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

AMENDED APPLICATION OF PERMIAN RESOURCES
OPERATING, LLC FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO, CASE NO. 25959

APPLICATION OF AVANT OPERATING II, LLC
FOR APPROVAL OF A NON-STANDARD SPACING UNIT
AND COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO. CASE NO. 25956

APPLICATION OF AVANT OPERATING II, LLC
FOR APPROVAL OF A NON-STANDARD SPACING
UNIT AND COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO CASE NO. 25957

APRIL 28, 2022
8:58 A.M.
PECOS HALL
1220 SOUTH ST. FRANCIS DRIVE
SANTA FE, NEW MEXICO 87505

BEFORE: HEARING EXAMINER GREGORY CHAKALIAN

REPORTED BY: KIM KAY SHOLLENBARGER, NM CCR#236
VERITEXT MOUNTAIN REGION
ALBUQUERQUE, NEW MEXICO

1 HEARING OFFICER CHAKALIAN: Good morning. It is
2 April 28th. It is almost nine o'clock a.m. We're going to
3 start a few minutes early. This is a special docket of the
4 Oil Conservation Division. We have one hearing by affidavit
5 and one contested hearing. I'm going to call the hearing by
6 affidavit first. This is Permian Resources case number
7 25959. Entries of appearance, please.

8 MS. MCLEAN: Yes. Jaclyn McLean on behalf of
9 Permian Resources.

10 HEARING OFFICER CHAKALIAN: Good morning, Ms.
11 McLean. I see someone from Conoco Phillips. Do you know if
12 they're going to show up today?

13 MS. MCLEAN: They entered an appearance. I'm not
14 sure -- they did not object to the proceeding, but I am not
15 sure if they were going to log on or not.

16 HEARING OFFICER CHAKALIAN: Okay. Why don't you go
17 right ahead.

18 MS. MCLEAN: Thank you. In this case we were asked
19 to submit an amended application and amended exhibit packet
20 so that we could put lots instead of units in the legal
21 description for these wells. We did so, we sent a new notice
22 letter with the amended application on April 8th. We also
23 ran a new affidavit of publication for April 10th. And
24 everything else remains the same. And with that, we ask that
25 the exhibits be admitted into the record and the case be

1 taken under advisement.

2 HEARING OFFICER CHAKALIAN: They are admitted
3 without exception. Is it Mr. McClure or is it Mr. Fordyce,
4 who is the technical examiner for this one hearing by
5 affidavit?

6 MS. MCLEAN: I thought it was Mr. McClure
7 originally.

8 MR. FORDYCE: Yes, it's Mr. McClure, Mr. Hearing
9 Examiner.

10 HEARING OFFICER CHAKALIAN: Ms. Hatley, are you
11 entering an appearance?

12 MS. HATLEY: Good morning, Mr. Examiner. I'm sorry,
13 I tried to be early, but not early enough. Keri Hatley
14 entering appearance on behalf of Marathon Oil/Permian. We
15 are not objecting, just monitoring. Thank you.

16 HEARING OFFICER CHAKALIAN: Thank you, Ms. Hatley.
17 Let me check Mr. McClure's notes, he may have put notes in
18 this case, so give me a minute.

19 MR. FORDYCE: I believe that he did, Mr. Hearing
20 Examiner. This is Mr. Fordyce.

21 HEARING OFFICER CHAKALIAN: Perfect. Let me take a
22 look.

23 MR. FORDYCE: He had dropped me a note yesterday
24 that that case can be taken under advisement. 25959.

25 HEARING OFFICER CHAKALIAN: Perfect. Thank you,

1 Mr. Fordyce. And I'm just going to check the hearing notes
2 here. Okay, yes, we're taking this case under advisement.
3 Thank you, Ms. McLean.

4 MS. MCLEAN: Thank you.

5 HEARING OFFICER CHAKALIAN: We're off the record in
6 that case. Let's move on to Avant Operating. We have two
7 cases that are contested here, 25956 and 25957. Entry of
8 appearances, please.

9 MS. LUCK: Good morning, Mr. Examiner. Kaitlyn Luck
10 appearing for Avant.

11 HEARING OFFICER CHAKALIAN: Good morning.

12 MS. PENA: Good morning, Mr. Hearing Examiner.
13 Yarithza Pena with Hardy McLean on behalf of Permian
14 Resources Operating, and we are just monitoring.

15 HEARING OFFICER CHAKALIAN: Thank you, Ms. Pena.

16 MS. HATLEY: Good morning, Mr. Examiner. Keri
17 Hatley entering her appearance on behalf of Marathon
18 Oil/Permian and monitoring only.

19 HEARING OFFICER CHAKALIAN: Thank you, Ms. Hatley.

20 MS. KESSLER: Good morning, Mr. Examiner. Jordan
21 Kessler on behalf of EOG Resources, also monitoring.

22 HEARING OFFICER CHAKALIAN: Thank you, Ms. Kessler.
23 Do we have the party that's objecting? I believe the name is
24 Phillip White, do we have Mr. White with us? I see someone
25 logged in as guest, who is muted. And, Freya, you can't

1 unmute them manually?

