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8 **OCD Regular Docket May 21, 2026-** 9 **20260521_141733UTC-Meeting Recording**

10 May 21, 2026, 2:17PM

11 1h 59m 1s

12
13 **PH Pecos Hall 43:47**

14 Are we ready? Ready. Good morning. It is the 2nd regularly scheduled docket of the
15 Oil Conservation Division. This docket is for status conferences, protested cases only.
16 We have a couple of motions to deal with as well for some of the cases here, but let's
17 get on the record.

18 with case numbers 1, 2 and 3, Matador Production 260056 and 8. Entries, please.

19 Good morning, Mr. Hearing Examiner Paula Vance with the Santa Fe office of Holland
20 and Hart on behalf of the applicant, MRC Permian Company.

21 Thank you. Good morning, Mr. Examiner, Dina Bennett on behalf of Avant Operating
22 Two LLC. Good morning. I have received a motion.

23 Um...

24 Filed by Miss Bennett. Miss Vance, I know that it was just filed yesterday, and...

25 I can add some more color. So actually, we just filed a motion to dismiss our own
26 cases. We just filed it this morning, like literally 5 minutes ago, so you wouldn't know.

27 So there was, you know, we had a discussion at the last status conference. There
28 were some title issues at this point.

29 Matador is going to be sending proposals to Avant and will go, will file applications
30 in the future if necessary. But we did just file a motion to dismiss. All right, thank you.

31 Freya, have you received those?

32 I just checked the queue. They're in there waiting to be processed.

33 Anything further, Miss Bennett? Nothing further. All right. Thank you, Miss Vance.

34 Thank you, Miss Bennett. We're off the record in those three cases.

35 Yeah.

36 Let's move on to Matador production case numbers 26057 and 58. Entries please.
37 Good morning, Mr. Hearing Examiner, Paula Vance with the Santa Fe office of
38 Holland and Hart on behalf of the applicant MRC Permian Company.
39 Good morning, Mr. Examiner. Carrie Hatley entering her appearance on behalf of
40 COG Operating, Concho Oil and Gas and Mongoose Minerals, monitoring only.
41 Thank you.
42 and Jackie McLean on behalf of Permian Resources and we have objected to these
43 cases. Thank you. Thank you. I appreciate that. Ms. Vance, when did you file these
44 cases? We filed them on March 24th for the May 7th hearing. And I will say that Ms.
45 McLean and I talked this morning.
46 So she's aware we're going to request a contested hearing date either. I know that
47 there were some dates circulated, but we would like to request either late July or
48 early August, which I think will leave it to Ms. McLean to talk about her side, but
49 that's what we would request.
50 Before I go to you, Ms. McLean, Freya, what do we have for late July?
51 July 28th. Thank you.
52 All right, so we're considering July 28 right now, Ms. Vance. Ms. McLean. Yeah, so I
53 did talk with Ms. Vance and it was my understanding the parties were negotiating in
54 that we had wanted to set another status conference in June because if things were
55 not going
56 to work out. We were planning on sending out competing well proposals at the end
57 of June and then progressing forward, you know, towards a hearing date. I don't
58 think our, based on that timing, I don't think that we would be able to have a hearing
59 on this until
60 August. And I told Ms. Vance we would be okay, you know, setting it for August with
61 the hopes that things are resolved.
62 Okay. Can I add a little bit of color? In just a moment, let me think. Thanks.
63 Who's Vance?
64 So one of the reasons why we are trying to get to a contested hearing or at least
65 have something set is because Matador has lease expirations. And so we don't want
66 to let this sit any longer than it needs to. Okay. Ms. McLean, so August would
67 normally be okay with me because that's only five months from when the case is
68 were filed based on what Ms. Vance just said, though, there's more of a time
69 constraint than normal.
70 So, if you were, if um...

71 If your cases were noticed for July, you could file them.
72 Even as late as...
73 middle of June, even late June, we could notice them specially. We could send out a
74 special notice for the July 28th docket.
75 It still gives you.
76 So, I mean, I think if you are, I understand you're negotiating, but if your client would
77 send out the proposals soon, like in the next week or two, I think you'd be okay for
78 the July 28th docket. What do you have to say? I don't think they're in a position to
79 send out well proposals.
80 within the next, because I talked with them at length about that yesterday. And really
81 later June is due to lots of different reasons. That's the really the earliest they're
82 going to be able to do that.
83 So they've got their own lease things going on.
84 Well, Ms. Vance, I can only do so much to get this to a hearing as quickly as possible.
85 I want to get this to a hearing for your client. It's your applications. You filed them in
86 March. I can't force them to file earlier than they're able. So I could set it for
87 early August, which I think would allow... That would be fine. That'd be okay. Yeah.
88 Fred, do you have anything in early August?
89 Unfortunately, our first date in August is August 18. That doesn't work. Freya, why is
90 our earliest August date 18?
91 We could potentially do August 4th, however, there's an OCC rulemaking that has
92 reserved the room. And then the following week is the WQCC. Oh, that meeting,
93 yeah.
94 Well, we can use the conference room upstairs if needed. Is the August 4th, is that
95 the regular docket or would that be the 6th? 6th.
96 The 6th, I believe, is the regular docket.
97 Freya, what if we, what if we just add it to the 6th? Would that, would that can be
98 virtual?
99 It may be if the OCC is still in their rulemaking. All right. What if we just add it to the
100 6th? I mean, the parties will probably settle this matter between them at 90% of the
101 time they do, and we go through all these somersaults for nothing. Why don't we
102 just add it to the 6th?
103 You're asking me? I'm sorry, what? Are you asking me? I am asking. Yeah, that's fine.
104 All right. So Miss Vance, Miss McLean, August 6th. And then to continue to the 7th.
105 Okay. And as long as we need to, I mean. Yeah, I think I just need to double check

