less than 1760 horizontal  
11 feet, and offset a well that had been completed for  
12 greater than 180 days, or six months prior. So that  
13 is how I defined a child.

14 So my definition of a child would be a  
15 well that falls within the Wolfcamp A, that's why I  
16 did the 200-foot vertical, that is within 1700 feet,  
17 so roughly four wells per section spacing, and that's  
18 been online for six months. That's how I defined a  
19 child. Everything else was a non-child.

20 When I compared those two groups of  
21 wells, I came up with two type curves and I compared  
22 those. So on the bottom chart here, you can  
23 see -- and I apologize, my colors did not come through  
24 when we submitted this into exhibits, but the top line  
25 there would be the average of the non-child wells.

1 The bottom line there would be the average of the  
2 child wells. And then you can see my projection on  
3 both of those curves and we see a 15 percent reduction  
4 in EUR.

5 MR. HOLLIDAY: Okay. So when we look  
6 at this -- we're looking just to Wolfcamp A. Let's go  
7 down to Wolfcamp B.

8 It's been argued whether the Wolfcamp A  
9 and B must be developed simultaneously. What is your  
10 opinion?

11 MR. TIPPEN: I don't see any evidence  
12 that they do.

13 MR. HOLLIDAY: Okay. Thank you.

14 If we just talk more broadly about  
15 parent-child effects, what factors do you feel  
16 influence the severity of those parent-child effects?

17 MR. TIPPEN: Yeah, so I think, and  
18 Dr. Pascal talked about this some yesterday, I think  
19 some of the -- the -- the largest influence of a -- of  
20 a parent-child effect is going to be pressure  
21 depletion in the parent well, and communication in the  
22 reservoir between the child and the parent. Those are  
23 going to be the two defining factors.

24 MR. HOLLIDAY: Okay. So based on that  
25 and your knowledge of unconventional fracks, do you

1 believe that well interactions are generally more  
2 significant when they're on a horizontal plane?

3 MR. TIPPEN: Yes, that's my belief.

4 MR. HOLLIDAY: Okay. So let's talk  
5 about Marathon's co-development plan. Marathon argues  
6 the Wolfcamp A and B must be drilled together, and I  
7 think we just covered that, but you did evaluate that  
8 claim; right?

9 MR. TIPPEN: I did.

10 MR. HOLLIDAY: Okay. And did you  
11 examine some of the offset development around the  
12 Super Hornet in your analysis?

13 MR. TIPPEN: That's correct, I did.

14 MR. HOLLIDAY: Yeah. What criteria,  
15 when you were doing that analysis, what criteria did  
16 you use and what proximity to the Super Hornet Unit  
17 did you use?

18 MR. TIPPEN: Yeah, so I was looking  
19 at -- I -- in -- to be fair for this study, there's  
20 not a lot of great examples nearby of co-development.  
21 But what I was looking for was examples of a pad that  
22 had been co-developed and non-co-developed within six  
23 miles of the Super Hornet, and I found -- and that  
24 were completed with modern fracks.

25 And so I found three units that met

1 this criteria and those are the three units that I use  
2 in my study for the A and B interactions.

3 MR. HOLLIDAY: And what was the -- if  
4 you could sum up the analysis, how would you sum it  
5 up?

6 MR. TIPPEN: Yeah, so we -- I had three  
7 pads, one pad that was co-developed, one pad that was  
8 not co-developed but they got back to it within  
9 a -- a -- a short time frame, I believe about six  
10 months, and then one pad that was not co-developed but  
11 it -- there was a long time frame between  
12 co-development.

13 Comparing the -- the Wolfcamp B wells  
14 in all of these pads, there were no clear trends as  
15 to -- that supported that the non-co-developed pads  
16 saw degradation compared to the other wells.

17 MR. HOLLIDAY: Okay. I'm going to sum  
18 that up and you tell me if this is correct. So is it  
19 your testimony that your analysis confirmed there is  
20 no substantial degradation?

21 MR. TIPPEN: Correct.

22 MR. HOLLIDAY: And if we were to look a  
23 little further afield, do you believe the results of  
24 this study could be used for a, let's call it 15-mile  
25 radius, or 20-mile radius?

1 MR. TIPPEN: No, I think that's going  
2 too far.

3 MR. HOLLIDAY: Yeah. So if we look at  
4 Dr. Umekwe's study that he published yesterday, or put  
5 up yesterday, it looked like they were evaluating some  
6 wells about 19 miles to the southwest. Are there any  
7 significant differences between your study and  
8 Dr. Umekwe's?

9 MR. TIPPEN: Yes, I believe there are.  
10 One, is it's 20 miles away. A lot can change in 20  
11 miles. I think Lenny has talked some to that.

12 Secondly, in his study they're  
13 targeting a Wolfcamp A Shale target compared to a  
14 Wolfcamp Sand target that we're targeting. In their  
15 study they have the different density in the  
16 Wolfcamp A compared to the density that we plan, and  
17 Conoco plans to drill in the Super Hornet.

18 In addition to that, they drilled a  
19 different density in the Wolfcamp BC stagger than we  
20 plan to drill at Super Hornet with just one B target.

21 MR. HOLLIDAY: And you stated your  
22 study comes to a different conclusion than Marathon's,  
23 but let's imagine a hypothetical case where their  
24 study is correct. In that event, could Powderhorn  
25 still mitigate the damage that they claim?

1 MR. TIPPEN: Absolutely. So back to  
2 the statement I said about, I think that the two  
3 biggest factors to parent-child are pressure depletion  
4 of the parent well and communication. So if we're  
5 going to accept that these zones are going to  
6 communicate, the pressure depletion is what we can  
7 control.

8 Pressure depletion is going to be  
9 correlated to how much fluid we've pulled out of the  
10 ground. So the -- the simple answer would be, the  
11 sooner we get back to those locations, the less of a  
12 chance there is for an impact.

13 MR. HOLLIDAY: So there's a --

14 MR. TIPPEN: Or a severe impact.

15 MR. HOLLIDAY: Okay. So Powderhorn is  
16 heavily incentivized from a production standpoint to  
17 come back and develop the Wolfcamp B?

18 MR. TIPPEN: Yes.

19 MR. HOLLIDAY: Okay. When you reviewed  
20 Marathon's exhibits and rebuttals, did they show any  
21 economics to show the impact of parent-child effect on  
22 the Wolfcamp B?

23 MR. TIPPEN: No, I did not see that.

24 MR. HOLLIDAY: Okay. And did they show  
25 any economics that stated, you know, if we talk about



1 the economic degradation that they perceive, that you  
2 don't agree with, is my understanding have, is there  
3 anything that they put forth that states that economic  
4 degradation will have a larger -- you know what, let's  
5 just strike that question. It's too clunky.

6 Let's move to the sequential  
7 development of the Wolfcamp A and B. Will, in your  
8 opinion -- did Marathon present any economics  
9 quantifying the impact of that claimed degradation on  
10 well returns? That's a mouthful.

11 MR. TIPPEN: Could you say that one  
12 more time, Ben?

13 MR. HOLLIDAY: Yep.

14 Did Marathon present any economics  
15 quantifying the impact of the claimed degradation on  
16 well returns between the A and B?

17 MR. TIPPEN: No.

18 MR. HOLLIDAY: No. But by contrast,  
19 you've presented economics comparing the cost  
20 efficiency of mile-and-a-half laterals versus one-mile  
21 laterals; is that correct?

22 MR. TIPPEN: That's correct.

23 MR. HOLLIDAY: Okay. And we looked at  
24 that in the -- that was the green box on the drilling  
25 completion cost per foot. Fair to say, Marathon's

1 wells cost 19 to 21 percent more per lateral foot; is  
2 that correct?

3 MR. TIPPEN: Yes.

4 MR. HOLLIDAY: So in your opinion,  
5 would you say the Division has quantified evidence of  
6 the economic penalty from shorter laterals, but on the  
7 flip side, they don't have quantified evidence from  
8 Marathon showing the economic degradation that it  
9 claims; is that fair to say?

10 MR. TIPPEN: Yes, I think -- I think  
11 it's fair to say we've shown our economics, and a  
12 20 percent increase in capital cost is going to -- is  
13 going to hurt those.

14 MR. HOLLIDAY: Okay. So in, the about  
15 eight months since Powderhorn's been working on this  
16 proposed development plan, have any of the other  
17 counterparties Powderhorn was in discussion with,  
18 Permian Resources, Kaiser, Coterra, PBEX, Avant, any  
19 of them, have any of them expressed any concerns with  
20 Powderhorn's actual development plan?

21 MR. TIPPEN: No.

22 MR. HOLLIDAY: Okay. And you would  
23 consider all those to be experienced operators in the  
24 Delaware Basin of New Mexico; correct?

25 MR. TIPPEN: I would.

1 MR. HOLLIDAY: Okay. So let's just  
2 touch -- we're getting close to the end here.  
3 Wolfcamp B, did you evaluate the Wolfcamp B economics?

4 MR. TIPPEN: Yes.

5 MR. HOLLIDAY: And what did that  
6 analysis show?

7 MR. TIPPEN: So the Wolfcamp B is a  
8 very viable target and -- and one that we intend to  
9 develop. However, it's got a very high GOR, it has  
10 less oil, and it's a little bit more marginal. And so  
11 my main analysis of the Wolfcamp B is we -- any sort  
12 of decreases in capital efficiencies, or any sort of  
13 parent-child effects within the zone could  
14 have -- could have major impacts on whether this zone  
15 is viable or not.

16 MR. HOLLIDAY: And then just for the  
17 record, why does that matter for your development  
18 planning?

19 MR. TIPPEN: It matters because Conoco  
20 has a proposal that would increase our capital in  
21 a -- or that's a double negative. It would create  
22 capital inefficiencies, as well as potentially create  
23 in-zone parent-childs.

24 MR. HOLLIDAY: Okay. It seems like  
25 Powderhorn and Marathon agree that longer laterals are

1 generally more preferable.

2 Powderhorn's plan is to develop the  
3 entire 960; is that correct?

4 MR. TIPPEN: That's correct.

5 MR. HOLLIDAY: Does Marathon's proposal  
6 develop the full acreage in that way?

7 MR. TIPPEN: No, they would only  
8 develop 320 acres of the 960.

9 MR. HOLLIDAY: Okay. And why is that  
10 important from an engineering perspective?

11 MR. TIPPEN: I think if they went to  
12 develop their 320 in the 960, it would require other  
13 operators to coordinate to develop the  
14 other -- the -- the remaining acreage. You'd be left  
15 with two -- two additional 320s that would have to get  
16 developed. It could lead to difficult development  
17 sequencing, likely a lot of parent-child effects,  
18 likely a lot of trips back to the unit to develop.

19 MR. HOLLIDAY: Okay. And looking at  
20 Marathon's plans, or the plans as you understand them  
21 as they've been presented to you, did those  
22 development plans -- did their concept remain  
23 consistent throughout this case?

24 MR. TIPPEN: No. Conoco previously  
25 proposed 7500-footers in the north half of the unit

1 and then changed them to 5000-footers in the north  
2 half of just Section 2.

3 MR. HOLLIDAY: But Powderhorn's plans  
4 remain consistent; correct?

5 MR. TIPPEN: Yes, we have remained  
6 consistent from our original proposals.

7 MR. HOLLIDAY: So what does that  
8 suggest to you about these two plans?

9 MR. TIPPEN: I think Powderhorn has the  
10 most sound, efficient and prudent operating plan to  
11 develop this unit responsibly.

12 MR. HOLLIDAY: Okay. We talked about  
13 maximum stress orientation and preferred orientation  
14 of wells. Wells can be drilled in different  
15 orientations and configurations, right, it's  
16 physically possible?

17 MR. TIPPEN: That is correct.

18 MR. HOLLIDAY: Does that mean that your  
19 development design, your east-west orientation, does  
20 that mean that doesn't matter, just because it's  
21 physically possible?

22 MR. TIPPEN: No, it does not.

23 MR. HOLLIDAY: So fair to say that your  
24 orientation, lateral length, and this parent-child  
25 issue, that affects the recovery and efficiency of the

1 development plan?

2 MR. TIPPEN: Yes.

3 MR. HOLLIDAY: And you believe that  
4 Powderhorn's plan is the most -- or excuse me, more  
5 efficient engineering approach for this unit that will  
6 optimize recovery; is that correct?

7 MR. TIPPEN: Yes.

8 MR. HOLLIDAY: And just for the record,  
9 based on your engineering analysis, what's your  
10 opinion regarding Powderhorn's Super Hornet  
11 development plan?

12 MR. TIPPEN: Yes, I guess kind of to  
13 repeat, I think -- I think we have the most prudent  
14 plan to where we will maximize recovery for this unit  
15 for all the working interest owners, protecting  
16 correlative rights. I think we will do it in a  
17 capitally efficient manner and I think we have the  
18 best -- the best plan.

19 MR. HOLLIDAY: And last question. Do  
20 you believe this plan better prevents waste and  
21 protects drill rights than Marathon's alternative?

22 MR. TIPPEN: Yes.

23 MR. HOLLIDAY: Okay. I have no further  
24 questions right now.

25 THE HEARING EXAMINER: Mr. Rankin.

1 MR. RANKIN: Thank you, Mr. Hearing  
2 Officer. I wonder if we might just take a short  
3 break, since we haven't had one yet since 8:30, just  
4 before I start my cross.

5 THE HEARING EXAMINER: All right. And  
6 let's go over the schedule. It's ten o'clock now.  
7 This is Mr. Holliday's final witness in his case in  
8 chief, and his rebuttal case as well.

9 So you have two witnesses to present,  
10 and you know that I need to take a break today, midday  
11 at some point, and I wonder how you -- would you  
12 prefer, and this is just something for you to think  
13 about and you can tell me later, it doesn't matter.  
14 We can either break from 12 to 2, or we can break from  
15 12:30 to 2:30. I'll leave that up to you in case you  
16 think you can finish your case in that time. And I'm  
17 certainly not rushing you, but whatever you want to do  
18 is fine, we'll come back after.

19 Okay, so five minutes?

20 MR. RANKIN: Five minutes.

21 THE HEARING EXAMINER: All right.  
22 Thank you. We're off the record.

23 (Off the record.)

24 THE HEARING EXAMINER: It's 10:07.

25 Let's get back on the record.

1 Mr. Rankin.

2 MR. RANKIN: Thank you very much,  
3 Mr. Hearing Officer.

4 CROSS-EXAMINATION

5 BY MR. RANKIN:

6 MR. RANKIN: Good morning, Mr. Tippen.  
7 I hope you guys had a safe drive back last night.

8 MR. TIPPEN: Thank you. Good morning,  
9 Mr. Rankin.

10 MR. RANKIN: I just want to make sure I  
11 understood, that in terms of overseeing the drilling,  
12 any drilling that would occur on this acreage under  
13 this plan, it would be -- Mr. Walker would be working  
14 directly with the drilling contractor to oversee that  
15 drilling; is that correct?

16 MR. TIPPEN: So Mr. Walter --

17 MR. RANKIN: Walter. Sorry.

18 MR. TIPPEN: He's our co-CEO.

19 MR. RANKIN: Yep.

20 MR. TIPPEN: And then Lenny Wood, our  
21 VP of exploration, and I, will also be involved in  
22 communications back and forth with Dual.

23 MR. RANKIN: Okay. So a team effort;  
24 correct?

25 MR. TIPPEN: Correct.



1 MR. RANKIN: And have the three of you  
2 ever worked as a team to drill a well before?

3 MR. TIPPEN: No, sir.

4 MR. RANKIN: Have the three of you ever  
5 worked as a team to drill a well with Dual Drilling?

6 MR. TIPPEN: No.

7 MR. RANKIN: You've been in discussions  
8 with Dual Drilling for about a little less than a  
9 year, since May of last year, I understand; correct?

10 MR. TIPPEN: That's correct.

11 MR. RANKIN: Does Powderhorn have any  
12 written vetting procedures or requirements for its  
13 third-party operators or drilling contractors in place  
14 as a means of evaluating its contractors that you're  
15 going to work with?

16 MR. TIPPEN: So we did -- we did our  
17 internal research and arrived on Dual.

18 MR. RANKIN: Okay. So you've never,  
19 Powderhorn has never yet done an evaluation to  
20 identify a potential contractor for drilling; correct?

21 MR. TIPPEN: Can you repeat that  
22 question?

23 MR. RANKIN: Sure. Up until this  
24 point, Powderhorn has not yet gone through a process  
25 where it's identified and contracted with a drilling

1 operator; correct?

2 MR. TIPPEN: No, there's no contractual  
3 agreement for the drilling of -- of these wells yet.

4 MR. RANKIN: Okay. But my question is,  
5 has Powderhorn gone through that process, to evaluate  
6 and contract with any drilling operators up to this  
7 point anywhere?

8 MR. TIPPEN: No, not as a Powderhorn  
9 team.

10 MR. RANKIN: I'm going to share my  
11 screen real quick.

12 Paragraph 7 of your direct testimony,  
13 you state that there are fewer one-mile wells being  
14 drilled over time in this acreage; correct?

15 MR. TIPPEN: Yes. And this is specific  
16 to Conoco operated wells.

17 MR. RANKIN: Now, people, operators,  
18 are still drilling one-mile wells in this acreage and  
19 elsewhere; correct?

20 MR. TIPPEN: Yes. By "In this  
21 acreage," I assume you mean within the study area?

22 MR. RANKIN: Within the general  
23 vicinity of the subject acreage, yeah.

24 MR. TIPPEN: Yes.

25 MR. RANKIN: And are you aware of any

1 case where the Division has determined that a one-mile  
2 well would be wasteful?

3 MR. TIPPEN: I'm not aware.

4 MR. RANKIN: I want to talk a little  
5 bit about Powderhorn's plan of development. You state  
6 that Powderhorn's plan is to drill, first the XY, the  
7 upper bench, correct, in the Wolfcamp?

8 MR. TIPPEN: That's correct.

9 MR. RANKIN: And then sequentially  
10 develop the Wolfcamp B; right?

11 MR. TIPPEN: Yes.

12 MR. RANKIN: And I understand, and I'll  
13 get to this in a little bit, I'll build up to it, but  
14 your opinion is that there's no observable top-down  
15 vertical degradation in this general vicinity that you  
16 can observe; correct?

17 MR. TIPPEN: That's my opinion, yes.

18 MR. RANKIN: Okay. And that's based on  
19 your review of an offsetting study that I think is  
20 your Exhibit C-7?

21 MR. TIPPEN: That's correct.

22 MR. RANKIN: Okay. We'll get to that.

23 But in the event that there are  
24 parent-child effects, vertical parent-child effects,  
25 that would potentially make your Wolfcamp B, or the

1 Wolfcamp B target, less economic; correct.

2 MR. TIPPEN: Yes. In that hypothetical  
3 scenario that there were parent-child effects, the B  
4 would become less economic

5 MR. RANKIN: And that's why Powderhorn  
6 is proposing to come back and drill the Wolfcamp B as  
7 quickly as possible; correct?

8 MR. TIPPEN: That's correct.

9 I would also like to say that there are  
10 capital efficiencies associated with not drilling the  
11 eight wells all at once and having a 12-month stagger.

12 MR. RANKIN: Okay. But just to be  
13 clear, you had -- I understand from Mr. Wood that you  
14 had discussions internally about ways to mitigate  
15 vertical top-down parent-child degradation effects in  
16 this development; correct?

17 MR. TIPPEN: Yes.

18 MR. RANKIN: And that was -- those  
19 discussions were undertaken because there was a  
20 concern about it; correct?

21 MR. TIPPEN: Primarily due to the  
22 competing rebuttal from the Conoco engineer,  
23 Mr. Pascal.

24 MR. RANKIN: So those discussions  
25 weren't part of Powderhorn's due diligence in

1 evaluating this project prior to the exhibits filed in  
2 this case?

3 MR. TIPPEN: I'm sorry, that's not  
4 correct. We -- we study parent-child on essentially  
5 every project we look at.

6 MR. RANKIN: Okay. And so based on  
7 that analysis, Powderhorn has determined, with its  
8 partners, that it's going to come back and drill the  
9 Wolfcamp B bench as soon as possible; correct?

10 MR. TIPPEN: That's correct.

11 MR. RANKIN: Okay. And again, that's  
12 just because, correct me if I'm wrong, but you  
13 recognize that there's an impact from parent-child  
14 degradation as to the vertical offset wells; correct?

15 MR. TIPPEN: Can you repeat that  
16 question?

17 MR. RANKIN: And the reason that you're  
18 coming back within a short period of time, you propose  
19 to come back within a short period of time, is because  
20 you recognize that there's a top-down vertical  
21 degradation effect in the Wolfcamp B?

22 MR. TIPPEN: No, that is not correct.  
23 We propose to come back because we see -- with our  
24 capital structure, we want to put capital to work as  
25 quickly as possible in an efficient way, and we think

1 that this development plan is a great way to do that.

2 MR. RANKIN: So you don't agree with  
3 your geologist who testified that one of the ways to  
4 mitigate parent-child effects is to come back as  
5 quickly as possible and that's why Powderhorn is  
6 intending to do that?

7 MR. TIPPEN: I agree with that  
8 statement. If -- if there are parent-child effects,  
9 coming back as quickly as possible is a way to  
10 mitigate it. That does not mean that there will be  
11 parent-child effects.

12 MR. RANKIN: Right. But that's one of  
13 the reasons, at least, that Powderhorn has identified  
14 its plan to come back as quickly as possible in the  
15 Wolfcamp B; correct?

16 MR. TIPPEN: Yes. In the case that we  
17 were wrong, and this is a hypothetical that came true,  
18 that would mitigate that.

19 MR. RANKIN: Now, the vertical offset  
20 here is just a little more than 600 feet between the  
21 two benches that Powderhorn is proposing to develop;  
22 correct?

23 MR. TIPPEN: That's correct.

24 MR. RANKIN: And just to be clear, it's  
25 your opinion that that vertical offset is sufficient

1 to avoid or mitigate parent-child effects between the  
2 two benches?

3 MR. TIPPEN: That's my opinion, yes,  
4 that's correct.

5 MR. RANKIN: Okay. What's your opinion  
6 based on that the 600-foot vertical offset is  
7 sufficient to avoid parent-child effects?

8 MR. TIPPEN: That's based on spacing  
9 studies, as well as my experience in the Permian. At  
10 Piedra we drilled a -- we drilled the middle Spraberry  
11 atop lower Spraberry that we drilled 600 feet apart.  
12 That's not a great analog, but I'm just using that as  
13 a way to reference some of my experience.

14 MR. RANKIN: Okay. Just going to take  
15 those in pieces. So the first thing you mentioned,  
16 based on spacing studies. What spacing studies  
17 specifically are you referencing?

18 MR. TIPPEN: We have a basin-wide  
19 spacing study built in Spotfire that we use --

20 MR. RANKIN: You didn't present any of  
21 that spacing study as part of your evidence or  
22 testimony today, did you?

23 MR. TIPPEN: That spacing study was  
24 used to populate the spacing studies that we provided.

25 MR. RANKIN: What spacing studies did

1 you provide? I'm not -- be specific. What are you  
2 referencing?

3 MR. TIPPEN: We -- we provided a  
4 space -- or, I'm sorry, we provided the parent-child  
5 study for the Wolfcamp A, as well as a parent-child  
6 study for the Wolfcamp AB co-development.

7 MR. RANKIN: Okay. I'm asking you to  
8 reference your exhibits. What are you referencing?

9 MR. TIPPEN: Let's see, it's going to  
10 be C-7, is the Wolfcamp AB sequencing, and then  
11 Exhibit C-3 is the parent-child effects within the  
12 Wolfcamp A.

13 MR. RANKIN: So when you were just  
14 talking to me about your, I'm just going to call it  
15 spacing studies, you're specifically referencing C-7  
16 and C-3; correct?

17 MR. TIPPEN: Yes.

18 MR. RANKIN: And nothing else; right?

19 MR. TIPPEN: Yes.

20 MR. RANKIN: Okay. And as to the  
21 middle Spraberry, that's a formation in Texas?

22 MR. TIPPEN: That is correct, in the  
23 Permian, in the --

24 MR. RANKIN: And that's more than the  
25 20 miles away than Mr. Umekwe's study; correct?



1 MR. TIPPEN: That's correct. I would  
2 like to say that that statement was merely to  
3 reference Permian experience, not anything specific to  
4 this unit.

5 MR. RANKIN: Okay. So is that -- do  
6 you still want -- is that still influencing your  
7 analysis in terms of vertical offset and degradation  
8 or not?

9 MR. TIPPEN: My Exhibit C-7 is going to  
10 be what I lean on of where I see no clear evidence  
11 that there is degradation between the A and the B.

12 MR. RANKIN: Okay. So just want to  
13 make sure I understand. So going forward when we talk  
14 about your opinion and the basis for it, it's solely  
15 limited to the analysis in C-7; correct?

16 MR. TIPPEN: Yes.

17 MR. RANKIN: Okay. Very good. I will  
18 come back to that shortly.

19 Now, in your direct testimony, you make  
20 an argument about parent-child effects as well, but  
21 it's focused on horizontal offsets; correct?

22 MR. TIPPEN: Yes. I am talking about  
23 parent-child effects within a horizon, within the  
24 Wolfcamp base specifically.

25 MR. RANKIN: And in that context,

1 you're -- you prepared -- you mentioned this other  
2 spacing study that was Exhibit C-3, and I'm going to  
3 put that up on the screen here.

4 MR. TIPPEN: Yep.

5 MR. RANKIN: And, basically, the  
6 constraints of your study, or the definitions you're  
7 using, and I've highlighted it here, that in your  
8 definition a child well is one that is within 200  
9 vertical foot offset and within 1760 horizontal;  
10 correct?

11 MR. TIPPEN: That's correct. So 200  
12 vertical feet and 1760 horizontal.

13 MR. RANKIN: And again, this analysis,  
14 this study that you've done, is all within the  
15 Wolfcamp; correct?

16 MR. TIPPEN: This is all within the  
17 Wolfcamp A, specifically.

18 MR. RANKIN: Okay. And then this  
19 acreage is all governed by the Purple Sage Wolfcamp  
20 Pool; agree?

21 MR. TIPPEN: Yes.

22 MR. RANKIN: Okay. And the Purple Sage  
23 Wolfcamp Pool, it's a special pool that was designated  
24 by the Division; correct?

25 MR. TIPPEN: Yes, I believe so.

1 MR. RANKIN: Okay. Are you aware that  
2 the Purple Sage Wolfcamp Pool was created through an  
3 order after an evidentiary hearing before the  
4 Division?

5 MR. TIPPEN: No, I was not aware of  
6 that.

7 MR. RANKIN: Mr. Hearing Officer, at  
8 this time I'm going to ask that the Division take  
9 administrative record, notice rather, of the Purple  
10 Wolf Sage Special Pool Rule, which is order number  
11 R-14262.

12 BY MR. RANKIN:

13 MR. RANKIN: Mr. Tippen, are you  
14 familiar with the special rules that govern the Purple  
15 Sage Wolfcamp Pool that is the subject of this  
16 Wolfcamp acreage?

17 MR. TIPPEN: No, I'm not intimately  
18 familiar with this.

19 MR. RANKIN: Okay. So just for  
20 background, this was a hearing that went to the  
21 Division back in 2016, during which Matador and  
22 Mewbourne requested the creation of a special pool in  
23 the Wolfcamp.

24 You're generally familiar with that  
25 fact; correct?

1 MR. TIPPEN: Yes.

2 MR. RANKIN: And at the hearing on  
3 this, are you aware that the Division took evidence on  
4 the appropriate offsets that would be protective of  
5 correlative rights and would prevent waste?

6 MR. TIPPEN: Yes, I see that on the  
7 screen.

8 MR. RANKIN: And you're aware that the  
9 findings that the Division made included the finding  
10 that setting the setbacks at 330 feet would  
11 be -- would not harm offsetting spacing units, nor  
12 would it impair correlative rights?

13 MR. TIPPEN: I see that that's what  
14 that statement says.

15 MR. RANKIN: And that they went on to  
16 determine that the Purple Sage Wolfcamp Gas Pool  
17 should have special rules allowing well locations no  
18 closer than 330 feet to the outer boundary of a  
19 spacing unit. Do you see that?

20 MR. TIPPEN: I see that.

21 MR. RANKIN: Okay. And you're aware  
22 that those were the rules that govern this acreage;  
23 correct?

24 MR. TIPPEN: Yes.

25 MR. RANKIN: And finally, the Division

1 finds in, paragraph 21 of that order, that the  
2 application should be approved with those setbacks to  
3 prevent waste and protect correlative rights. Do you  
4 see that?

5 MR. TIPPEN: Yes.

6 MR. RANKIN: And then they go on, at  
7 the end of the rule, to specify what the setbacks are  
8 going to be, and again, it's 330-foot setbacks, and  
9 that's your understanding; correct?

10 MR. TIPPEN: Yes.

11 MR. RANKIN: And based on those  
12 330-foot setbacks, that means that wells can be spaced  
13 at 660 feet, and based on the Division's findings  
14 based on evidence and testimony, that 660-foot offsets  
15 are going to be protective of correlative rights and  
16 prevent waste; agree?

17 MR. TIPPEN: That's what this document  
18 says, yes.

19 MR. RANKIN: Is your testimony that the  
20 special rules that govern this acreage for the Purple  
21 Sage Wolfcamp are not protective of correlative  
22 rights, it will not prevent waste?

23 MR. TIPPEN: No. My argument is that  
24 our -- our plan to develop this acreage will protect  
25 correlative rights.

1 MR. RANKIN: Okay. That wasn't my  
2 question. My question is, are you saying that the  
3 special rules that govern this acreage are not  
4 protective of correlative rights and will not prevent  
5 waste?

6 MR. TIPPEN: Oh, I think -- I think if  
7 we space these wells at 660 feet, we would damage  
8 correlative rights despite that that is allowed per  
9 this document. I think Conoco would agree with me  
10 because they proposed the same, roughly 1320-foot  
11 spacing that we did.

12 MR. RANKIN: So are you telling me,  
13 then, that the Purple Sage -- the Division's rules are  
14 not protective of correlative rights?

15 MR. HOLLIDAY: Mr. Examiner, I'm going  
16 to object. This line of questioning on offsets and  
17 orders is more appropriate for a landman. It's not  
18 applicable to the vertical offsets that we proposed.

19 MR. RANKIN: Mr. Tippen has made an  
20 argument that horizontal offsets are going to cause  
21 parent-child effects based on an engineering analysis.  
22 The Division set rules that govern this acreage, based  
23 on engineering evidence, that require 330-foot  
24 setbacks.

25 I'm asking him based on his engineering

1 testimony and his expertise, whether the Division  
2 rules that govern this acreage are appropriate or not.

3 MR. TIPPEN: If -- so, if I'm  
4 understanding the --

5 THE HEARING EXAMINER: Hold on. Hold  
6 on. Hold on. Hold on. Mr. Tippen, don't answer the  
7 question until you resolve the objection. Your  
8 attorney has made a evidentiary objection. I have to  
9 think about it.

10 So how is it relevant whether this  
11 expert agrees with the Division or disagrees?

12 MR. RANKIN: Well, Mr. Hearing Officer,  
13 the Division had a hearing, extensive hearing on this  
14 very issue in this acreage, and determined that these  
15 rules are protective of correlative rights and will  
16 prevent waste.

17 THE HEARING EXAMINER: That doesn't  
18 answer my question, though. The question I'm asking  
19 you is, how is it relevant whether he agrees with the  
20 Division or not?