2 MS. TSCHANTZ: I cannot. I can only mute them, but
3 not unmute.

4 HEARING OFFICER CHAKALIAN: I didn't know. Thank
5 you. Mr. White, we're going to continue, I'm not sure if
6 you're with us or not. I saw an email from you, Mr. White,
7 that was forwarded to me by the hearing clerk, let me find
8 that, and I'll read it into the record. While I'm looking
9 for that email -- here it is. So this is from, it says,
10 "Phillip." The email address is blanco, C-0-1 at msn dot
11 com. It was an email that was sent Saturday, April 25th, to
12 Ms. Tschantz at 8:34 p.m. "Hi, Freya. Thank you for that.
13 I had asked the status hearing examiner to allow me a
14 six-month continuance to allow a recovery from my
15 life-threatening ordeal in January, but he scoffed at such a
16 request. He allowed the minimum one month and being on
17 Tuesday. I have recovered to a certain degree. I estimate
18 my recovery at 60 percent, but in no sense of the word am I
19 in any condition to travel to Santa Fe for an in-person
20 grilling at the OCD. Thanks for the heads up anyway.
21 Respectfully, Phillip White." Ms. Luck, have you been in
22 communication with Mr. White?

23 MS. LUCK: I did reach out to him last week and at
24 that point in time we were discussing the fact that he was
25 attempting to sell his interest on the 21st, and my client

1 did make an offer to purchase that interest on the 21st and
2 then subsequently again on the 24th. So I was in contact
3 with him last week and I understood that he would be here
4 this week, but then it sounds like he left Freya a note
5 differently yesterday. I'm not exactly sure if it was his
6 intention to appear today or not, based on the email string.

7 HEARING OFFICER CHAKALIAN: So would he be
8 negotiating with Avant's landman?

9 MS. LUCK: Yes, and that's Ms. Sarantinos. She's
10 here on the line.

11 HEARING OFFICER CHAKALIAN: And I'll discuss this
12 with Ms. Sarantinos. She was here last week and I know who
13 she is. Let's see, one other thing here. So I see the email
14 from Ms. Tschantz to Mr. White sent on April 24 at 3:45 p.m.
15 "Mr. White, as a pro se party in next week's hearing, I
16 wanted to let you know that in-person appearance is strongly
17 encouraged. The hearing location is listed in the
18 pre-hearing order that was sent to you on March 19th. Please
19 let me know if you have any questions. Thank you." So it
20 was made clear to Mr. White that he didn't need to show up,
21 it wasn't a requirement to show up in person, and that he
22 could have proceeded virtually. So far there is no notice
23 from Mr. White. So we're going to continue. Mr. White is
24 not here. Ms. Luck, let's talk about your case. It's still
25 opposed, in my opinion. I do not have anything to show that

1 Mr. White has withdrawn his opposition, do you?

2 MS. LUCK: I have not received a withdrawal of his
3 objection, no, sir.

4 HEARING OFFICER CHAKALIAN: How do you wish to
5 proceed?

6 MS. LUCK: Well, at this point in time Avant would
7 like to present its case, both of them by affidavit. The
8 witnesses are here to answer any questions the Hearing
9 Examiner may have or if the Division would prefer we can come
10 back on May 7th for an affidavit hearing.

11 HEARING OFFICER CHAKALIAN: Is there any objection
12 to proceeding by affidavit? Not hearing any. Let's see, how
13 many witnesses do you have.

14 MS. LUCK: I have two witnesses here today. There
15 is Tiffany Sarantinos, the land person, and then Josh Payne,
16 the geologist.

17 HEARING OFFICER CHAKALIAN: Okay. Let's get both
18 witnesses -- well, first let's deal with the exhibits. So
19 what exhibits do you have for us?

20 MS. LUCK: Today for both cases I have submitted
21 exhibit packets, and then as of this morning we had to submit
22 an amended exhibit packet for both cases to correct some
23 issues with our exhibits.

24 HEARING OFFICER CHAKALIAN: What issues?

25 MS. LUCK: Mr. Payne would be able to describe the

1 geology issues regarding where the Penn formation was located
2 and how he would like to clarify that on his exhibit packet.
3 And then with respect to the land exhibits, I also included
4 an additional exhibit as required by the Division's rules
5 regarding committed and uncommitted interest owners to be
6 clear that it was clearly delineated on that exhibit how the
7 parties were provided notice. And so, those were the two
8 major corrections that were made. There was a geology
9 correction and then also the committed/uncommitted exhibit as
10 required by Division rules.

11 HEARING OFFICER CHAKALIAN: Let me speak to Mr.
12 Fordyce. Mr. Fordyce, have you had an opportunity to look at
13 the amended exhibits?

14 MR. FORDYCE: I have just opened them about ten
15 minutes ago and I'm trying to see what has changed in them.

16 HEARING OFFICER CHAKALIAN: Ms. Luck, did you put
17 together the amended exhibit packet?

18 MS. LUCK: Yes, I did.

19 HEARING OFFICER CHAKALIAN: Can you explain to Mr.
20 Fordyce, instead of him having to search for what's been --
21 did you include a cover page to show what's been updated?

22 MS. LUCK: The table of contents was amended to say
23 amended exhibits and then had the notations on there.

24 HEARING OFFICER CHAKALIAN: Okay.

25 MS. LUCK: However, I did not submit a cover letter.

1 I can do so.

2 HEARING OFFICER CHAKALIAN: So just walk Mr. Fordyce
3 through what has been updated in the amended exhibit packet.

4 MS. LUCK: Thank you. Mr. Fordyce, on case 25956,
5 turn to page 30, you will see an additional page starting
6 there with the owner name, owner type, status, commitment
7 type, and then the dates of notice, as well as the notice
8 exhibit. And likewise in 25957 there is of course
9 corresponding exhibit that starts on page 32. And then
10 additionally, I think that our geology witness could speak
11 better to what his changes are on the geology exhibit, but
12 it's my understanding that his Exhibit D2 was amended to
13 reflect where the Penn formation was located on case 25957.
14 And that Exhibit D2 is located at page 51.

15 MR. FORDYCE: Ms. Luck, was there a change to
16 Exhibit D4 or any other exhibits in the geology exhibits or
17 was it just D2?