106 that my client is available that day. And then
107 I can email.
108 I'm going to issue a pre-hearing order for August 6th. If that for some reason doesn't
109 work, let us know as soon as possible. We'll adjust it as need be, but I am trying to be
110 considerate of Ms. Vance's client as well as yours. Thank you. I appreciate it. Anything
111 else, Ms. Vance?
112 No, and I'm confirming on my side that those dates work. Thank you. If you hear
113 something before the end of the status conferences, we can adjust it.
114 in real time. Perfect. Appreciate it.
115 Nothing. Yeah, OK. I'll email them right now. Yeah, that'd be great. I appreciate it.
116 Thank you. All right, we're off the record in those two cases. Let's move on to
117 Powderhorn operating 26061.

118

119 **BH Benjamin Holliday 53:22**

120 Morning, everyone. Ben Holiday on behalf of the applicant at Powderhorn Operate.

121

122 **PH Pecos Hall 53:26**

123 Good morning. Good morning, Mr. Hearing Examiner Paula Vance with the Santa Fe
124 office of Holland and Hart on behalf of MRC Permian Company and we are objecting.
125 We did send out counter proposals. Those went out on April 30th. And so we could,
126 I'm not sure what Mr. Holiday's position is for
127 For Powderhorn, but we do plan to file competing applications. Thank you, Mister
128 Holiday.

129

130 **BH Benjamin Holliday 53:55**

131 Yes, I should have taken the opportunity last week to speak to Ms. Vance about this.
132 My apologies. The powder and horn position is that they would prefer to go ahead
133 and get this set on the docket for a hearing. And any that July, I mean, excuse me,
134 July, August 18th date would work for us.

135

136 **PH Pecos Hall 54:07**

137 Sure.

138 Okay, that's fine with us. So we'll issue a pre-hearing order for August 18th. And if
139 the parties have a problem with that, let me know. Ms. Vance, anything else? The
140 only thing I would add is we would be open if Mr. Holiday is open to it is another

141 status conference in July. I understand that they want to set a contested hearing, but
142 if we could
143 also do a just a follow up to see where the parties are in July. It would be
144 appreciated. Miss Well, and what we can do is we can once what we can do is once
145 you file your application, maybe you could file a motion to join it with Mr. Holliday's
146 case. We'll hear your application, I think.
147 In July, right? Yes, I would be filing it for the. And then we'd have a status conference
148 then if that works. That works. And then we'll call Mr. Holliday's case at the same
149 time and that would work. Yes. Mr. Holliday, does that work for you?

150

151 **BH Benjamin Holliday 55:10**

152 Works great.

153

154 **PH Pecos Hall 55:11**

155 Okay, so Mr. Holiday, I assume there's no objection to joining Mrs. Van, Miss Vance's
156 application when she gets it filed to your case.

157

158 **BH Benjamin Holliday 55:22**

159 No objection.

160

161 **PH Pecos Hall 55:22**

162 All right. So then we'll issue a pre-hearing order for August 18.

163

164 **BH Benjamin Holliday 55:30**

165 Yes, sir.

166

167 **PH Pecos Hall 55:31**

168 Alright, anything else, Mr. Holiday?

169

170 **BH Benjamin Holliday 55:34**

171 No, sir. Thank you.

172

173 **PH Pecos Hall 55:35**

174 All right, it was good seeing you at the conference. Thank you. Ms. Vance, anything
175 else?

176

177 **BH Benjamin Holliday 55:37**

178 Yes.

179

180 **PH Pecos Hall 55:42**

181 No.

182 Yeah, say something about the conference. I know a lot of people in this room had
183 something to do with that conference. And I attended Monday's Law of the Colorado
184 River. And after spending a few hours there, I really can't say enough good things
185 about

186 the law of the Permian Basin. It was well thought out. It was very educational.

187 So, yeah, thank you.

188 Okay, we're off the record in that case. Let's go on to Coterra Energy. Looks like we
189 have 4 cases here, 26062, 3, 4, and 5. Entries please.

190

191 **BH Benjamin Holliday 56:24**

192 Good morning again, everyone. Ben Holiday on behalf of the applicant, Cotera
193 Energy.

194

195 **PH Pecos Hall 56:28**

196 Thank you.

197

198 **KL Kaitlyn Luck 56:30**

199 Good morning, Mr. Hearing Examiner, Caitlin Locke for Avant.

200

201 **PH Pecos Hall 56:33**

202 Thank you. Good morning, Mr. Examiner. Carrie Hatley, entering appearance for COG
203 operating and we are monitoring only. Thank you. Good morning, Mr. Hearing
204 Examiner, Paula Vance with the Santa Fe office of Holland and Hart on behalf of MRC
205 Permian Company. And we entered an appearance in case numbers 26062 and
206 26063 and we are monitoring only.

207 So then who objected?

208

209 **BH Benjamin Holliday 56:59**

210 This case was actually is set. We have a pre-hearing order for July 28th. And so I was
211 a little unsure why we got set for status conference, but here we are.