21 MR. RANKIN: These rules govern this  
22 acreage, and these rules govern the setbacks in place,  
23 and the Division has held, through an evidentiary  
24 hearing, that 330 feet is protective of correlative  
25 rights in this acreage. This is the pool that's

1 assigned to this acreage.

2 So his argument, that allowing us to  
3 drill our acreage is going to impair and be  
4 detrimental to their correlative rights offsetting is  
5 actually governed by the special rule that says, no,  
6 actually, those correlative rights are protected by  
7 the rules in place that govern this acreage.

8 THE HEARING EXAMINER: And yet you can  
9 still -- you can -- a company can still request a  
10 non-standard spacing or location; right?

11 MR. RANKIN: Correct. And  
12 ConocoPhillips and Marathon's proposal is to be at  
13 standard locations.

14 THE HEARING EXAMINER: Okay.

15 MR. RANKIN: Within the standard.

16 So --

17 THE HEARING EXAMINER: But still  
18 doesn't get to my -- the root of my question. I've  
19 already taken administrative notice, although you  
20 didn't wait for me to do it, I've already taken  
21 administrative notice of this. And Mr. Fordyce is  
22 well aware of this, of this gas pool and its offsets.

23 So I don't see how it's relevant  
24 whether this expert agrees with the Division or not,  
25 so I'm going to sustain the objection. Why don't you



1 find some other way of proceeding.

2 MR. RANKIN: Okay.

3 BY MR. RANKIN:

4 MR. RANKIN: So just to be clear, then,  
5 Mr. Tippen, I understand that you disagree that the  
6 Division's rules are protective of Powderhorn's  
7 correlative rights; correct?

8 MR. TIPPEN: Can you repeat that one  
9 more time?

10 MR. RANKIN: You disagree that the  
11 Division's special rules that govern this  
12 Wolfcamp acreage in this area are protective of  
13 Powderhorn's correlative rights; agree?

14 MR. TIPPEN: You know, I would like to  
15 step back from this. I don't have a great  
16 understanding of what this document is saying. I  
17 believe that 330 feet refers to the distance we can  
18 drill from a lease line. I can talk to spacing and  
19 optimal spacing and development of this acreage, but I  
20 cannot say a definitive statement regarding this  
21 document.

22 MR. RANKIN: So does Powderhorn have  
23 any plans to modify the Division's special rules that  
24 govern this acreage as far as offsets and setbacks go?

25 MR. TIPPEN: No, not that I know of.

1 MR. RANKIN: Okay. All right. So I  
2 think I just want to ask this question of you,  
3 Mr. Tippen. Powderhorn does not operate any wells in  
4 New Mexico; correct?

5 MR. TIPPEN: That is correct.

6 MR. RANKIN: And has not drilled any  
7 wells in New Mexico; correct?

8 MR. TIPPEN: Correct.

9 MR. RANKIN: And does Powderhorn have  
10 an in-house drilling team that's going to be in charge  
11 of overseeing any drilling of wells that it proposes  
12 and drills?

13 MR. TIPPEN: No, sir. But we do have  
14 two petroleum engineers on staff.

15 MR. RANKIN: And those two drilling  
16 engineers would be yourself and Mr. Walter?

17 MR. TIPPEN: I said petroleum  
18 engineers.

19 MR. RANKIN: I'm sorry, petroleum  
20 engineer. Those two petroleum engineers would be  
21 yourself and Mr. Walter?

22 MR. TIPPEN: That is correct.

23 MR. RANKIN: Okay. And the -- I think  
24 I've asked the questions I wanted to ask around  
25 Dual Drilling, but you don't have yet a contract in

1 place with them to drill these wells; correct?

2 MR. TIPPEN: That is correct. We're  
3 still in the negotiation phase.

4 MR. RANKIN: When you addressed your  
5 determination here that you're going to achieve  
6 certain capital efficiencies based on the longer  
7 laterals, Powderhorn has not yet drilled, as a team, a  
8 single well in New Mexico or Texas or anywhere;  
9 correct?

10 MR. HOLLIDAY: Objection. We've asked  
11 this question.

12 MR. RANKIN: Sorry, let me -- I'm  
13 asking it -- I'll withdraw it and I'll ask it a  
14 different way.

15 BY MR. RANKIN:

16 MR. RANKIN: Mr. Tippen, because  
17 Powderhorn, as a team, has not yet drilled a single  
18 well in New Mexico or anywhere, you have no basis to  
19 state that you can achieve or execute based on these  
20 economics; agree?

21 MR. TIPPEN: I don't believe that's  
22 correct.

23 MR. RANKIN: Have you --

24 MR. TIPPEN: Our drilling AFE is based  
25 on an AFE that Dual built for us for the specific

1 unit, and we expect that they would be the ones  
2 executing on the AFE. They're currently well  
3 experienced in the Delaware to do that.

4 MR. RANKIN: Okay. You don't have a  
5 contract with them, do you?

6 MR. TIPPEN: Not currently.

7 MR. RANKIN: Okay. But Powderhorn  
8 itself has not yet executed on any AFEs anywhere in  
9 New Mexico or Texas; correct?

10 MR. TIPPEN: As a team.

11 MR. RANKIN: You agree; correct?

12 MR. TIPPEN: I agree to your statement  
13 that Powderhorn, as a team, has not.

14 MR. RANKIN: Okay. And so you have no  
15 track record to demonstrate that you can execute on  
16 these economics; agree?

17 MR. TIPPEN: Powderhorn, as a team,  
18 does not have a track record. However, all the  
19 individual people on our team have extensive track  
20 records.

21 MR. RANKIN: Okay. But again, this is  
22 Powderhorn's project; correct?

23 MR. TIPPEN: This Is going to be a  
24 Powderhorn project, correct.

25 MR. RANKIN: Okay. And on the AFEs,

1 Powderhorn has not yet executed on an AFE to show that  
2 it can come within the estimate of costs on any wells;  
3 correct?

4 MR. TIPPEN: That is correct as to  
5 Powderhorn.

6 MR. RANKIN: And because Powderhorn has  
7 not drilled any wells in New Mexico, it has no track  
8 record to establish that it can realize any greater  
9 efficiencies on a one-and-a-half-mile versus a  
10 one-mile well; correct?

11 MR. TIPPEN: Repeat that question,  
12 please.

13 MR. RANKIN: Because Powderhorn has not  
14 yet drilled any wells in New Mexico, or in Texas, or  
15 anywhere, you have no track record to establish that  
16 it can realize any projected efficiencies on its  
17 operations or production between a one-mile well and a  
18 one-and-a-half-mile well; agree?

19 MR. TIPPEN: I'm having a hard time  
20 following how a -- just given that we don't, as  
21 Powderhorn, have a track record, how I cannot make  
22 comments that a one-and-a-half-miler is going to be  
23 more capitally efficient than a one-miler.

24 MR. RANKIN: Let me ask you this,  
25 Mr. Tippen. Wouldn't you agree with me that different

1 companies have different abilities in drilling and  
2 performing on their wells?

3 MR. TIPPEN: Absolutely.

4 MR. RANKIN: And wouldn't you agree  
5 with me that some companies are better at performing  
6 on their execution between one-and-a-half-mile wells?

7 MR. TIPPEN: Yes, I would say, but  
8 every well is unique.

9 MR. RANKIN: And so, I mean, you would  
10 agree with me that because every company is different  
11 and every well is unique, you'd want to understand  
12 what the company's track record is being able to  
13 execute and perform under its proposals; agree?

14 MR. TIPPEN: I guess I'll agree with  
15 that.

16 MR. RANKIN: And at this time,  
17 Powderhorn has no track record and no demonstration  
18 that it can meet its performance expectancies; agree?

19 MR. HOLLIDAY: Objection --

20 MR. TIPPEN: I think we can lean, as  
21 Powderhorn as an operator --

22 THE HEARING EXAMINER: Mr. Tippen,  
23 please.

24 MR. TIPPEN: -- I think we can lean on  
25 Dual Drilling's track record.

1 THE HEARING EXAMINER: Mr. Tippen.

2 MR. HOLLIDAY: Brendan, stop.

3 THE HEARING EXAMINER: Court reporter,  
4 would you strike that answer, because Mr. Tippen  
5 doesn't seem to realize that when there's an objection  
6 he should stop speaking.

7 THE REPORTER: Yes, sir.

8 THE HEARING EXAMINER: Mr. Holliday,  
9 your objection?

10 MR. HOLLIDAY: I believe this is also  
11 asked and answered. We've covered this.

12 THE HEARING EXAMINER: Sustained.

13 Mr. Rankin, please move on.

14 MR. RANKIN: Okay.

15 BY MR. RANKIN:

16 MR. RANKIN: I want to move to your  
17 Exhibit C-7, which is your rebuttal exhibit. And this  
18 is my understanding based on your prior testimony to  
19 me, that the sole basis for your analysis that  
20 there's -- you don't see a vertical offset impact  
21 based on sequential drilling in the two benches in  
22 this acreage; correct?

23 MR. TIPPEN: That's correct.

24 MR. RANKIN: Okay. And I want to walk  
25 through these two different -- or three different

1 development acres, or areas that you highlight here.

2 I believe you mentioned in your  
3 testimony that one pad is -- you found one pad that  
4 was co-developed, one pad that was not co-developed  
5 but was -- the lower bench was drilled within six  
6 months or so, and then one pad that was not  
7 co-developed for a long period of time.

8 Is that a fair paraphrase of your  
9 testimony?

10 MR. TIPPEN: That's a -- that's a fair  
11 paraphrase, yes.

12 MR. RANKIN: All right. Now that I got  
13 this up on the screen, I want you to tell me which is  
14 which.

15 MR. TIPPEN: Okay. So if we look at  
16 figure number 3, we have the Hamm State. This is the  
17 co-developed unit and that is in green. The green  
18 unit will refer to the green lines on the "cume" oil  
19 graph above it.

20 The Tony La Russa unit outlined in red,  
21 this is the unit that was not co-developed and  
22 developed at a much later time. So the A was drilled  
23 in 2019, the B was drilled in 2022. The Wolfcamp C  
24 wells within that unit are referred to with the red  
25 lines on my "cume" graph.



1           The Black River unit was not  
2 co-developed, but they were back within six months.  
3 That is the yellow line on the "cume" graph.

4           MR. RANKIN: I want to focus on the  
5 Tony La Russa, okay. Now, the Tony La Russa, tell me  
6 what the development was there.

7           MR. TIPPEN: So there was Wolfcamp A  
8 development at 5,000 feet, and then they came back in  
9 2022 and drilled two Wolfcamp B wells directly  
10 underneath.

11          MR. RANKIN: How many Wolfcamp A wells  
12 were drilled --

13          MR. TIPPEN: Two.

14          MR. RANKIN: -- initially?

15          MR. TIPPEN: Two.

16          MR. RANKIN: Okay. So that -- is that  
17 a half section --

18          MR. TIPPEN: That's a half section.

19          MR. RANKIN: Okay. So that's the same  
20 spacing, roughly; is that right?

21          MR. TIPPEN: Yes. This would be the  
22 same spacing as what we have proposed at Super Hornet,  
23 as well as what Conoco has proposed.

24          MR. RANKIN: Okay. And then they came  
25 back later and drilled Wolfcamp B; correct?

1 MR. TIPPEN: Correct.

2 MR. RANKIN: How many wells in the  
3 Wolfcamp B?

4 MR. TIPPEN: Two.

5 MR. RANKIN: Okay. And -- now, were  
6 there any -- in your opinion, the Tony La Russa is  
7 analogous here?

8 MR. TIPPEN: Yeah, so if you look at  
9 the red lines on my "cume" graph over ten years -- the  
10 point I'm making is, I do not see evidence of clear  
11 degradation. And if you look at the "cume" graph, the  
12 two red lines are the second and third best well in  
13 the study. Those should be the worst if you -- if you  
14 believe that there's degradation due to  
15 non-co-development.

16 MR. RANKIN: In your opinion, are  
17 the -- in your opinion, the Tony La Russa wells are  
18 analogous to the Super Hornet proposal?

19 MR. TIPPEN: You know, I -- I think  
20 we're going to get back to the Wolfcamp B sooner on  
21 the Super Hornet development. So they are not  
22 analogous to what Powderhorn plans to do. However, it  
23 is a good example of a non-co-developed unit,  
24 especially after letting a significant amount of time  
25 pass.

1 MR. RANKIN: So the Super Hornet  
2 program will have four Wolfcamp B wells; correct?

3 MR. TIPPEN: Correct.

4 MR. RANKIN: And of those four Wolfcamp  
5 wells, how many of them will be -- would you term be  
6 confined wells?

7 MR. TIPPEN: Two of the four.

8 MR. RANKIN: Okay. And those would be  
9 the middle two; correct?

10 MR. TIPPEN: Correct.

11 MR. RANKIN: And in the Tony La Russa  
12 wells, those wells, would you agree with me, are only  
13 partially confined?

14 MR. TIPPEN: That's correct.

15 MR. RANKIN: Okay. So do you still  
16 believe that based on the confinement of the wells and  
17 the compared development programs, that the Tony  
18 La Russa is truly analogous to your Super Hornet?

19 MR. TIPPEN: I think it is the best  
20 analog that we have. In reservoir  
21 engineer -- reservoir engineering, we have to choose  
22 the best analogs, not necessarily the perfect analogs.

23 MR. RANKIN: Okay. So it's not a  
24 perfect analog, but you believe it's a -- what? How  
25 would you phrase it? Is it analogous or --

1 MR. TIPPEN: I would phrase it -- it is  
2 the best analog.

3 MR. RANKIN: Mr. Holliday was referring  
4 to this analysis as your study, but Powderhorn didn't  
5 have any oversight of the production from these wells;  
6 correct?

7 MR. TIPPEN: We have public data on  
8 these wells.

9 MR. RANKIN: I mean, you weren't able  
10 to control the variables about takeaway, you know,  
11 whether the -- whether this was -- this wasn't a  
12 controlled study; right?

13 MR. TIPPEN: No, sir. This is using  
14 public data to study surrounding developments.

15 MR. RANKIN: And did you understand  
16 from Dr. Umekwe's testimony, that ConocoPhillips's  
17 study was a controlled study where they controlled the  
18 variables?

19 MR. TIPPEN: I -- I understand that  
20 now.

21 MR. RANKIN: Okay. So would you -- is  
22 it your -- still your opinion that your uncontrolled  
23 studies referenced in Exhibit C here, are analogous or  
24 comparable to the controlled study that ConocoPhillips  
25 undertook?

1 MR. TIPPEN: I believe that  
2 ConocoPhillips's study is an interesting study for the  
3 area that it was in, but I don't think it is analogous  
4 to our unit for multiple reasons. I can list those if  
5 you'd like me to.

6 MR. RANKIN: Your geologist did not  
7 identify any geologic bases for the area not being  
8 analogous. What's your opinion for, on an engineering  
9 basis, for why they're not analogous?

10 MR. TIPPEN: So several things.  
11 The -- in the study area they targeted the  
12 Wolfcamp A Shale rather than the Wolfcamp Sand. So  
13 the upper bench was a slightly different target.

14 Secondly, they drilled the A at higher  
15 density than we're drilling at Super Hornet. It was  
16 six wells per section compared to four.

17 In addition, when they came in to  
18 develop the B, rather than drilling a single B  
19 horizon, they did a Wolfcamp BC stagger at higher  
20 density than we're going to drill in Super Hornet.

21 Finally, I would say it's 20 miles away  
22 and it's in a different part of the basin than  
23 Super Hornet.

24 MR. RANKIN: Explain to me how the  
25 distance has any impact on your determination.

1 MR. TIPPEN: Different regional  
2 settings in the basin.

3 MR. RANKIN: That's a geologic basis?

4 MR. TIPPEN: I'll -- I'll refer  
5 to -- yes, that's -- that is a geologic statement, but  
6 I don't think it's a geologic statement that I can't  
7 state as -- as a reservoir engineer. I won't go any  
8 further into geology, though.

9 MR. RANKIN: Okay. So you have  
10 no -- you can't tell me any geologic basis for why  
11 that acreage is different or non-analogous; right?

12 MR. HOLLIDAY: Objection. This is not  
13 our geology witness.

14 MR. RANKIN: Well, he's testifying  
15 that -- if I may respond. He's testifying that it's  
16 not analogous based on a geology reason and I'm asking  
17 him what the geology reason is.

18 THE HEARING EXAMINER: Mr. Tippen, if  
19 you know the answer, you can give the answer. If you  
20 don't know the answer, just say you don't know. So  
21 I'm going to overrule the objection based on his prior  
22 testimony.

23 MR. TIPPEN: As a reservoir engineer, I  
24 will say that I don't know, and I will let our  
25 geologists talk about that.

1 BY MR. RANKIN:

2 MR. RANKIN: So then the basis for your  
3 opinion that they're not analogous is that they're  
4 different targets and the density is different between  
5 Marathon's test project area and the Super Hornet;  
6 correct?

7 MR. TIPPEN: That's correct.

8 MR. RANKIN: Okay. I think I may be  
9 very close to done. May I have two minutes just to  
10 confer with my client to make sure I've covered  
11 everything that I need to cover, Mr. Hearing Officer?

12 THE HEARING EXAMINER: That's fine.

13 MR. RANKIN: Thank you very much. One  
14 moment.

15 Thank you, Mr. Hearing Officer. I  
16 think I just have a couple -- one small area of  
17 questioning for Mr. Tippen before I am done.

18 THE HEARING EXAMINER: Please.

19 BY MR. RANKIN:

20 MR. RANKIN: Mr. Tippen, are you -- do  
21 you hear me there?

22 MR. TIPPEN: I do.

23 MR. RANKIN: I just want to follow up  
24 on a line of questioning. I understand we discussed  
25 in your testimony that Powderhorn's intention is to

1 drill the Wolfcamp A first. And --

2 MR. TIPPEN: That is correct.

3 MR. RANKIN: Okay. And then later to  
4 come back and do the B as soon as possible; correct?

5 MR. TIPPEN: Correct.

6 MR. RANKIN: And in the interim,  
7 Powderhorn will be producing the initial bench;  
8 correct?

9 MR. TIPPEN: Correct.

10 MR. RANKIN: So based on general  
11 physics and engineering principles, there will be some  
12 depletion occurring as a result of the production of  
13 the Wolfcamp A in the interim before you come back to  
14 drill the Wolfcamp B; correct?

15 MR. TIPPEN: Correct.

16 MR. RANKIN: Based on general  
17 engineering and physics principles, there will be  
18 depletion as a result of that production in the upper  
19 bench; correct?

20 MR. TIPPEN: Correct.

21 MR. RANKIN: And based on those general  
22 engineering principles, when you come back to complete  
23 the Wolfcamp B, the Wolfcamp B completions will  
24 preferentially grow towards the areas of lower  
25 pressure; correct?



1 MR. TIPPEN: Correct.

2 MR. RANKIN: Okay. No further  
3 questions, Mr. Hearing Officer.

4 THE HEARING EXAMINER: Mr. Fordyce.

5 MR. FORDYCE: I don't have any  
6 questions for Mr. Tippen, Mr. Hearing Examiner.

7 THE HEARING EXAMINER: Thanks.

8 MR. HOLLIDAY: Just have a few very  
9 brief -- I'll be brief.

10 REDIRECT EXAMINATION

11 BY MR. HOLLIDAY:

12 MR. HOLLIDAY: There's questions on how  
13 you guys settled on Dual as your preferred drilling  
14 contractor. Can you provide a little more context for  
15 that decision?

16 MR. TIPPEN: Yeah, so we've talked to  
17 several drilling contractors, and Dual is, in our  
18 opinion, the most experienced contractor for Delaware  
19 Basin, specifically New Mexico Delaware. Lenny Wood  
20 actually worked with Robert Brosig, at Dual, while  
21 they were at EOG together. We have a contact and  
22 relationship there. It feels like -- it -- it felt  
23 like the correct decision for Powderhorn.

24 MR. HOLLIDAY: Okay. So did I  
25 understand your testimony that the Powderhorn team, in

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1 prior professional experiences, has worked with the  
2 Dual control team; is that correct?

3 MR. TIPPEN: Yes.

4 MR. HOLLIDAY: Or Dual --

5 MR. TIPPEN: Lenny has worked with  
6 Robert at EOG.

7 MR. HOLLIDAY: Okay. We talked about  
8 degradation. I just got one question, one follow-up.

9 Has Marathon presented any economics on  
10 degradation that shows that their claims of  
11 degradation will have a larger impact on well  
12 performance than the negative impact of a shorter  
13 lateral length?

14 MR. TIPPEN: No, they have shown none  
15 of that.

16 MR. HOLLIDAY: Okay. And is it your  
17 understanding that it's a fairly common administrative  
18 procedure to obtain an exception to the Purple Sage  
19 Wolfcamp rules to allow for 100-foot heel-to-toe  
20 spacing?

21 MR. TIPPEN: I'm going to leave that to  
22 land.

23 MR. HOLLIDAY: Okay.

24 MR. TIPPEN: I guess another way to say  
25 that, I -- I -- I'm not familiar.

1 MR. HOLLIDAY: You're not familiar.  
2 Okay.

3 Last question. Mr. Rankin brought up  
4 the fact that Marathon, or Conoco's study, was, to use  
5 his words, controlled. Does the fact that their study  
6 was controlled versus your review of the public data,  
7 does that make any material difference in your  
8 analysis?

9 MR. TIPPEN: I -- I don't think you can  
10 discredit a study because it's based on non-controlled  
11 public data. That is the vast majority of data that  
12 we have to work with in this basin.

13 MR. HOLLIDAY: No further questions.  
14 Thank you.

15 THE HEARING EXAMINER: May this witness  
16 be excused?

17 MR. HOLLIDAY: Yes.

18 THE HEARING EXAMINER: Does that rest  
19 your case in chief?

20 MR. HOLLIDAY: Yes, sir.

21 THE HEARING EXAMINER: All right.  
22 Thank you.

23 Mr. Rankin, have you thought about what  
24 we spoke about around ten o'clock?

25 MR. RANKIN: I have, and I think our

1 preference would be to do the 12 to 2, so that we can  
2 come back earlier.

3 THE HEARING EXAMINER: Fine.

4 MR. RANKIN: Yeah.

5 THE HEARING EXAMINER: That's fine with  
6 me.

7 So you have, it's my understanding, two  
8 witnesses; right?

9 MR. RANKIN: Correct, Mr. Hearing  
10 Officer, we do.

11 THE HEARING EXAMINER: Who do you want  
12 to call first?

13 MR. RANKIN: If I may take this  
14 opportunity to make my brief opening statement.

15 THE HEARING EXAMINER: Perfect. Yeah.

16 MR. RANKIN: To help orient the  
17 Division and everybody to our case.

18 THE HEARING EXAMINER: By all means.

19 MR. RANKIN: Thank you very much,  
20 Mr. Hearing Officer.

21 In this contested case, both parties  
22 propose competing drilling plans that seek to develop  
23 similar acreage. The competing plans fall into a  
24 particular category of contested case involving a  
25 partial overlap of proposed spacing units that the

1 Commission and Division have previously analyzed in  
2 several prior cases.

3 Specifically, Powderhorn's proposed  
4 development under its case, competes with and  
5 partially overlaps the spacing unit, as we've been  
6 discussing, in the north half of Section 2.

7 Powderhorn proposes, in its case, a single enlarged  
8 spacing unit, comprising the east half of Section 3  
9 and all of Section 2, to drill its one-and-a-half-mile  
10 proposed wells.

11 In contrast, Marathon proposes one mile  
12 Wolfcamp developments comprised of the north half of  
13 Section 2. That means that the only overlapping  
14 contested acreage is Marathon's proposed development  
15 in the north half of Section 2. This is acreage that  
16 ConocoPhillips bought from Marathon, slightly more  
17 than a year ago, with the intent purpose of developing  
18 it on its own.

19 Now, there are some key similarities in  
20 the development plans, as you've heard in testimony,  
21 but most significantly, both parties propose to  
22 develop essentially the same two target intervals, the  
23 upper Wolfcamp XY, essentially, and the lower  
24 Wolfcamp B or C interface, depending on which party is  
25 discussing.

1                   Now, that means, in terms of the  
2 primary factor used to evaluate between two competing  
3 plans, the geologic factor, there is no difference.  
4 What they disagree over is how to best develop this  
5 acreage.

6                   Now, there are two main differences,  
7 one is lateral length, and the other is sequential  
8 development of the two benches. And you've heard a  
9 lot of testimony on that and you'll hear some more  
10 shortly.

11                   But before I give you an overview of  
12 that testimony, there's one dispositive issue that is  
13 determinative in this case, and that is the working  
14 interest control. In the particular category of  
15 contested cases involving a partial overlap of  
16 proposed spacing units, the working interest control  
17 analysis focuses on that overlapping acreage, as the  
18 Division is already recognized.

19                   Who owns or controls the largest share  
20 of that overlapping acreage is the key. Here, the  
21 disputed acreage is the north half of 2, and in that  
22 acreage, Marathon owns, itself, 55 percent of the  
23 working interest, and controls, through a JOA that's  
24 active and valid, and there's no dispute that it  
25 is -- 100 percent working interest is committed to

1 it -- that it controls 100 percent of the working  
2 interest in that acreage.

3 That fact is determinative of the  
4 outcome of this case under the Division and Commission  
5 precedent that we've cited in our prehearing  
6 statement.

7 Now, Powderhorn has done what they can  
8 to obtain working interest in the north half recently,  
9 and they have obtained approximately 4 percent working  
10 interest, or fewer than three net acres out of more  
11 than 320, that are fully committed themselves to  
12 Marathon's JOA.

13 You also heard that they recently  
14 gained the working interest support of Kaiser-Francis,  
15 who recently agreed to commit their interest to  
16 Powderhorn's proposed overlapping JOA.

17 But there's a substantial catch to that  
18 commitment, as you heard. Not only is Kaiser-Francis  
19 still fully committed to Marathon's JOA, they have not  
20 revoked or rescinded their commitment to it, but their  
21 commitment to Powderhorn's JOA is linked to an  
22 agreement to trade Kaiser-Francis's acreage out of the  
23 contested acreage that is contingent on Powderhorn  
24 winning this contested hearing. That's not a full  
25 commitment. That is a contingent commitment, at best.

1 Powderhorn has done its best to  
2 undermine Marathon's established JOA in order to get  
3 its first drilling project off the ground. But what  
4 it can't change is that Marathon has 55 percent  
5 working interest in the north half of Section 2, and  
6 controls 100 percent of the working interest in this  
7 disputed acreage in the north half of Section 2. All  
8 those working interests remain validly committed to  
9 Marathon's existing JOA.

10 Now, the technical case that relates to  
11 the other contested issues, we've been hearing about  
12 that already and we'll continue to hear about it, but  
13 we believe those factors still favor Marathon as well.

14 Marathon has drilled and operates  
15 hundreds of wells in the state, and seeks to drill  
16 four proposed one-mile laterals entirely within its  
17 controlled acreage. It does not require a pooling  
18 order. It has approved APDs and preliminary approval  
19 from the state land office for a communalized area,  
20 and it has, already, commitments in place for oil,  
21 gas, and water takeaway. Marathon is ready, willing,  
22 and able to drill its acreage and develop its JOA, the  
23 reason it's purchased this acreage in the first place.

24 Unlike the development plan in a single  
25 Division case that Powderhorn relies on, Marathon's



1 proposed development is not hypothetical. They're  
2 ready to go. They intend to drill it. It's simply  
3 waiting to be slotted into their development plans.

4 So to avoid the top-down degradation  
5 that we know is going to occur based on simple  
6 engineering principles that will be caused by  
7 Powderhorn's proposed sequential development, where  
8 they target first the Wolfcamp XY and then the lower  
9 target, Marathon will do both targets at the same  
10 time.

11 In contrast, Powderhorn is a new  
12 operator. They've never drilled the well as a team.  
13 They've never drilled a well as a team with their  
14 proposed newly potential drilling operator.

15 Now, while they propose to drill  
16 one-and-a-half-miles as opposed to one-miles, they're  
17 going to do it through a phased approach, and they  
18 claim that the efficiencies that they believe they can  
19 get through the longer laterals justify confiscating  
20 Marathon's 55 percent working interest through the  
21 police powers of the state and overriding their  
22 100 percent working interest control JOA.

23 For a team that has never worked  
24 together to drill or operate a well, to actually  
25 achieve those efficiencies in its first drilling

1 program with its first drilling contractor, is, in our  
2 view, speculation.

3 To bolster its argument, Powderhorn  
4 initially claimed Marathon's proposed north half  
5 development will strand Powderhorn's acreage in the  
6 northeast quarter of Section 3, but that argument, in  
7 our view, is without technical merit. They didn't  
8 address it on rebuttal. In our view, they discarded  
9 it.

10 Now, that leaves Powderhorn with their  
11 argument that Marathon is just trying to defend its  
12 position through an old JOA. It's true that the JOA  
13 is old, but it's still a binding contract and it still  
14 has 100 percent commitment that governs the acreage.

15 It's also true that Marathon is  
16 vigorously defending its majority working interest  
17 position and operatorship in the north half of  
18 Section 2. But it was forced into that position of  
19 having to defend its valuable mineral interests and  
20 its position with a competing development plan when  
21 the agreement it thought it had negotiated, or was  
22 close to completing with Powderhorn, turned out to be  
23 a mirage.

24 Instead of disclosing at the outset  
25 that its proposed trade with Marathon was contingent

1 on a deal with an undisclosed third party, so Marathon  
2 could appropriately discount the risk of that third  
3 party transaction falling apart, Powderhorn allowed  
4 Marathon to believe that it owned and controlled that  
5 acreage, even providing Marathon a letter of intent  
6 outlining the trade with the acreage it did not even  
7 own, leading Marathon and its management team down a  
8 primrose path that ended up being a dead end.

9 Now, that soured all trade deals with  
10 Powderhorn. Nevertheless, they continued to try to  
11 make a commercial resolution through other options.  
12 But in the end, none of the options that were provided  
13 to Marathon were economic, and it was better for  
14 Marathon to just drill its own wells.

15 So unable to show that Marathon's  
16 development will result in substantial waste, the  
17 Division should deny Powderhorn's application as filed  
18 and allow Marathon to develop its own JOA acreage.

19 Having reached agreement with the  
20 majority of the working interests in the remainder of  
21 its acreage in the east half of Section 3, and in the  
22 south half of Section 2, Powderhorn can and should  
23 file new pooling applications for the east half of  
24 Section 3 and the south half of Section 2 to drill its  
25 acreage, and the Division should allow Marathon to

1 drill its own acreage where it retains 100 percent  
2 working interest control.

3 Appreciate the opportunity to make that  
4 opening statement.

5 We have two witnesses remaining. First  
6 will be a land witness, who will testify about  
7 negotiations and the overview of the proposed  
8 development, and the second will be our geology  
9 witness, who will testify about the appropriateness of  
10 the orientation of the wells and the proposed  
11 development that Marathon seeks to do.

12 THE HEARING EXAMINER: Would you come  
13 and sit at the witness and turn on the microphone,  
14 please.

15 Good morning. I remind you you're  
16 still under oath.

17 MS. KLINGLER: Yes, Mr. Officer.

18 THE HEARING EXAMINER: Mr. Rankin.

19 MR. RANKIN: Thank you very much.

20 DIRECT EXAMINATION

21 BY MR. RANKIN:

22 MR. RANKIN: Ms. Klingler, will you  
23 please state your full name for the record.

24 MS. KLINGLER: Shelley Klingler.

25 MR. RANKIN: And by whom are you

1 employed and in what capacity?