18 MS. LUCK: I believe it was just D2, but I don't
19 want to be the final word on that. I believe that Mr. Payne
20 is here to explain those changes, if we could just have him
21 confirm that there were no other changes to the other geology
22 exhibits that were previously provided in the original
23 exhibit package.

24 HEARING OFFICER CHAKALIAN: Ms. Luck, do you want to
25 ask your witness what was changed?

1 MS. LUCK: Yes. Can I call him now?

2 HEARING OFFICER CHAKALIAN: Not as a witness, but
3 just to answer this question for Mr. Fordyce. He's not under
4 oath right now, so just ask him.

5 MS. LUCK: Mr. Payne, could you explain for Mr.
6 Fordyce what the changes were to your exhibits.

7 MR. PAYNE: Yeah. On Exhibit D2 on both packets we
8 showed the Cisco top, which is last top that we have above
9 the Strawn.

10 MS. LUCK: And were there any other changes?

11 MR. PAYNE: No, that was it on both exhibits.
12 Essentially, we just moved where we call the top of the Penn,
13 base of the Wolfcamp, up a little bit.

14 MS. LUCK: Thank you for that.

15 HEARING OFFICER CHAKALIAN: Mr. Fordyce, does that
16 answer your questions?

17 MR. FORDYCE: Yes, it does.

18 HEARING OFFICER CHAKALIAN: All right. Let's deal
19 now with your exhibits. You have an amended exhibit packet,
20 does that contain all of the original exhibits with
21 corrections or does it not?

22 MS. LUCK: Yes, Mr. Hearing Examiner, it's intended
23 to be a substitute or a replacement exhibit package that has
24 all of the original exhibits and simply has the additions and
25 the corrections noted.

1 HEARING OFFICER CHAKALIAN: Ms. Tschantz, will you
2 take out the original exhibit packet and just leave in the
3 amended exhibit packet.

4 MS. TSCHANTZ: Yes, I will.

5 HEARING OFFICER CHAKALIAN: So would you like that
6 admitted into evidence?

7 MS. LUCK: Yes, Mr. Hearing Examiner. So at this
8 time I would move to admit Exhibits A through E for both
9 cases.

10 HEARING OFFICER CHAKALIAN: As submitted in the
11 amended exhibit packet.

12 MS. LUCK: Correct. Filed today with the Division.
13 April 28th.

14 HEARING OFFICER CHAKALIAN: And in the future you
15 will include a cover letter?

16 MS. LUCK: Yes, Mr. Hearing Examiner.

17 HEARING OFFICER CHAKALIAN: Thank you. Admitted
18 without exception. You said you have two witnesses. First
19 of all, what was the nature of the objection, since Mr. White
20 is not here?

21 MS. LUCK: Yes. It's my understanding that the
22 nature of the objection is, Mr. White's interest is unleased
23 and so currently he has the option to either lease his
24 interest to Avant or to any other party. And it was his
25 opinion that Avant had not made good faith efforts to reach a

1 voluntary agreement before attempting to pool his interest.

2 HEARING OFFICER CHAKALIAN: When did you start -- I
3 know you were not the original counsel in this case.

4 MS. LUCK: Yes, sir.

5 HEARING OFFICER CHAKALIAN: Why did you take over
6 this case?

7 MS. LUCK: I think that Ms. Bennett's firm actually
8 had previously represented Mr. White. That was a conflict.

9 HEARING OFFICER CHAKALIAN: When did you take over
10 this case?

11 MS. LUCK: I took over this case in early April and
12 I appeared at the status conference and requested a -- was it
13 early April? It might have been March. But I requested a
14 contested hearing at that time, and then it was set for this
15 contested hearing.

16 HEARING OFFICER CHAKALIAN: Why don't you check your
17 entry of appearance and tell me what date it was filed.

18 MS. LUCK: Okay. Oh, it was actually March 18th.
19 So it was March when I entered an appearance.

20 HEARING OFFICER CHAKALIAN: And when did you first
21 start communicating with Mr. White?

22 MS. LUCK: So the communications occurred through
23 Avant and Avant sent their original well proposals back in
24 December of '25.

25 HEARING OFFICER CHAKALIAN: To Mr. White?

1 MS. LUCK: Yes.

2 HEARING OFFICER CHAKALIAN: You know that for a
3 fact.

4 MS. LUCK: Yes. And that's based on Avant's
5 exhibits. Our land representative is here today to testify
6 to her communications with Mr. White starting in December of
7 2025.

8 HEARING OFFICER CHAKALIAN: And remember, the court
9 reporter needs you to slow down and speak clearly.

10 MS. LUCK: Okay.

11 HEARING OFFICER CHAKALIAN: Can I have Ms.
12 Sarantinos, and is it Mr. Payne, you said?

13 MS. LUCK: Yes, Mr. Josh Payne.

14 HEARING OFFICER CHAKALIAN: Are you both in the same
15 room?

16 MS. SARANTINOS: Yes.

17 HEARING OFFICER CHAKALIAN: You are, okay. Perfect.
18 Would you both raise your right hands, please.

19 (Witnesses Sworn)

20 HEARING OFFICER CHAKALIAN: I heard two yeses. Ms.
21 Sarantinos, let's start with you. Would you state and spell
22 your name for the record.

23 MS. SARANTINOS: Sure. Tiffany Sarantinos.
24 T-i-f-f-a-n-y. S-a-r-a-n-t-i-n-o-s.

25 HEARING OFFICER CHAKALIAN: And you've been

1 previously admitted as an expert before this Division?