212

213 **KL** Kaitlyn Luck 57:11

214 And to answer your question, Mr. Hang Examiner, I objected.

215

216 **PH** Pecos Hall 57:12

217 Yes.

218

219 **BH** Benjamin Holliday 57:15

220 Yes.

221

222 **PH** Pecos Hall 57:16

223 Okay.

224 So, Miss Lucker, did you file competing applications?

225

226 **KL** Kaitlyn Luck 57:22

227 Yes, Mr. Hearing Examiner, and those are noted on the joint cases as case numbers

228 25996, 26129 and 26130.

229

230 **PH** Pecos Hall 57:30

231 I see. All right. Thank you. Well, Mr. Holiday, that's your answer.

232

233 **BH** Benjamin Holliday 57:34

234 Yep, there we go.

235

236 **PH** Pecos Hall 57:38

237 Well.

238 Did we, Miss Luck, did we join your cases to the pre-hearing order?

239

240 **KL** Kaitlyn Luck 57:47

241 Yes, sir.

242

243 **PH** Pecos Hall 57:48

244 Okay, fantastic.

245 Mr. Holiday, anything else?

246

247 **BH Benjamin Holliday 57:56**

248 No, sir.

249

250 **PH Pecos Hall 57:57**

251 Do you know if the parties are getting closer in negotiations at this point?

252

253 **BH Benjamin Holliday 58:03**

254 I don't know. That does give us plenty of time to work something out if there's a deal
255 to be worked, but I have no information right now.

256

257 **PH Pecos Hall 58:05**

258 Okay.

259 Alright, Miss Luck, do you have any information?

260

261 **KL Kaitlyn Luck 58:16**

262 I'm sorry, I actually don't have an update from Avant, but I will check with them to
263 see if there's an agreement in the works.

264

265 **PH Pecos Hall 58:22**

266 That's OK with me. It's we're set for July 28th and.

267 We'll see how that goes. Anything further, Mr. Holiday?

268

269 **BH Benjamin Holliday 58:30**

270 No, thank you.

271

272 **PH Pecos Hall 58:31**

273 Miss Luck.

274

275 **KL Kaitlyn Luck 58:32**

276 No, thank you.

277

278 **PH Pecos Hall 58:33**

279 All right, we're off the record in those cases. Thank you. Let's move on to Devon
280 Energy 26081.

281

282 **DS** **Darin Savage** 58:40

283 Good morning, Mr. Hearing Examiner. Darren Savage with Aberdeen Shield
284 appearing on behalf of the applicant at Devon Energy Production Company LP.

285

286 **PH** **Pecos Hall** 58:45

287 Be.

288 Good morning.

289

290 **SS** **Seluja, Serafina** 58:51

291 Good morning, Serapinus Luja on behalf of Matador.

292

293 **PH** **Pecos Hall** 58:54

294 I'm sorry, I didn't hear anything you said.

295

296 **SS** **Seluja, Serafina** 59:01

297 Good morning, Serafina Saluja on behalf of Matador Production.

298

299 **PH** **Pecos Hall** 59:01

300 We.

301 There we go. All right, thank you. Would you spell your name for the record?

302

303 **SS** **Seluja, Serafina** 59:10

304 Yes, SERAFINA.

305 Last name, SELUJA.

306

307 **PH** **Pecos Hall** 59:20

308 Okay, and you're representing Matador, you said?

309

310 **SS** **Seluja, Serafina** 59:23

311 That is correct and we have withdrawn our objection.

312

313 **PH** **Pecos Hall** 59:27

314 Ah, thank you. That's helpful. Appreciate it.

315 EOG.

316 No? Mr. Savage, any indication of EOG and their position?

317

318 **DS** **Darin Savage** 59:46

319 If I recall, last they were monitoring, that's all I know.

320

321 **PH** **Pecos Hall** 59:51

322 So, the only objection, Mister Savage, was Matador, which is now gone.

323

324 **DS** **Darin Savage** 59:56

325 That's correct.

326

327 **PH** **Pecos Hall** 59:57

328 So do you want to move your case to the next hearing by affidavit docket?

329

330 **DS** **Darin Savage** 1:00:00

331 Yes, yes, if you if that'd be great if we can move it to whatever the earliest

332 convenience of the of the OCD.

333

334 **PH** **Pecos Hall** 1:00:08

335 Sure, I think that'll be June 4. I know that because we have contested hearings on the

336 2nd, the June 4 docket will be somewhat more limited than usual. But this being

337 That being said, we'll try to get your case toward the beginning of that docket.

338

339 **DS** **Darin Savage** 1:00:31

340 Okay, I appreciate that. It should be pretty straightforward.

341

342 **PH** **Pecos Hall** 1:00:33

343 Okay, so would you continue your case there? And Freya, will you make a note to try

344 to get that case toward the front end of that docket? Yes, I will. Or anything further,

345 Miss Saluja?

346

347 **SS** **Seluja, Serafina** 1:00:48

348 Thank you.

349

350 **PH** **Pecos Hall** 1:00:49

351 Mr. Savage.

352

353 **DS** **Darin Savage** 1:00:50

354 No, thank you a lot.

355

356 **PH** **Pecos Hall** 1:00:52

357 We're off the record in that case. Let's move on to XCO Permian, 2 cases, 26089 and
358 90.

359

360 **MS** **Miguel Suazo** 1:00:56

361 Mm.

362 Good morning, Mr. Examiner, Miguel Suazo with Betty and Wozniak appearing today
363 on behalf of the applicant XTO Permian operating.