2 MS. KLINGLER: I'm employed with  
3 ConocoPhillips, who owns Marathon Oil Permian, as a  
4 staff land negotiator in the Delaware Basin.

5 MR. RANKIN: And Marathon is a wholly  
6 owned subsidiary of ConocoPhillips; is that correct?

7 MS. KLINGLER: Yes, sir.

8 MR. RANKIN: And you previously  
9 testified before the Division and had your credentials  
10 accepted?

11 MS. KLINGLER: Yes, sir.

12 MR. RANKIN: Okay. Now, you provided a  
13 written direct testimony that's marked as Marathon  
14 Exhibit B-B; correct?

15 MS. KLINGLER: Yes, sir.

16 MR. RANKIN: And you've conducted a  
17 study of the lands in the subject area?

18 MS. KLINGLER: Yes, sir.

19 MR. RANKIN: And you prepared your  
20 exhibits that are marked as Exhibit A, your statement,  
21 and exhibits A-1 through A-8?

22 MS. KLINGLER: Yes, sir.

23 MR. RANKIN: And you also prepared  
24 rebuttal exhibits 1 through 4, and 8; correct?

25 MS. KLINGLER: Yes, sir.

1 MR. RANKIN: And those exhibits were  
2 prepared by you or compiled under your direction and  
3 supervision?

4 MS. KLINGLER: Yes, sir.

5 MR. RANKIN: Any corrections or changes  
6 to the testimony or exhibits?

7 MS. KLINGLER: No, sir.

8 MR. RANKIN: Do you adopt the testimony  
9 marked as Exhibit A as your sworn testimony today?

10 MS. KLINGLER: Yes, sir.

11 MR. RANKIN: Having already admitted  
12 these exhibits, Mr. Examiner, I'll go right into my  
13 questions.

14 BY MR. RANKIN:

15 MR. RANKIN: Ms. Klingler, I want to  
16 first address the claims by Powderhorn that the  
17 northeast quarter of Section 3 will be stranded and  
18 the topics around that point.

19 I'm going to share my screen as soon as  
20 I get to it. One moment.

21 Paragraph 10 of Powderhorn's landman  
22 statement, Mr. Macha states that it was newly  
23 communicated, the intention of stranding the northeast  
24 quarter of Section 3.

25 Did Marathon ever communicate to

1 Powderhorn at any time that it intended to strand the  
2 northeast quarter of Section 3?

3 MS. KLINGLER: No, sir.

4 MR. RANKIN: Does Marathon in fact  
5 intend to strand the northeast quarter of Section 3?

6 MS. KLINGLER: Marathon does not plan  
7 to strand it. There are options available to  
8 Powderhorn.

9 MR. RANKIN: And in your opinion, with  
10 those options, Marathon's development will not  
11 actually strand that acreage, will it?

12 MS. KLINGLER: That's correct.

13 MR. RANKIN: Okay. In fact, if I look  
14 at Powderhorn's own Exhibit A-8, there's a variety of  
15 stand-up and lay-down orientations that are -- have  
16 been drilled and are proposed to be drilled in  
17 immediately offsetting anchorage; correct?

18 MS. KLINGLER: Yes.

19 MR. RANKIN: Okay. I'm going to go to  
20 your rebuttal slides 1 through 4. And just explain,  
21 if you would, at a high level, what this slide shows  
22 and how, in your opinion, based on your discussions  
23 with your engineers and geologists, Powderhorn would  
24 be able to go forward with this development plan.

25 MS. KLINGLER: This slide shows that

1 there is an option to drill the east half of Section 3  
2 and the south half of Section 2 from one single pad to  
3 fully develop those spacing units.

4 MR. RANKIN: And you heard Powderhorn's  
5 geologists testify that it would be possible for them  
6 to do this; correct?

7 MS. KLINGLER: Yes.

8 MR. RANKIN: Okay. And next slide  
9 here, Rebuttal Exhibit 2, just shows that same  
10 orientation in the context of offsetting development.

11 In your opinion as a landman, does that  
12 have any -- is there any concerns or does it fit  
13 within the pattern of development existing within the  
14 offsetting acreage?

15 MS. KLINGLER: Yes, multiple companies  
16 have drilled north-south wells.

17 MR. RANKIN: And oftentimes, the  
18 orientations that companies choose, is it often, in  
19 this acreage, based on their land position?

20 MS. KLINGLER: Often, yes.

21 MR. RANKIN: Okay. And they're able to  
22 do that because, based on your understanding from your  
23 discussions with your geologist, that's because  
24 there's no strong preferential for well orientation  
25 here; correct?



1 MS. KLINGLER: That is correct.

2 MR. RANKIN: And you'll hear more of  
3 that, Mr. Dupree will testify further on that point.

4 MS. KLINGLER: Yes, sir.

5 MR. RANKIN: Okay. Next slide here is  
6 your rebuttal slide number 3. Explain what this  
7 additional alternative option may be that Powderhorn  
8 could consider.

9 MS. KLINGLER: As a preference for  
10 Powderhorn, is to drill longer laterals, as many  
11 companies prefer to do. There is an option to do  
12 two-mile U-turn wells in the 320 spacing units, or  
13 approximate 320 spacing units, in which they have  
14 majority interest.

15 MR. RANKIN: We haven't heard much  
16 about U-turn wells yet, but Ms. Klingler, are U-turn  
17 wells a common development plan that operators are  
18 drilling these days?

19 MS. KLINGLER: Yes, they are becoming  
20 more and more common, and Conoco is currently involved  
21 in some now.

22 MR. RANKIN: The wells that Conoco are  
23 involved in now, are some of those offsetting this  
24 acreage?

25 MS. KLINGLER: Yes, in

1 the -- Section 31, and the south half of Section 30 of  
2 23 South 27 East.

3 MR. RANKIN: Ms. Klingler, you've heard  
4 testimony that Powderhorn prefers longer laterals when  
5 it can develop them and that's why they prefer the  
6 one-and-a-half approach. Is that your understanding  
7 of their testimony?

8 MS. KLINGLER: That is.

9 MR. RANKIN: What would be the benefit  
10 of this approach given Powderhorn's preference for  
11 longer laterals?

12 MS. KLINGLER: They would get two-mile  
13 efficiencies with U-turn wells.

14 MR. RANKIN: And so with two-mile  
15 wells, they would get an extra mile of lateral just  
16 between these two wells; correct?

17 MS. KLINGLER: Yes.

18 MR. RANKIN: Going back to Mr. Macha's  
19 direct testimony in paragraph 10 -- sorry,  
20 paragraph 11.

21 You reviewed Mr. Macha's testimony;  
22 correct?

23 MS. KLINGLER: Yes, sir.

24 MR. RANKIN: And this statement seems  
25 to indicate that it was never communicated to

1 Powderhorn of Marathon ever contemplating drilling its  
2 own acreage. Is that your understanding of his  
3 testimony?

4 MS. KLINGLER: That is what I'm reading  
5 in his testimony.

6 MR. RANKIN: Okay. But in fact, were  
7 there discussions had between Powderhorn and Marathon  
8 indicating that Powderhorn was contemplating its own  
9 development pattern?

10 MS. KLINGLER: I'm sorry, can you  
11 repeat that?

12 MR. RANKIN: I said "pattern." I meant  
13 to say "plan."

14 And, in fact, were there communications  
15 between Marathon and Powderhorn where Marathon stated  
16 that it was actually contemplating drilling this  
17 acreage itself?

18 MS. KLINGLER: Yes, we were very  
19 upfront about that.

20 MR. RANKIN: So I'm looking at  
21 Powderhorn's Exhibit A-15, the communications log, in  
22 the bottom left corner where it references the October  
23 2025 time frame. In fact, here it references, on  
24 October 29th, that ConocoPhillips discussed  
25 potentially developing this acreage itself; correct?

1 MS. KLINGLER: Correct.

2 MR. RANKIN: And was that the earliest  
3 time frame that ConocoPhillips had discussed  
4 potentially developing this acreage itself?

5 MS. KLINGLER: That may have been the  
6 earliest with Powderhorn, but I believe we spoke on  
7 the phone with Mr. Macha earlier when he was first  
8 communicating their desire to drill our acreage.

9 MR. RANKIN: Okay. And Ms. Klingler,  
10 you testified earlier that Marathon is a wholly owned  
11 subsidiary of ConocoPhillips; correct?

12 MS. KLINGLER: Yes, sir.

13 MR. RANKIN: When did ConocoPhillips  
14 acquire Marathon?

15 MS. KLINGLER: November 22nd of 2024.

16 MR. RANKIN: And that acquisition of  
17 Marathon, did it include this acreage?

18 MS. KLINGLER: It did.

19 MR. RANKIN: Did it include this JOA?

20 MS. KLINGLER: It did.

21 MR. RANKIN: And also the operating  
22 rights of that JOA.

23 MS. KLINGLER: That's correct.

24 MR. RANKIN: And as part of that  
25 purchase, did Marathon intend to -- or rather, did

1 ConocoPhillips intend to buy this acreage with the  
2 intent of developing it?

3 MS. KLINGLER: Yes.

4 MR. RANKIN: And tell me what the  
5 benefit is of buying acreage that's 100 percent  
6 committed under a JOA.

7 MS. KLINGLER: You have the opportunity  
8 to execute on a -- a sooner timeline, an earlier  
9 timeline than if you don't have a voluntary agreement  
10 in place.

11 MR. RANKIN: And why is that?

12 MS. KLINGLER: You don't need a  
13 pooling.

14 MR. RANKIN: Right. Because every --

15 MS. KLINGLER: We've already got  
16 everybody committed and we can just get our APDs and  
17 drill.

18 MR. RANKIN: So under New Mexico law,  
19 you have two options if you want to be an operator and  
20 drill a well, you either have to get voluntary  
21 agreement, or you have to go get forced pooling;  
22 correct?

23 MS. KLINGLER: Correct.

24 MR. RANKIN: And is it your  
25 understanding that the Division generally favors when

1 operators can come to a 100 percent agreement?

2 MS. KLINGLER: Yes.

3 MR. RANKIN: And that's because they  
4 don't have to come use the police powers of the state  
5 to force mineral owners to combine their interests;  
6 right?

7 MS. KLINGLER: That's correct.

8 MR. RANKIN: And so in this instance,  
9 Marathon purchased, or ConocoPhillips purchased this  
10 Marathon interest with the express purpose of being  
11 able to develop it without having to go to pooling;  
12 correct?

13 MS. KLINGLER: That's correct.

14 MR. RANKIN: I want to talk a little  
15 bit about working interest control.

16 Whoops. Oh, Mr. Hearing -- one moment.  
17 I didn't have my computer plugged in. One moment.

18 THE HEARING EXAMINER: Ms. Vance is not  
19 able to drive the exhibits?

20 All right, I'm going to get some water.  
21 Let's take a two-minute break.

22 (Off the record.)

23 THE HEARING EXAMINER: Mr. Rankin,  
24 please proceed.

25 MR. RANKIN: Thank you very much.

1           Ms. Klingler, before my computer died  
2 for lack of battery, I was going to ask you -- we're  
3 going to start talking about some working interest  
4 control issues.

5           Referring back to paragraph 11 of  
6 Powderhorn's land statement, Mr. Macha states that  
7 they own or have a committed interest in each tract of  
8 their proposed spacing unit. You agree with that?

9           MS. KLINGLER: I agree with  
10 qualifications.

11           MR. RANKIN: Okay. I want to get to  
12 the basis for your qualifications. So to do that, I'm  
13 going to walk through with you, your understanding of  
14 where things stand on ownership and working interest  
15 control in the north half of Section 2.

16           So I think probably the best way to do  
17 that is to pull up your Rebuttal Exhibit Number 8.  
18 I'm going to try to make it a little bit bigger.

19           I'd like for you to explain, if you  
20 would, the parties with the working interest in the  
21 north half of Section 2 and their commitment, the  
22 nature of their commitment to the working interest, to  
23 the JOA that you operate.

24           MS. KLINGLER: I'm sorry, are you  
25 sharing this slide?

1 MR. RANKIN: Oh, I'm not sharing it.  
2 There we go. Rookie mistake. One moment.

3 MS. KLINGLER: Thank you.

4 MR. RANKIN: So yeah, just again, I'd  
5 like you just to walk through where things stand on  
6 the working interest ownership and control  
7 under -- and how they're committed to your JOA.

8 MS. KLINGLER: In the north half of  
9 Section 2, the Marathon-operated joint operating  
10 agreement includes interest from Marathon as to  
11 55.5 percent of the north half of Section 2. Kaiser  
12 is at 43.74 percent of the north half of 2. And we  
13 have Powderhorn listed with 3.125 of the tract in  
14 Lot 2 -- in Section 2, Lot 1, southwest of the  
15 northwest, for a total of 0.78 percent, which is  
16 committed. And when they purchased it, they knew  
17 this.

18 MR. RANKIN: Okay. So just kind of  
19 taking each working interest owner in turn, you agree  
20 with the working interest represented on Powderhorn's  
21 chart for the Kaiser-Francis interest?

22 MS. KLINGLER: Yes, sir.

23 MR. RANKIN: Okay. And a party here  
24 that you show as having zero percent is Avant. On  
25 Mr. Macha's chart, I believe they had some interest,



1 14 acres or so, in one of their tracts. You don't  
2 show them owning in the north half of Section 2.

3 MS. KLINGLER: That is correct, they do  
4 not.

5 MR. RANKIN: And you've had discussions  
6 with Avant as part of this development project;  
7 correct?

8 MS. KLINGLER: Yes, on February 5th, in  
9 person.

10 MR. RANKIN: And based on your  
11 discussions with Avant, you understand from them that  
12 they don't own any interest in the north half of  
13 Section 2?

14 MS. KLINGLER: That is what they  
15 confirmed to me in person.

16 MR. RANKIN: Okay. And then you agree  
17 with Powderhorn, that PBEX does not own any interest  
18 in the north half of Section 2; correct?

19 MS. KLINGLER: That's correct.

20 MR. RANKIN: Okay. Nor does Permian;  
21 correct?

22 MS. KLINGLER: That's correct.

23 MR. RANKIN: Okay. Now I'd like to  
24 just -- I think it -- you heard testimony from  
25 Mr. Macha yesterday?

1 MS. KLINGLER: Yes, sir.

2 MR. RANKIN: And he went through -- I  
3 asked him some questions about the working interest  
4 and the nature of their interest, Powderhorn's  
5 interest in the north half of Section 2, how they  
6 acquired it. Did you hear that testimony?

7 MS. KLINGLER: Yes, sir.

8 MR. RANKIN: Do you have any comments  
9 or disagreements with Mr. Macha's testimony about how  
10 they obtained their interest?

11 MS. KLINGLER: I don't disagree with  
12 the conveyance documents that have been filed of  
13 record. We just have an issue with the particular  
14 clause in the joint operating agreement. We were  
15 never informed.

16 MR. RANKIN: Okay. So at no point  
17 during the communications, negotiations over this  
18 acreage, did Powderhorn inform you, or anybody at  
19 Marathon, that they had acquired an interest in the  
20 north half of Section 2?

21 MS. KLINGLER: Not until February 27th.

22 MR. RANKIN: And how did that  
23 notification come to pass?

24 MS. KLINGLER: I received a phone call  
25 from the co-CEO, Jack Yates, and he was the one who

1 informed me at that time that they did have an  
2 interest in the north half of 2. Which I immediately  
3 looked into, and subsequently, immediately -- sent  
4 them proposals.

5 MR. RANKIN: Okay. And so -- and  
6 that's why they got their well proposals a little bit  
7 after the other parties under the JOA; correct?

8 MS. KLINGLER: That's correct.

9 MR. RANKIN: But to this date,  
10 Powderhorn has not yet provided the formal  
11 notification of its ownership in the north half under  
12 the JOA; correct?

13 MS. KLINGLER: They did not, nor did  
14 VATEX.

15 MR. RANKIN: Okay. But those  
16 interests, you agree, are fully committed to --

17 MS. KLINGLER: Yes.

18 MR. RANKIN: To the JOA.

19 MS. KLINGLER: Yes, sir.

20 MR. RANKIN: And you agree that there's  
21 no dispute that Powderhorn itself is fully committed  
22 to Marathon's JOA?

23 MS. KLINGLER: That's correct.

24 MR. RANKIN: You heard some testimony  
25 from Mr. Macha that Marathon's JOA is an old JOA and

1 didn't contemplate horizontal wells. Do you recall  
2 that testimony?

3 MS. KLINGLER: I do recall.

4 MR. RANKIN: Is there any dispute,  
5 however, that Marathon's JOA is still valid and  
6 applies to the acreage and would govern Marathon's  
7 proposed horizontal wells?

8 MS. KLINGLER: There is no dispute.

9 MR. RANKIN: And is it common for  
10 operators to continue to rely on and operate under  
11 JOAs that predate horizontal well drilling?

12 MS. KLINGLER: Absolutely.

13 MR. RANKIN: Okay. Is it your  
14 understanding that the Division -- well, I think I've  
15 already asked this question, so I can skip that. It's  
16 good.

17 You heard Mr. -- you were present for  
18 Mr. Macha's testimony yesterday regarding  
19 Kaiser-Francis's interests and its agreements with  
20 Powderhorn?

21 MS. KLINGLER: Yes.

22 MR. RANKIN: Based on your  
23 understanding -- now, you had discussions with  
24 Kaiser-Francis as well; correct?

25 MS. KLINGLER: Yes.

1 MR. RANKIN: Based on your  
2 understanding -- and you had discussions with  
3 Powderhorn's co-CEO, Mr. Jack Yates, regarding that  
4 agreement with Kaiser-Francis and Powderhorn; correct?

5 MS. KLINGLER: Yes.

6 MR. RANKIN: Based on those discussions  
7 and what you know, do you have any differences of  
8 opinion or comments regarding Mr. Macha's testimony?

9 MS. KLINGLER: I don't disagree that  
10 it's contingent.

11 MR. RANKIN: When you say it's  
12 contingent, you mean -- meaning what?

13 MS. KLINGLER: That Kaiser-Francis  
14 entered into a letter agreement with Powderhorn for a  
15 trade, and if there was interest left, then they would  
16 receive a 32 percent carry from Powderhorn. And that  
17 was confirmed by Jack Yates.

18 MR. RANKIN: And you understand that as  
19 part of that agreement, Kaiser-Francis signed  
20 Powderhorn's proposed JOA; correct?

21 MS. KLINGLER: That is correct.

22 MR. RANKIN: And tell me what your  
23 understanding -- well, tell me your opinion about that  
24 commitment to, Kaiser-Francis's commitment to  
25 Powderhorn's JOA.

1 MS. KLINGLER: Based on my  
2 conversations with Kaiser-Francis's land manager and  
3 with Powderhorn's co-CEO, it did not sound like a true  
4 commitment.

5 MR. RANKIN: And why do you say that?

6 MS. KLINGLER: Because Kaiser-Francis  
7 made a deal to trade out of the acreage if Powderhorn  
8 wins operations. So they won't be a part, it won't  
9 matter.

10 MR. RANKIN: And based on your -- based  
11 on that, do you have an understanding of whether  
12 Kaiser-Francis would want to be in acreage where  
13 Powderhorn is drilling its first wells?

14 MS. KLINGLER: I was on several Teams  
15 meetings with the land manager at Kaiser-Francis and  
16 he expressed, on multiple times, multiple occasions,  
17 that Kaiser-Francis did not want to be in the  
18 quote/unquote practice wells with Powderhorn.

19 MR. RANKIN: Now, I'm going to turn  
20 back to the land statement of Mr. Macha. He  
21 identifies here that, in paragraph 14, that they own  
22 or control 159.12 net acres subject to the Marathon  
23 JOA in the north half of Section 2. Do you see that?

24 MS. KLINGLER: I see that.

25 MR. RANKIN: Based on your

1 calculations, just based on the total net acres, or  
2 the total acreage in the unit, is that even possible?

3 MS. KLINGLER: No.

4 MR. RANKIN: Why is that?

5 MS. KLINGLER: In the north half of  
6 Section 2, there are 320.32 acres. Marathon owns  
7 177.7. The remainder would be approximately, I think,  
8 143, which includes the Kaiser-Francis numbers and the  
9 numbers we have for Powderhorn. And they would be  
10 around 45 percent between those two, and Marathon has  
11 over 55.

12 MR. RANKIN: So if I were to add up, or  
13 you were to add up, or the Division were to add up all  
14 the interests in Powderhorn's working interest chart,  
15 would that exceed 100 percent?

16 MS. KLINGLER: Yes.

17 MR. RANKIN: All right. In fact, does  
18 Powderhorn show itself having a greater interest than  
19 you show in their acreage?

20 MS. KLINGLER: Yes, on their slide they  
21 showed more than we have in our certified title  
22 opinion.

23 MR. RANKIN: And they show Marathon as  
24 having less than you show; correct?

25 MS. KLINGLER: That's correct.

1 MR. RANKIN: Okay. So part of that  
2 disconnect is because some of that acreage that  
3 belongs to Marathon has been accounted for under  
4 Powderhorn's interest?

5 MS. KLINGLER: That's what it looks  
6 like, and why they put Avant in the north half of 2.

7 MR. RANKIN: Going back to Powderhorn's  
8 exhibits in their direct case. Exhibit A-8, there's a  
9 comment in the top left corner under the first bullet  
10 that states that, "Marathon is relying on an existing  
11 JOA one-mile that has been superseded by Powderhorn  
12 and Kaiser-Francis."

13 Do you see that?

14 MS. KLINGLER: I see that.

15 MR. RANKIN: And you heard Mr. Macha  
16 testify along those same lines, that there's a  
17 superseding JOA; correct?

18 MS. KLINGLER: I heard him say that,  
19 yes.

20 MR. RANKIN: Do you agree that  
21 Marathon's JOA has been superseded by Powderhorn's  
22 proposed JOA?

23 MS. KLINGLER: No.

24 MR. RANKIN: Why? Why do you disagree?

25 MS. KLINGLER: The Marathon-operated



1 JOA is an active JOA that covers the north half of  
2 Section 2 and has not been rescinded or expired. And  
3 the major party in the north half of 2, Marathon, has  
4 not executed the Powderhorn JOA.

5 MR. RANKIN: Has any party to  
6 Marathon's JOA rescinded or revoked its commitment to  
7 that document?

8 MS. KLINGLER: No, they have -- no,  
9 they have not.

10 MR. RANKIN: And to be clear, Marathon  
11 still owns the majority working interest in the north  
12 half of Section 2 with 55 percent interest?

13 MS. KLINGLER: Yes, sir.

14 MR. RANKIN: I want to talk a little  
15 bit about Powderhorn's comments regarding Marathon's  
16 activity in the area.

17 Paragraph number 18 in the statement  
18 from the landman says that ConocoPhillips has been  
19 inactive for the last eight years in this acreage.

20 Do you have a response to that?

21 MS. KLINGLER: ConocoPhillips did not  
22 own the acreage in the north half of Section 2 until  
23 November 22nd of 2024.

24 MR. RANKIN: In fact, did  
25 ConocoPhillips own acreage in the immediate offsetting

1 area?

2 MS. KLINGLER: Conoco does own acreage  
3 in the immediate offsetting area and has been very  
4 active.

5 MR. RANKIN: Okay. But as to this  
6 acreage, ConocoPhillips wasn't active because it  
7 didn't own it; correct?

8 MS. KLINGLER: That's correct. But  
9 Marathon was active.

10 MR. RANKIN: Tell me a little bit about  
11 the timeline as soon as -- reminding us when Marathon  
12 was acquired by ConocoPhillips and what steps  
13 ConocoPhillips took to begin operations in this  
14 acreage.

15 MS. KLINGLER: So Conoco closed on the  
16 acquisition of Marathon, as I said, November 22nd of  
17 2024. Prior to that, Marathon had updated its title  
18 and planned the Campana north half mile unit to be  
19 drilled, which we picked up from them, and activity  
20 started within ten months when we first disclosed to  
21 Powderhorn that we planned self-development.

22 MR. RANKIN: And if I go back to that  
23 communications log where we talked previously about  
24 the entry on October 29th, approximately how many  
25 months was that from the time that the acquisition

1 closed?

2 MS. KLINGLER: It's about ten months,  
3 eleven months. Yeah, about ten months, we started  
4 activity. And we -- we currently operate a well.  
5 Sorry.

6 MR. RANKIN: In that same acreage;  
7 correct?

8 MS. KLINGLER: Yes.

9 MR. RANKIN: And where is that well  
10 completed?

11 MS. KLINGLER: In the north half of 2.

12 MR. RANKIN: And what zone is it in?

13 MS. KLINGLER: Morrow.

14 MR. RANKIN: Okay. And so there's an  
15 active -- agreement in place with the state land  
16 office for that well?

17 MS. KLINGLER: Yes.

18 MR. RANKIN: Okay. On the same topic  
19 about activity, I'm going to move into the question of  
20 divestments.

21 I think going to the point that perhaps  
22 this acreage is not as important to Marathon as it is  
23 to Powderhorn, Powderhorn's testimony was that  
24 Marathon had, or ConocoPhillips had been actively  
25 divesting its interest in this acreage. Do you recall

1 that testimony?

2 MS. KLINGLER: I recall.

3 MR. RANKIN: And what is your response  
4 to that?

5 MS. KLINGLER: We did not divest.

6 MR. RANKIN: Okay. What does  
7 divestment mean to you?

8 MS. KLINGLER: To sell, get rid of.

9 MR. RANKIN: Did ConocoPhillips or  
10 Marathon sell or divest or trade out any of its  
11 acreage identified on this exhibit?

12 MS. KLINGLER: No. We entered into  
13 strategic development agreements to make sure our  
14 acreage was developed properly.

15 MR. RANKIN: Just at a high level so we  
16 get the color, explain what ConocoPhillips and  
17 Marathon, their engagement was, as part of that  
18 development plan.

19 MS. KLINGLER: So B and C are referring  
20 to Bat Bomb, which is B, and C is War Pigeon, which  
21 has been referred to by Powderhorn. A is prior to the  
22 ConocoPhillips acquisition of Marathon, so I don't  
23 have any history with that one, but I was the sole  
24 landman involved with B and C. We marketed these  
25 projects because we wanted to get them drilled at a

1 certain time and we had a federal obligation to meet.

2 And so we marketed and we vetted  
3 companies and it took over a year to get a formal  
4 vetting process done and agreed to. And then we went  
5 forward with development agreements and a full  
6 collaboration so that these units were developed  
7 according to ConocoPhillips's best case scenario.

8 MR. RANKIN: And just so I understand,  
9 when you say the coordination and best case scenario,  
10 were ConocoPhillips's engineers and geologists and  
11 landmen intimately involved --

12 MS. KLINGLER: Yes.

13 MR. RANKIN: -- with the planning and  
14 the development of that acreage?

15 MS. KLINGLER: Yes, sir.

16 MR. RANKIN: Okay. And did  
17 ConocoPhillips maintain its engagement and oversight  
18 of those development projects?

19 MS. KLINGLER: Yes, I did the majority  
20 of the land work.

21 MR. RANKIN: And as to the engineering  
22 and geology, were the ConocoPhillips engineers and  
23 geologists continuing to be engaged with the  
24 development of that project?

25 MS. KLINGLER: There was full

1 collaboration between the company that we allowed to  
2 operate and ConocoPhillips.

3 MR. RANKIN: Did any of these  
4 agreements happen under a term assignment?

5 MS. KLINGLER: No.

6 MR. RANKIN: And any of them under a  
7 farm out?

8 MS. KLINGLER: I do not call them a  
9 farm out because we were so heavily involved in the  
10 planning and execution.

11 MR. RANKIN: Paragraph 18 of the land  
12 statement goes into some detail addressing  
13 ConocoPhillips's general preference for longer  
14 laterals and developing longer laterals.

15 What's your reaction or response to  
16 that statement under that paragraph?

17 MS. KLINGLER: My reaction is that most  
18 companies try really hard to extend their laterals  
19 where possible, but that doesn't mean one mile is bad.

20 MR. RANKIN: And is that part of the  
21 reason that ConocoPhillips and Marathon were  
22 interested in engaging with Powderhorn over the  
23 negotiations that were presented to it?

24 MS. KLINGLER: Yes. They made an  
25 attractive trade offer to us to extend our laterals in

1 another Conoco-operated project, which we were excited  
2 about.

3 MR. RANKIN: So tell me, without  
4 getting into specifics, Marathon's and  
5 its -- Marathon's management, or ConocoPhillips's  
6 management's initial response to Powderhorn's trade  
7 proposal?

8 MS. KLINGLER: They were -- the  
9 management team was happy to hear about it. They  
10 thought that it might be more value accretive for the  
11 shareholders if we were able to extend laterals in the  
12 other area. We still believe that the one-mile wells  
13 in Campana will be good wells and will create value.  
14 However, like most companies wanting to extend  
15 laterals, we thought it'd be a way for us to get out  
16 of Powderhorn's hair and they get out of ours.

17 MR. RANKIN: Okay. And so because of  
18 that, the attractive nature of it and the ability to  
19 extend laterals elsewhere, that was the reason that  
20 Marathon undertook a due diligence effort to evaluate  
21 that trade; right?

22 MS. KLINGLER: Yes. And we did quite a  
23 bit of work vetting that trade.

24 MR. RANKIN: Did Marathon or  
25 ConocoPhillips accelerate that trade evaluation?

1 MS. KLINGLER: Yes, we did.

2 MR. RANKIN: Did you communicate that  
3 to Powderhorn?

4 MS. KLINGLER: I did. I told them we  
5 were scrambling to make sure that we got to it in a  
6 timely manner, as quickly as possible, given the  
7 timing of the hearing.

8 MR. RANKIN: Ultimately, Marathon did  
9 not accept that trade, right, and ended negotiations;  
10 correct?

11 MS. KLINGLER: That's correct.

12 MR. RANKIN: As to the trade deals;  
13 correct?

14 MS. KLINGLER: To the trade.

15 MR. RANKIN: Okay. Explain, if you  
16 would, just from your perspective, why that, why the  
17 trade deal negotiations ended?

18 MS. KLINGLER: I asked multiple times  
19 after doing my due diligence if Powderhorn could show  
20 me conveyance documents or some type of letter  
21 authorizing them to market the interest to us. And I  
22 finally asked the CEO, co-CEO, Jack Yates, who called  
23 me and said that they didn't own it and that they  
24 wouldn't be able to do the trade after all.

25 MR. RANKIN: And that was over a period



1 of, what, like a day and a half, two days?

2 MS. KLINGLER: Yes.

3 MR. RANKIN: And given the nature of  
4 negotiations and the timing, would you agree that  
5 timing was of the essence?

6 MS. KLINGLER: Yes.

7 MR. RANKIN: Okay. And it wasn't that  
8 they weren't responding to you; correct?

9 MS. KLINGLER: Correct.

10 MR. RANKIN: They just weren't  
11 answering your question.

12 MS. KLINGLER: Correct.

13 MR. RANKIN: Okay. And so you didn't  
14 find out until you got that note from Mr. Yates;  
15 correct?

16 MS. KLINGLER: That's correct.

17 MR. RANKIN: Okay. How many years,  
18 Ms. Klingler, have you been a landman?

19 MS. KLINGLER: About 35.

20 MR. RANKIN: Have you ever had the  
21 occasion occur where a trade was proposed by a  
22 counterparty, a letter of intent was drafted by that  
23 counterparty and sent over with proposed acreage  
24 trade, only to find out later that the counterparty  
25 did not actually own that acreage?