2 MS. SARANTINOS: Yes, sir.

3 HEARING OFFICER CHAKALIAN: In what field?

4 MS. SARANTINOS: Petroleum land matters.

5 HEARING OFFICER CHAKALIAN: Mr. Payne, state and
6 spell your name for the record.

7 MR. PAYNE: J-o-s-h-u-a. P-a-y-n-e.

8 HEARING OFFICER CHAKALIAN: And you've previously
9 been admitted as an expert before this Division?

10 MR. PAYNE: Yes, sir.

11 HEARING OFFICER CHAKALIAN: In what field?

12 MR. PAYNE: Petroleum geology.

13 HEARING OFFICER CHAKALIAN: Thank you very much.

14 Ms. Luck, your amended exhibit packet has been admitted into
15 evidence without exception. Your two witnesses have been
16 sworn in. Why don't you begin your case.

17 MS. LUCK: I would like to call Ms. Sarantinos as my
18 first witness.

19 EXAMINATION

20 BY MS. LUCK:

21 Q. Ms. Sarantinos, thanks for being here today. If you
22 could start off by letting the Division know your role in
23 these cases and a summary of your land testimony.

24 A. Sure. Avant has applied to pool for a Wolfcamp
25 960-acre spacing unit, which includes all of Section 21 and

1 the north half of 28 and that is for the Penn and the
2 Wolfcamp formations. Like Ms. Luck stated earlier, we sent
3 out proposals in early December to all of the working
4 interest owners and a handful of unleased mineral interest
5 owners, mostly that had spewed out of previous leases before.

6 Q. And just for clarification, the 25957 application is
7 for the Penn formation; is that correct?

8 A. That's correct.

9 Q. I know you submitted these exhibits for the Division
10 to consider, but is it your opinion that Avant made good
11 faith efforts to reach a voluntary agreement with Mr. White
12 prior to pooling?

13 A. Yes, that's correct. When he first initially
14 received his packet in early December, we exchanged a handful
15 of phone calls, and he expressed his interest in -- with us
16 leasing. And he had like certain lease provisions that he
17 wanted to use and we continued to negotiate through those for
18 months and were agreeable to all of them. We actually came
19 to a formal agreement and that was when Ms. Bennett was
20 representing our case. She kind of was passing emails
21 between myself and Mr. White, because again he had had
22 previous relationship with Ms. Bennett, so I think he felt
23 comfortable, and we didn't mind. And he had agreed to lease
24 with us, and then unbeknownst to us he let us know that he
25 was actually going to be listing his interest in an auction

1 in April. It was at that point that we first learned that we
2 did not have a deal anymore.

3 Q. But then subsequent to that did Avant continue to
4 make efforts to purchase his interest at the auction?

5 A. Yes, that's correct. We were actually awarded the
6 highest bidder on the auction on the 21st and later received
7 note there had been a reserve, minimum amount had not been
8 met by the seller, so he declined all offers. And then the
9 third party clearinghouse reached out to us and gave us the
10 opportunity, I guess to submit another bid, which we did so
11 and the clearinghouse notified us that it was declined.

12 Q. And so that was all the way up through last Friday,
13 April 24th; is that correct?

14 A. That's correct.

15 Q. Is there anything else that you would like to add
16 for the Division to consider?

17 A. No, I think that's it.

18 Q. And were each of your exhibits prepared by you or
19 under your direction and supervision?

20 A. That's correct.

21 MS. LUCK: So that concludes the questions I have
22 for Ms. Sarantinos. I turn her over to the Hearing Examiner.
23 Thank you.

24 HEARING OFFICER CHAKALIAN: Let me follow up on that
25 last question you asked. Ms. Sarantinos, are there any

1 corrections you need to make to the exhibits that were
2 admitted just this morning?

3 MS. SARANTINOS: Just the ones that Kaitlyn had
4 mentioned. Do you want me to go through those with you?

5 HEARING OFFICER CHAKALIAN: Yes. Go ahead.

6 MS. SARANTINOS: So actually in our application, I
7 think originally had been prepared by Deana Bennett, in
8 paragraph 2 of the 25957 case, which is the Penn case, the
9 verbiage she used was actually Wolfcamp unit, but then used
10 the correction Penn code and name. So we correct -- I think
11 we're attempting to correct that in this update. And then
12 there were corrections made to the tract map and legend.
13 They just weren't matching up. I think it was a copy/paste
14 error on my behalf. And then we just added the two
15 additional offers that we sent to Mr. White on the summary of
16 contacts.

17 HEARING OFFICER CHAKALIAN: You said you corrected
18 something Ms. Bennett did in her description of the formation
19 or pool code or something like that. Can you be more
20 specific what you're talking about? What was it originally
21 and what did you correct it to?

22 MS. SARANTINOS: And I could be speaking wrong,
23 Kaitlyn, so correct me if I'm wrong. But in paragraph 2 of
24 the 25957 portion of the application, where you kind of
25 describe in text what you're attempting to pool, I think she

1 accidentally listed it as a Wolfcamp unit, and then listed
2 the Penn, and then the correct Penn code. But I do believe
3 it said Wolfcamp.

4 MR. FORDYCE: Ms. Sarantinos, this is Mr. Fordyce,
5 the Technical Examiner. I'm looking at that, and just for
6 clarification since we're talking about it, if you're
7 referring to the application in paragraph 2, it still says
8 Wolfcamp horizontal spacing unit in the Lea Penn gas pool.

9 MS. SARANTINOS: Maybe Ms. Luck decided that we were
10 not going to correct that.

11 MS. LUCK: If I may, I can't change the application
12 that was already on file with the Division. It is filed as
13 our Exhibit B with the exhibit package for 25957. So as Ms.
14 Sarantinos is noting, the application has an internal
15 inconsistency that rather than saying the Penn formation, it
16 says the Wolfcamp formation; however, it correctly lists the
17 Penn pool. So all the rest of our exhibits, meaning Ms.
18 Sarantinos affidavit, Exhibit C and our Exhibit A, the
19 application checklist, all correctly list the Penn formation.