364

365 **PH** **Pecos Hall** 1:01:08

366 Good morning, Mr. Suazo. And Jackie McLean, representing Permian Resources.
367 Thank you. Miss McLean, your position? We have objected. You have objected? Yes.
368 Okay. And what's your intention here? Our intention is that we are in talks with XTO.
369 But this one is interesting because they actually filed an objection, or sorry, they
370 actually filed an application just for approval of a non-standard spacing unit. We had
371 objected to their administrative application. So now they're requesting a hearing on
372 that. We are going to be filing a pooling application that's going to
373 compete kind of with that. But it's for a standard, ours is for a standard spacing unit.
374 So our plan is to file those for the July docket. And then we think because the parties
375 are in discussions,
376 Perhaps we can just have a status conference after they object to our applications in
377 July and then set a contested hearing at that time. Okay, thank you, Ms. McLean. Mr.
378 Suazo.

379

380 **MS** **Miguel Suazo** 1:02:28

381 Sure. Thank you, Mr. Examiner. I have not received any updates from the client that
382 negotiations are ongoing or that they have even been fruitful. As Ms. McLean
383 mentioned, you know, there was an objection to our NSP administrative application,

384 and then there were 30 days thereafter for the parties to attempt to come to some
385 sort of agreement.

386

387 **PH** Pecos Hall 1:02:45

388 I.

389

390 **MS** Miguel Suazo 1:02:48

391 They could not. And, you know, we would like to get this set for a, you know, hearing
392 as soon as possible because we have a spud date scheduled in August. And so I think
393 any further status conferences under these circumstances would only be prejudicial
394 to XTO.

395

396 **PH** Pecos Hall 1:03:08

397 Okay, so these two, tell me a little bit more about these two applications. They both
398 say ENSP. Why did you file them?

399

400 **MS** Miguel Suazo 1:03:18

401 Well, we filed the NSPs obviously to try and get them approved administratively. You
402 know, it's our perspective that our proposals are better. You know, we're proposing 3
403 mile laterals. It's our understanding that Permian would be filing, you know, one to
404 1.5 mile.

405 Laterals, and so I think you know they'd also have to force pool, and we would not
406 have to force pool any other parties, so I think you know our applications are
407 stronger just on on the face.

408

409 **PH** Pecos Hall 1:03:50

410 Okay. Ms. McLean, you had mentioned that you were filing competing applications,
411 but you were filing them when? They should be on the July jacket. Right. When will
412 you be filing them? Before the deadline for that is June 9th.

413 So, before that, before that, yes. So, Mr. Suazo, if Permian files their applications in
414 early June, we could have a July hearing, contested hearing on those. Freya, what are
415 the available dates in July?

416 July 7th and July 28th. July 7th and July 28th. Okay.

417 Well...

418

419 **MS Miguel Suazo** 1:04:51

420 Sorry, are you asking me? Yeah, the preference would be July 7th, most certainly. I'm
421 actually out of the country on July 28th.

422

423 **PH Pecos Hall** 1:04:51

424 Yes, go ahead, Mister Suazo.

425 The.

426 And we are not available July 7th. We're going to have to find another date in early
427 July. So Freya, let's be. Might I add something for color here? And I think there's a lot
428 more at play than just them needing, having this like spud date in August, which is
429 their decision. The reason that we are objecting to this is because XTO's
430 development is going to strand our state lease and our state acreage because of this
431 is in the potash area. So there's drill islands and we can only access it from a certain
432 space.

433 XTO's lease, their acreage is all federal. So the state of New Mexico, you know, is a
434 party here and very interested in what's going to happen. And so we are currently
435 talking with them as well about this acreage being stranded because the state land
436 office wants this to be drilled. So that's why we're

437 asking if we can push this out a little bit further. They don't need to have a hearing
438 for an August FUD date in July. They can they can wait or they can grant us an
439 easement on their acreage to access the drill island. So

440 Because there's multiple entities, multiple parties at issue here, you know, we're
441 asking that this be pushed out a little further so that we can coordinate because as
442 you know, all these different agencies, it's not like stuff happens super quickly. So
443 that's why we would

444 you know, hope that we could maybe push it out towards August a little further or in
445 August.

446 Mister Suazo.

447

448 **MS Miguel Suazo** 1:06:51

449 Yeah, I just, you know, don't really agree with, you know, Ms. McLean's
450 characterization. That being said, you know, I haven't received feedback from my
451 client as to the potential for granting an easement. You know, that sounds workable.
452 And if that is workable and acceptable to my client, I would suspect we could get

453 that
454 put together fairly quickly and continue, you know, on the calendar for sometime in
455 July, even if it's a special hearing dock in early to mid July. And, you know, I think that
456 would be something that my client would entertain, but I would need to get their
457 feedback before confirming that to the division.

458

459 **PH** Pecos Hall 1:07:31

460 I'd like to just add one more thing too. I mean, whether we have a contested hearing
461 in July or August, we're not going to get an order because we're still waiting on one
462 from October. So I think that, you know, they should have filed earlier. That's kind of
463 their fault if they wanted to spud in August.

464 But we really think that the party should be given time to work this out. And hurrying
465 to this hearing where we're not even gonna get an order until like December is not
466 necessary.