1 MS. KLINGLER: I've never had an  
2 instance where they did not own the interest at all.

3 MR. RANKIN: What was Marathon's  
4 management's response about continuing negotiations  
5 with Powderhorn in this acreage on a trade deal?

6 MS. KLINGLER: They were extremely  
7 disappointed and said, then let's continue with our  
8 self-development.

9 MR. RANKIN: That was the determination  
10 from management, but did in fact discussions continue  
11 with Powderhorn over a potential resolution?

12 MS. KLINGLER: Yes. We continued to  
13 evaluate carry offers that were offered to us by  
14 Powderhorn. We went through many iterations of  
15 evaluations and reviews to try to resolve this prior  
16 to hearing.

17 MR. RANKIN: So notwithstanding the  
18 disappointment or the, you know, the concern over the  
19 trade deal, Marathon continued to engage with  
20 Powderhorn over a potential resolution; correct?

21 MS. KLINGLER: Yes.

22 MR. RANKIN: At the same time, was  
23 Marathon preparing a plan to develop this acreage on  
24 its own then?

25 MS. KLINGLER: Yes.

1 MR. RANKIN: And that was a plan that  
2 it had earlier contemplated; correct?

3 MS. KLINGLER: Correct, prior to the  
4 acquisition.

5 MR. RANKIN: Okay. Now, did anything  
6 that Powderhorn offered to Marathon match what  
7 Marathon could achieve through its own development of  
8 one-mile wells?

9 MS. KLINGLER: All the evaluations,  
10 numbers that were set to me by Dr. Umekwe, showed that  
11 we would create more value by drilling the north half  
12 ourselves.

13 MR. RANKIN: Now, this has come up in  
14 this hearing, that Marathon had actually originally  
15 proposed one-and-a-half-mile lateral; is that true?

16 MS. KLINGLER: That's correct.

17 MR. RANKIN: And subsequent to that,  
18 during the fallout of these negotiations, Marathon  
19 then decided that it was going to revert to one-mile  
20 wells; correct?

21 MS. KLINGLER: Correct.

22 MR. RANKIN: Ms. Klingler, just if you  
23 would, explain a little bit about Marathon's thinking  
24 and why it chose to pursue the one-mile well instead  
25 of a one-and-a-half-mile well.

1 MS. KLINGLER: Prior to, I believe the  
2 week before, or when exhibits were due, is when we  
3 found out that Avant was dismissing their case at the  
4 Wolfcamp. So everything we did was also with keeping  
5 in mind that they were also trying to execute on the  
6 south half of Section 2 and the southeast of 3.

7 And given that Coterra and Powderhorn  
8 were doing a trade for Powderhorn to gain interest in  
9 the east half of 2, Conoco was trying to be reasonable  
10 and allow each party to develop their own acreage.

11 MR. RANKIN: You said east half of 2.  
12 Did you mean east half of 3?

13 MS. KLINGLER: I'm sorry. Yes, thank  
14 you. Sorry.

15 MR. RANKIN: Okay. So, essentially  
16 what I hear you saying, is that observing all the  
17 negotiations that were happening at a rapid pace, you  
18 saw that Coterra made a deal with Powderhorn in the  
19 east half of Section 3.

20 MS. KLINGLER: Yes, sir.

21 MR. RANKIN: And then you understood  
22 that Avant was continuing to want to develop its  
23 acreage that it owned in the south half of 2; correct?

24 MS. KLINGLER: That is what Avant told  
25 me.

1 MR. RANKIN: Okay. And so then based  
2 on all that, and based on the inability to trade out  
3 in an equitable manner, and based on Powderhorn's  
4 inability to make an offer to ConocoPhillips and  
5 Marathon that matched at least what it could achieve  
6 through its own development, Marathon then decided to  
7 proceed to develop this acreage on its own?

8 MS. KLINGLER: That's correct.

9 MR. RANKIN: And retracting to a one  
10 mile plan of development, what did that allow the  
11 other operators to do?

12 MS. KLINGLER: It would allow them  
13 to -- to develop their own 320.

14 MR. RANKIN: So in each case, then,  
15 operators with the majority working interest, and  
16 majority working interest control in their own  
17 acreage, could then proceed to develop their own  
18 acreage; correct?

19 MS. KLINGLER: Absolutely. With higher  
20 working interest.

21 MR. RANKIN: On that point,  
22 Ms. Klingler, how does the percentage of working  
23 interest factor in sometimes to an operator's  
24 determination about whether to drill longer laterals  
25 or shorter laterals?

1 MS. KLINGLER: In this particular case,  
2 we prefer to have our 55.5 percent over being diluted  
3 throughout the 959, almost 1,000 acre spacing unit.  
4 That creates more value for our shareholders and  
5 allows us to develop the acreage that we purchased  
6 under the JOA that we have.

7 MR. RANKIN: Would you agree that it  
8 would allow Marathon to determine its own destiny with  
9 its own resources?

10 MS. KLINGLER: Absolutely.

11 MR. RANKIN: And it would allow  
12 Marathon to develop its acreage in the manner it deems  
13 best fit for the acreage?

14 MS. KLINGLER: Yes.

15 MR. RANKIN: And that would include  
16 co-development, vertical co-development between the  
17 upper and lower benches?

18 MS. KLINGLER: Yes, sir.

19 MR. RANKIN: Okay. I want to talk  
20 about the term assignment issue that came up during  
21 Powderhorn's testimony.

22 You're aware that Powderhorn has  
23 concerns that they've acquired their interest in the  
24 north half of Section 2 through a term assignment?

25 MS. KLINGLER: Yes.

1 MR. RANKIN: And that term assignment  
2 was an assignment from VATEX; is that correct?

3 MS. KLINGLER: That's correct.

4 MR. RANKIN: So just at a high level  
5 explain, what is a term assignment, what does it  
6 require?

7 MS. KLINGLER: Term assignments usually  
8 have an obligation attached to them in order to  
9 continue to own or operate the interest or have the  
10 working interest.

11 MR. RANKIN: So as I understand, and  
12 tell me if I'm wrong, if you disagree, but Mr. Macha's  
13 testimony was that based on this term assignment they  
14 acquired from VATEX, they have an obligation to drill  
15 within a certain deadline; correct?

16 MS. KLINGLER: That is correct.

17 MR. RANKIN: And based on the publicly  
18 filed records, is there -- is it your understanding  
19 that a single well could satisfy the terms of that  
20 term assignment?

21 MS. KLINGLER: That is my understanding  
22 from the recorded document.

23 MR. RANKIN: And so based on that,  
24 then, any operator -- it doesn't need to be  
25 Powderhorn; correct?

1 MS. KLINGLER: Correct.

2 MR. RANKIN: It could be any operator  
3 drilling any well within the term assignment acreage  
4 outlined in dashed blue lines in Powderhorn's  
5 Exhibit A-12?

6 MS. KLINGLER: That is correct.

7 MR. RANKIN: So if Marathon were to  
8 drill its one-mile wells in the north half of  
9 Section 2, would that preserve, based on the publicly  
10 filed documents, Powderhorn's full interest in that  
11 term assignment?

12 MS. KLINGLER: Yes.

13 MR. RANKIN: And if Marathon were to go  
14 ahead and develop the north half acreage on its own,  
15 would that prohibit Powderhorn from drilling itself,  
16 the south half of Section 2?

17 MS. KLINGLER: No.

18 MR. RANKIN: And if Powderhorn were to  
19 do that, would it preserve its interest and earn its  
20 interest on the term assignment?

21 MS. KLINGLER: Yes.

22 MR. RANKIN: So there's numerous  
23 potential manners in which, ways in which Powderhorn's  
24 interest could be preserved under any of these  
25 scenarios?



1 MS. KLINGLER: Yes.

2 MR. RANKIN: And, in fact, Powderhorn  
3 could continue to control its own destiny here by  
4 drilling in the south half of Section 2; correct?

5 MS. KLINGLER: Correct.

6 MR. RANKIN: I do want to ask you just  
7 real quick about the NSL issue. You're aware that  
8 Powderhorn intends to -- or it had sought  
9 administrative approval for a non-standard location  
10 for each of its horizontal wells?

11 MS. KLINGLER: Yes.

12 MR. RANKIN: And Marathon objected to  
13 that; correct?

14 MS. KLINGLER: Yes.

15 MR. RANKIN: And that objection is  
16 marked as Rebuttal Exhibit Number 9; correct?

17 MS. KLINGLER: Yes.

18 MR. RANKIN: And I've highlighted here  
19 the four wells that are at issue in Powderhorn's  
20 initial well proposal under its application; correct?

21 MS. KLINGLER: Yes.

22 MR. RANKIN: Okay. And at the bottom  
23 of this page, it states that the application will be  
24 canceled if Powderhorn doesn't either resolve the  
25 objection from Marathon or bring the case to hearing;

1 correct?

2 MS. KLINGLER: Correct.

3 MR. RANKIN: And Powderhorn has done  
4 neither of those things; correct?

5 MS. KLINGLER: Correct.

6 MR. RANKIN: And Marathon still opposes  
7 Powderhorn's proposed non-standard locations?

8 MS. KLINGLER: Yes.

9 MR. RANKIN: Ms. Klingler, what does  
10 Marathon ask the Division to do?

11 MS. KLINGLER: We ask that Powderhorn's  
12 application be rejected and allow Marathon to develop  
13 its acreage under the current joint operating  
14 agreement.

15 MR. RANKIN: And based on that, would  
16 Powderhorn still have the ability to develop its  
17 acreage?

18 MS. KLINGLER: Yes.

19 MR. RANKIN: Mr. Hearing Officer, I  
20 have no further questions of Ms. Klingler and make her  
21 available for cross-examination.

22 THE HEARING EXAMINER: Mr. Holliday.

23 MR. HOLLIDAY: I know we're in a bit of  
24 a time crunch. I think I'm going to go kind of long  
25 with --

1 THE HEARING EXAMINER: Then we can  
2 either break now, and you can do it all at once after  
3 we come back at two o'clock, or you can start now and  
4 we can break at 12. What do you prefer?

5 MR. HOLLIDAY: Yeah, I'd prefer to just  
6 start after lunch.

7 THE HEARING EXAMINER: I thought so.  
8 Okay, that's good.

9 Is there any -- let's use this time  
10 now, then, to talk about post-hearing submissions,  
11 since we have a few minutes.

12 Does either party anticipate requesting  
13 an expedited transcript? No, okay, I see  
14 both -- okay. So there won't be an expedited  
15 transcript, okay.

16 So, Mr. Aragon, do I assume two weeks?

17 THE REPORTER: That's about correct,  
18 yes, sir.

19 THE HEARING EXAMINER: Sounds good.

20 Will the transcript be sent directly to  
21 the OCD law clerk?

22 THE REPORTER: Yes.

23 THE HEARING EXAMINER: Okay. Very  
24 good. So at that point, Freya will notify the  
25 parties.

1                   How long do the parties want for  
2 post-hearing submissions?

3                   MR. RANKIN: I think 30 days from the  
4 date of the transcript receipt probably would be  
5 standard and acceptable given all the other  
6 obligations I have out there. And Ms. Vance does,  
7 too.

8                   THE HEARING EXAMINER: Okay. Thirty  
9 days seems a bit long to me. Typical is two weeks,  
10 that I understand.

11                   But I'll go with Mr. Holliday, it's  
12 your case that we're here to hear, what do you want?

13                   MR. HOLLIDAY: Well, I'm insulted to  
14 hear Mr. Rankin thinks I don't have obligations.

15                   No, I think, and given this case,  
16 there's a lot here. It seems like a simple case, but  
17 I think 30 days in this case would be warranted.

18                   THE HEARING EXAMINER: Very good.  
19 Okay. Then we have an agreement on 30 days.

20                   So 30 days from the 25th of March will  
21 be the 22nd of April. So I'm going to set a deadline  
22 for post-hearing submissions for the 22nd of April.  
23 That'll be at 5 p.m.

24                   Now, Mr. Fordyce, do you prefer just  
25 written closing arguments, or do you prefer written

1 closing arguments with proposed findings and  
2 conclusions?

3 MR. FORDYCE: I like, Mr. Hearing  
4 Examiner, I just would like to request a brief, no  
5 more than ten-page, closing argument. I don't think  
6 it's necessary to rehash everything that we've covered  
7 at the hearing.

8 THE HEARING EXAMINER: Okay. So no  
9 proposed findings or conclusions, just a ten-page  
10 maximum written closing?

11 MR. FORDYCE: That's correct.

12 THE HEARING EXAMINER: All right.  
13 How do the parties feel about that?  
14 I'll start with you Mr. Holliday.

15 MR. HOLLIDAY: This is kind of like  
16 when my wife expresses her preferences. I think it's  
17 better just to go along with it.

18 THE HEARING EXAMINER: Okay.

19 MR. HOLLIDAY: I think I will accept  
20 his wishes.

21 THE HEARING EXAMINER: And you still  
22 think you need 30 days for a ten-page closing  
23 argument?

24 MR. HOLLIDAY: I don't think I need 30  
25 days to do a ten-page closing argument with no

1 proposed findings of fact, but I'll defer to  
2 Mr. Rankin. It's not material to Powderhorn.

3 THE HEARING EXAMINER: Okay.

4 MR. RANKIN: Yeah, if we don't need to  
5 do the findings and conclusions, then I don't think we  
6 probably need the 30 days either.

7 THE HEARING EXAMINER: Two weeks?

8 MR. RANKIN: Two weeks, I think, would  
9 do.

10 THE HEARING EXAMINER: All right. So  
11 we'll say the 8th of April, 5 p.m., close of business.  
12 Why don't we say the 10th, let's say Friday, we'll  
13 give you guys an extra two days. So let's say the  
14 10th of April, close of business, 5 p.m. I will  
15 remind the parties that arguments that are not cited  
16 to the record won't be considered.

17 Okay. That being said, is there  
18 anything else to discuss when it comes to post-hearing  
19 procedure before we break?

20 MR. RANKIN: On your comment about  
21 arguments that aren't cited to the record, I presume  
22 that excludes legal arguments, that doesn't include  
23 legal arguments.

24 THE HEARING EXAMINER: Well, I mean,  
25 legal arguments have to be based on facts.

1 MR. RANKIN: Okay.

2 THE HEARING EXAMINER: So, yes, it does  
3 include legal arguments.

4 Anything else that we haven't gone over  
5 that's a good time now to go over?

6 We still have not admitted A-18. Your  
7 case is closed, so that that exhibit won't be  
8 admitted.

9 We did talk about A-9, revising it to  
10 remove that piece to the NSL. Mr. Rankin withdrew his  
11 objection to A-19 and A-9.

12 All of Marathon's exhibits are  
13 admitted.

14 So, Mr. Holliday, I want you to submit  
15 a revised exhibit packet with those changes, and a  
16 cover letter specifying why you did what you did.  
17 Please pass it by Mr. Rankin or Ms. Vance before you  
18 submit it.

19 MR. HOLLIDAY: Yes, sir. And we've  
20 already conferred about that, so I don't think that'll  
21 take long.

22 THE HEARING EXAMINER: I'm not giving  
23 you a deadline for that. I suspect you want your  
24 exhibits to be reviewed by Mr. Fordyce, so I would  
25 think you would want that in by the 10th of April, at

1 the very latest.

2 Anything else?

3 MR. RANKIN: Not that I can think of.

4 THE HEARING EXAMINER: Okay. Well,  
5 you'll have more opportunity later at two o'clock when  
6 we restart.

7 Ms. Klingler, thank you, and we'll see  
8 you at two o'clock.

9 We're off the record.

10 (Off the record.)

11 THE HEARING EXAMINER: It's 2:15.  
12 We're back on the record.

13 Mr. Holliday, you were about to  
14 cross-examine Ms. Klingler.

15 MR. HOLLIDAY: Yes, I'm trying to get  
16 on the Teams so I can share my exhibits. One second.

17 This is a new problem for me. I  
18 haven't had this problem yet, so if you will just bear  
19 with me just a second.

20 Okay, now I'm in.

21 CROSS-EXAMINATION

22 BY MR. HOLLIDAY:

23 MR. HOLLIDAY: All right. Before we  
24 start, apologize in advance, I have a lot to talk to  
25 you about. But I promise I have very little to talk



1 about with the next witness, so it'll balance out.

2 Before we get started, though, I wanted  
3 to address some of the statements that were made by  
4 Mr. Rankin in his opening, and I'm paraphrasing, but  
5 his statement was something to the effect that --

6 THE HEARING EXAMINER: Mr. Holliday,  
7 it's not evidence, his opening statement, so I'd  
8 prefer you don't address -- I mean, you can ask  
9 questions to the witness, but let's not bring up his  
10 opening statement.

11 MR. HOLLIDAY: Okay.

12 THE HEARING EXAMINER: Thank you.

13 MR. HOLLIDAY: Okay, then I can do this  
14 really quickly.

15 BY MR. HOLLIDAY:

16 MR. HOLLIDAY: Was it Conoco's express  
17 intent to acquire this acreage so that it could self-  
18 develop it?

19 MS. KLINGLER: Conoco acquired Marathon  
20 for multiple reasons, including locations to drill.

21 MR. HOLLIDAY: Right. But it's fair to  
22 say that this specific acreage was not under  
23 consideration in the scope of the entire acquisition?

24 MS. KLINGLER: I was not part of the  
25 A&D team.

1 MR. HOLLIDAY: Yeah, we'll skip all  
2 that.

3 I want to start with the JOA, the '76  
4 JOA. And I guess before I go further, I'm going to do  
5 my best to ask clear questions. If for whatever  
6 reason, I'm not trying to trip you up, if you need me  
7 to clarify or restate it, just let me know.

8 This JOA, it's dated January 1, '76; is  
9 that right?

10 MS. KLINGLER: Yes.

11 MR. HOLLIDAY: And it's a Form 610.  
12 And given your long experience, I assume you're  
13 familiar with that form; is that correct?

14 MS. KLINGLER: I'm familiar with this  
15 JOA.

16 MR. HOLLIDAY: And this was not  
17 designed for -- I mean, excuse me. It was designed  
18 for vertical well operations; is that correct?

19 MS. KLINGLER: Yes, as many of them are  
20 these days.

21 MR. HOLLIDAY: And for this JOA that  
22 we're talking about today, are there any provisions  
23 that contemplate horizontal development?

24 MS. KLINGLER: There are no provisions  
25 that don't allow it.

1 MR. HOLLIDAY: Right, but that wasn't  
2 my question. Are there provisions -- some of the  
3 later forms have provisions for horizontal wells.  
4 This one does not; is that fair?

5 MS. KLINGLER: It's silent.

6 MR. HOLLIDAY: Silent. Okay.

7 And how many wells have been drilled  
8 under this JOA since it was executed?

9 MS. KLINGLER: One.

10 MR. HOLLIDAY: And is that the initial  
11 well that was drilled almost 50 years ago?

12 MS. KLINGLER: Yes.

13 MR. HOLLIDAY: Okay. And the only  
14 operations today are the ones that are maintaining  
15 that vertical well; is that accurate?

16 MS. KLINGLER: That's correct.

17 MR. HOLLIDAY: Okay. When did Conoco  
18 become aware -- and when I say "Conoco," I mean  
19 Conoco/Marathon. I use those terms interchangeably,  
20 but I'll try to use Marathon.

21 When did Marathon first become aware of  
22 Powderhorn's pooling application in this case?

23 MS. KLINGLER: I don't know when  
24 Marathon became aware of it. I do know that I was  
25 told by other people that Powderhorn had reached out

1 to other individuals within Conoco/Marathon about this  
2 project. But I'm the landman over the area and I  
3 didn't receive it until later.

4 MR. HOLLIDAY: Okay. And I know  
5 there's been some turnover and I don't know the answer  
6 to this question, but were you the land -- were you  
7 the landman in charge of this project as of July '25?

8 MS. KLINGLER: Yes.

9 MR. HOLLIDAY: Okay.

10 MS. KLINGLER: In charge of that area.

11 MR. HOLLIDAY: In charge of that area.

12 But you weren't the person that was notified of the  
13 applications?

14 MS. KLINGLER: I was not the person who  
15 was initially notified about Powderhorn's proposal.

16 MR. HOLLIDAY: Okay. So at any time,  
17 to your knowledge, between July of '25 and December of  
18 '25, so it's second half of '25, did Marathon file any  
19 APDs or C-102s for the Campana state wells?

20 MS. KLINGLER: No, not during that time  
21 frame.

22 MR. HOLLIDAY: And as we talked  
23 earlier, Marathon initially proposed a mile-and-a-half  
24 development; is that correct?

25 MS. KLINGLER: We did.

1 MR. HOLLIDAY: Okay. But then you  
2 rescinded that?

3 MS. KLINGLER: We did.

4 MR. HOLLIDAY: Yeah. And when you  
5 rescinded it, do you remember when you communicated  
6 that to Powderhorn?

7 MS. KLINGLER: I believe it was the  
8 beginning of February. We explained that we thought  
9 it would be best if everybody stays in their own  
10 sandbox and it'd be fair if each company developed  
11 their interest.

12 MR. HOLLIDAY: Okay. And we heard  
13 testimony from Dr. Umekwe yesterday that  
14 one-and-a-half-mile laterals are, quote, generally  
15 recognized as favorable compared to one-mile wells.

16 So if Marathon's confident that it  
17 controls 100 percent of the north half of Section 2,  
18 and that its JOA protects it from Powderhorn as a  
19 third-party operator, why would it not continue  
20 pursuing its own mile-and-a-half plan into Section 3?

21 MS. KLINGLER: I'm sorry, can you  
22 rephrase that?

23 MR. HOLLIDAY: Much has been made about  
24 Marathon's working interest control in the north half  
25 and 100 percent committed to this old JOA and all

1 that.

2 So if you were confident in that, why  
3 stop -- why just -- why play in your own sandbox, so  
4 to speak, and not extend into 3, if Marathon's  
5 testimony is that one-and-a-half-mile wells are  
6 preferable?

7 MS. KLINGLER: In this instance we  
8 understood from Powderhorn that they were acquiring  
9 the majority interest in the east half of 3. We did  
10 not have an interest in the northeast of 3. We backed  
11 off to allow them to operate their own majority-owned  
12 interest in east half of 3.

13 And Avant had the majority interest in  
14 the south half of 2, and at the time, they had their  
15 own proposals and own case pending in the Wolfcamp.  
16 And so we thought it'd be reasonable and fair for each  
17 company to play in their own sandbox in this area.

18 MR. HOLLIDAY: Okay. And so then you  
19 reverted to this one mile development plan and the one  
20 that you've been talking about. When were those well  
21 proposals first sent to the various working interest  
22 owners?

23 MS. KLINGLER: One well proposals were  
24 sent February 12th.

25 MR. HOLLIDAY: February 12th, yeah.

1 MS. KLINGLER: To the parties we  
2 believed owned in our JOA.

3 MR. HOLLIDAY: Sure. And when did you  
4 eventually file your C-102s?

5 MS. KLINGLER: That's the regulatory  
6 functions job.

7 MR. HOLLIDAY: Okay.

8 MS. KLINGLER: I don't know the exact  
9 date that they filed them.

10 MR. HOLLIDAY: If I were to pull up  
11 your exhibits, A-3, would you agree that is -- your  
12 Exhibit A-3, would you agree that it is signed  
13 February 19, 2026?

14 MS. KLINGLER: May I see?

15 MR. HOLLIDAY: I hope you can.

16 I don't have a whole lot of slides to  
17 go through.

18 We have A-3. This is an anti-climatic  
19 question, but if you go to the bottom of A-3 there,  
20 fair to say these -- that was signed by a  
21 representative of ConocoPhillips on February 19, 2026?

22 MS. KLINGLER: Yes.

23 MR. HOLLIDAY: And do you happen to  
24 know what the date for the APDs for the Campana state  
25 wells, do you know what date those were filed?

1 MS. KLINGLER: I don't have the date  
2 that the permits were filed, the APDs.

3 MR. HOLLIDAY: Okay.

4 MS. KLINGLER: I can guess it's the  
5 2/19 here.

6 MR. HOLLIDAY: Okay. Approximately end  
7 of February; is that fair, when you would expect the  
8 APDs to have been filed?

9 MS. KLINGLER: That's fair.

10 MR. HOLLIDAY: Okay. So the APDs and  
11 the C-102s, they were all filed within three weeks of  
12 the hearing?

13 MS. KLINGLER: Well, we knew we had to  
14 show that we actually -- we had an executable plan, so  
15 absolutely.

16 MR. HOLLIDAY: Okay. But you didn't,  
17 for any reason, file them before that in advance of  
18 this hearing?

19 MS. KLINGLER: We did file in  
20 advance -- in advance of the hearing.

21 MR. HOLLIDAY: Okay. Never mind.  
22 Strike that. I'm a little flustered by my computer  
23 here. Let's, let's move on.

24 Has Conoco -- have you -- has Conoco  
25 committed capital budget in its 2026 program for the



1 four Campana state wells?

2 MS. KLINGLER: We have a drilling  
3 completion budget in which we will allocate funds to  
4 those projects.

5 MR. HOLLIDAY: So you will allocate,  
6 but it has not been allocated as of today.

7 MS. KLINGLER: The AFEs haven't routed  
8 through our approval system, but they will.

9 MR. HOLLIDAY: But you have proposed  
10 the wells to your working interest owners?

11 MS. KLINGLER: That is correct.

12 MR. HOLLIDAY: And we'll talk about how  
13 you're now on a clock, under the JOA, to execute on  
14 that plan; is that correct?

15 MS. KLINGLER: Yes.

16 MR. HOLLIDAY: Okay. So if April 23rd  
17 is the deadline, and we'll get to why that is, are you  
18 going to be able to allocate capital within  
19 ConocoPhillips by that time?

20 MS. KLINGLER: We actually have  
21 allocated capital because we have commenced work  
22 according to paragraph 12 of the JOA.

23 MR. HOLLIDAY: I thought -- and I'm not  
24 trying to be cute. Is your testimony that you have  
25 allocated capital, or that you have not?

1 MS. KLINGLER: We have not run the AFE  
2 for the drilling completion portion, but we have  
3 started spending money on this project.

4 MR. HOLLIDAY: Okay. Thank you.

5 Mr. Rankin stated earlier that Conoco  
6 was waiting -- and I'm going to paraphrase -- waiting  
7 to slot the Campana wells into their development plan.  
8 Is that a fair summary?

9 MS. KLINGLER: It is a -- it's a pretty  
10 fair summary, if I can add to it.

11 MR. HOLLIDAY: Well, maybe in response  
12 to this next question. Have they been allocated a rig  
13 in the drilling program?

14 MS. KLINGLER: We have a 15-rig -- hot  
15 rig program. We have 15 hot rigs running in the  
16 Permian right now. And the drill schedules are  
17 notoriously fluid and we are working them in to an  
18 appropriate rig.

19 MR. HOLLIDAY: Okay. And so -- but if  
20 I were to ask you -- that wasn't really answering my  
21 question.

22 Have the Campana wells been allocated a  
23 rig amongst those 15 hot rigs?

24 MS. KLINGLER: We are scheduling them  
25 to a rig.

1 MR. HOLLIDAY: You will schedule them  
2 to a rig?

3 MS. KLINGLER: Yeah.

4 MR. HOLLIDAY: But they have not been  
5 scheduled to a rig?

6 MS. KLINGLER: No. But I have many  
7 projects that haven't been scheduled to a rig yet that  
8 we're drilling this year.

9 MR. HOLLIDAY: Okay. Have you  
10 identified a specific spud date for the wells?

11 MS. KLINGLER: I do not have a specific  
12 spud date. However, we are planning to spud them in a  
13 timely manner according to the language of the JOA.

14 MR. HOLLIDAY: Okay. What does timely  
15 mean to you?

16 MS. KLINGLER: According to the  
17 language of the JOA.

18 MR. HOLLIDAY: So by April 23rd?

19 MS. KLINGLER: That's not what the JOA  
20 says.

21 MR. HOLLIDAY: Well, okay, fair. We'll  
22 get to that in a second.

23 You guys built a pad for the wells?

24 MS. KLINGLER: We haven't built the  
25 trap pad yet.

1 MR. HOLLIDAY: Have you run pipeline  
2 and takeaway to the wells?

3 MS. KLINGLER: We're 750 feet away from  
4 finishing that.

5 MR. HOLLIDAY: Okay. So you're close.  
6 How about water takeaway, has that been  
7 built out for these wells?

8 MS. KLINGLER: Yes.

9 MR. HOLLIDAY: It has. Okay.  
10 Okay. So let's talk about that  
11 timeline. Under section 12, after Marathon sends a  
12 well proposal, which you -- your testimony was that  
13 was February 12th, to Kaiser-Francis; is that correct?

14 MS. KLINGLER: Correct.

15 MR. HOLLIDAY: Okay. The responding  
16 parties then had 30 days from that timeline to elect;  
17 right?

18 MS. KLINGLER: Would you mind bringing  
19 up the -- paragraph 12?

20 MR. HOLLIDAY: This internet's a really  
21 good break for you.

22 Oh, it looks like I'm on. Okay, now  
23 I'm in. I'm going to go to your exhibit -- okay, I  
24 believe you've marked this Exhibit A -- what is that?

25 Adam, can you pull up your own exhibit,

1 the AFE -- I mean, excuse me, the JOA, and go to  
2 section 12. I don't know why my computer -- the  
3 internet's not working.

4 BY MR. HOLLIDAY:

5 MR. HOLLIDAY: Okay. So if we were to  
6 focus on that middle part of the first paragraph, it  
7 says:

8 "Parties receiving notice shall have 30  
9 days after receipt of notice to notify parties wishing  
10 to do the work whether they elect to participate in  
11 the cost of the proposed operation."

12 Is that right?

13 MS. KLINGLER: Yes.

14 MR. HOLLIDAY: Okay. So if we were to  
15 scroll down to that next paragraph, it says:

16 "Operator shall, within 30 days,  
17 actually commence work on the proposed operation and  
18 complete it to due diligence."

19 Is that fair?

20 MS. KLINGLER: Yes.

21 MR. HOLLIDAY: So if the well proposals  
22 were sent on February 12th, your deadline would be  
23 mid-April to commence drilling of the wells; is that  
24 correct?

25 MS. KLINGLER: To commence work.

1 MR. HOLLIDAY: To commence work  
2 on -- so how would you define "work"?

3 MS. KLINGLER: Anything related to the  
4 project readiness and execution.

5 MR. HOLLIDAY: Okay. So doing title  
6 work, would that count?

7 MS. KLINGLER: Yes.

8 MR. HOLLIDAY: Okay. I would push back  
9 on that, but okay, that's your definition.

10 Given that our post-hearing briefs are  
11 due on April 10th, then, the Division should be able  
12 to determine independently whether you're going to  
13 meet this obligation, this spud date obligation;  
14 correct?

15 MS. KLINGLER: Was there -- I'm sorry,  
16 what was the question?

17 MR. HOLLIDAY: Our briefs are going to  
18 be due on April 10th; right?

19 MS. KLINGLER: Okay.

20 MR. HOLLIDAY: So by that time, the  
21 Division should be able to ascertain on its own  
22 whether you are moving to meet this April 23rd  
23 obligation.

24 MS. KLINGLER: We've met the obligation  
25 under the JOA to commence work. There's not a spud

1 date obligation date in here.