20 HEARING OFFICER CHAKALIAN: And is that on the
21 amended exhibit? Is that one of the reasons why you amended
22 your exhibits?

23 MS. LUCK: No, that was all in the original exhibit
24 package that was filed with the application with the internal
25 inconsistencies, as well as the correct checklist and the

1 correct affidavit.

2 HEARING OFFICER CHAKALIAN: Okay.

3 MS. LUCK: We were aware of this issue coming into
4 hearing, we wanted to bring it to the Division's attention at
5 the hearing to determine if the application could be approved
6 as is, given the fact that there was the internal
7 inconsistency, but the correct pool code.

8 HEARING OFFICER CHAKALIAN: Okay. Mr. Fordyce, why
9 don't you examine this witness.

10 EXAMINATION

11 BY MR. FORDYCE:

12 Q. Good morning, Ms. Sarantinos. I'm looking at the
13 exhibits for case 25956, and it would be on page 12, which is
14 your self-affirmed statement. I think there's also a
15 correction maybe needed in paragraph 11 that states, for case
16 25956, you see that it mentions a wildcat-015 and some other
17 numbers, but a Bone Spring pool, and that case does involve a
18 Wolfcamp pool. And then paragraph 12 for case 25957, it
19 looks like there's another correction needed, as that case
20 is, again, involving a Pennsylvania pool, Lea Penn gas pool,
21 but it mentions the Purple Sage Wolfcamp pool.

22 A. I would imagine, yes. We probably do need to
23 correct those. I think applied for these originally in
24 December, before we were given these updated codes and pool
25 codes to use in January. So, yes, it would make sense that

1 those need to be corrected.

2 HEARING OFFICER CHAKALIAN: I'm confused,
3 Ms. Sarantinos. It sounds like the pool code, from what Mr.
4 Fordyce said, was correct, and it's the formation, the way
5 it's described, is not correct. Is that not your
6 understanding? I'm trying to get us all on the same page.

7 MS. SARANTINOS: No, I think that our affidavit
8 incorrectly lists these pool codes, but everything else lists
9 the correct pool codes. So we just need to correct the
10 affidavit.

11 HEARING OFFICER CHAKALIAN: Is that right, Mr.
12 Fordyce?

13 MR. FORDYCE: Well, no. Again, in paragraph 11 for
14 case 25956, it's describing a Bone Spring pool when actually
15 that case is for the Wolfcamp. And in paragraph 11 for case
16 25957, it discuss Purple Sage Wolfcamp, but that's actually
17 the Lea Penn gas pool. So they're just inaccurate. And I
18 believe that might have had something to do with -- there
19 might have been some confusion potentially, because there
20 were potentially some Bone Spring cases as well. So some of
21 these formations or case numbers might have got mixed up, I'm
22 not sure. But again, for 25956 it has nothing to do with the
23 Bone Spring. And 25957 has nothing to do with Purple Sage
24 Wolfcamp.

25 HEARING OFFICER CHAKALIAN: Ms. Sarantinos, do you

1 understand what Mr. Fordyce saying?

2 MS. SARANTINOS: I do. Again, I really do think it
3 was the timing of which we applied, and potentially the
4 overlap in counsel. But to me, this is an easy fix. We
5 would just be updating the correct pool code to match all of
6 our exhibits in the application.

7 HEARING OFFICER CHAKALIAN: Mr. Fordyce, it sounds
8 like we're still talking about just pool codes; is that
9 right? Or is that not what you're trying to get across?

10 MR. FORDYCE: The pool names and codes are listed
11 incorrectly in paragraphs 11 and 12.

12 MS. SARANTINOS: Yes.

13 HEARING OFFICER CHAKALIAN: Ms. Sarantinos, I
14 haven't heard you acknowledge that it's not just the pool
15 codes, but it's the pool names as well.

16 MS. SARANTINOS: That is correct. It looks like in
17 paragraphs 11 and 12 the pool code name and codes were
18 incorrectly used; however, the correct pool code and pool
19 names have been used correctly throughout all of our
20 exhibits.

21 HEARING OFFICER CHAKALIAN: Ms. Sarantinos, you're
22 an attorney, right?

23 MS. SARANTINOS: No, sir.

24 HEARING OFFICER CHAKALIAN: Oh, you're not? I
25 thought you were.

1 MS. SARANTINOS: I am not.

2 HEARING OFFICER CHAKALIAN: I thought I remember you
3 saying that here. So, Ms. Luck, does this require new
4 notice?

5 MS. LUCK: No, Mr. Hearing Examiner. I believe that
6 this requires an amended Exhibit C from Ms. Sarantinos to
7 correctly reflect the correct pool codes.

8 HEARING OFFICER CHAKALIAN: And make the legal
9 argument why it doesn't require new notice.

10 MS. LUCK: So this is just an issue in her pretrial
11 testimony. As she stated previously, the applications that
12 are attached as Exhibit B in both packets are correct, they
13 correctly list the correct full name and pool code. This is
14 an issue with the affidavit. Her self-affirmed statement has
15 two paragraphs with incorrect statements and so we would just
16 simply need to remove those. If you look at paragraphs 7 and
17 9 of her self-affirmed statement, which is what Mr. Fordyce
18 is referring to, it does reflect the correct pool names and
19 pool codes. We just incorrectly cited the Bone Spring and
20 the Purple Sage in paragraphs 11 and 12. So if you look at 7
21 and 9, the correct pool codes are listed and so we would just
22 need to amend her self-affirmed statement.