467

468 **MS** Miguel Suazo 1:08:01

469 And if I can just respond to that, you know, it's not XTO's fault that, you know,
470 Permian acquired a lease that's on a drill island. You know, we already have a drill
471 island, we're ready to drill. So, you know, we just don't want to be held up any longer
472 than is necessary.

473

474 **PH** Pecos Hall 1:08:03

475 Yes, go ahead.

476 All right.

477 I understand. Okay, Freya, you said we had the 28th of July, didn't you?

478 Correct. Sorry. Which is almost August.

479 Miss McLean, how do you feel about July 28th? I'm fine with that, but I think Mr.

480 Suazo said he's out of the country.

481 And.

482

483 **MS** Miguel Suazo 1:08:38

484 Well, if we want to put it on the calendar, you know, we have a big enough team over
485 here to where we can probably have that covered, or I can, you know, call in if
486 possible.

487

488 **PH Pecos Hall** 1:08:48

489 Right, okay. Okay, that'd be fine. And most likely you'll work it out. So, okay, so we'll
490 issue a pre-hearing order for August 28th. If you need more time, let us know. These
491 dates are movable with a good argument and with some evidence to back it up.
492 So, that's what we'll do, Mister Suazo. Anything else?

493

494 **MS Miguel Suazo** 1:09:11

495 Just to clarify, you meant July 28th?

496

497 **PH Pecos Hall** 1:09:14

498 That is what I meant. What did I? What did I say?

499

500 **MS Miguel Suazo** 1:09:16

501 August.

502

503 **PH Pecos Hall** 1:09:17

504 I'm sorry, sir. I do mean July. I do mean July 28th, yes.

505

506 **MS Miguel Suazo** 1:09:18

507 Okay.

508 OK. Thank you, Mister.

509

510 **PH Pecos Hall** 1:09:22

511 You're welcome, Miss McLean. Nothing for much. Thank you. Yeah. Yeah. Good luck
512 on your easement. All right. Let's go on to Paloma Permian. This is 26093. Entries,
513 please. Good morning, Mr. Examiner, Dina Bennett on behalf of Paloma Permian, and
514 we filed a notice of dismissal of this case yesterday.

515 Thank you.

516 Okay.

517 I know I signed something about that yesterday and I forgot that I did that. It's still
518 here on the docket. All right, let's get to the last juicy case that we have. And this is
519 this is the famous Select Water Solutions. This is one of four cases that was filed quite
520 some time ago, but I think December, if I'm not mistaken, this is 25

521 899 entries please. Good morning, Mr. Examiner, Dana Hardy with Hardy McLean on

522 behalf of Select Water Solutions. Good morning.
523 Good morning, Mr. Hearing Examiner, Pete Domenici on behalf of the City of Jal.
524 Thank you. Good morning, Mr. Examiner Dina Bennett on behalf of Cotera Energy
525 Operating, and we have objected to the case moving forward by affidavit. Thank you.
526 Good morning, Mr. Hearing Examiner Paula Vance with the Santa Fe office of Holland
527 and Hart on behalf of Devon Energy Production Company, and we are monitoring
528 only. I don't see Devon on our list here.
529 Oh, I do see it. Holland Hart representing Kevin. Yep, thank you, Ms. Vance. So you
530 are monitoring. Ms. Bennett, you objected, and we have a hearing scheduled for just,
531 I don't know, a couple weeks from now on the 2nd of June, if I'm not mistaken. I
532 think it's the second one on the docket, if I'm not mistaken.
533 And so I'm assuming, and I'll get to you, Mr. Domenici, in a minute. I'm assuming that
534 you have been trying to work this out with Select and you're not getting anywhere.
535 We, Cotera is in discussions with Select and if things
536 work out, then that'll be great. And if not, then we're going to maintain our
537 objection.
538 Okay, Miss Hardy, anything to say about that?
539 No, I know Select and Cotera are talking. What's the nature of the objection? Well, I
540 think they have...
541 Operating, producing wells within the area of review. Within the half mile? Yes. And
542 so we are, Select is working with them to try to resolve their concerns. To minimize
543 any impact on the wells? Right. Are they vertical wells or horizontal wells?
544 I think the Cotera wells are horizontal wells. Yeah.
545 Okay, even if that is resolved, I have a feeling the city of Joe will still maintain an
546 objection.

547

548 **MS Miguel Suazo** 1:12:08

549 Yeah.

550

551 **PH Pecos Hall** 1:12:18

552 I know that we denied and you appeared in front of the commission recently on
553 Desert Ram and Pilot. Mr. Suazo, I see, is still on with us. So I'm sure he's wondering
554 what we're going to do with the intervention of JAL.
555 So, and those, and those de novo appeals are being held in abeyance until the
556 division issues its orders. I wonder, on all four cases, is that the idea?

557 I wasn't sure about that. Well, I think that that is right. I think they filed de novo
558 applications on all four because they were asking to stay the division proceedings in
559 all four as well. In all four. Okay, I wasn't sure. Which, but that part that was denied.
560 Right. Okay. Mr. Mr. Suazo, is that your understanding of the commission's
561 ruling is that
562 Your motions to stay and your intervention is being held in advance until all four
563 orders are issued?

564

565 **MS Miguel Suazo** 1:13:29

566 Yes, Mr. Examiner, that is my understanding. And, you know, I'd like to go back and
567 read the transcript just because, you know, the discussion was kind of scattered. But,
568 you know, I think the point is, is that once these division cases are concluded, then
569 Pilot and Desert RAM still have the ability to
570 basically, you know, have a hearing in front of the commission. I did ask if there's the
571 ability at your discretion to, you know, be able to play a bigger role on the
572 underlying proceedings, but, you know, that wasn't really, I don't think addressed
573 and no conclusion was reached.