2 MR. HOLLIDAY: Okay. All right. You  
3 know, let's move on for that.

4 So for the Division -- you've proposed  
5 an alternative to Powderhorn's plan, which is the only  
6 plan being applied for in this hearing. And for the  
7 Division to rely on that alternative, the Division  
8 would need to be satisfied that Marathon has a  
9 credible actionable plan; right?

10 MS. KLINGLER: Yes.

11 MR. HOLLIDAY: And as we've discussed,  
12 if Marathon is allowed to self-develop under the JOA,  
13 there's no Division order or mechanism of any kind  
14 that's going to require Marathon to spud within a  
15 certain time frame.

16 MS. KLINGLER: Correct.

17 MR. HOLLIDAY: And you don't intend to  
18 spud before the April 23rd date?

19 MS. KLINGLER: That was not my answer.  
20 I didn't say that.

21 MR. HOLLIDAY: Do you intend to spud  
22 before the April 23rd date?

23 MS. KLINGLER: We are working on the  
24 drilling schedule to slot it in. I don't have an  
25 exact date yet.

1 MR. HOLLIDAY: Well, my question was do  
2 you intend to -- is your answer you don't know?

3 Do you intend to spud on April 23rd?

4 MS. KLINGLER: That's not the required  
5 spud date?

6 MR. HOLLIDAY: Well, that's not my  
7 question.

8 MS. KLINGLER: Are you asking me  
9 arbitrarily for a spud date?

10 MR. HOLLIDAY: I'm asking if you  
11 intend -- because I think that's a legal argument  
12 outside of what we're talking about now. But is your  
13 testimony whether you intend to spud on the April 23rd  
14 date or not?

15 MS. KLINGLER: I don't have the answer  
16 to that yet.

17 MR. HOLLIDAY: Okay. And so under the  
18 JOA, is there also -- there's no mechanism requiring  
19 Marathon when to drill. Is there any requirement in  
20 there for the Wolfcamp B wells that Marathon claims  
21 will be necessary, is there anything requiring them to  
22 drill those wells?

23 MS. KLINGLER: Most JOAs don't have  
24 requirements like that.

25 MR. HOLLIDAY: And this one doesn't



1 either; right?

2 MS. KLINGLER: It does not.

3 MR. HOLLIDAY: Okay. Now, we talked  
4 about the Bat Bomb and the War Pigeon projects  
5 earlier. You recall that?

6 MS. KLINGLER: Yes.

7 MR. HOLLIDAY: And you mentioned, I  
8 think you said the sole landman, but I think you meant  
9 lead landman, for Conoco on that project.

10 MS. KLINGLER: I was the landman on the  
11 project.

12 MR. HOLLIDAY: You were the landman.  
13 Okay.

14 MS. KLINGLER: For Conoco,  
15 ConocoPhillips.

16 MR. HOLLIDAY: Okay. That's all I need  
17 to know.

18 So you had intimate knowledge of those  
19 deal terms; correct?

20 MS. KLINGLER: Yes.

21 MR. HOLLIDAY: Okay. And you stated  
22 you did not consider the Bat Bomb and War Pigeon a  
23 farm out because Conoco is maintaining technical  
24 control; is that correct?

25 MS. KLINGLER: I said I didn't consider

1 it a farm out because there was a lot of collaboration  
2 and control.

3 MR. HOLLIDAY: Okay. I'm going to try  
4 to share my screen again.

5 Is it sharing? It's not sharing.

6 Mr. Examiner, can we take a  
7 three-minute recess to restart the computer and see if  
8 we can get this going?

9 THE HEARING EXAMINER: We don't have to  
10 take a recess for that, just go ahead and do it.

11 Freya, are you able to help him?

12 (Discussion held off the record.)

13 BY MR. HOLLIDAY:

14 MR. HOLLIDAY: Okay. Ms. Klingler, I  
15 apologize for technical difficulties. So we're going  
16 to start back with this discussion of the Bat Bomb and  
17 War Pigeon units.

18 And you mentioned that you were the  
19 sole landman, you were the COP landman, you have  
20 intimate knowledge of these documents. And I thought  
21 I heard you say that you did not consider this a farm  
22 out; is that correct?

23 MS. KLINGLER: That's correct. They're  
24 development agreements.

25 MR. HOLLIDAY: And the purpose of these

1 development agreements, and again I'm paraphrasing  
2 your prior testimony, is to ensure that COP's acreage  
3 was properly developed. Do I have that right?

4 MS. KLINGLER: Yes.

5 MR. HOLLIDAY: And you mentioned that  
6 you guys were intimately involved. So COP was  
7 intimately involved in all aspects of this co-project  
8 with Admiral, is that what I heard you and Dr. Umekwe  
9 testify to?

10 MS. KLINGLER: Yes.

11 MR. HOLLIDAY: Okay. So if you guys  
12 were intimately involved in the planning -- and these  
13 are approximately one mile to the east of the  
14 Super Hornet -- and the purpose was to properly  
15 develop the acreage, why do you think the Wolfcamp A  
16 was developed not alongside the Wolfcamp B, why was  
17 only the first Wolfcamp bench developed by itself?

18 MS. KLINGLER: When Bat Bomb and  
19 War Pigeon were planned it was prior to the learnings  
20 of Potato Baby/Keg Shell.

21 MR. HOLLIDAY: Okay. But you didn't  
22 require Admiral to co-develop the B with the A; is  
23 that right?

24 MS. KLINGLER: I would prefer not to  
25 speak to the confidential terms of our development

1 agreement.

2 MR. HOLLIDAY: Okay. I think it says  
3 enough that they didn't drill it. I'll move on.

4 So if I also -- we've gotten, I think,  
5 into a little bit of semantics. I think we're all  
6 going to give Travis a hard time for using the word  
7 "bequeath." You talked about the word "divest." But  
8 you mentioned that COP had not divested any interest  
9 in this unit; is that correct?

10 MS. KLINGLER: I don't consider our  
11 agreement to be a divestiture.

12 MR. HOLLIDAY: Okay. Well, I want to  
13 look at Admiral -- excuse me, Powderhorn Exhibit A-22.

14 So this is a copy of the memorandum  
15 that was filed of record. Is that -- am I not sharing  
16 my screen? I thought I was there. There we go.

17 Okay. Is that -- I thought it kicked  
18 me off again. I was about to lose my mind.

19 Is this an accurate representation of  
20 the memorandum agreement that you guys filed of record  
21 with -- concerning your deals with Admiral?

22 MS. KLINGLER: That looks like the  
23 front page of the memorandum.

24 MR. HOLLIDAY: Okay. And what's the  
25 purpose of a memorandum filed of record?

1 MS. KLINGLER: Constructive notice.

2 MR. HOLLIDAY: To third parties, right,  
3 so they would know if you've bought or sold an  
4 interest; is that fair?

5 MS. KLINGLER: So they would know the  
6 division of interest.

7 MR. HOLLIDAY: Okay. Same thing.

8 And so if we go to that second  
9 paragraph, could you just read that second paragraph  
10 for me?

11 MS. KLINGLER: "The parties desire to  
12 place third parties on notice that ConocoPhillips and  
13 Admiral executed a development agreement on August 1,  
14 2025, under which Admiral may earn an assignment of an  
15 undivided 71 percent of ConocoPhillips's right, title,  
16 and interest in the leases set out in Schedule A" --

17 MR. HOLLIDAY: And that's -- sorry,  
18 that last part is not necessary.

19 So under this agreement, Admiral could  
20 be entitled to an assignment of 71 percent of Conoco's  
21 interest in these leases; is that correct?

22 MS. KLINGLER: As to the wellbores.

23 MR. HOLLIDAY: Excuse me?

24 MS. KLINGLER: This one is as to the  
25 wellbores.

1 MR. HOLLIDAY: Okay. But that's an  
2 interest in the lease; correct?

3 MS. KLINGLER: Yes.

4 MR. HOLLIDAY: All right. And that  
5 would be a divestment; correct?

6 MS. KLINGLER: I don't consider that a  
7 divestment.

8 MR. HOLLIDAY: If Marathon transfers  
9 71 percent of its interest to a third party, you don't  
10 consider that a divestment?

11 MS. KLINGLER: I consider this a  
12 development agreement that was mutually beneficial.

13 MR. HOLLIDAY: Okay. I think I have  
14 what I need there. Well, let me ask one more  
15 question.

16 Is it possible for Marathon to assign  
17 an interest while also not divesting itself of that  
18 interest?

19 MS. KLINGLER: I don't really  
20 understand that question.

21 MR. HOLLIDAY: Can you assign an  
22 interest without having divested it?

23 MS. KLINGLER: What's your definition  
24 of divestment?

25 MR. HOLLIDAY: Well, divestment was the

1 word you used, that's why we're talking about it.  
2 What is your definition of divestment?

3 MS. KLINGLER: No, sir, I did not use  
4 that word.

5 MR. HOLLIDAY: You did not use the word  
6 "divest"?

7 MS. KLINGLER: I -- I was asked a  
8 question about divestment and what it means to me, but  
9 I did not talk about divesting.

10 MR. HOLLIDAY: Okay. I think we're  
11 going down -- that's enough. Thanks.

12 MS. KLINGLER: Okay.

13 MR. HOLLIDAY: So at the time this  
14 development agreement was signed, it provided that  
15 Admiral may earn an assignment based on certain future  
16 outcomes. That would be a contingent agreement; is  
17 that correct?

18 MS. KLINGLER: Same as the term  
19 assignment and letter agreements with Powderhorn.

20 MR. HOLLIDAY: Right. And we talked  
21 about Powderhorn's agreement with Kaiser-Francis and  
22 the JOA being contingent on them winning the case.  
23 And your testimony, if I remember it, was that you  
24 considered that to be less binding or less important  
25 than an outright conveyance; is that correct?

1 MS. KLINGLER: I did not say less  
2 binding.

3 MR. HOLLIDAY: What was your testimony?

4 MS. KLINGLER: I said that I did not  
5 consider it a true commitment.

6 MR. HOLLIDAY: Okay. So then in that  
7 word, would you consider this a true development  
8 project with Admiral Permian?

9 MS. KLINGLER: I'm sorry, say that  
10 again.

11 MR. HOLLIDAY: Under that same  
12 reasoning, would you consider this a true development  
13 project?

14 MS. KLINGLER: They have drilled the  
15 wells and earned their -- they have met their  
16 obligation.

17 MR. HOLLIDAY: Okay.

18 MS. KLINGLER: So it's not contingent.

19 MR. HOLLIDAY: Well, it's no longer  
20 contingent. It was contingent when it was signed;  
21 right?

22 MS. KLINGLER: It was contingent on  
23 obligations being met.

24 MR. HOLLIDAY: And you guys had -- did  
25 you have JOAs with Admiral Permian?



1 MS. KLINGLER: Yes.

2 MR. HOLLIDAY: And were those limited  
3 to the Wolfcamp only, A only?

4 MS. KLINGLER: Yes.

5 MR. HOLLIDAY: So it would not have  
6 been possible for them to drill -- co-develop the  
7 A and the B per Conoco's deal; fair?

8 MS. KLINGLER: No.

9 MR. HOLLIDAY: Okay. So we talked  
10 about what Marathon has done to prepare to drill these  
11 wells. Just to summarize real quick, no pad; correct?

12 MS. KLINGLER: I'm sorry?

13 MR. HOLLIDAY: You haven't developed a  
14 pad; is that correct?

15 MS. KLINGLER: We haven't built the  
16 pad.

17 MR. HOLLIDAY: Built a pad, sorry.  
18 But you do have some takeaway  
19 infrastructure, or at least you're 700 feet away, so  
20 that's a non-issue.

21 MS. KLINGLER: Yes.

22 MR. HOLLIDAY: Is that right?

23 MS. KLINGLER: Correct.

24 MR. HOLLIDAY: But you haven't  
25 allocated a rig.

1 MS. KLINGLER: Not yet.

2 MR. HOLLIDAY: It's not -- you're  
3 working it in the drill schedule, but it's not on the  
4 drill schedule as we stand here today; is that right?

5 MS. KLINGLER: Correct.

6 MR. HOLLIDAY: Okay. I want to look at  
7 our rebuttal exhibit -- excuse me, our regular exhibit  
8 A-17. Okay. Can you see that on the screen?

9 MS. KLINGLER: No, sir.

10 MR. HOLLIDAY: Okay. Is that one of  
11 the Campana APDs?

12 MS. KLINGLER: I don't see that on the  
13 screen.

14 MR. HOLLIDAY: It's on my screen. Hang  
15 on one second. This has to be the greatest test of  
16 mindfulness that I've ever faced.

17 Is this the Campana APD?

18 MS. KLINGLER: It looks like the APD  
19 for the 701H.

20 MR. HOLLIDAY: Okay.

21 MS. KLINGLER: Campana state -- 701.

22 MR. HOLLIDAY: So if we go to entry  
23 number 20, what does that say?

24 MS. KLINGLER: I'm sorry, the -- it's  
25 very small on the screen. It looks like -- does that

1 say, spud date, 3/2/2026?

2 MR. HOLLIDAY: Correct. Right.

3 Were you aware that this APD had been  
4 filed with a spud date of March 2, 2026?

5 MS. KLINGLER: No.

6 MR. HOLLIDAY: Okay. But you're the  
7 landman in charge of the acreage; right?

8 MS. KLINGLER: But I'm not regulatory.

9 MR. HOLLIDAY: Not regulatory.

10 And does a separate -- who  
11 handles -- who would be responsible, based on your  
12 knowledge, for filing APDs and such inside Marathon?

13 MS. KLINGLER: The regulatory  
14 department.

15 MR. HOLLIDAY: Are you familiar with  
16 Marathon's -- and, gosh, I hope I'm saying this  
17 right -- Atreides?

18 MS. KLINGLER: Atreides. Yes.

19 MR. HOLLIDAY: Atreides. Okay.

20 And that's also, mile, mile-and-a-half  
21 to the east; is that right?

22 MS. KLINGLER: I'm sorry,  
23 mile-and-a-half east?

24 MR. HOLLIDAY: Yeah.

25 MS. KLINGLER: Of?

1 MR. HOLLIDAY: Of the Super Hornet.

2 MS. KLINGLER: Yes.

3 MR. HOLLIDAY: Approximately.

4 Is it correct to say that Marathon  
5 recently pooled these wells -- to the entirety of the  
6 Wolfcamp, and that order, or potential order, is  
7 currently under advisement with the Commission? I  
8 believe it's case 25877; is that right?

9 MS. KLINGLER: Yes.

10 MR. HOLLIDAY: And you testified in  
11 that case; correct?

12 MS. KLINGLER: Yes.

13 MR. HOLLIDAY: And in that case,  
14 Marathon is only proposing to drill the Wolfcamp A in  
15 that case; is that right?

16 MS. KLINGLER: For that particular  
17 project at this time.

18 MR. HOLLIDAY: Okay. And your  
19 application didn't include any Wolfcamp B wells?

20 MS. KLINGLER: It did not.

21 MR. HOLLIDAY: And so we've talked  
22 about the Atreides, the Bat Bomb, and the War Pigeon.  
23 Do you feel that all or any of these units, do they  
24 protect correlative rights and prevent waste?

25 MS. KLINGLER: I believe our plan does

1 protect correlative rights.

2 MR. HOLLIDAY: Okay. We've talked  
3 about Powderhorn's March '27 expiration in the north  
4 half of Section 2. You're familiar with that?

5 MS. KLINGLER: March 27th?

6 MR. HOLLIDAY: March 2027.

7 MS. KLINGLER: Okay. Yes.

8 MR. HOLLIDAY: Yeah.

9 If Powderhorn's plan is denied and  
10 Marathon were to develop the north half of Section 2  
11 under the JOA as you proposed, if Conoco were to  
12 delay, for whatever reason, the drilling of that,  
13 Conoco would have the unilateral ability to allow that  
14 lease to expire; is that correct?

15 MS. KLINGLER: The leases are not going  
16 to expire.

17 MR. HOLLIDAY: Right. But we've talked  
18 about a lot of hypotheticals today on both sides. So  
19 hypothetically speaking, if you were granted the right  
20 to develop under the JOA as you proposed, there's a  
21 scenario in which that development wouldn't occur  
22 until April of 2027, and Powderhorn's interest would  
23 be lost and there's nothing they can do about it; is  
24 that correct?

25 MS. KLINGLER: Oh, you mean the term

1 assignment expires?

2 MR. HOLLIDAY: Yes, ma'am.

3 MS. KLINGLER: In theory, yes.

4 However, Conoco/Marathon has traditionally met third  
5 party obligations for leases, as in the Magellan  
6 project right now, where we had no lease obligation  
7 but our -- partners did. And so we accelerated the  
8 program to make sure that their leases were spud in  
9 time.

10 MR. HOLLIDAY: Okay. So it looks like  
11 your, and you may not be able to testify because  
12 you're not familiar, it looks like your APDs were  
13 approved. If we go back and look at that APD, it  
14 looks like it was approved in two days. It looks like  
15 it was filed on the 23rd and approved on the 25th; is  
16 that accurate?

17 MS. KLINGLER: I believe so, according  
18 to these dates.

19 MR. HOLLIDAY: So do you feel that APD  
20 approval, is that a time constraint for any party in  
21 this case?

22 MS. KLINGLER: Yes. Only valid for two  
23 years.

24 MR. HOLLIDAY: Right, yeah, they're  
25 valid for two years, but would -- the process of

1 obtaining the APD itself, the application and time you  
2 have to wait, is that a time constraint for any of the  
3 parties?

4 MS. KLINGLER: That is not a time  
5 constraint for any of us, including Powderhorn.

6 MR. HOLLIDAY: And we talked about the  
7 March 2, 2026, spud date. Those wells have not been  
8 spud, just to be clear; right?

9 MS. KLINGLER: That's correct. I can't  
10 testify as to why this says that.

11 MR. HOLLIDAY: You can't explain the  
12 discrepancy?

13 MS. KLINGLER: I cannot because I'm not  
14 regulatory.

15 MR. HOLLIDAY: Okay. Let's move on  
16 from that.

17 So before you joined ConocoPhillips,  
18 you served as planning supervisor at Devon from 2013  
19 to 2019; is that correct?

20 MS. KLINGLER: I was a landman and the  
21 planning supervisor.

22 MR. HOLLIDAY: Landman and a planning  
23 supervisor. So in that role, you managed, or at least  
24 worked in, the integrated planning and execution teams  
25 for drilling completion capital budget, for the

1 Delaware Basin team; is that correct?

2 MS. KLINGLER: I oversaw the drilling  
3 completion program.

4 MR. HOLLIDAY: Okay. And you developed  
5 what you refer to as a Stage-Gate process -- and I  
6 don't know what that is -- for program reviews with  
7 the SVPs and COO as it related to capital; is that  
8 right?

9 MS. KLINGLER: That's correct.

10 MR. HOLLIDAY: Can you tell me a little  
11 bit more about what a Stage-Gate process is?

12 MS. KLINGLER: At that particular  
13 company we came up with a process to help the SVPs and  
14 the ELT understand what projects were available and  
15 the readiness of them so that we could move up  
16 projects when we needed them. If we got more rigs,  
17 we'd be able to fill them and get them to the  
18 locations in a timely manner, execute with capital  
19 efficiency and what was best for the beneficiaries of  
20 the leases and the shareholders.

21 MR. HOLLIDAY: So it helped you  
22 evaluate which of the wells could be drilled sooner  
23 rather than later based on their readiness; is that  
24 fair?

25 MS. KLINGLER: Based on readiness.



1 MR. HOLLIDAY: And your resume states  
2 that you're well-versed in capital budget planning and  
3 tracking, explanation of variance, and quarterly  
4 refresh of dynamic capital reallocation.

5 MS. KLINGLER: Yes.

6 MR. HOLLIDAY: What does that mean?

7 MS. KLINGLER: That means when you have  
8 to reallocate to a different program, like Campana.

9 MR. HOLLIDAY: Yeah. Fair.

10 So fair to say that you understand,  
11 then, from your experience both at Devon and now at  
12 Conoco, you understand the process by which a major  
13 operator moves a well from concept to funded capital  
14 program to spud, right, the lifecycle of a project?

15 MS. KLINGLER: I believe I am well  
16 acquainted with it.

17 MR. HOLLIDAY: Okay. And are you  
18 involved in a similar planning role at Marathon?

19 MS. KLINGLER: No, I'm a staff landman.

20 MR. HOLLIDAY: Okay. If we sort  
21 of -- I'm going to use Stage-Gate approval as just  
22 kind of a umbrella term for approval.

23 MS. KLINGLER: Okay.

24 MR. HOLLIDAY: Based on your experience  
25 with the capital budget processes, when a well is on

1 an operator's active drilling schedule, it's been  
2 through some process of a Stage-Gate process; right?

3 MS. KLINGLER: I guess it depends on  
4 the operator.

5 MR. HOLLIDAY: What about at  
6 ConocoPhillips?

7 MS. KLINGLER: There are multiple  
8 departments that coordinate, plan, and execute on  
9 programs on development. So it usually starts with  
10 planning.

11 MR. HOLLIDAY: So fair to say, they  
12 have their own version of a Stage-Gate process?

13 MS. KLINGLER: I believe so.

14 MR. HOLLIDAY: Have the Campana wells  
15 been through that Stage-Gate approval process?

16 MS. KLINGLER: They have been through  
17 part of it, yes.

18 MR. HOLLIDAY: Part of it. So they're  
19 in the -- they're in the Stage-Gate approval --

20 MS. KLINGLER: Yes.

21 MR. HOLLIDAY: -- but they have not  
22 been approved; is that accurate?

23 MS. KLINGLER: I don't have approved  
24 AFEs to finish spending the \$8 million per well.

25 MR. HOLLIDAY: When you look at,

1 generally, the project you're developing in  
2 New Mexico, would you say that Marathon generally  
3 prioritizes higher working interest units on the drill  
4 schedule?

5 MS. KLINGLER: Sometimes. You know, we  
6 have lots of factors that go into projects that we put  
7 on our rig schedule. Working interest is a big  
8 driver.

9 MR. HOLLIDAY: Do you generally, so  
10 generally, do you generally prioritize units that have  
11 longer than a one-mile lateral for the drill schedule?

12 MS. KLINGLER: It depends on the  
13 obligations, timing, partners, if we have a voluntary  
14 agreement in place already or if we need to pool.

15 MR. HOLLIDAY: Okay. More often than  
16 not, the wells are going to be longer than a mile;  
17 fair?

18 MS. KLINGLER: Well, as you stated,  
19 Mr. Lance talked about 90 percent. But he talked, of  
20 course, globally. But it doesn't mean that we can't  
21 have shorter laterals, one-milers.

22 MR. HOLLIDAY: Sure. But -- yeah, and  
23 so -- that was my next question. Under that  
24 advisement from the CEO, 90 percent of those wells are  
25 going to be longer than one mile, is that correct,

1 that was at his guidance?

2 MS. KLINGLER: He was speaking  
3 globally, that that was a goal.

4 MR. HOLLIDAY: Is that consistent with  
5 your understanding from the land perspective?

6 MS. KLINGLER: Yes.

7 MR. HOLLIDAY: Okay. And part of that  
8 statement, was that moving from the one-mile -- I  
9 believe they looked at one-mile to two-mile, but I  
10 believe the same would apply from one to  
11 one-and-a-half -- that moving to that longer lateral  
12 length improves the cost of, what they call cost of  
13 supply, by approximately 25 percent. Are you aware of  
14 that representation?

15 MS. KLINGLER: I heard y'all speak  
16 about that.

17 MR. HOLLIDAY: Okay. And so given your  
18 experience with capital planning and budgets, a  
19 25 percent reduction in supply costs, would that  
20 reflect what you would refer to as economies of scale?

21 MS. KLINGLER: I'm a landman.

22 MR. HOLLIDAY: Well, yeah, the reason I  
23 use that phrase, is your direct testimony referenced  
24 that Marathon would be better able to execute on this  
25 acreage because it could bring economies of scale,

1 efficiencies, to bear; is that accurate?

2 MS. KLINGLER: That's in my testimony?

3 MR. HOLLIDAY: Yes.

4 MS. KLINGLER: That I could bring  
5 economies --

6 MR. HOLLIDAY: That Marathon could.

7 MS. KLINGLER: That Marathon could.

8 I think that has to do with being able  
9 to drill the A and the C at the same time, that we can  
10 pop all four wells in at the same time because we have  
11 the capital to do so and the rigs to do so.

12 MR. HOLLIDAY: Okay. So it would  
13 be -- the economies of scale you're referring to,  
14 then, would be not that you're taking advantage of a  
15 larger organization to spread out costs, it's that you  
16 would have the capital fire power, essentially, to go  
17 drill all the wells at the same time?

18 MS. KLINGLER: We do have the capital  
19 fire power to drill all four wells at the same time,  
20 and we receive efficiencies from that, from being able  
21 to drill all four at the same time.

22 MR. HOLLIDAY: Has it been discussed  
23 internally at Marathon, given these public statements,  
24 how you're going to meet that guidance while moving to  
25 one-mile laterals as opposed to your original

1 mile-and-a-half plan?

2 MS. KLINGLER: I'm sorry, can you  
3 restate that?

4 MR. HOLLIDAY: Yes, let me try. Let me  
5 think about it.

6 We talked about public statements from  
7 the CEO; right?

8 MS. KLINGLER: Yes.

9 MR. HOLLIDAY: And Marathon is  
10 proposing wells that fall within that 10 percent that  
11 are a mile; correct?

12 MS. KLINGLER: Okay.

13 MR. HOLLIDAY: Can you explain why that  
14 is; why are you moving away from what Marathon is  
15 identifying as a more efficient development plan?

16 MS. KLINGLER: I don't believe we're  
17 moving away from a more efficient development plan.

18 MR. HOLLIDAY: Okay. But more  
19 efficient as the CEO defined it.

20 MS. KLINGLER: But we're not moving  
21 away from it. We're still within the guidance in  
22 order to develop our acreage as best we can, and when  
23 we can execute on our acreage, we should.

24 MR. HOLLIDAY: Okay. That's fair.

25 If we look -- if we were to draw, like,

1 a six-mile radius to this unit, has anyone on Conoco,  
2 the team today that exists, has anyone drilled any  
3 one-mile laterals?

4 MS. KLINGLER: Can you pull up the map?

5 MR. HOLLIDAY: Just, well, from your  
6 personal knowledge.

7 MS. KLINGLER: I can't recall off the  
8 top of my head.

9 MR. HOLLIDAY: You can't recall. Okay.  
10 That's fair. That's all I need.

11 So to sort of tie a bow on this and  
12 move on, we've mentioned that we are close to  
13 takeaway, there is no rig, it's not on the drill  
14 schedule, it hasn't been at least all the way through  
15 the Gate-Stage process, and these proposed wells fall  
16 within the 10 percent discussed in the guidance; is  
17 that a fair characterization?

18 MS. KLINGLER: It's fair of what we  
19 have discussed. It's -- I'll stay right there.

20 MR. HOLLIDAY: So based on your  
21 experience, if we look back, probably more applicable  
22 if we look to the Devon experience, would you say a  
23 development plan in this current stage, you know,  
24 without those elements, is that a near term executable  
25 plan?

1 MS. KLINGLER: Campana is a near term  
2 executable plan.

3 MR. HOLLIDAY: Despite not falling  
4 within those parameters?

5 MS. KLINGLER: Yes.

6 MR. HOLLIDAY: Okay. So let's -- I  
7 want to stay with your experience with Conoco for just  
8 a second. We've talked a lot about teams, and  
9 efficiencies from teams, and how well teams work  
10 together and whether they've executed, and maybe that  
11 makes an operator better, worse; fair summary?

12 MS. KLINGLER: Yes.

13 MR. HOLLIDAY: Yeah. Okay.

14 So if we looked at your time with the  
15 team that's going to -- that you want to drill the  
16 wells with --

17 MS. KLINGLER: Yes.

18 MR. HOLLIDAY: -- at most, you would  
19 have had four years with that team; is that correct?

20 MS. KLINGLER: Me personally, yes.

21 MR. HOLLIDAY: Okay. Has your team at  
22 Marathon or Conoco, has it changed over the past four  
23 years, have people come and gone from the team?

24 MS. KLINGLER: As with most companies.

25 MR. HOLLIDAY: Okay. Has that



1 team -- I know you guys had a reduction-in-force  
2 recently. Has the team changed due to that?

3 MS. KLINGLER: Which team?

4 MR. HOLLIDAY: The team within  
5 ConocoPhillips that's going to work together to drill  
6 the Campana wells if you're allowed to.

7 MS. KLINGLER: No.

8 MR. HOLLIDAY: It hasn't changed?

9 MS. KLINGLER: I still have my same  
10 reservoir engineer.

11 MR. HOLLIDAY: All right. Let's talk  
12 about the Kaiser-Francis JOA. You're familiar that  
13 Kaiser-Francis signed in '76, they're party to the  
14 JOA, the '76 JOA; correct?

15 MS. KLINGLER: Correct.

16 MR. HOLLIDAY: And they're the largest  
17 non-op owner in that acreage; is that correct?

18 MS. KLINGLER: That's correct. In the  
19 north half of 2? Yes.

20 MR. HOLLIDAY: Okay. And you're aware  
21 that they signed a superseding JOA, or another JOA  
22 with Powderhorn for the full 960; is that correct?

23 MS. KLINGLER: That's what Mr. Macha  
24 said.

25 MR. HOLLIDAY: Okay. And that would be

1 what people commonly refer to as a superseding JOA; is  
2 that right?

3 MS. KLINGLER: I think that's what  
4 people would call it. I don't necessarily recognize  
5 because ours is still valid.

6 MR. HOLLIDAY: Sure. Why would a  
7 party, in your experience, sign a superseding JOA?

8 MS. KLINGLER: Multitude of reasons.

9 MR. HOLLIDAY: Okay. Can you give me a  
10 couple?

11 MS. KLINGLER: It's a condition of  
12 signing a letter agreement.

13 MR. HOLLIDAY: Have you, or has Conoco  
14 in your time there, have you guys ever signed a  
15 superseding JOA?

16 MS. KLINGLER: Yes.

17 MR. HOLLIDAY: Okay. Have you ever, to  
18 your knowledge, rescinded a JOA when Conoco was a  
19 non-op party?

20 MS. KLINGLER: I -- I personally have  
21 not had a project where I rescinded a JOA.

22 MR. HOLLIDAY: Are you aware of that as  
23 a practice within ConocoPhillips?

24 MS. KLINGLER: I'm not aware of that as  
25 a practice. Typically they terminate.

1 MR. HOLLIDAY: Okay. So if we'll just  
2 stipulate that the parties wanted this to be a  
3 superseding JOA. They argue it's a superseding JOA.  
4 Is it fair to say, then, it's intended to supersede  
5 and replace the '76 JOA as to Kaiser-Francis's  
6 interest in the Wolfcamp?

7 MR. RANKIN: Objection. Ms. Klingler  
8 has no idea what the parties intended and she was not  
9 a party to that.

10 THE HEARING EXAMINER: Mr. Holliday,  
11 response.

12 MR. HOLLIDAY: I'll rephrase. I'll  
13 withdraw and ask another question.

14 THE HEARING EXAMINER: Okay.

15 BY MR. HOLLIDAY:

16 MR. HOLLIDAY: The largest non-op owner  
17 under your JOA, the '76 JOA, it has also chosen to  
18 participate in Powderhorn's Wolfcamp development  
19 rather than Marathon's; is that correct?