23 HEARING OFFICER CHAKALIAN: And are we talking about
24 both cases or just one case?

25 MS. LUCK: Both cases.

1 HEARING OFFICER CHAKALIAN: Both.

2 MS. LUCK: Because it's the same statement for both
3 cases.

4 HEARING OFFICER CHAKALIAN: And you were saying that
5 the applications correctly stated the proper pool codes and
6 pool code names, that is what you said?

7 MS. LUCK: Yes.

8 HEARING OFFICER CHAKALIAN: And, Mr. Fordyce, do you
9 agree with that?

10 MR. FORDYCE: Yeah, I think in this case paragraphs
11 11 and 12 are just errors that need to be corrected.

12 HEARING OFFICER CHAKALIAN: Good. So what you're
13 saying then is, that the applications themselves don't need
14 to be re-noticed.

15 MR. FORDYCE: I believe that's correct. Looking
16 again, application for 25956 is Wolfcamp and that code -- the
17 only question then would be, what Ms. Luck has already
18 discussed for 25957, the Wolfcamp spacing unit with the Lea
19 Penn pool code. I would ask, and perhaps Mr. Payne would
20 chime in, if they were going to describe that correctly, how
21 would they describe it if it's not Wolfcamp, a Wolfcamp
22 horizontal spacing unit in the Lea Penn gas pool, how would
23 it have been described correctly?

24 HEARING OFFICER CHAKALIAN: Mr. Payne.

25 MR. PAYNE: Yes, sir. I would describe the Penn as

1 essentially top Cisco down to the Strawn and then the
2 Wolfcamp would essentially be the top of the Wolfcamp down to
3 top of the Cisco, which are shown in our exhibit packets.

4 MR. FORDYCE: So in case 25957, you would have said
5 that this is a Penn pool or an Upper Penn pool?

6 MR. PAYNE: Yes, sir, Cisco --

7 MR. FORDYCE: Or, excuse me, not pool, but spacing
8 unit -- I'm sorry, not pool, but it should have said perhaps
9 Cisco or Canyon or Upper Penn horizontal spacing unit in the
10 Lea Penn gas pool, pool code 80040.

11 MR. PAYNE: Yes, sir.

12 MR. FORDYCE: Thank you for that.

13 MR. PAYNE: Yes, sir.

14 MR. FORDYCE: I have some more questions for Ms.
15 Sarantinos, actually. Sorry for skipping around.

16 MS. SARANTINOS: Okay.

17 MR. FORDYCE: So I have a question on -- well, first
18 let's look at the C102 on page 15 for the 751H. The first
19 thing that I need to point out is that there is an error in
20 this pool code and that error is that -- the part that says
21 G-09 is actually G-08.

22 MS. SARANTINOS: Okay.

23 MR. FORDYCE: And my next question for C102 is that,
24 if you look at the first take point, first and last take
25 point actually, it says that it's 1,254 feet from the west

1 line, which does not agree with the CP-ACT that says this
2 well, well number 1, is 330 feet from the west line. And it
3 also does not seem to match up with Mr. Payne's -- let me see
4 which exhibit that was. Exhibit D2 on Page 44, these five
5 wells appear to be spaced out equivalently rather than the
6 751H and 752H, kind of being on top of each other. I'm
7 thinking that there's an error in the C102 for where -- you
8 know, again, from the measurement from the west line where
9 this well is located.

10 MS. SARANTINOS: You're thinking is the error is in
11 the CP-ACT?

12 MR. FORDYCE: Well, the CP-ACT says 330 feet from
13 the west line, so if you look at -- so if we look at page 16
14 for this well, again the C102 is showing that it's 1,254 feet
15 from the west line. Then if you scroll down to the 752 on
16 page 17 it says 1,485 feet from the west line. So these two
17 wells are very, very close to each other in the C102s. And
18 again, the CP-ACT says 330 feet from the west line. And if
19 you look at page 44 for -- no, that's not correct. I have
20 the wrong page number. Let me get the page. Page 49, for
21 example, Mr. Payne's Exhibit D2, it does not show the 751 and
22 the 752 stacked on top of each other.

23 MS. SARANTINOS: I do see what you're saying. It
24 does look like there needs to be an update to the C102. It
25 looks like everything else is correct on this, though. And

1 this is a gas pool, so it has a 300 -- this is 330 from the
2 west line, is what that 751 should be.

3 MR. FORDYCE: In 25956, that is an oil pool. Did
4 you say it was a gas pool?

5 MS. SARANTINOS: Oil. No.

6 HEARING OFFICER CHAKALIAN: I heard gas,
7 Ms. Sarantinos. Are you sure?

8 MS. SARANTINOS: Yes, yes.

9 HEARING OFFICER CHAKALIAN: Mr. Fordyce, she
10 definitely said gas.

11 MR. FORDYCE: 25956 is an oil pool in the Wolfcamp.
12 25957 is a gas pool in the Upper Penn. But, yes, so for
13 25956 it is an oil pool. I believe Ms. Sarantinos misspoke.

14 MS. SARANTINOS: Yes, that's correct.

15 HEARING OFFICER CHAKALIAN: Mr. Fordyce, it sounds
16 to me like you have some more questions for the witnesses
17 before we give any kind of guidance on how to proceed; is
18 that right?

19 MR. FORDYCE: Let me look at my notes. For 25957
20 there were again the errors in Ms. Sarantinos statement, in
21 paragraphs 11 and 12. There were some questions about
22 Exhibit C2, which it looks like in this amended exhibit,
23 those have been corrected regarding the description for the
24 tracts of land. I also have some questions about notice and
25 the notice list, and then a whole long list of corrections

1 for the CP-ACT for both cases.

2 HEARING OFFICER CHAKALIAN: So, Mr. Fordyce, are you
3 saying then that you have concluded your questions for the
4 witnesses?