574

575 **PH Pecos Hall** 1:14:07

576 And I see Mr. Sayer here as well. Mr. Sayer, what did you understand the commission
577 to rule about? Is it all four cases or is it just the one case? And I'm not sure which, if
578 you sought to intervene on all four cases or just one case?

579

580 **MS Matthias Sayer** 1:14:23

581 Yeah, Mr. Examiner, it was all four cases.

582

583 **PH Pecos Hall** 1:14:26

584 Okay, and what was your understanding of the commission's order?

585

586 **MS Matthias Sayer** 1:14:30

587 The same as Mr. Schwozo's and yours, I believe that the applications are being held
588 in abeyance, pending a decision from the division.

589

590 **PH Pecos Hall** 1:14:40

591 Pending a decision on all four cases or just this one last case?

592

593 **MS Matthias Sayer** 1:14:47

594 I believe it's each case.

595

596 **PH Pecos Hall** 1:14:50

597 Okay, all four cases. All right. Okay. All right.

598 Because we probably will have orders on three of the cases long before.

599 this last case, because I'm sure they're working on them now, but I'm not involved in
600 that, so I don't know. Okay.

601 Um...

602 So let's see. We have a hearing on June 2nd. We've already said that. And we have a
603 motion to intervene or it's a notice of intervention. We have a motion to strike the
604 intervention. We have a last minute response from Mr. Domenici. I have had an
605 opportunity

606 to review all of them before I came down today. So let's deal with this motion and
607 response now. Mr. Examiner, so sorry to interject. One more interview of appearance,
608 please. Do you? I didn't know that. Carrie Hatley entering her appearance on behalf
609 of COG operating, and we are monitoring only.

610 Thank you, Miss. You are very welcome.

611 Should have seen that. That was the first one on my list. All right.

612 Mr. Domenici, I did have a chance to review. I do have some questions for your
613 witness. I did ask Freya to put you on notice that I might have some questions for
614 your witness that I knew about at the time. Ms.

615 Hodge, yes, and it's.

616 Yes, Miss Hodgins, and she should be available. That'd be great. And you know, she
617 worked very closely with another geologist in her office, Paul Drakos, and he wasn't
618 available to prepare that notice filing, but he is available to testify today. I don't have
619 questions for him. I just learned about him minutes, literally minutes ago.

620 Okay. Along with another.

621 Along with another witness from the city of Jel.

622 their name. His name is Stephen Aldridge. He's the recent mayor. He's not the
623 current mayor, but he's been, he's on, he's consulting with them now on their water
624 resource issues because he's been so involved the last eight years. So he's available
625 also.

626 Um...

627 So Ms. Hardy, it's my intention. So I've reviewed your motion, obviously carefully.

628 And the response.

629 And the notice of intervention with the attached affidavit from Ms. Hodgins.

630 Do we have Miss Hudgens with us?

631 Mr. Domenici, there we go.

632

633 **PD** Paul Drakos 1:17:46

634 I this.

635 I am here. I'm just sharing a camera with Paul Drocco, so we're both in the same

636 office.

637

638 **PH** Pecos Hall 1:17:50

639 Okay.

640 Yeah.

641 Very good. Would you please turn your camera on?

642

643 **PD** Paul Drakos 1:17:56

644 Yes.

645

646 **PH** Pecos Hall 1:18:01

647 Oh, there we go. Hello. Good morning. Let me get you sworn in. Would you raise

648 your right hand? We swear or affirm under penalty of perjury that the testimony

649 you're about to give is the truth, the whole truth, and nothing but the truth.

650

651 **PD** Paul Drakos 1:18:03

652 Morning.

653 Yes, man.

654

655 **PH** Pecos Hall 1:18:15

656 Thank you. Would you put your hand down and spell your name?

657

658 **PD** Paul Drakos 1:18:18

659 My first name is Megan. Megan. Last name Hodgins. HODGINS.

660

661 **PH** Pecos Hall 1:18:31

662 All right, very good. And I don't remember. Oh, yes, I do remember.
663 You, in your self-affirmed statement, you said that you had been qualified as an
664 expert before, what is it, the Office of the State Engineer?

665

666 **PD Paul Drakos** 1:18:48

667 Yes, and water rates hearing, yes.

668

669 **PH Pecos Hall** 1:18:51

670 I'm sorry, as what?

671

672 **PD Paul Drakos** 1:18:52

673 Oh, an expert in, I'm sorry, let me double check if the wording was.

674 Hydrology and groundwater modeling is in a OSC water rates hearing.

675

676 **PH Pecos Hall** 1:19:04

677 Okay.

678 All right. Well, we have not recognized you as an expert in that field. And I don't
679 know if I need to deal with that today or not. I have some questions that I'm going to
680 ask Mr. Domenici first, and then I'll have some questions for you. I'll also allow Ms.
681 party to cross-examine you and

682 If I need to admit you as an expert, then Ms. Hardy will have an opportunity to
683 challenge that through a voir dire process. Mr. Domenici understands that as well.

684 Okay, so Mr. Domenici, in reviewing your notice of intervention,

685 Some questions I just want on the record. OK, so.

686 Select states in their motion to strike that the city owns no wells and has no

687 proprietary interests within the half mile AOR, area of review. Is the city disputing this
688 factual assertion? We do not have it.