20 MR. RANKIN: Objection. Ms. Klingler  
21 has no knowledge and there's nothing in the -- no  
22 foundation in the record whether Kaiser-Francis agreed  
23 to participate or not in the actual wells that are  
24 being proposed.

25 THE HEARING EXAMINER: Mr. Holliday.

1 MR. HOLLIDAY: You're aware that  
2 they've signed a JOA --

3 THE HEARING EXAMINER: Mr. Holliday?  
4 Hello? We're dealing with an objection.

5 MR. HOLLIDAY: But I don't like it.  
6 No, yeah, I'll withdraw and I'll ask  
7 again.

8 THE HEARING EXAMINER: Okay.

9 MR. HOLLIDAY: Maybe I can make  
10 Mr. Rankin happy.

11 THE HEARING EXAMINER: What is it  
12 you're trying to find out?

13 MR. HOLLIDAY: I'm trying to establish  
14 that Kaiser-Francis signaled their intent to  
15 participate with Powderhorn versus Marathon.

16 THE HEARING EXAMINER: Okay. Why don't  
17 you just ask that.

18 MR. HOLLIDAY: Okay. I was getting  
19 there.

20 BY MR. HOLLIDAY:

21 MR. HOLLIDAY: Do you believe that  
22 Kaiser-Francis having signed what they would argue is  
23 a superseding JOA, or what Powderhorn would argue is a  
24 superseding JOA, is that a signal of their intent to  
25 participate in the 960-acre development under the JOA?

1 MS. KLINGLER: I haven't seen the JOA  
2 language.

3 MR. HOLLIDAY: Sure. But they've  
4 signed a JOA; correct?

5 MS. KLINGLER: I have not seen their  
6 signature pages.

7 MR. HOLLIDAY: Okay. Is it your  
8 testimony that you don't believe they have signed a  
9 JOA?

10 MS. KLINGLER: It's my testimony that I  
11 don't know that they have signed it. I have not seen  
12 it.

13 MR. HOLLIDAY: Okay. Do you think  
14 they've signed it?

15 MS. KLINGLER: I don't know what else I  
16 can tell you. I haven't seen it.

17 MR. HOLLIDAY: Okay, that's fair. All  
18 right, fine.

19 In your testimony, if we go to your  
20 self-affirmed statement, paragraph 11, you state that  
21 Marathon owns or controls 100 percent of the working  
22 interest. That control -- that's a function of the  
23 '76 JOA's terms, not a reflection of the stated  
24 preferences of the working interest owners; is that  
25 correct?

1 MS. KLINGLER: I'm sorry, say that  
2 again.

3 MR. HOLLIDAY: When you say you have  
4 100 percent working interest control in the north  
5 half, that's owed solely to the terms of the '76 JOA;  
6 is that correct?

7 MS. KLINGLER: That's what all the  
8 parties signed on for.

9 MR. HOLLIDAY: Okay. But they haven't  
10 issued any letters of support or any signal -- their  
11 desire to remain bound by that as opposed to the  
12 broader 960-acres; is that correct?

13 MS. KLINGLER: Who hasn't?

14 MR. HOLLIDAY: Any party. Has anyone  
15 signaled support for Marathon's plan?

16 MS. KLINGLER: Yes, in conversations  
17 there was support for our plan. However, we don't  
18 typically ask for letters of support once a company  
19 has already voluntarily committed themselves to our  
20 JOA.

21 MR. HOLLIDAY: Okay. But that wasn't  
22 in your testimony, was it, that you have support based  
23 on informal conversations?

24 MS. KLINGLER: I didn't bring that up  
25 because we have a JOA.

1 MR. HOLLIDAY: Okay. So we talked  
2 about the superseding JOA and I understand there's  
3 differences of opinion on how applicable those are,  
4 but you state in your testimony at 12, that Powderhorn  
5 is seeking to pool acreage in which it owns less than  
6 one percent -- and I'm quoting here -- has obtained no  
7 additional working interest support.

8 Is that -- was that your testimony?

9 MS. KLINGLER: They have no other  
10 working interest.

11 MR. HOLLIDAY: But you used the word  
12 "working interest support."

13 MS. KLINGLER: Can you pull that up,  
14 please?

15 MR. HOLLIDAY: Yeah.

16 Can you see my -- there we go.

17 "Has obtained no additional working  
18 interest support," is that correct?

19 MS. KLINGLER: When this was filed I  
20 did not know if Powderhorn -- that Powderhorn was  
21 going to testify to otherwise.

22 MR. HOLLIDAY: And this testimony we  
23 filed March 4th, is that right, our exhibits?

24 MS. KLINGLER: March 4th.

25 MR. HOLLIDAY: Yeah.

1 Kaiser-Francis informed you on  
2 April 27th that they had committed their plan to a  
3 superseding JOA; is that correct?

4 MS. KLINGLER: On what date?

5 MR. HOLLIDAY: February 27th.

6 MS. KLINGLER: February 27th? They  
7 told me that they had signed a letter agreement that  
8 would trade out their acreage, and as a condition they  
9 were going to have to sign the JOA, but they would be  
10 out of the wells.

11 MR. HOLLIDAY: Okay. So you  
12 were -- but you were aware of the JOA?

13 MS. KLINGLER: Well, we're all aware of  
14 the JOA that they sent out, they proposed.

15 MR. HOLLIDAY: You were aware on  
16 March 4th that Kaiser-Francis had signed another JOA  
17 with Powderhorn?

18 MS. KLINGLER: That they were signing.  
19 I have not seen the JOA.

20 MR. HOLLIDAY: Okay.

21 MS. KLINGLER: I have not seen evidence  
22 that they have signed a JOA.

23 MR. HOLLIDAY: Okay, that's fine.

24 So do you still then -- you haven't  
25 seen the JOA. Fair. Do you still stand by the



1 statement that there's no additional working interest  
2 support?

3 MS. KLINGLER: I understand what you're  
4 getting to, but Kaiser-Francis is committed to our  
5 active JOA and has not rescinded their support of our  
6 proposals.

7 MR. HOLLIDAY: Fair. But do you still  
8 stand by this written testimony?

9 MS. KLINGLER: I think as you're  
10 presenting it, it has changed.

11 MR. HOLLIDAY: Okay.  
12 Powderhorn -- okay, let's -- yeah, we can move on.  
13 Thank you.

14 Powderhorn is the only party seeking to  
15 pool anyone in this case; is that right? Marathon is  
16 not seeking to pool anyone; is that correct?

17 MS. KLINGLER: That's correct, because  
18 with the voluntary agreement.

19 MR. HOLLIDAY: And you're the sole  
20 objecting party to Powderhorn's plan; is that fair?

21 MS. KLINGLER: From what I understand,  
22 yes.

23 MR. HOLLIDAY: And we talked  
24 about -- no, I'll skip that.

25 So I really wish we didn't have to talk

1 about this, but there were bad faith allegations in  
2 your testimony; correct?

3 MS. KLINGLER: Yes.

4 MR. HOLLIDAY: Okay. So in your  
5 testimony, you allege that Powderhorn negotiated in  
6 bad faith. That's a pretty heavy allegation. What  
7 standard are you relying on for your assertion that  
8 Powderhorn acted in bad faith?

9 MS. KLINGLER: They had offered us a  
10 trade deal that they couldn't go through with. They  
11 didn't disclose that they didn't have the acreage. We  
12 acted on their offer based on what they told us, which  
13 we believed.

14 MR. HOLLIDAY: And you did hear  
15 Mr. Macha's -- I'm going a little bit out over here.  
16 You heard his testimony that they were authorized to  
17 offer that to you by the third party as trade  
18 consideration; is that correct?

19 MS. KLINGLER: I heard him say that  
20 here, yes.

21 MR. HOLLIDAY: Right. And it's common  
22 for parties to work contingent trade deals, and  
23 sometimes they work, sometimes they fall apart; is  
24 that accurate in your experience?

25 MS. KLINGLER: In my experience, I have

1 never not disclosed when it was a contingent deal.

2 MR. HOLLIDAY: Your experience is  
3 mostly limited to large publics; fair?

4 MS. KLINGLER: To large public  
5 companies?

6 MR. HOLLIDAY: Yes, ma'am.

7 MS. KLINGLER: I've worked for large  
8 public and independents and on the broker side, yes.

9 MR. HOLLIDAY: Okay. So in your  
10 experience on the broker side, did you guys ever look  
11 to acquire acreage that might be of value to an  
12 eventual seller?

13 MS. KLINGLER: Yes. But we never  
14 presented to the seller until we had everything in  
15 place, or we always disclosed when we didn't have  
16 things in place.

17 MR. HOLLIDAY: Okay. So then your  
18 issue with this trade is that -- not that it's not a  
19 standard practice to do that, you're concerned that it  
20 wasn't disclosed that they had the authority, but they  
21 didn't own it; is that fair?

22 MR. RANKIN: Objection.  
23 Mischaracterization of her prior testimony.

24 THE HEARING EXAMINER: Mr. Holliday.

25 MR. HOLLIDAY: Withdrawn. I'll ask a

1 different question.

2 BY MR. HOLLIDAY:

3 MR. HOLLIDAY: What is your concern  
4 about the way they characterized this trade?

5 MS. KLINGLER: They didn't disclose  
6 that they didn't own this acreage and that there was  
7 an -- a chance that it wouldn't go through. We acted  
8 in good faith with the work that we did to negotiate  
9 that trade.

10 MR. HOLLIDAY: So when that conceptual  
11 deal was sent over, Powderhorn noted the timeliness of  
12 that deal and they requested feedback in a week;  
13 right?

14 MS. KLINGLER: Do you have the email?

15 MR. HOLLIDAY: We didn't -- no, I don't  
16 have the email in front of me. I can pull it up from  
17 my computer, but it's not been admitted into evidence.

18 MS. KLINGLER: Oh.

19 MR. HOLLIDAY: You don't have  
20 recollection of that?

21 MS. KLINGLER: I have recollection of  
22 them proposing the trade to us. I don't recall all  
23 the words on the email.

24 MR. HOLLIDAY: Okay. Do you recall  
25 your testimony earlier that you considered this -- for

1 this trade, that time was of the essence? I believe  
2 that's the phrase that you used.

3 MS. KLINGLER: Yes.

4 MR. HOLLIDAY: Okay. So based on  
5 Mr. Macha's testimony, Conoco only responded two weeks  
6 later, and that was only saying we may evaluate it; is  
7 that correct?

8 MS. KLINGLER: I'd have to see the  
9 email.

10 MR. HOLLIDAY: Do you contest that that  
11 is an accurate statement that you made?

12 MS. KLINGLER: What statement?

13 MR. HOLLIDAY: That you responded two  
14 weeks later and your statement was you may evaluate  
15 it.

16 MS. KLINGLER: I'd like to see the  
17 emails that you're referencing to see the dates.

18 MR. HOLLIDAY: Okay. I'll come back to  
19 it.

20 So we're talking about bad faith,  
21 little bit of timeline. They contacted you guys on  
22 July 23rd about -- or someone at Conoco; is that  
23 correct?

24 MS. KLINGLER: If that is what they're  
25 saying.

1 MR. HOLLIDAY: Okay. And then they  
2 requested a meeting on the 30th, so about a week  
3 later. A day later, on the 31st, they sent their  
4 first carry offer and JOA, and then they followed up  
5 again in September to try to discuss this.

6 Did Conoco, to your knowledge, ever  
7 respond to any of these entreaties from Powderhorn?

8 MS. KLINGLER: To my knowledge, there  
9 were responses, from what I was told by my  
10 supervisors.

11 MR. HOLLIDAY: Okay. But you don't  
12 have any personal knowledge, it was just told to you  
13 by the supervisor that someone responded?

14 MS. KLINGLER: I don't have all their  
15 emails when they first contacted Conoco.

16 MR. HOLLIDAY: Okay. But you  
17 did -- there was a meeting September 23rd; correct?

18 MS. KLINGLER: A meeting on  
19 September 23rd between?

20 MR. HOLLIDAY: Powderhorn and Marathon.

21 MS. KLINGLER: With who involved?

22 MR. HOLLIDAY: Powderhorn and Marathon.

23 MS. KLINGLER: Are you saying I was  
24 involved?

25 MR. HOLLIDAY: Were you part of that

1 meeting?

2 MS. KLINGLER: I would have to look at  
3 the calendar.

4 MR. HOLLIDAY: Okay. Do you remember  
5 meeting with them in that approximate time period?

6 MS. KLINGLER: I've had several Teams  
7 meetings and meetings with them.

8 MR. HOLLIDAY: Okay. Just broadly, I  
9 know you don't have personal knowledge of the emails,  
10 could you explain why it would take Marathon until  
11 September to finally start communicating about  
12 Powderhorn's offers?

13 MS. KLINGLER: I -- I don't know. I  
14 don't know what was sent in the emails, who the emails  
15 were sent to, in the beginning.

16 MR. HOLLIDAY: Okay. And I think that  
17 will be the answer to your next question, but I'm  
18 going to ask it for the record.

19 MS. KLINGLER: Okay.

20 MR. HOLLIDAY: Your testimony in  
21 paragraphs 26 and 27 -- I'm just going to go down so  
22 you can see it because now my computer works.

23 "Perhaps the most troubling is  
24 Powderhorn's bad faith negotiations," and then you go  
25 on to list why you believe that's the case. But I

1 didn't see in there any reference to this July 30th  
2 meeting request. I didn't see any reference to a  
3 July 31st carry offer. I didn't see any reference to  
4 a September 5th follow-up.

5 Was there any -- were those omitted for  
6 any particular reason?

7 MS. KLINGLER: The same dates that you  
8 just said that I wasn't aware of?

9 MR. HOLLIDAY: Right.

10 MS. KLINGLER: Because I wasn't aware  
11 of them.

12 MR. HOLLIDAY: Okay. But they were  
13 made to Conoco?

14 MS. KLINGLER: I'm sorry?

15 MR. HOLLIDAY: Powderhorn was  
16 attempting to communicate and negotiate with  
17 ConocoPhillips, correct, just not you?

18 MS. KLINGLER: Correct.

19 MR. HOLLIDAY: Okay, fair to say.

20 You mentioned Mr. Kushnerick, I believe  
21 it's Mr. Kushnerick, the Kaiser-Francis land manager?

22 MS. KLINGLER: Yes, sir.

23 MR. HOLLIDAY: And I'm sure he's going  
24 to get some grief for this, but he mentioned, in your  
25 words, that he did want to participate in what he



1 called practice wells?

2 MS. KLINGLER: Unfortunately, that was  
3 a Teams conversation.

4 MR. HOLLIDAY: So if we go back to the  
5 September meeting, in or around September 23rd that  
6 you participated in, you also expressed Conoco's  
7 disinterest in drilling this area, and you indicated  
8 that a carry option would at least be preferable to  
9 developing the acreage; is that correct?

10 MS. KLINGLER: I ask for carry offers  
11 every time somebody proposes on us.

12 MR. HOLLIDAY: Did you express  
13 disinterest in drilling in this area?

14 MS. KLINGLER: I'm sorry, say that  
15 again.

16 MR. HOLLIDAY: Did you express  
17 disinterest in drilling in the Super Hornet Unit?

18 MS. KLINGLER: Did I express --

19 MR. HOLLIDAY: Yes.

20 MS. KLINGLER: -- disinterest in  
21 drilling?

22 MR. HOLLIDAY: Yes, ma'am.

23 MS. KLINGLER: I may have talked about,  
24 like, we weren't ready for this, in the beginning, and  
25 that we weren't planning to, in the beginning.

1 MR. HOLLIDAY: Okay. I apologize, I'm  
2 going to ask one more time.

3 MS. KLINGLER: Okay.

4 MR. HOLLIDAY: Did you express  
5 disinterest to the Powderhorn team in drilling this  
6 acreage?

7 MS. KLINGLER: I just expressed  
8 disinterest in being in their wells.

9 MR. HOLLIDAY: Okay. So on  
10 November 18th, Powderhorn sent this letter of intent.  
11 Is that about the right time frame?

12 MS. KLINGLER: November 18th?

13 MR. HOLLIDAY: Yes, ma'am.

14 MS. KLINGLER: On November 18th they  
15 sent it? I was in Ireland.

16 MR. HOLLIDAY: We could say  
17 approximately mid-November.

18 MS. KLINGLER: Okay.

19 MR. HOLLIDAY: The date, the specific  
20 date doesn't matter.

21 And we've heard testimony that your  
22 response was, I'll read this and get back to you.

23 Now, I understand email gets built up  
24 when you're on vacation, but did you -- would you  
25 consider your response to that in February, so three

1 months, would you consider that a timely response to a  
2 formal carry proposal?

3 MS. KLINGLER: I had spoken to them  
4 prior to February. I've spoken to them quite often  
5 between January, February.

6 MR. HOLLIDAY: Okay. So then is it  
7 your testimony that you did respond sooner than that?

8 MS. KLINGLER: I must have if you have  
9 the email saying that I responded while I was on  
10 vacation, on PTO.

11 MR. HOLLIDAY: Well, I think you said  
12 you were on vacation in November and that --

13 MS. KLINGLER: November 18th.

14 MR. HOLLIDAY: Yeah. And that the  
15 testimony from Mr. Macha was that you responded in  
16 February.

17 MS. KLINGLER: But we had spoken prior  
18 to that.

19 MR. HOLLIDAY: Okay. And in your  
20 speaking to them, was that a response to the formal  
21 carry proposal?

22 MS. KLINGLER: Yes.

23 MR. HOLLIDAY: Okay. So you disagree  
24 with Mr. Macha's testimony?

25 MS. KLINGLER: That we waited until

1 February?

2 MR. HOLLIDAY: Yes.

3 MS. KLINGLER: Yes.

4 MR. HOLLIDAY: Okay. But you guys have  
5 accepted other carry -- you expressed your preference  
6 for a carry, you said that's commonly what you do when  
7 people come to you, and you've accepted other carry  
8 offers in this area; is that right?

9 MS. KLINGLER: In which area?

10 MR. HOLLIDAY: In the area within five  
11 miles, approximately, of the Super Hornet.

12 MS. KLINGLER: Yes.

13 MR. HOLLIDAY: Okay. That would  
14 include the Bat Bomb, War Pigeon --

15 MS. KLINGLER: Yes.

16 MR. HOLLIDAY: All those wells.

17 And those carry offers that you  
18 accepted, those were on terms that were substantially  
19 similar to what Powderhorn offered; is that accurate?

20 MS. KLINGLER: That is not accurate.

21 MR. HOLLIDAY: Oh, it's not accurate.  
22 How were they different?

23 MS. KLINGLER: I can't tell you because  
24 it's a confidential development agreement.

25 MR. HOLLIDAY: So how's the Division

1 going to evaluate your statement that they're not  
2 accurate if you can't disclose the terms?

3 MS. KLINGLER: I don't know how  
4 Powderhorn claims it's substantially similar because  
5 they don't know the terms.

6 MR. HOLLIDAY: So you're not going to  
7 answer the question?

8 MS. KLINGLER: No, sir.

9 MR. HOLLIDAY: Okay. Are you aware  
10 that, as Mr. Macha testified yesterday for this  
11 application, they originally intended to apply for the  
12 October docket, but they kicked it to the November  
13 docket specifically to give Conoco/Marathon additional  
14 time for negotiations; do you remember that testimony?

15 MS. KLINGLER: Yes.

16 MR. HOLLIDAY: Does that ring true with  
17 your recollection?

18 MS. KLINGLER: As far as I know.

19 MR. HOLLIDAY: Going back to that trade  
20 offer, did Powderhorn ever represent to you that the  
21 trade offer was finalized on their end?

22 MS. KLINGLER: They never disclosed  
23 that they were in negotiations for the acreage.

24 MR. HOLLIDAY: So they didn't  
25 disclose -- they never made a statement that this

1 trade was finalized on their end?

2 MS. KLINGLER: No. But we would not  
3 have expected them to because we took them on good  
4 faith that they owned it.

5 MR. HOLLIDAY: So on February 2nd, if I  
6 have my timeline correct, Conoco formally proposed a  
7 trade structure about this acreage; is that correct?

8 MS. KLINGLER: It was based on the  
9 trade offer from Powderhorn.

10 MR. HOLLIDAY: Okay. But you made a  
11 formal offer based on your prior conversations?

12 MS. KLINGLER: I made an offer based on  
13 their offer.

14 MR. HOLLIDAY: Okay, that's fair.

15 And in response to the offer on the  
16 offer, did Powderhorn send you a draft agreement that  
17 had an exhibit of the leases that they intended to  
18 convey?

19 MS. KLINGLER: Do you have that?

20 MR. HOLLIDAY: I'm asking you if you  
21 saw it when this deal came up.

22 MS. KLINGLER: I don't recall seeing  
23 the leases.

24 MR. HOLLIDAY: Okay. So you  
25 wouldn't -- so you didn't see it, you didn't see any

1 sort of schedule of leases or anything attached to  
2 that offer or response from Powderhorn?

3 MS. KLINGLER: There was an LOI.

4 MR. HOLLIDAY: LOI. And that had a  
5 schedule of --

6 MS. KLINGLER: Letter of intent.  
7 Sorry.

8 MR. HOLLIDAY: -- leases to it;  
9 correct?

10 MS. KLINGLER: I'd have to review the  
11 LOI.

12 MR. HOLLIDAY: Right. But we don't  
13 want to disclose that because it's probably got  
14 confidential terms; fair?

15 MS. KLINGLER: The letter of intent?

16 MR. HOLLIDAY: Yes.

17 MS. KLINGLER: Once it's executed.

18 MR. HOLLIDAY: Okay. Well, or deal  
19 proposals. Anyway, but you don't -- you never saw an  
20 exhibit, a lease exhibit, not to your recollection --

21 MS. KLINGLER: I can't recall seeing  
22 the exhibit.

23 MR. HOLLIDAY: Okay. Do you think, in  
24 your experience with -- it's reasonable to think that  
25 Powderhorn was looking for acreage that would

1 incentivize COP to -- Conoco to reach a voluntary  
2 agreement on the Super Hornet?

3 MS. KLINGLER: I don't know their  
4 intents. I don't know what they were intending to do.

5 MR. HOLLIDAY: Would it be reasonable  
6 for a party to search out acreage to incentivize a  
7 counterparty to trade?

8 MS. KLINGLER: Sure, that would be  
9 reasonable.

10 MR. HOLLIDAY: Okay. And that roughly  
11 tracks with what Powderhorn did, is that right, they  
12 sought out acreage to incentivize Conoco to enter an  
13 agreement?

14 MS. KLINGLER: I don't know. I don't  
15 know that they sought out the snapback acreage for  
16 that.

17 MR. HOLLIDAY: If we go back to  
18 February 2nd, we talked a lot about Powderhorn's  
19 relative experience as a team. You guys had a  
20 technical meeting scheduled, but you canceled it; is  
21 that right?

22 MS. KLINGLER: We had a meeting  
23 scheduled with Powderhorn's team and our management  
24 team and subsurface experts.

25 MR. HOLLIDAY: And it was canceled;



1 correct?

2 MS. KLINGLER: That is correct.

3 MR. HOLLIDAY: And Conoco canceled it?

4 MS. KLINGLER: That is correct.

5 MR. HOLLIDAY: Okay. And then, so that  
6 was on the second two days later and some  
7 communication that you had with Mr. Macha, you stated  
8 to the fact that you'd gotten pushback on the trade  
9 idea, you asked him to give it a go and go ahead and  
10 see how it shook out that you guys are moving it  
11 forward, but you had to overcome management hurdles.  
12 Does that sound consistent with what you communicated?  
13 Yes. So is it fair to say that Conoco proposed a  
14 trade that it had not yet obtained an internal  
15 approval for and that it wasn't authorized to make?

16 MS. KLINGLER: That is not accurate. I  
17 was authorized to discuss that trade and to work that  
18 trade.

19 MR. HOLLIDAY: But you weren't  
20 authorized to close the trade; is that correct?

21 MS. KLINGLER: We hadn't gotten to that  
22 part yet because we were doing due diligence to make  
23 sure that they owned the acreage that they offered to  
24 us.

25 MR. HOLLIDAY: If Powderhorn accepted

1 immediately, could you have consummated that  
2 transaction?

3 MS. KLINGLER: Yes.

4 MR. HOLLIDAY: Without approval?

5 MS. KLINGLER: I would have gotten  
6 approval.

7 MR. HOLLIDAY: So then your testimony  
8 is, you didn't have approval, but if you needed it,  
9 you could have got it; is that right?

10 MS. KLINGLER: I talked to the  
11 management team and got soft consents from them to  
12 move forward with that trade once we did our work and  
13 due diligence on the title, and with the commercial  
14 and other departments required to do a trade.

15 MR. HOLLIDAY: And so what were then,  
16 and you may have just listed them, what were these  
17 management hurdles that were standing in the way?

18 MS. KLINGLER: Typically that includes  
19 commercial, the dedication agreements that we have,  
20 plus making sure that everybody signs off.

21 MR. HOLLIDAY: So it's got to go  
22 through a similar, I mean let's call it Stage-Gate  
23 process, people have to review it, lots of hands got  
24 to touch it, fair to say?

25 MS. KLINGLER: I don't know about lots

1 of hands. I wouldn't portray it that way. But, I  
2 mean there is an -- we are a public company, so  
3 approvals are necessary to meet SOX compliance.

4 MR. HOLLIDAY: And you had soft  
5 approval to shop the deal, but you didn't have  
6 approval to consummate the transaction; is that fair?

7 MS. KLINGLER: At the time I was given  
8 approval to move forward with the trade and bring it  
9 to fruition if everything worked out.

10 MR. HOLLIDAY: And you allege that  
11 Powderhorn, by offering acreage that it did not own,  
12 but which it had consent to shop to you, you allege  
13 that was bad faith. How are these two different?

14 MS. KLINGLER: How are which two  
15 different?

16 MR. HOLLIDAY: So Powderhorn -- you  
17 attempted to make a deal, you had soft consent, but  
18 you didn't have authority to transact on; correct?

19 MS. KLINGLER: I did have authority to  
20 transact.

21 MR. HOLLIDAY: You could have closed  
22 the deal?

23 MS. KLINGLER: I could have gotten -- I  
24 would have gotten an executed document, yes. We would  
25 have moved forward with the trade --

1 MR. HOLLIDAY: Right, but your  
2 testimony -- I'm sorry, go ahead.

3 So your testimony is that you did have  
4 authority to conduct the deal, or you think you could  
5 have gotten authority to transact the deal when you  
6 offered it?

7 MS. KLINGLER: The development manager  
8 told me to move forward with the trade.

9 MR. HOLLIDAY: Okay. Did you tell that  
10 to Powderhorn, that it was a soft offer?

11 MS. KLINGLER: I told them that I could  
12 move forward and we were -- I think I said scrambling.

13 MR. HOLLIDAY: Okay. And in your  
14 opinion, does this -- these -- and I know it's hard to  
15 make deals and you got to convince a lot of people,  
16 but I guess what I'm struggling to understand is how  
17 is that substantially different than the behavior you  
18 complain of for Powderhorn?

19 MS. KLINGLER: We own the acreage.

20 MR. HOLLIDAY: Sure, but you didn't  
21 have --

22 MS. KLINGLER: And we were going to  
23 trade. Sorry.

24 MR. HOLLIDAY: My temptation is to  
25 engage like it's a conversation, so I apologize to the

1 reporter. I think we made the point.

2 So if we go on -- so we talked about  
3 the 2nd, there was a meeting, it's canceled.

4 The 4th, there's the soft offer.

5 And then on the 6th, so, like, four  
6 days, the day that the deal was pulled from  
7 Powderhorn, they informed you that the deal was off  
8 the table; is that correct?

9 MS. KLINGLER: After I asked them about  
10 the ownership.

11 MR. HOLLIDAY: Okay. But they  
12 contacted you, or at least communicated to you four  
13 days later from this whole transaction, that the deal  
14 was no longer available; fair?

15 MS. KLINGLER: After they admitted they  
16 didn't own the acreage.

17 MR. HOLLIDAY: Correct.

18 And just -- I apologize if this is  
19 repetitive. Did you convey that you had soft consent  
20 authority only and not actual authority to make the  
21 offer?

22 MS. KLINGLER: I did not misrepresent  
23 our authority or approvals.

24 MR. HOLLIDAY: Sure. So you didn't  
25 misrepresent it.

1 MS. KLINGLER: Correct.

2 MR. HOLLIDAY: But did you represent  
3 that it was only a soft offer?

4 MS. KLINGLER: I don't think I used the  
5 word "soft." It wasn't a soft offer.

6 MR. HOLLIDAY: It wasn't a soft offer?

7 MS. KLINGLER: I don't --

8 MR. HOLLIDAY: I thought you  
9 characterized it --

10 MS. KLINGLER: I said soft consent.

11 MR. HOLLIDAY: I think we're getting  
12 into semantics, that's okay.

13 MS. KLINGLER: Okay.

14 MR. HOLLIDAY: But then you go on and  
15 say, so you find out on the 6th, they don't own, it  
16 deals off the table. And in your testimony, this  
17 terminated your negotiations. But you did continue to  
18 negotiate after that time; is that fair?

19 MS. KLINGLER: That terminated the  
20 trade negotiations.

21 MR. HOLLIDAY: Okay. Let's go to  
22 paragraph 27.

23 MS. KLINGLER: Uh-huh.

24 MR. HOLLIDAY: "That revelation  
25 terminated our negotiations," is that your testimony?

1 MS. KLINGLER: That is my testimony as  
2 it relates to the trade.

3 MR. HOLLIDAY: As it relates to the  
4 trade. Okay.

5 So then time goes on. You represent  
6 you're having a meeting on February 18th to decide on  
7 carry offers and go forward plans; is that right?

8 MS. KLINGLER: Yes.

9 MR. HOLLIDAY: Did that meeting ever  
10 actually happen?

11 MS. KLINGLER: That meeting did not  
12 happen. I met with the development manager  
13 separately, and my manager.

14 MR. HOLLIDAY: But you didn't tell  
15 Powderhorn until the 20th that you were no longer  
16 interested in a mutual agreement; is that correct?

17 MS. KLINGLER: If that's the date.

18 MR. HOLLIDAY: That's a "yes"?

19 MS. KLINGLER: That's the date of the  
20 email?

21 MR. HOLLIDAY: Okay.

22 MS. KLINGLER: Is it?

23 MR. HOLLIDAY: Yes, that's the date of  
24 the email. Or that's the date that  
25 the -- Powderhorn's testimony states that they were

1 informed that you were no longer pursuing a mutual  
2 deal.

3 THE HEARING EXAMINER: So what's your  
4 question, and has there been an answer, because I  
5 haven't heard the answer.

6 MR. HOLLIDAY: I think we're getting  
7 bogged down. I'll just withdraw the question  
8 because --

9 THE HEARING EXAMINER: Fine.

10 BY MR. HOLLIDAY:

11 MR. HOLLIDAY: So up until that  
12 February 20th timeline, it would have been reasonable  
13 for Powderhorn to conclude that negotiations were  
14 still in progress; is that correct?

15 MS. KLINGLER: What type of  
16 negotiations?

17 THE HEARING EXAMINER: Hold on a  
18 second. Please don't ask him --

19 MS. KLINGLER: I'm sorry.

20 THE HEARING EXAMINER: If you don't  
21 understand the question, just say you don't  
22 understand, but please don't ask him questions.

23 MS. KLINGLER: Yes, sir.

24 THE HEARING EXAMINER: Would you  
25 clarify your question, because the witness doesn't



1 understand.