5 MR. FORDYCE: No. I have some questions about
6 notice, actually. If we could look at -- it would be
7 page...

8 HEARING OFFICER CHAKALIAN: Can you bring this up,
9 Ms. Luck.

10 MR. FORDYCE: It would be page 74.

11 HEARING OFFICER CHAKALIAN: On the amended packet?

12 MR. FORDYCE: Yes.

13 HEARING OFFICER CHAKALIAN: From here on end we're
14 only going to talk about the amended packets, so you don't
15 have to say that. The other one has been removed. The
16 original one is removed from the record. And which exhibit
17 number is this, Ms. Luck?

18 MS. LUCK: I'm looking for the page number that...

19 HEARING OFFICER CHAKALIAN: On the right side, there
20 you go. You were there. Right by where it says, Y-P, look
21 to the left, there's a little box with a 7 in there.

22 MS. LUCK: I think this is the page number that --
23 sorry, I'm showing the wrong screen. Let me show the right
24 screen.

25 MR. FORDYCE: So this is the transaction report for

1 the notifications that were sent out.

2 HEARING OFFICER CHAKALIAN: Mr. Fordyce, hold on one
3 second. Ms. Luck, what exhibit are we looking at?

4 MS. LUCK: Is this Exhibit E.

5 HEARING OFFICER CHAKALIAN: E. No subnumber or
6 anything like that, just E?

7 MS. LUCK: E, yes. It's attached to my
8 self-affirmed statement of notice. These are the notice
9 documents that Ms. Bennett's office prepared.

10 HEARING OFFICER CHAKALIAN: So you didn't label this
11 like E1 or E2, this is just all part of E.

12 MS. LUCK: Yes. And I can give them sub-labels, if
13 you like.

14 HEARING OFFICER CHAKALIAN: No, I don't. I just
15 want to be able to refer to them correctly for the record so
16 we know what we're talking about. So from now if it's going
17 to E and then a page number, please say what the page number
18 is. So we're looking at page 74 of 75. Go right ahead, Mr.
19 Fordyce.

20 MR. FORDYCE: So I compared this list to the list
21 that Ms. Sarantinos provided for unleased mineral interest
22 overrides and parties that were due notice of the
23 non-standard proration unit. I was unable to find four
24 unleased mineral interests; namely, Caprock Minerals, Desert
25 Waterfall, LLC, Harry and Nancy Elkin, Norma Chanley, aka

1 Norma Barton, those are the unleased mineral interests and an
2 overriding royalty interest John Lawrence Chilton, but also
3 in addition to those five parties that I could not find on
4 this list that needed to be noticed, I found eight parties
5 that appear on this list and I do not know why they are on
6 this list. So I'm wondering whether the right parties were
7 noticed, if we're looking at the right transaction report for
8 these cases or what the discrepancy is, because it would
9 appear to me that all the proper parties have not been
10 noticed.

11 HEARING OFFICER CHAKALIAN: Is this a question, Mr.
12 Fordyce, for Ms. Sarantinos or for the attorney?

13 MR. FORDYCE: Well, I guess whichever one can
14 answer. Ms. Sarantinos provided this list and I'm not -- I
15 believe that maybe Ms. Bennett's firm had done the notice,
16 but I'm not sure. Is that correct, Ms. Luck?

17 MS. LUCK: Yes, that's correct. This notice was
18 provided by Ms. Sarantinos to Ms. Bennett to send out the
19 notices, so maybe she can clarify if Caprock Desert, the
20 Elkin family and the other two parties were provided notice.

21 MR. FORDYCE: Sorry to interrupt, Ms. Sarantinos,
22 but just to clarify, it looks like all the parties that were
23 due notice, those parties are not all included on this list,
24 there's five that are missing. Unless for some reason we're
25 potentially looking at the wrong transaction report and it's

1 not for this case, but right now it looks like all the
2 parties that were due notice are not listed here.

3 MS. SARANTINOS: In regards to the additional
4 parties that were listed, I think sometimes we will over
5 notice as opposed to under notice. And honestly,
6 unfortunately we can't really speak to Ms. Bennett's printout
7 that she has provided, but I do recall that one of the names
8 you had listed, we are negotiating leases with several of the
9 parties, so the Elkins, and they are not listed as a party to
10 pool, because we've been negotiating leases with them for
11 quite awhile and we're very comfortable that we will -- we're
12 exchanging redlines right now. So those parties will not be
13 force pooled.

14 MR. FORDYCE: I believe that you had indicated in
15 your exhibits Caprock Minerals was a party being pooled.
16 Desert Waterfall, LLC was a party being pooled. Norma
17 Chanley also known as Norma Barton was a party being pooled
18 as unleased mineral interest.

19 MS. SARANTINOS: Yes, those look like that.

20 MS. LUCK: And so I think there's additional notices
21 that need to be provided, then that would be our
22 responsibility at this point in time. And I will confirm
23 with Ms. Bennett's office that those parties were not
24 provided notice and inadvertently left off this list, and
25 then I would ask for continuance to be able to provide notice

1 for these parties.

2 HEARING OFFICER CHAKALIAN: Mr. Fordyce, why don't
3 we continue your questions and when you're done, then we can
4 talk about how we're going to cure this or how we're going to
5 proceed.

6 MR. FORDYCE: Mr. Hearing Examiner, I believe,
7 looking at my notes, the last thing probably to discuss would
8 be multiple corrections to the CP-ACT.

9 HEARING OFFICER CHAKALIAN: So it sounds to me like,
10 Mr. Fordyce, you don't have any more questions for the two
11 witnesses; is that correct?