689 We don't have any well bores within that half mile. We would capture water within
690 that half mile through our wells. We have two high volume permitted wells that are
691 the heart of the future of our well system.

692 that are the closest 2 wells to the Coyote Well. They would highly likely capture water
693 from within that half mile, but the well bore itself is not within the half mile. All right.

694 So, and let me be clear about how I'm considering your

695 your statements, that you're not an expert in water hydrology, et cetera. So when you

696 say it's highly likely that the wells will capture water within the half a mile AOR, I'm

697 going to take that with a grain of salt. My experts are prepared to testify to that.
698 We've had to do modeling in order to
699 permit those wells. The modeling shows the effects. The models recognized by the
700 Office of State Engineer for that part of the state. It's utilized by all water operators.
701 So it's very fundamental, that statement I'm making. I'm not an expert, but I've been
702 dealing with JAL's well system and protests.
703 et cetera, for about a decade. And these are two extremely valuable. These wells are
704 the future of GEL and they're very proximate, but they are strictly speaking out
705 slightly outside the half mile. Okay, perfect. And this is not the evidentiary hearing
706 that's going to occur on June 2nd. I just want you to know that. So really this
707 These questions are for the purpose of either granting the intervention or denying
708 the intervention based on the motion to strike and your response. Okay, so I just
709 want to make sure that you understand we're not having the hearing now. I
710 understand. All right.
711 Your objection, because you filed a notice of intervention and an objection. Your
712 objection references future permitted groundwater wells located one mile from the
713 proposed saltwater disposal and four existing wells 2 miles away.
714 How does the city contend that interests outside the half mile AOR satisfy standing
715 under 1915-4-11 or 1915-26-8 NMAC? Certainly. So just to be clear, the two wells
716 that
717 have not, are not producing, they are fully permitted and they are in the budget.
718 There are pipelines that have already been designed, funded to pipe that water from
719 those two new wells to a central location.
720 and where all of our wells pump water and then that water is piped 8 miles to Jal. So
721 we have had to establish a well filled in what is called the Jal Basin, a very small basin
722 that was established to protect Jal's water rights. And
723 The water in that is the PVA, and that is also pretty small and fragile. But these two
724 wells were located specifically because there is a trough that provides the best
725 source of water as sort of at the edge of the PVA. That's called the monument
726 trough.
727 And so we worked extensively to overcome protest to acquire the land rights and the
728 easement rights to locate these two wells where they will be highly preferable to our
729 existing wells. And they will certainly have a very
730 wide range of impact, because we're going to pump both of them to our well system
731 and rely on them into the future. So for standing, we think we meet the element of

732 public health and the environment. We're not contending this is correlative rights or
733 waste at that.

734 more of an oil and gas world, but the water supply for a municipality and the
735 resiliency of that water supply is an absolute matter of public health. It's the highest
736 priority for this particular community. We have had a prior well filled
737 completely destroyed by surface contamination from oil and gas operations, drilled
738 through that well field that was to the opposite side of Jal. We had to acquire a
739 section of land from the state land office to totally relocate our well system.

740 And then we've had encroachment on that well system by numerous production
741 wells, frankly, for oil and gas. And we've had to lease additional acreage. We've
742 traded additional acreage. We've kind of acted down there with water, like some of
743 the oil and gas matters that you see here. That's been kind of what's been taking
744 place with water down there.

745 So we've had to protest, we've been protested, and we've acquired the future of JAL
746 is these two wells. They will be drilled, they will be high volume, they will be
747 successful. We've already done a drill hole to establish that they will be successful.

748 And

749 We value the, and we're worried any contamination into the PVA will spread
750 throughout the PVA. What is PVA? Pecos Valley Alluvium. So it's an alluvial aquifer
751 that does not appear everywhere over by jowl. It appears only where there is
752 collapse conditions, allowing that alluvium to hold water. And when you find that,
753 you're able to extract it at pretty high volumes. If you go to the next lower aquifer,
754 which is the Santa Rosa, it's much more precarious to find water and be able to
755 extract it. So this is

756 precious, precious water. We were also competing, unfortunately, with the state of
757 Texas, who was pumping on the PVA pretty hard. And so that's why we located these
758 wells in a location that protects us from Texas's pumping, as well as other users, as
759 well as, and there is interplay between the Santa Rosa and the PVA, the well-

760 established, recognized

761 So these, so for the public health and environmental protection of the city of Jal, we
762 want to be sure what we want to do, and you clarified, this is not the public hearing,
763 or this is not the hearing, but we want to participate in that hearing. We want to
764 cross-examine the geologic experts
765 which we don't really get the opportunity at a standing hearing, to fully explore their
766 knowledge because we think our two experts have extensive knowledge. We've had