2 MR. HOLLIDAY: Let me see if this is  
3 more succinct.

4 BY MR. HOLLIDAY:

5 MR. HOLLIDAY: So you guys sent your  
6 one-mile well proposals to Kaiser-Francis on February  
7 12th; is that right?

8 MS. KLINGLER: Yes.

9 MR. HOLLIDAY: Eight days before you  
10 told Powderhorn the deal was off?

11 MS. KLINGLER: If you say so.

12 MR. HOLLIDAY: And that would have been  
13 six days before the scheduled meeting?

14 THE HEARING EXAMINER: I'm sorry, hold  
15 on, Mr. Holliday.

16 Ms. Klingler, please just answer the  
17 question. "If you say so" is not an answer.

18 MS. KLINGLER: Okay.

19 THE HEARING EXAMINER: Okay?

20 MS. KLINGLER: Yes.

21 THE HEARING EXAMINER: So ask your  
22 question again, Mr. Holliday. I want a clear answer  
23 to the question.

24 BY MR. HOLLIDAY:

25 MR. HOLLIDAY: You sent Kaiser-Francis

1 their one mile proposal on February 12th; is that  
2 correct?

3 MS. KLINGLER: That's correct.

4 MR. HOLLIDAY: That was eight days  
5 before you told Powderhorn you were no longer seeking  
6 a mutual agreement; is that correct?

7 MS. KLINGLER: I believe that is  
8 accurate. I don't know the exact dates off the top of  
9 my head.

10 MR. HOLLIDAY: And then that was at  
11 least some days before the meeting that was supposed  
12 to happen on the 18th; is that correct?

13 MS. KLINGLER: I'm -- I'm sorry, what  
14 are you referring --

15 MR. HOLLIDAY: You sent your one mile  
16 proposal a week before you had this meeting to discuss  
17 Powderhorn's offer; is that correct?

18 MS. KLINGLER: Yes.

19 MR. HOLLIDAY: Okay. But you didn't  
20 send the proposals to Powderhorn until March 2nd,  
21 eight days before the hearing; is that correct?

22 MS. KLINGLER: That's correct.

23 MR. HOLLIDAY: So you were pursuing a  
24 two track negotiation; is that fair?

25 MS. KLINGLER: I didn't send the

1 Powderhorn proposals until March 2nd because I didn't  
2 find out until February 27th that there was an  
3 interest that they owned in the north half of 2,  
4 subject to our operating agreement.

5 MR. HOLLIDAY: But you were making  
6 proposals to Kaiser while also talking to Powderhorn;  
7 is that fair?

8 MS. KLINGLER: Yes.

9 MR. HOLLIDAY: Okay. But did you  
10 communicate that that offer had been made -- or excuse  
11 me, the proposal had been made to Kaiser-Francis?

12 MS. KLINGLER: I'm sorry, can you be  
13 more clear?

14 MR. HOLLIDAY: No. Withdrawn. I think  
15 I asked that question already.

16 So part of the objection that you  
17 voiced to the plan was that Powderhorn had informed  
18 Marathon it would need to rely on Marathon's takeaway.  
19 Is that a fair summary of your conversation?

20 MS. KLINGLER: That was in the email.

21 MR. HOLLIDAY: That was in the email.  
22 So that was in the midst of trade negotiations; is  
23 that accurate?

24 MS. KLINGLER: I'm sorry, say that  
25 again.

1 MR. HOLLIDAY: That was in the midst of  
2 trade negotiations; is that accurate?

3 MS. KLINGLER: Yes.

4 MR. HOLLIDAY: And did Powderhorn  
5 respond to your questions about dedications, that it  
6 would be open to reviewing your contracts as part of  
7 an agreement?

8 MS. KLINGLER: Yes.

9 MR. HOLLIDAY: Do you have any direct  
10 or personal knowledge of Powderhorn's conversations  
11 with third-party midstream providers?

12 MS. KLINGLER: Only what they told me  
13 in the emails.

14 MR. HOLLIDAY: So yes or no, do you  
15 have any direct knowledge of Powderhorn's  
16 conversations with third-party midstream providers?

17 MS. KLINGLER: Yes.

18 MR. HOLLIDAY: You do have personal  
19 knowledge of their discussions with third-party  
20 providers?

21 MS. KLINGLER: Because they told me.

22 MR. HOLLIDAY: What did they tell you?

23 MS. KLINGLER: That they had water, and  
24 that they were working on crude and gas.

25 MR. HOLLIDAY: Okay. But you don't

1 know how those -- you don't know the substance of  
2 those conversations; fair?

3 MS. KLINGLER: No.

4 MR. HOLLIDAY: Okay. And so they told  
5 you that they had entered into a water disposal  
6 agreement; is that right?

7 MS. KLINGLER: Yes.

8 MR. HOLLIDAY: Okay. And in your role  
9 as the landman in charge of this area, or the north  
10 half of Section 2, are you responsible for managing  
11 takeaway commitments --

12 MS. KLINGLER: No.

13 MR. HOLLIDAY: -- as referenced in your  
14 testimony?

15 MS. KLINGLER: I'm sorry, can you  
16 restate that?

17 MR. HOLLIDAY: Are you responsible for  
18 managing the takeaway commitments from a land  
19 perspective in this area?

20 MS. KLINGLER: There is a commercial  
21 department that's in charge of takeaway commitments.  
22 So I, as the landman, am not in charge of takeaway  
23 commitments.

24 MR. HOLLIDAY: Okay. So you wouldn't  
25 be the right person to talk to about Conoco's takeaway

1 commitments or capabilities, is that fair, I would  
2 need to talk to somebody else?

3 MS. KLINGLER: I'm aware as to this  
4 area because I communicate with the commercial  
5 department.

6 MR. HOLLIDAY: Okay. Can you -- who  
7 are your midstream counterparties under your  
8 commitments for this acreage?

9 MS. KLINGLER: We are not allowed to  
10 discuss that. We have to sign confidentiality  
11 agreements --

12 MR. HOLLIDAY: Okay. That's fair.  
13 Because we've -- I think both sides have withheld  
14 confidential information.

15 You testified, on March 4th, that  
16 Powderhorn does not have a pre-approved state  
17 commonization agreement, is that correct, in  
18 paragraph 24?

19 MS. KLINGLER: When I stated that I was  
20 not aware that they had submitted for pre-approval.

21 MR. HOLLIDAY: Okay. So fair to say  
22 that is no longer an accurate statement?

23 MS. KLINGLER: Correct.

24 MR. HOLLIDAY: If we talk about the  
25 Bat Bomb a little bit, just -- I want to talk about

1 the -- from an experience angle.

2 Had you ever had -- so we had that  
3 canceled meeting. Did you ever meet with the  
4 technical staff at Powderhorn?

5 MS. KLINGLER: Can you define the  
6 technical staff?

7 MR. HOLLIDAY: Did you meet with anyone  
8 other than Travis Macha and Mason Maxwell?

9 MS. KLINGLER: Yes, sir.

10 MR. HOLLIDAY: Who? Who was that?

11 MS. KLINGLER: Their co-CEO, Jack  
12 Yates.

13 MR. HOLLIDAY: Jack Yates. Okay.  
14 Did you meet with any of the engineers  
15 at Powderhorn?

16 MS. KLINGLER: No, sir.

17 MR. HOLLIDAY: You didn't. Okay.

18 So at the time you guys signed the  
19 Bat Bomb and War Pigeon units, I think we can agree  
20 Admiral Permian had never drilled a well, is that  
21 right, in New Mexico?

22 MS. KLINGLER: They had not drilled in  
23 New Mexico.

24 MR. HOLLIDAY: Okay. And that's the  
25 same criticism you're leveling today at Powderhorn; is

1 that correct?

2 MS. KLINGLER: Not entirely.

3 MR. HOLLIDAY: How is it different?

4 MS. KLINGLER: We were familiar with  
5 Admiral already because of a project in Texas that  
6 they were drilling.

7 MR. HOLLIDAY: And do you contest that  
8 the members of Powderhorn, they drilled wells in Texas  
9 also in their prior experience?

10 MS. KLINGLER: From what I have seen,  
11 yes.

12 MR. HOLLIDAY: Okay -- with that.

13 In paragraph 19, you criticize  
14 Powderhorn for not having an in-house drilling team.  
15 Does Conoco use third-party drilling contractors?

16 MS. KLINGLER: We do use several  
17 contractors. We have an in-house drilling team.

18 MR. HOLLIDAY: And so we don't have to  
19 pull up the exhibit, or we can if we need to, but if  
20 we were to look at the AFEs for the Campana wells, we  
21 would find multiple entries for drilling contractors;  
22 is that right?

23 MS. KLINGLER: Yes.

24 MR. HOLLIDAY: Okay. So is it fair to  
25 say that Powderhorn's use plan -- excuse me, stated



1 plan to use a contract drilling operator or  
2 contractor, is that consistent with standard industry  
3 practice, including COP's own practice?

4 MS. KLINGLER: I don't believe that's  
5 entirely accurate.

6 MR. HOLLIDAY: Do you believe that  
7 Powderhorn's plan to use a drilling contractor is  
8 consistent with standard industry practice?

9 MS. KLINGLER: To use contractors, yes.

10 MR. HOLLIDAY: Okay. Do you understand  
11 that Powderhorn seeks to acquire, from Mr. Macha's  
12 testimony, do you understand that Powderhorn seeks to  
13 acquire non-standard locations prior to spud if it's  
14 granted an order?

15 MS. KLINGLER: From what I've read,  
16 yes.

17 MR. HOLLIDAY: But you guys are not  
18 seeking any sort of non-standard location; is that  
19 accurate?

20 MS. KLINGLER: We're staying in the  
21 setbacks.

22 MR. HOLLIDAY: Okay. So if you're  
23 staying within the setbacks, given the difference  
24 between -- 130 feet, is it fair to say that, then, at  
25 a minimum, 460 feet of perforated lateral as to each

1 well will be forfeited under Marathon's plan?

2 MR. RANKIN: Objection. Powderhorn  
3 needs to get that approved from the Division and  
4 there's a pending objection. So trying to compare the  
5 difference between their laterals as proposed and  
6 Marathon's is subject to administrative approval,  
7 likely to go to hearing, that hasn't been done yet.

8 THE HEARING EXAMINER: Okay. I don't  
9 disagree with what you've said, but what's the  
10 objection based on?

11 MR. RANKIN: Well, the question is, I  
12 guess, going to a hypothetical. So I guess if  
13 Mr. Holliday could phrase it as a hypothetical, then  
14 that would be a more appropriate approach to asking  
15 the question.

16 THE HEARING EXAMINER: Mr. Holliday.

17 MR. HOLLIDAY: Let me try it this way.

18 THE HEARING EXAMINER: Would you like  
19 to rephrase your question?

20 MR. HOLLIDAY: Yeah, I'll rephrase.

21 THE HEARING EXAMINER: Go right ahead.

22 BY MR. HOLLIDAY:

23 MR. HOLLIDAY: So not talking about  
24 Powderhorn, talking only about Marathon, given that  
25 330-foot setback rule that you intend to stay within,

1 is it fair to say that, at a minimum, 460 feet of  
2 "perfed" lateral as to each well will be forfeited?

3 MS. KLINGLER: No, I don't think that's  
4 fair to say. Since we're staying within the pool  
5 rules you're not forfeiting anything because we're  
6 following the rules.

7 MR. HOLLIDAY: There would be 460 feet  
8 less lateral length per well than if you did obtain  
9 non-standard locations; is that fair?

10 MS. KLINGLER: I believe so.

11 MR. HOLLIDAY: So in a hypothetical  
12 situation in which Powderhorn did obtain non-standard  
13 locations, that's going to add an additional 100 feet,  
14 making it a total -- well, that's a question for your  
15 geologist.

16 Okay, last thing. I think we've heard  
17 some testimony from you earlier that Powderhorn has  
18 various options to develop its acreage; is that fair?

19 MS. KLINGLER: Yes.

20 MR. HOLLIDAY: Okay. And you're  
21 testifying here as a landman today; is that correct?

22 MS. KLINGLER: Yes.

23 MR. HOLLIDAY: And you're not a  
24 reservoir engineer or a geologist; is that right?

25 MS. KLINGLER: Correct.

1 MR. HOLLIDAY: Okay. And you don't  
2 have any educational background in either of those  
3 disciplines?

4 MS. KLINGLER: That's correct.

5 MR. HOLLIDAY: Okay. And you haven't  
6 been qualified by the Division as a geologist or  
7 engineer?

8 MS. KLINGLER: I have not.

9 MR. HOLLIDAY: Fair to say that  
10 Marathon doesn't ask you to perform those functions?

11 MS. KLINGLER: That's correct.

12 MR. HOLLIDAY: Maybe some "closeology."  
13 So if you're not an engineer, you're  
14 not qualified to testify before the Division, other  
15 than the literal physical possibility that they could  
16 go north-south, what is your basis for stating that  
17 Powderhorn has multiple viable or economic options to  
18 develop its acreage?

19 MS. KLINGLER: I consulted with the  
20 subsurface and drilling teams.

21 MR. HOLLIDAY: Okay. So in  
22 paragraph 17, you testify about parent-child  
23 degradation effects within the Wolfcamp formation.  
24 You wrote that testimony; is that correct?

25 MS. KLINGLER: Yes. That was based on

1 my conversation with geology and reservoir  
2 engineering.

3 MR. HOLLIDAY: Does paragraph 17  
4 reference a conversation with a geologist or reservoir  
5 engineer?

6 MS. KLINGLER: I'm sorry, what are you  
7 asking?

8 MR. HOLLIDAY: Did you reference, in  
9 paragraph 17, that you had consulted with a reservoir  
10 engineer or geologist?

11 MS. KLINGLER: No.

12 MR. HOLLIDAY: You testified that  
13 parent-child degradation occurs, and you talked about  
14 it in your own testimony; fair?

15 MS. KLINGLER: Yes.

16 MR. HOLLIDAY: Okay. In this same  
17 paragraph, you state that -- I'll highlight the  
18 language. We're almost done.

19 You state that incremental reserves are  
20 going to be left behind by not co-developing the  
21 Wolfcamp A on the south half of Section 2 and the east  
22 half of Section 3 with the north half of Section 2.  
23 Do I have that right?

24 MS. KLINGLER: I'm sorry, can you  
25 repeat that?

1 MR. HOLLIDAY: Yeah. Let me just read  
2 from the exhibit. Your testimony is that:

3 "Unlike Marathon, Powderhorn's approach  
4 will result in parent-child degradation effects within  
5 the Wolfcamp formation, causing waste and impairing  
6 Marathon's correlative rights by preventing Marathon  
7 from capturing these incremental reserves."

8 Is that an accurate statement, summary?

9 MS. KLINGLER: Yes.

10 MR. HOLLIDAY: Okay. Given that you're  
11 not an engineer or geologist, you haven't been  
12 qualified, what's your basis, then, for making this  
13 statement that incremental reserves are going to be  
14 left behind by not co-developing the A and the B?

15 MS. KLINGLER: All of my conversations  
16 with the subsurface team.

17 MR. HOLLIDAY: Okay. But that wasn't  
18 referenced in this paragraph; right?

19 MS. KLINGLER: Correct.

20 MR. HOLLIDAY: Okay. So if we just  
21 continue on:

22 "Powderhorn's proposal will forfeit  
23 cost savings achieved through economies of scale that  
24 favor Marathon's development."

25 And did you provide Powderhorn or the

1 Division with any documentation of these cost savings  
2 that are going to be achieved through what you refer  
3 to as economies of scale?

4 MS. KLINGLER: I don't believe so.

5 MR. HOLLIDAY: Did you conduct any sort  
6 of comparative analysis?

7 MS. KLINGLER: I did not personally.

8 MR. HOLLIDAY: Okay. So then what  
9 would you say is the basis for your statement there in  
10 paragraph 17?

11 MS. KLINGLER: All of my collaboration  
12 with the subsurface teams.

13 MR. HOLLIDAY: Okay. So Mr. Rankin  
14 stated for the first time that I'm aware of, and I do  
15 think this is relevant to the case, that none of the  
16 proposals made to Conoco were economic. Do you  
17 remember that statement?

18 MS. KLINGLER: I'm sorry, where is  
19 that?

20 THE HEARING EXAMINER: Hold on.  
21 There's going to be an objection. I sense it coming.

22 MR. RANKIN: Well, I think I know what  
23 he's trying to get at, but I don't think it's exactly  
24 what I said. I'll say I believe what I said was that  
25 none of the carry offers made by Powderhorn reached or

1 met the level that Marathon would achieve by drilling  
2 its own acreage.

3 THE HEARING EXAMINER: And that was  
4 made during your opening statement.

5 MR. RANKIN: Correct. Yeah. Yeah.

6 THE HEARING EXAMINER: Okay. So,  
7 Mr. Holliday, please, don't use -- I mean, use  
8 evidence, but don't use opening statement verbiage to  
9 base a question on. So find some other way to ask it,  
10 if you can.

11 BY MR. HOLLIDAY:

12 MR. HOLLIDAY: I'll try this: Do you  
13 broadly agree with that statement?

14 MS. KLINGLER: I'm sorry, what's the  
15 statement?

16 MR. HOLLIDAY: Do you agree with  
17 Mr. Rankin's statement?

18 MS. KLINGLER: The opening statement?

19 MR. HOLLIDAY: Yes.

20 MS. KLINGLER: Yes.

21 MR. HOLLIDAY: Okay. But did you  
22 provide any analysis or data that the Division could  
23 rely upon to verify that statement?

24 MS. KLINGLER: Thought we provided  
25 testimony -- well, the reservoir engineer provided



1 testimony.

2 MR. HOLLIDAY: But you didn't provide  
3 any --

4 MS. KLINGLER: I did not personally  
5 provide.

6 MR. HOLLIDAY: To support your  
7 testimony.

8 MS. KLINGLER: I do not have an exhibit  
9 to support.

10 MR. HOLLIDAY: I just got three more  
11 questions, I think.

12 Is it possible, for a carry that  
13 requires no capital exposure on behalf of Conoco, is  
14 it possible for that to be uneconomic?

15 MS. KLINGLER: I don't know. I'm not a  
16 reservoir engineer.

17 MR. HOLLIDAY: If you were to receive a  
18 non-cost bearing interest, like an override, and a  
19 well was drilled, is it possible for that to be  
20 non-economic?

21 MS. KLINGLER: Well, an override is  
22 different from just a straight carry. So I'm sorry, I  
23 can't answer that.

24 MR. HOLLIDAY: Okay. And last, I'm  
25 just talking about your testimony here, you stated

1 that Conoco determined that drilling one-mile wells  
2 was better than Powderhorn's development plans, but  
3 you didn't support any sort of -- I mean, excuse me,  
4 submit any sort of economic analysis or data to  
5 support this, did you?

6 MS. KLINGLER: I did not.

7 MR. HOLLIDAY: That's all my questions.

8 MS. KLINGLER: Okay.

9 THE HEARING EXAMINER: Mr. Fordyce.

10 CROSS-EXAMINATION

11 BY MR. FORDYCE:

12 MR. FORDYCE: Good afternoon,  
13 Ms. Klingler. I just had a couple of follow-up  
14 questions. If we could look at -- I'm going to refer  
15 to Exhibit A-8 on page 60 for a moment.

16 So Powderhorn engaged Marathon about  
17 this 960-acre unit they were trying to put together in  
18 July of 2025; is that accurate?

19 MS. KLINGLER: I believe so.

20 MR. FORDYCE: Do you recall if or when,  
21 you know, this particular split-the-baby option might  
22 have ever been proposed or discussed with Powderhorn?

23 MS. KLINGLER: Yes. I discussed it  
24 with the co-CEO and I did mention it to Mr. Macha.

25 MR. FORDYCE: And as we've touched on,

1 there were some initial proposals from Marathon for  
2 one-and-a-half-mile wells in the north half of this  
3 proposed Powderhorn unit that would have required  
4 pooling Powderhorn; is that correct?

5 MS. KLINGLER: That's correct.

6 MR. FORDYCE: I believe that you said  
7 earlier that at some point Marathon had felt that it,  
8 you know, was just a better option for each majority  
9 interest owner to develop their own separate acreage,  
10 depicted here in, like, we'll say, 320-acre tracts.

11 Marathon just decided it would be, like  
12 I said, better for each majority interest owner to  
13 develop their own acreage, is that fair to say?

14 MS. KLINGLER: Yes, sir. I said we  
15 thought it would be fair and reasonable to allow each  
16 party to develop their acreage.

17 MR. FORDYCE: So would it also then be  
18 fair to say that this option in -- well, Marathon's  
19 final, basically, proposals, or the APDs that were  
20 approved for the one-mile wells in the north half,  
21 would it be fair to say that that had more to do with  
22 how the interest was broken up in this acreage and  
23 maybe a little less to do with some of the other  
24 topics that we've discussed in this hearing, like  
25 parent-child effects or development sequencing?

1 MS. KLINGLER: The one mile option was  
2 considered to provide more value to us, and it  
3 included being able to develop the A and C at the same  
4 time, because we knew that was executable here.

5 MR. FORDYCE: Okay. Thank you,  
6 Ms. Klingler.

7 I have no further questions.

8 MS. KLINGLER: Yes, sir.

9 THE HEARING EXAMINER: Mr. Rankin, is  
10 there any redirect?

11 MR. RANKIN: Just a little. Just a  
12 little.

13 REDIRECT EXAMINATION

14 BY MR. RANKIN:

15 MR. RANKIN: Mr. Holliday asked you  
16 some questions, Ms. Klingler, about whether or not  
17 Marathon would be under any time constraints if it  
18 were to drill its wells under the Marathon JOA. Do  
19 you recall that testimony?

20 MS. KLINGLER: Yes. Yes, sir.

21 MR. RANKIN: And I think you gave an  
22 answer, but I want to make sure it's clear for the  
23 record. And I've highlighted here the language I  
24 think that governs your obligations under the Marathon  
25 JOA and would require you to, as it states here,

1 complete with due diligence. Is that your  
2 understanding as well?

3 MS. KLINGLER: Yes, sir.

4 MR. RANKIN: So while there's not a  
5 hard deadline, there's nevertheless an obligation to  
6 complete the project with due diligence; correct?

7 MS. KLINGLER: Yes, sir.

8 MR. RANKIN: And it was your testimony  
9 that Marathon had commenced that work already;  
10 correct?

11 MS. KLINGLER: Yes, sir.

12 MR. RANKIN: Okay. And in terms of  
13 enforcement, holding Marathon accountable, while it's  
14 not subject to the Division, would you agree that the  
15 parties to the JOA would have the ability to hold  
16 Marathon accountable to this time -- to the reasonable  
17 time frame under this JOA?

18 MS. KLINGLER: Yes.

19 MR. RANKIN: And that would include  
20 Powderhorn now as well; correct?

21 MS. KLINGLER: Yes.

22 MR. RANKIN: Okay. You were asked some  
23 questions about some of the wells that were drilled  
24 nearby, I think by Admiral and maybe others, I can't  
25 recall. And again, for clarification of the record, I

1 want to be make sure it's clear that -- were those  
2 wells planned before Marathon had acquired the pilot  
3 test data that's been referenced in this case?

4 MS. KLINGLER: I'm sorry, which wells?

5 MR. RANKIN: Well, I'm not sure  
6 exactly. Were they -- the wells that Mr. Holliday was  
7 asking about. It may have been the War Pigeon and  
8 maybe the Bat Bomb. Were those wells planned before  
9 Marathon had received the data and the learnings from  
10 the pilot tests?

11 MS. KLINGLER: That is correct, they  
12 were planned prior to that.

13 MR. RANKIN: Are there also other  
14 considerations in those cases, or wells, that either  
15 required Marathon to drill only the Wolfcamp A in  
16 those circumstances?

17 MS. KLINGLER: We had timing  
18 constraints, we had obligations we had to meet, or  
19 obligations that had to be met.

20 MR. RANKIN: Okay. Mr. Holliday asked  
21 if you -- if Marathon was the sole objecting party to  
22 Powderhorn's proposal. Do you recall that question?

23 MS. KLINGLER: I recall, yes, sir.

24 MR. RANKIN: And, in fact, while you're  
25 the sole objecting party, Marathon is the 55 percent

1 working interest owner in the north half of Section 2,  
2 so it owns the majority interest in some of the tracts  
3 that Powderhorn is seeking to develop; correct?

4 MS. KLINGLER: That's correct.

5 MR. RANKIN: There were some discussion  
6 or questions from Mr. Holliday about delays from when  
7 the Powderhorn well proposals initially went over to  
8 Marathon, and you advised that you are the one in  
9 charge of this acreage, but when Powderhorn initially  
10 reached out, did they initially reach out to you?

11 MS. KLINGLER: No, sir.

12 MR. RANKIN: And is it your opinion  
13 that because they didn't there was a bit of a delay in  
14 the ultimate response from your company --

15 MS. KLINGLER: Yes.

16 MR. RANKIN: -- to Powderhorn?

17 MS. KLINGLER: Yes.

18 MR. RANKIN: Okay. And once you got  
19 the package and the proposal, then things started  
20 kicking off; correct?

21 MS. KLINGLER: Yes.

22 MR. RANKIN: Mr. Holliday asked you  
23 about Mr. Macha's testimony that Powderhorn had  
24 delayed filing its application for hearing on the  
25 October hearing date to the November hearing date, and

1 he suggested it was due to negotiations with, or in  
2 consideration of Marathon. Do you recall that  
3 question?

4 MS. KLINGLER: Yes, sir.

5 MR. RANKIN: But there were other  
6 parties that Powderhorn was actively negotiating with,  
7 including Coterra and Avant; correct?

8 MS. KLINGLER: That's correct.

9 MR. RANKIN: And at that time they had  
10 not yet reached agreement with those parties; correct?

11 MS. KLINGLER: Correct.

12 MR. RANKIN: And they hadn't reached,  
13 and in fact didn't end up reaching agreement with  
14 those parties until right before the date for this  
15 contested hearing, in which those parties were also  
16 going to be contesting Powderhorn's proposed  
17 development; correct?

18 MS. KLINGLER: That's correct.

19 MR. RANKIN: So, I mean, it seems like  
20 they would have continued the case, not just for  
21 consideration of Marathon, but for those other parties  
22 as well.

23 MS. KLINGLER: Yes. Which was the  
24 basis of setting up the three-way split-the-baby  
25 option.



1 MR. RANKIN: I think this came through  
2 in that dialogue, but it was a little bit messy, the  
3 record, so I want to just take an opportunity to try  
4 to clean it up.

5 I think -- I understood your testimony  
6 during the discourse with Mr. Holliday about the  
7 difference between what Powderhorn was doing by not  
8 initially disclosing that they didn't own the acreage  
9 offered for trade and what -- and you're still working  
10 through the approval process.

11 And I think, I just want to make sure I  
12 understood, and you can tell me if I'm wrong, but I  
13 understood that -- that your point was that Powderhorn  
14 didn't disclose that they didn't own the acreage, but  
15 you had disclosed that you were working through the  
16 management hurdles, is that fair to say?

17 MS. KLINGLER: Yes.

18 MR. RANKIN: Okay. And finally, that  
19 Marathon actually did own the acreage that it was  
20 proposing to trade; correct?

21 MS. KLINGLER: Yes, sir.

22 MR. RANKIN: Okay. You were asked some  
23 questions about the fact that you partnered with  
24 Admiral to drill a well in New Mexico where Admiral  
25 had never drilled a well before, and asked whether

1 that was any different than what Powderhorn's  
2 proposing to do. Do you recall those questions?

3 MS. KLINGLER: Yes, sir.

4 MR. RANKIN: Now, in fact, you  
5 mentioned that Admiral was working with Marathon or  
6 ConocoPhillips in Texas; correct?

7 MS. KLINGLER: Yes, sir.

8 MR. RANKIN: And tell me just a little  
9 bit about that process. In fact, ConocoPhillips has  
10 been working with Admiral for some time; correct?

11 MS. KLINGLER: Yes, sir.

12 MR. RANKIN: And explain to me just  
13 real quickly the process that Marathon and  
14 ConocoPhillips goes through in order to retain a  
15 contractor as a partner for drilling Marathon or  
16 ConocoPhillips wells.

17 MS. KLINGLER: We have a multi-layered  
18 vetting process. We have to market our projects.  
19 We're not allowed to just pick a designated operator.  
20 We have to market it, evaluate all of the offers that  
21 we receive. Or bids, sometimes called bids, you know,  
22 the offers are called bids.

23 And then when we determine that an  
24 offer is going to add value to the company and the  
25 beneficiaries of the state lands, or the federal

1 lands, or the fee lands, we then start our vetting  
2 process as to a deep dive on the company that we're  
3 working with.

4 Admiral, in particular, brought in  
5 their entire technical team, but it was several months  
6 after we did other due diligence and deep dives into  
7 them and their executive team and -- and also  
8 understanding how they were working with us in Texas  
9 and watching those results.

10 MR. RANKIN: And just so I'm clear, the  
11 drilling that goes on, when you use contractors like  
12 Admiral, is it according to Admiral's dictates or is  
13 it according to ConocoPhillips's dictates, about how  
14 the well is going to be drilled?

15 MS. KLINGLER: In the case of Bat Bomb  
16 and War Pigeon, it was collaborative. So they did  
17 present their plan, we presented our plan, we asked  
18 for tweaks to be made. Tweaks were made to their plan  
19 to satisfy our subsurface team and our managers.

20 MR. RANKIN: And if Admiral didn't  
21 agree to what --

22 THE HEARING EXAMINER: Mr. Rankin.

23 MR. RANKIN: Yeah.

24 THE HEARING EXAMINER: This is  
25 redirect, and I feel like the scope of the redirect

1 is --

2 MR. RANKIN: Fair enough. I'll leave  
3 it there.

4 THE HEARING EXAMINER: -- not been  
5 adhered to.

6 MR. RANKIN: Well, I mean, I'll leave  
7 it there. I understand we're short of time, so I'll  
8 leave --

9 THE HEARING EXAMINER: We do have one  
10 witness left.

11 MR. RANKIN: I understand.

12 THE HEARING EXAMINER: He's been very  
13 patient.

14 MR. RANKIN: Yeah, he has been.

15 In fact, I think that was my last set  
16 of questions in anyway. I have no further questions  
17 for Ms. Klingler.

18 THE HEARING EXAMINER: Thank you.

19 May this witness be excused?

20 MR. RANKIN: She may.

21 THE HEARING EXAMINER: Thank you.

22 Thank you, Ms. Klingler.

23 Please call your last witness.

24 MR. RANKIN: Thank you, Mr. Hearing  
25 Officer. The last witness is Mr. Preston Dupree.

1 THE HEARING EXAMINER: Mr. Dupree,  
2 would you turn the microphone on.

3 Thank you. And I remind you that  
4 you're still under oath from yesterday.

5 MR. DUPREE: Yes, sir.

6 DIRECT EXAMINATION

7 BY MR. RANKIN:

8 MR. RANKIN: Mr. Dupree, will you  
9 please state your name for the record.

10 MR. DUPREE: Preston Dupree.

11 MR. RANKIN: And by whom are you  
12 employed and in what capacity?

13 MR. DUPREE: I'm employed by  
14 ConocoPhillips, which is a subsidiary of Marathon Oil,  
15 and I am a petroleum geologist.

16 MR. RANKIN: Might it be the other way  
17 around?

18 MR. DUPREE: Other way around? My  
19 apologies.

20 MR. RANKIN: Okay. So you're employed  
21 by ConocoPhillips, which owns --

22 MR. DUPREE: Owns.

23 MR. RANKIN: -- Marathon as a wholly  
24 owned subsidiary. Okay.

25 Is your testimony in this case marked

1 as Exhibit B?