12 MR. FORDYCE: I believe that concludes my questions
13 for Ms. Sarantinos and Mr. Payne.

14 HEARING OFFICER CHAKALIAN: Before we go to any
15 guidance, let's find out from Ms. Luck if there's any
16 redirect.

17 MS. LUCK: I don't have any additional questions,
18 thank you.

19 HEARING OFFICER CHAKALIAN: Mr. Fordyce, where do
20 you want to begin in your guidance?

21 MR. FORDYCE: If we want to start looking at the
22 compulsory pooling application checklist for case 25956 on
23 page 3, there are some multiple items here that we need to
24 address. Are you with me, Ms. Luck?

25 MS. LUCK: Yes, Mr. Fordyce.

1 MR. FORDYCE: For the entries of appearance of
2 intervenors, I see Party 1 EOC, Party 2 Permian and Party 4
3 Marathon. Should there be a Party 3? Would that be Phillip
4 White?

5 MS. LUCK: Yes, I believe he should also be listed
6 on here, so I will include him. I apologize.

7 MR. FORDYCE: Scrolling down to the formation names,
8 formation pool section, I guess. Formation name Wolfcamp,
9 and below that it says primary product is gas. When, in
10 fact, this pool is an oil pool. So that would also mean that
11 the well location setback rules where it says, "statewide gas
12 rules," and the building blocks saying 160 acres, are
13 incorrect.

14 MS. LUCK: Okay. And likewise, the pool code here
15 on line 15 should say the G08, right? Not G09.

16 MR. FORDYCE: That is correct, Ms. Luck. G08 is the
17 correct entry there. Another thing, in orientation it says
18 east/west. These wells would be drilled north/south. And
19 then the amended exhibits, going back to the pool code, the
20 C102s then, of course are going to be amended, should all say
21 G08 as well. Turning to case 25957 for that, look at that
22 CP-ACT with you whenever you're ready, Ms. Luck.

23 MS. LUCK: Yes, sir, I'm ready.

24 MR. FORDYCE: So I'm in the formation and pool
25 section again. Well, let me back up. If you want to add Mr.

1 Phillip White to your entries of appearance on this one as
2 well. And then I'm looking at the formation pool section,
3 for some reason we have a Bone Spring pool name and code
4 when, in fact, it is the Lea Penn gas pool 80040. That is a
5 gas pool, so well location setback rules should not say,
6 "statewide oil well rules." And the building blocks would
7 not be 40 acres, they would be one sixties. And again, the
8 orientation is not east/west, it's north/south. In addition
9 to that for this case, if we go to the next page, pages 4 and
10 5 actually where the well descriptions are contained for each
11 of these wells in the completion target section, the TVDs and
12 TMDs are off substantially by approximately five to 6,000
13 feet. So I'm not sure where these numbers come from, but
14 they need to be corrected.

15 MS. LUCK: I'll make those corrections.

16 MR. FORDYCE: I believe, Mr. Hearing Examiner, that
17 is all the corrections to the CP-ACTs.

18 HEARING OFFICER CHAKALIAN: Are you done with your
19 guidance so we can figure out how we're going to move on?

20 MR. FORDYCE: I believe so, yes, sir.

21 HEARING OFFICER CHAKALIAN: All right. Thank you,
22 Mr. Fordyce. Ms. Luck, it sounds like there's some parties
23 that still need notice.

24 MS. LUCK: That's correct.

25 HEARING OFFICER CHAKALIAN: So how do you plan to

1 proceed?

2 MS. LUCK: Well, at this point in time I would
3 request a continuance so that Avant could properly provide
4 notice and also submit corrected exhibits for the Division to
5 consider and to take under review. At that point in time I
6 would just request this be set for another affidavit hearing
7 for review, if possible. The May 7th hearing I think is too
8 soon to allow the notice period to go. I'm not sure what
9 other dockets are available.

10 HEARING OFFICER CHAKALIAN: I think June 4 or 5.
11 Freya, which is the June docket?

12 MS. TSCHANTZ: 4.

13 HEARING OFFICER CHAKALIAN: 4, thank you. Ms. Luck,
14 you would continue your case to the June 4 docket?

15 MS. LUCK: Yes, please.

16 HEARING OFFICER CHAKALIAN: And when you submit the
17 second amended hearing packet, include a cover letter that
18 outlines everything Mr. Fordyce just had you do.

19 MS. LUCK: Yes, I will do that, Mr. Hearing
20 Examiner.

21 HEARING OFFICER CHAKALIAN: Including how you cured
22 notice for these parties.

23 MS. LUCK: Yes, sir.

24 HEARING OFFICER CHAKALIAN: Is there anything
25 further, Ms. Luck?

1 MS. LUCK: Nothing further. Thank you for your
2 time.

3 HEARING OFFICER CHAKALIAN: Mr. Fordyce, anything
4 further?

5 MR. FORDYCE: Looking at my notes, I don't see
6 anything else, Mr. Hearing Examiner. I believe I'm done.

7 HEARING OFFICER CHAKALIAN: Thank you,
8 Ms. Sarantinos. Thank you, Mr. Payne. Mr. White, we never
9 heard from you today. Are you there? No, okay. We are off
10 the record.

11 (Record concluded at 9:51 a.m.)

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REPORTER'S CERTIFICATE

I, Kim Kay Shollenbarger, Certified Court Reporter, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and that the foregoing pages are a transcript of those proceedings that were reduced to printed form by me.

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

Kim Kay Shollenbarger

Kim Kay Shollenbarger, NMCCR 236

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New Mexico Rules of Civil Procedure for the
District Courts

Article 5, Rule 1-030

(e) Review by Witness; Changes; Signing.

If requested by the deponent or a party before completion of the deposition, the deponent shall have thirty (30) days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by Subparagraph (1) of Paragraph F of this rule whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

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ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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