2 MR. DUPREE: Yes, it is.

3 MR. RANKIN: And have you conducted a  
4 study of the geology and the subject lands at issue in  
5 this case?

6 MR. DUPREE: I have.

7 MR. RANKIN: And you prepared your  
8 testimony marked as Exhibit B, along with exhibits B-1  
9 through B-5?

10 MR. DUPREE: Yes.

11 MR. RANKIN: And you also prepared  
12 rebuttal exhibits, that include Exhibit B-5 and B-6?

13 I'm sorry, Exhibit 5 and 6.

14 MR. DUPREE: Yes.

15 MR. RANKIN: And were those exhibits  
16 and your testimony prepared by you or compiled under  
17 your direction and supervision?

18 MR. DUPREE: Yes.

19 MR. RANKIN: Any corrections or changes  
20 to the testimony or exhibits that were filed?

21 MR. DUPREE: No.

22 MR. RANKIN: Do you adopt the testimony  
23 and the self-affirmed statement marked as Exhibit B as  
24 your own sworn testimony today?

25 MR. DUPREE: Yes.

1 MR. RANKIN: Mr. Dupree, I'm going to  
2 first ask you to address the vertical degradation  
3 arguments. Now, you're not an engineer, you're a  
4 geologist, and so I'm going to ask you to review  
5 what's marked as Exhibit 5, and shared on the screen.

6 Dr. Umekwe reviewed this yesterday as  
7 an engineer, and so I want you to just restrict your  
8 discussions to the geology. But if you would, just  
9 start off and review for us the elements of the  
10 exhibit and focusing on the geology aspects.

11 MR. DUPREE: Yes. So taking a look at  
12 this exhibit, starting off in the top left, it is a  
13 locator map of two different project areas. Starting  
14 off in the top left northwest of that locator map,  
15 it's the Campana project, which also consists of the  
16 Super Hornet project from Powderhorn. And then moving  
17 to the southeast of the locator map is the internal  
18 ConocoPhillips pilot project of Potato Baby/Keg Shell.

19 Moving to the right of the screen, that  
20 is the Powderhorn proposed development plan that's  
21 showing the gun barrel. Again, they're targeting the  
22 four Wolfcamp XY Sand wells, and also sometime at a  
23 later date they say they're going to come back for the  
24 Wolfcamp B. They call it the Wolfcamp B lower.  
25 However, for ConocoPhillips's nomenclature, that is

1 the Wolfcamp BC interface.

2           Moving to the top right of the screen,  
3 that is the Potato Baby Keg/Shell gun barrel showing  
4 the top-down versus co-development. So looking at the  
5 Potato Baby, that's the top-down development, or  
6 sequential development, however you may want to say  
7 that. And then looking at the Keg Shell project, that  
8 is the co-dev where you're doing the Wolfcamp A and  
9 the Wolfcamp C together.

10           Moving to the lower left portion of the  
11 screen, that is the two well cross section that can be  
12 seen in the locator map from A to A Prime. The first  
13 thing to note here, the stratigraphy of the area is  
14 similar enough to compare degradation concerns between  
15 the two areas. And from the geology witness from  
16 Powderhorn, he did not have any rejections to that.

17           Starting off by looking at the A well,  
18 or the first well, you can see that from the  
19 Powderhorn proposed -- well proposal that they sent  
20 us. There's a 610-foot vertical separation between  
21 the -- the XY Sand and what they call the Wolfcamp B  
22 lower. And then when you move to the right well, or  
23 the A Prime well, where it's in Potato Baby/Keg Shell  
24 area, there's a 724-foot vertical separation between  
25 those two landings.



1           And again, when there's no significant  
2 geological variance between those upper and lower  
3 landings, you can compare those degradation concerns  
4 to look at production. And my counterpart,  
5 Dr. Umekwe, he mentioned this degradation plot  
6 yesterday, saying that when you do do this sequential  
7 development, you see that 19 percent degradation when  
8 you look at co-development.

9           MR. RANKIN: Yeah, so just to be clear,  
10 the orange line would be the pilot test portion that  
11 was done sequentially?

12           MR. DUPREE: Yes, the orange line would  
13 be the sequential Potato Baby. And then the  
14 orange -- and then the blue line above that would be  
15 the co-development Keg Shell project.

16           MR. RANKIN: Mr. Dupree, there's some  
17 discussion about whether the distance between this  
18 pilot project location to the southeast of the Campana  
19 and Super Hornet project disqualifies this as an  
20 analogous project or test. What's your response to  
21 that?

22           MR. DUPREE: When looking at the  
23 Potato Baby/Keg Shell, I think this is a very  
24 well-confined, well-controlled project that  
25 is -- should be considered as a basis of looking at

1 this top-down versus co-dev development plan.

2 And then when you look at the lithology  
3 and the stratigraphy of the area, there is no  
4 geological concerns between the two targets that show  
5 any hindrance in the subsurface that may cause any  
6 kind of interference from fracture propagation.

7 MR. RANKIN: So based on the geology,  
8 just to be clear and summarize, it's your opinion that  
9 there's no factor in the geology that would prohibit  
10 this test from being applicable to the Super Hornet or  
11 Campana acreage; correct?

12 MR. DUPREE: That's correct.

13 MR. RANKIN: Now, you heard some  
14 testimony about the landing zones were different, the  
15 well densities were different, but your response is  
16 the same, is that fair to say?

17 MR. DUPREE: Yes. The -- the matter of  
18 problem here is not the landing zones that we're  
19 looking at. We're looking at depletion within the  
20 Wolfcamp A. And with that depletion in the  
21 Wolfcamp A, fracture propagation is going to want to  
22 move upwards from that Wolfcamp C development.

23 MR. RANKIN: You mentioned something  
24 about a well-controlled project. There were questions  
25 from Examiner Fordyce and others in this hearing about

1 this particular project, about whether there could be  
2 other factors at play that might influence that  
3 degradation that's being observed between the portion  
4 of the project that was sequentially developed and the  
5 portion that was co-developed.

6 Can you explain a little bit about  
7 why -- I mean, why that isn't the case and the whole  
8 purpose of this test that ConocoPhillips undertook?

9 MR. DUPREE: Yes. The whole purpose of  
10 this test was so we could develop our acreage in  
11 Eddy County to decide if we want to do top-down or  
12 sequential development versus co-development. And  
13 with this, we took out many outliers that went into  
14 the project.

15 So I heard yesterday, or I think maybe  
16 it was earlier today, there were no shut in wells that  
17 would have caused production differences. There's  
18 no -- as far as I'm aware, completion sizes were  
19 modeled to replicate similar performance across the  
20 project areas. There's no outside of normal anomalies  
21 that would have affected any kind of production  
22 between these two projects.

23 MR. RANKIN: So, in other words, while  
24 it wasn't a laboratory experiment where every single  
25 item could be controlled, the large ones were governed

1 here and controlled by ConocoPhillips; correct?

2 MR. DUPREE: That's correct.

3 MR. RANKIN: Okay. And, again, the  
4 purpose was so that you had a test that you could rely  
5 on in developing your acreage in this area?

6 MR. DUPREE: That's correct.

7 MR. RANKIN: Okay. I want to move on  
8 to Powderhorn's allegations or claim about stranded  
9 acreage on a technical basis. I think this was  
10 discussed a fair bit even prior before you getting up  
11 on the stand today.

12 But I just would like for you to just  
13 review -- you know, you're familiar with the claim in  
14 Powderhorn's direct testimony that the northeast  
15 quarter of Section 3 would be stranded if Marathon  
16 were to develop its one-mile wells in the north half  
17 of Section 2.

18 MR. DUPREE: That's correct.

19 MR. RANKIN: Based on that, in your  
20 analysis, is there any technical reason, geologic  
21 reason, that Powderhorn's acreage in the northeast  
22 quarter of Section 3 would be stranded?

23 MR. DUPREE: Geologically, no. That  
24 would be on their own doing.

25 MR. RANKIN: If you would just review

1 the slide here, Marathon Rebuttal Exhibit 6, just  
2 explain to us why, in your opinion, there's no  
3 preferential well orientation in this area.

4 MR. DUPREE: Yeah, I'll just quickly  
5 rerun through this slide. I'm sure most of you are  
6 burnt out of it at this point.

7 This is a well-published paper by Mark  
8 Zoback. He's very well known across the industry.  
9 This is just the maximum stress orientation map that  
10 you can see in the black line shown on the map. And  
11 then I tried to do my best to put their approximate  
12 AOI on there as well to show the reference that we're  
13 looking at.

14 And then looking at the images to the  
15 right, the first one, it's the producing wells  
16 pre-2017, that's showing all the landing zones. And  
17 then the one on the farthest to the right is the  
18 producing wells, 2017 and onward. And when you look  
19 at well orientation by vintage of years, pre-2017 and  
20 post-2017, there is no preference to stand-up or  
21 lay-down well orientation.

22 MR. RANKIN: And in fact, Powderhorn's  
23 own exhibits reflect the same phenomenon; correct?

24 MR. DUPREE: Yes.

25 MR. RANKIN: And just to be clear, what

1 does it mean that there's no preference for well  
2 orientation in this acreage?

3 MR. DUPREE: You can either drill a  
4 stand-up well or a lay-down well.

5 MR. RANKIN: And if Marathon's acreage  
6 happened to be -- positioned in Section 2, happened to  
7 be the west half of Section 2 rather than the north  
8 half of Section 2, would Marathon be proposing  
9 stand-up wells in that acreage?

10 MR. DUPREE: Yes. It's the best way to  
11 develop our acreage.

12 MR. RANKIN: Yeah. Depending on your  
13 land position; correct?

14 MR. DUPREE: Yes.

15 MR. RANKIN: Okay. In this particular  
16 acreage. Okay.

17 Did you also review Ms. Klingler's  
18 rebuttal exhibits 1 through 4?

19 MR. DUPREE: I did.

20 MR. RANKIN: And do you see any  
21 problems with, on a geologic basis, with Powderhorn  
22 being able to develop the east half of Section 3 and  
23 the south half of Section 2 following any one of these  
24 proposed development plans?

25 MR. DUPREE: No concerns.

1 MR. RANKIN: In your opinion,  
2 Mr. Dupree, what's the best way to prevent waste and  
3 protect correlative rights in this contested case?

4 MR. DUPREE: To let Marathon Oil  
5 develop -- develop their own acreage.

6 MR. RANKIN: And that wouldn't prevent  
7 Powderhorn from developing its acreage, would it?

8 MR. DUPREE: No.

9 MR. RANKIN: Okay. Mr. Examiner, I  
10 have no further questions of Mr. Dupree at this time.

11 THE HEARING EXAMINER: Mr. Holliday.

12 CROSS-EXAMINATION

13 BY MR. HOLLIDAY:

14 MR. HOLLIDAY: If we turn to  
15 paragraph 5 of your self-affirmed statement, you  
16 state:

17 "In my opinion, there is no substantial  
18 geological difference between the development plan  
19 proposed by Powderhorn and the development plan  
20 proposed by Marathon."

21 Do you stand by that statement?

22 MR. DUPREE: Can you show that to me on  
23 the screen?

24 MR. HOLLIDAY: Oh, I can, if I share my  
25 screen.

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1 THE HEARING EXAMINER: Are you having  
2 trouble sharing your screen?

3 MR. HOLLIDAY: It's back up.

4 THE HEARING EXAMINER: Would you share  
5 your screen? I mean, it is your exhibit, and it's his  
6 own statement, so I'm not sure why we need to see it,  
7 but --

8 MR. HOLLIDAY: Okay.

9 THE HEARING EXAMINER: There it is.

10 BY MR. HOLLIDAY:

11 MR. HOLLIDAY: That's your statement;  
12 correct?

13 MR. DUPREE: Yes.

14 MR. HOLLIDAY: So the geology does not  
15 favor Marathon's plan over Powderhorn's; is that  
16 correct?

17 MR. DUPREE: We are targeting the same  
18 intervals within the Wolfcamp.

19 MR. HOLLIDAY: Thank you, that's the  
20 answer to my next question, but geology doesn't favor  
21 one plan over the other; is that correct?

22 MR. DUPREE: Based on the landing  
23 zones, it does not.

24 MR. HOLLIDAY: And both Marathon and  
25 Powderhorn, they're proposing the same orientation;



1 right?

2 MR. DUPREE: East to west, yes.

3 MR. HOLLIDAY: Yeah. Similar spacing;  
4 correct?

5 MR. DUPREE: Roughly.

6 MR. HOLLIDAY: And the only difference  
7 that you can identify, or that you do identify between  
8 the Wolfcamp XY wells, is lateral length, and that's  
9 one-and-a-half versus one mile, is that fair to say?

10 MR. DUPREE: That's correct.

11 MR. HOLLIDAY: So is there any  
12 geological impediment to drilling mile-and-a-half  
13 wells in this area?

14 MR. DUPREE: Can you rephrase that?

15 MR. HOLLIDAY: Is there any geologic  
16 impediment to drilling one-and-a-half miles in the  
17 acreage we're discussing, sections 2 and 3?

18 MR. DUPREE: Any geological reasons,  
19 no.

20 MR. HOLLIDAY: Okay. And the Wolfcamp  
21 formation, you think it's continuous across both  
22 sections; is that correct?

23 MR. DUPREE: That's correct.

24 MR. HOLLIDAY: Okay. So in a  
25 hypothetical -- I know that Marathon wants to drill

1 the north half, Section 2 only, but would the geology  
2 support a single spacing unit then covering both  
3 sections?

4 MR. DUPREE: North half and south half,  
5 is that what you're referencing?

6 MR. HOLLIDAY: Yeah, the full 960.  
7 Or -- yes, the full 960 in Powderhorn's plan.

8 MR. DUPREE: Can you rephrase that?  
9 Sorry.

10 MR. HOLLIDAY: Sure. Does the  
11 geology -- yeah, same thing I told Ms. Klingler, if  
12 I -- not trying to trip you up.

13 MR. DUPREE: Yep.

14 MR. HOLLIDAY: Just ask for  
15 clarification.

16 Does the geology support a single  
17 spacing unit covering the 960-acres proposed by  
18 Powderhorn?

19 MR. DUPREE: I think it matters based  
20 off acreage, off your owned -- owned acreage. I don't  
21 think that's a geology question.

22 MR. HOLLIDAY: Okay. So there may be  
23 economic reasons working-interest-wise that your  
24 answer would differ, but if we're just looking at  
25 geology, the geology would support a single spacing

1 unit covering both sections; correct?

2 MR. DUPREE: It could cover both  
3 spacing units as well.

4 MR. HOLLIDAY: Right. Okay.

5 So you -- well, we don't need to recite  
6 your testimony.

7 What do you estimate is the stress  
8 orientation within the 960-acres proposed for the  
9 Super Hornet?

10 MR. DUPREE: It's hard to give an exact  
11 measurement there since it's such a wide -- based off  
12 that image it is a wide view at the Permian Basin, but  
13 it's roughly northeast 40, I would say.

14 MR. HOLLIDAY: Northeast 40?

15 MR. DUPREE: Yes, sir.

16 MR. HOLLIDAY: If you could drill a  
17 well -- or this well at any orientation, what would  
18 your preferred orientation be?

19 MR. DUPREE: Be based off the acreage  
20 that I own.

21 MR. HOLLIDAY: If you were to -- okay.  
22 If you could drill a well within the proposed 960-acre  
23 Super Hornet spacing unit, what would be your  
24 preferred orientation?

25 MR. DUPREE: Since our acreage is east

1 to west, I would do east to west.

2 MR. HOLLIDAY: Would that be a geologic  
3 reason or a working interest reason?

4 MR. DUPREE: I don't think either of  
5 those apply.

6 MR. HOLLIDAY: So you mentioned because  
7 your interest is in the north half of Section 2, is  
8 that the basis for your preferred orientation, or is  
9 it a geological basis for your preferred orientation?

10 MR. DUPREE: It's the best way to  
11 develop our acreage.

12 MR. HOLLIDAY: Geologically.

13 MR. DUPREE: Sure.

14 MR. HOLLIDAY: If we go to Marathon  
15 Exhibit 6 -- I believe that's contested, Exhibit 6.

16 And these wells, these wells in the  
17 bottom right corner, how were these wells selected?

18 MR. DUPREE: Which image are you  
19 referring to, the top right of the screen?

20 MR. HOLLIDAY: The right of the screen.

21 MR. DUPREE: How were they --

22 MR. HOLLIDAY: Yes, how were the wells  
23 on the far right graph -- or excuse me, picture, how  
24 were they selected?

25 MR. DUPREE: Selected based off of

1 public data -- database, Enverus. They were chosen by  
2 producing wells 2017 and onwards and filtered by all  
3 the landing formations in the area.

4 MR. HOLLIDAY: To your knowledge, is  
5 there a reason why 2017 was used as a cutoff for this  
6 exhibit?

7 MR. DUPREE: It's usually common  
8 practice to use 2017 and onward as a modern -- modern  
9 well.

10 MR. HOLLIDAY: Can stress orientation  
11 change over a 20 to 25-mile space within the Delaware  
12 Basin?

13 MR. DUPREE: To what degree? Can you  
14 clarify to degree?

15 MR. HOLLIDAY: Just can it change.

16 MR. DUPREE: It can rotate.

17 MR. HOLLIDAY: And I don't want to do a  
18 full deep dive on this. I don't think anybody wants  
19 me to. Are wells always oriented due to maximum  
20 stress, or do operations and ownerships sometimes  
21 influence orientations we've discussed previously?

22 MR. DUPREE: Mostly primarily due to  
23 the acreage that you own.

24 MR. HOLLIDAY: So it would be ownership  
25 more than maximum stress; is that correct?

1 MR. DUPREE: It goes both ways. You  
2 can't just choose one or the other. Sometimes there  
3 is preferential based off maximum stress, but the  
4 leading driver is based off the acreage position that  
5 you have.

6 MR. HOLLIDAY: Is counting the wells  
7 drilled over a 400-square-mile area in two separate  
8 time periods, is that a key part of how Conoco  
9 determines the optimal stress, or do you typically and  
10 primarily rely on other data?

11 MR. DUPREE: Gives a good  
12 representation of the area and how reputable operators  
13 have drilled their wells.

14 MR. HOLLIDAY: Okay. If we go up  
15 to -- this is Exhibit 5. Did you select and review  
16 the logs that are exhibited here comparing the  
17 Super Hornet to the Potato Baby?

18 MR. DUPREE: I did.

19 MR. HOLLIDAY: And do you know  
20 approximately how far apart the two logs are?

21 MR. DUPREE: Two -- two-and-a-half  
22 townships, give or -- give or take.

23 MR. HOLLIDAY: Twenty miles,  
24 approximately?

25 MR. DUPREE: Let's just go with that.

1 MR. HOLLIDAY: Okay. And the  
2 Potato Baby Wolfcamp A is targeting the same landing  
3 plan for the Wolfcamp A and the Super Hornet; right?

4 MR. DUPREE: Say that again.

5 MR. HOLLIDAY: Are the Potato Baby  
6 Wolfcamp A wells represented here, are they all  
7 targeting the same landing planned for the Wolfcamp A  
8 in the Super Hornet?

9 MR. DUPREE: Super Hornet's targeting  
10 the XY. We're targeting the Wolfcamp A and Potato  
11 Baby.

12 MR. HOLLIDAY: Okay. Is the difference  
13 between the Wolfcamp A and what you're calling the  
14 Wolfcamp XY, is that -- is that just a phrase, or do  
15 you think there's some material difference?

16 MR. DUPREE: There's a material  
17 difference between phrases, yes.

18 MR. HOLLIDAY: Are the Potato Baby deep  
19 Wolfcamps -- so now we're moving to the B and C -- are  
20 they all targeting the same landing that's planned for  
21 landing the deep Wolfcamp wells in the Super Hornet?

22 MR. DUPREE: I would say half of them  
23 are.

24 MR. HOLLIDAY: Looking still at the  
25 Potato Baby, it was developed at a similar well

1 spacing to the Super Hornet; is that right? Or the  
2 plans for the Super Hornet.

3 MR. DUPREE: Approximately.

4 MR. HOLLIDAY: Approximately.

5 In your opinion as a geologist, does  
6 well landing and proximity to other wells, does that  
7 have an influence on the production of an individual  
8 well and how it interacts with other wells?

9 MR. DUPREE: Can you rephrase that?

10 MR. HOLLIDAY: So the two factors, well  
11 landing, where you land the well, and then its  
12 proximity to other wells, does that have an influence  
13 on production for an individual well?

14 MR. DUPREE: I can speak to the landing  
15 part first. The landings that we're talking about  
16 here in Potato Baby versus Campana, or Super Hornet as  
17 you may reference, I do not think that the argument,  
18 that question, is the landings of the wells, it's more  
19 about the depressurizing the Wolfcamp while you're  
20 doing top-down degradation. That's the -- that's what  
21 this learning is about.

22 MR. HOLLIDAY: Does the proximity to  
23 other wells, does that influence how it interacts with  
24 other wells?

25 MR. DUPREE: The proximity, we just



1 agreed on, is similar to what you're doing in  
2 Super Hornet.

3 MR. HOLLIDAY: So would you agree that  
4 parent-child effects, those are interactions between  
5 wells; is that accurate?

6 MR. DUPREE: That's part of it.

7 MR. HOLLIDAY: Now, it looks on here  
8 like you show a gamma ray log, a resistivity log,  
9 density porosity, and then neutron porosity, for each  
10 well; is that right?

11 MR. DUPREE: That is correct.

12 MR. HOLLIDAY: And would you state that  
13 the Potato Baby and the Super Hornet logs that you've  
14 reviewed, do they have similar or very similar  
15 readings for each of these logs within the interval  
16 identified by the red arrows on this slide?

17 MR. DUPREE: I would say so.

18 MR. HOLLIDAY: Okay. So no substantial  
19 differences?

20 MR. DUPREE: That's correct.

21 MR. HOLLIDAY: Do you believe the  
22 lithology in the Potato Baby and the Super Hornet, do  
23 you believe those to be substantially similar?

24 MR. DUPREE: There may be slight  
25 variations, but nothing to denote the degradation

1 concerns between those two landings.

2 MR. HOLLIDAY: Okay. So based on the  
3 geologic data that you presented and the research  
4 you've done, do you believe that reservoir properties  
5 such as porosity, permeability, pressure, hydrocarbons  
6 in place, are they substantially similar in the area  
7 identified by the red arrows within the Super Hornet  
8 and within the Potato Baby?

9 MR. DUPREE: I would say so.

10 MR. HOLLIDAY: So these same factors,  
11 porosity, permeability, pressure, hydrocarbon in  
12 place, does that have an influence also on the  
13 interaction between wells?

14 MR. DUPREE: Clarifying question, can I  
15 ask? I would say some of those parameters that you  
16 mentioned.

17 MR. HOLLIDAY: Some of the -- so is  
18 there one -- if we look at porosity, permeability,  
19 reservoir pressure, and hydrocarbon in place, do those  
20 four things have an influence on interactions between  
21 the wells?

22 MR. DUPREE: I would say so, yes.

23 MR. HOLLIDAY: Okay. So then would you  
24 again agree that parent-child effects, these are  
25 interactions between wells?

1 MR. DUPREE: Between wells in the same  
2 unit do not apply to wells in separate spacing units.

3 MR. HOLLIDAY: So you would not agree?

4 MR. DUPREE: Depends on how you ask.

5 MR. HOLLIDAY: So we talked about -- I  
6 think it was your testimony that those four factors do  
7 have an influence on the interactions between wells;  
8 is that accurate?

9 MR. DUPREE: I would say some of the  
10 specific parameters that you mentioned, yes.

11 MR. HOLLIDAY: Which of them do not?

12 MR. DUPREE: I would say the porosity  
13 and permeability are the main factors there.

14 MR. HOLLIDAY: I just want -- two more  
15 questions real quick.

16 If we go to paragraph 8 of your  
17 statement, and I want to talk about this sentence. So  
18 you say here that Powderhorn's development sequence,  
19 it presents a risk of degradation to the B and C  
20 targets; is that correct?

21 MR. DUPREE: That's correct.

22 MR. HOLLIDAY: Would drilling the two  
23 Wolfcamp -- excuse me. Would drilling the northern  
24 two Wolfcamp A wells and Powderhorn's proposed  
25 960 -- are you with me -- would it -- let me rephrase

1 that.

2 Would drilling the two northern  
3 Wolfcamp A wells and Powderhorn's proposed 960-acre  
4 spacing unit separately from the southern two  
5 Wolfcamp A wells, would that present a risk of  
6 degradation?

7 MR. DUPREE: I would say that's not  
8 your acreage yet, so you can't -- that's a  
9 hypothetical.

10 MR. HOLLIDAY: Right. Okay. So in a  
11 hypothetical situation, if you were to drill two  
12 Wolfcamp wells in the northern half and then come back  
13 separately and drill two Wolfcamp wells in the  
14 southern half, would that present a risk of  
15 degradation?

16 MR. DUPREE: Depends.

17 MR. HOLLIDAY: Depends on what?

18 MR. DUPREE: You talk about operators.  
19 Different operators drill wells differently. How end  
20 zone is this when you do drill it with your  
21 third-party contractor? What -- what's your  
22 completion? I -- I have no -- I can't answer this  
23 because there are so many variables that go into it.

24 MR. HOLLIDAY: Fair to say you don't  
25 know?

1 MR. DUPREE: Based off the hypothetical  
2 that you gave, yes.

3 MR. HOLLIDAY: Okay. So then is it  
4 your -- and this is the last question. Based on what  
5 we just said about the north half, south half, are you  
6 testifying that there is no risk of parent-child  
7 effects on two wells spaced 1320 feet apart in the  
8 same landing?

9 MR. DUPREE: That would be a reservoir  
10 engineering question.

11 MR. HOLLIDAY: Okay. Then why were we  
12 talking about that here in paragraph 8?

13 MR. DUPREE: This is top-down  
14 degradation. We're not talking about horizontal  
15 degradation.

16 MR. HOLLIDAY: But -- okay, I'll just  
17 leave it there. No more questions.

18 THE HEARING EXAMINER: Mr. Fordyce.

19 MR. FORDYCE: Mr. Hearing Examiner, I  
20 have no further questions for Mr. Dupree.

21 THE HEARING EXAMINER: All right.

22 Mr. Rankin -- can we stop sharing the  
23 screen now, Mr. Holliday.

24 Mr. Rankin.

25 MR. RANKIN: I just have one question

1 for Mr. Dupree.

2 THE HEARING EXAMINER: One. Go ahead.

3 MR. RANKIN: And this goes to the  
4 general questions from Mr. Holliday about preferences  
5 for one-mile, one-and-a-half-mile, whether, you know,  
6 how he would prefer to drill.

7 REDIRECT EXAMINATION

8 BY MR. RANKIN:

9 MR. RANKIN: Mr. Dupree, to your  
10 knowledge, if Powderhorn reached voluntary agreement  
11 with Marathon under a JOA where Marathon would operate  
12 the north half of Section 2 and the northeast quarter  
13 of Section 3, would Marathon be willing to drill  
14 one-and-a-half-mile laterals in that instance?

15 MR. DUPREE: We would.

16 MR. RANKIN: I have no other questions.

17 THE HEARING EXAMINER: Does that raise  
18 any?

19 MR. HOLLIDAY: No.

20 THE HEARING EXAMINER: Mr. Fordyce, did  
21 that question raise anything for you?

22 MR. FORDYCE: No, Mr. Hearing Examiner.

23 THE HEARING EXAMINER: All right.

24 Okay. Do you rest your case in chief?

25 MR. RANKIN: Thank you very much, yes.

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1 THE HEARING EXAMINER: All right. So  
2 both parties have rested their case in chief.

3 Mr. Holliday, do you have any  
4 surrebuttal?

5 MR. HOLLIDAY: For this witness?

6 THE HEARING EXAMINER: Do you have a  
7 surrebuttal case?

8 MR. HOLLIDAY: No, we stand on our --

9 THE HEARING EXAMINER: Mr. Rankin, do  
10 you have a surrebuttal case?

11 MR. RANKIN: I do not.

12 THE HEARING EXAMINER: Okay.

13 Excellent. Then the evidentiary record is closed.

14 I'm going to reiterate that  
15 Mr. Holliday is going to submit an amended exhibit  
16 packet with a cover letter by -- April 10 is the  
17 deadline for closing arguments. When will you submit  
18 the amended exhibit packet?

19 MR. HOLLIDAY: The amended exhibit  
20 packet, specifically, that's removing the NSL  
21 references that we talked about?

22 THE HEARING EXAMINER: It's removing  
23 the NSL reference in Exhibit A-9. It's removing A-18  
24 completely. I believe -- Mr. Rankin, am I missing  
25 anything?

1 MR. RANKIN: I think that's -- I  
2 believe that was it.

3 THE HEARING EXAMINER: I thought so,  
4 too.

5 MR. RANKIN: Yeah.

6 MR. HOLLIDAY: I think we have that  
7 already prepared, so I would say within the week.

8 THE HEARING EXAMINER: Fine. So we'll  
9 say a week from today is your deadline for that.  
10 Please pass it by Mr. Rankin first.

11 MR. RANKIN: Yes, sir.

12 THE HEARING EXAMINER: Okay. So we  
13 talked about that. That includes a cover letter.  
14 We're going to remove your old exhibit packages. So  
15 that amended exhibit package should have your rebuttal  
16 exhibits, a table of contents, and a cover letter.

17 Okay. You don't need to amend  
18 anything. We'll leave yours as it is. I believe you  
19 have one exhibit packet and one rebuttal exhibit  
20 packet.

21 MR. RANKIN: That's correct.

22 THE HEARING EXAMINER: Right. So  
23 there's nothing to amend there or change.

24 We've talked about the transcript two  
25 weeks from today. Based on that date, we came up with



1 two weeks plus two days for April 10, for closing  
2 argument. That's a ten-page limit. That does not  
3 include the caption page or the certificate of service  
4 page. Everything must be cited to the record or it  
5 won't be considered in your closing argument.

6 Is there anything else that I've  
7 missed? No? All right. No? Okay. Both parties  
8 have said no.

9 Mr. Dupree, thank you for hanging  
10 around for two days to testify. I hope everyone has a  
11 good trip home.

12 We're off the record. Thank you.

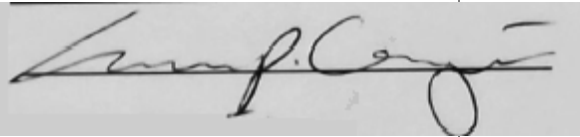
13 (Whereupon, at 4:38 p.m., the  
14 proceeding was concluded.)

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CERTIFICATE

I, GERALD ARAGON, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



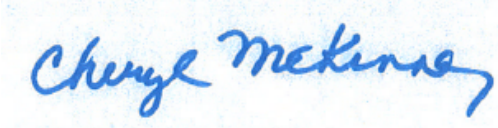
GERALD ARAGON

Notary Public in and for the  
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, CHERYL MCKINNEY, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



CHERYL MCKINNEY

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[child - commence]

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[convey - correct]

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[delayed - development]

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[foundation - geologist]

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[going - half]

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[half - hearing]

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[non - obligations]

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[orientation - packet]

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[piedra - pool]

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[pool - powderhorn]

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[prehearing - process]

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[proposed - question]

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[question - rankin]

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[rankin - readiness]

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[state - submit]

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[submit - svps]

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[wells - wood]

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