767 to
768 pay literally millions of dollars to study this aquifer and to engage in hearings that
769 have gone all the way through hearings to de novo hearings in district court. The
770 process is somewhat similar to what you have over here in the state engineer world.
771 And so we have all of that knowledge. Using that knowledge, we located these wells.
772 We have other wells in the PVA.
773 And we know very much about the monument trough. We have concerns that the
774 monument trough indicates there are faults below and related to the monument
775 trough, that the pressure that will be injected could exacerbate those faults that we
776 are aware of and could allow
777 the disposed water to percolate upwards through faulting and cracking into the
778 Santa Rosa, which we may or may not actually be right where we don't know what
779 the Santa Rosa is as well as the PVA, but Santa Rosa underlies most of the jowl basin.
780 It may not underlie exactly where these two wells are, but if it gets into the Santa
781 Rosa,
782 There's an interplay between those two aquifers, well recognized, and it will then get
783 into the PVA. So we feel it puts our entire aquifer at risk, these wells, but we have two
784 wells that are most proximate that we think really meet the standing requirement.
785 We think there is
786 We are concerned about actual injury to our sole source of the PVA aquifer through
787 faulting and geologic conditions that would be impacted by the high volume, high
788 pressure activities proposed at relatively low doubt.
789 depths in comparison to other disposal wells in our vicinity. Thank you. I have 3
790 pages of questions here. And if each answer goes on that long, Mr. Devenici, we're
791 going to be here all day. I understand your knowledge, it's extensive, and your
792 passion for the subject, that's obvious.
793 So I might be able to skip some of these questions. Let's see, my next one talked
794 about the city state said its wells might be affected by the proposed SWD injection.
795 What evidence transforms this hypothetical concern into a concrete and
796 particularized injury as required under the standing framework?
797 referenced in the motion. Can you answer that or pick something that you've already
798 said? Just give me a sentence there. I think I've already stated it. It's the monument
799 trough, which is shows a history of
800 fractures above the injection area. There's faulting that is documented, and it's the
801 combination of that geology. I got it. I got it. I got that from what you just said a little

802 while ago. I thought I heard that, but I wanted to make sure. Does the city have any
803 hydrological or geophysical study contradicting Select's conclusion?
804 of 4,265 feet of vertical separation in multiple confining zones between the injection
805 zones and the USDW. And I wonder if I should ask that question to Ms. Hodgins. So
806 let me direct that question to Ms. Hodgins.

807

808 **SS Shanna Smith** 1:30:52

809 But.

810

811 **PD Paul Drakos** 1:30:56

812 We don't have an, we don't have a, sorry, not sure objection is the right word. We
813 don't have a disagreement with what the depth is. The study that we did, we were
814 primarily looking at the drinking water aquifers.

815 So we were mapping out faults in the that go through the. The Santa Rosa, Dewey
816 Lake and into the or through the rustler formation in the work that we did and the.
817 The problem that we have is the fact that the subject, the SWD, is in close proximity
818 to the faults that we mapped out during our investigation of the jail basin. These
819 faults were caused by collapse of the monument draw trough.

820 And these in the faults and related fracturing can create a pathway for contaminants
821 to come up into the drinking water formations. There is separation, and if the
822 formations are completely competent,

823

824 **PH Pecos Hall** 1:32:03

825 So.

826

827 **PD Paul Drakos** 1:32:17

828 There may be the containment, but our concern is that they are not competent
829 because they're in this area where the ground has been faulted. Due to the collapse
830 of evaporates below the Rustler formation, which includes
831 the Salado and the Castile formations, which are part of that separation and the
832 faulting and collapse of these from the dissolution, could take it right down to the
833 top of the, or I should say the bottom of the Castile formation.
834 which is directly above the Bell Canyon Formation and could potentially.
835 reduce the amount of confinement in that area. And if the small amount of
836 remaining confining layer there under pressure of being of the injection into the Bell

837 Canyon, if that confining layer at the top of the Bell Canyon fails,
838 it could easily go up into the already existing dissolution up through the fractures
839 and eventually make its way up into the drinking water formations.

840

841 **PH Pecos Hall** 1:33:40

842 All right, thank you. Mr. Domenici, have a question about zone of interests. The
843 commission's Hill Court precedent, which is order number R10987-A2, held that
844 generalized fears of groundwater contamination fell outside the zone of interest for
845 density related permitting.

846 This was one of the issues that I had with Desert Ram, which was another.
847 a potential intervener into this case, which I denied. Okay. Yes. How does the city
848 distinguish its concerns from those rejected in that Hill Court case? Several things.
849 First of all, we think we have, we think we have more information
850 about the geology and the difficulties with and concerns about these confining layers
851 than perhaps Desert Ram may have had. We have what information we have. We've
852 been looking at this for a long time. We've had to study this particular application
853 pretty quickly, but we've relied on information we've developed over a series of
854 years.

855 We.

856 we don't have generalized concerns. We have the sole source aquifer for this
857 community that it's not, and I don't like to necessarily weigh different uses of water,
858 but an irrigation well is a lot different than the sole source aquifer.
859 for a municipality that is diligently struggling to have a resilient water supply for
860 decades and generations, frankly, out into the future. So we don't think the Hillcorp
861 case is, from our view, is quite different. It's not a
862 There's not a municipal water system at issue. There's not a disposal well that you're
863 talking about. So I think there's a lot of differences from Hillcorp. Desert Ram, frankly,
864 is more similar because that's the same, it's the same exact case. They have a well
865 into a similar aquifer, not a whole series of wells, not a
866 to \$30 million water system like we have, but they do have similarities in terms of
867 their well and our wells. We frankly just think that we take more water. We have a
868 much larger water right than they have. We have a lot much larger well system. We
869 have all the other infrastructure that goes with that.

870 And we...

871 I don't want to weigh their experts with ours, but we have capable experts willing and

872 able to provide testimony that meets the standard that there is an actual threat of
873 injury. Okay, thank you. Let's see.

874 A lot of these questions you've already answered. That's why I'm not asking them.
875 When did the city first become aware of the application that was originally filed in
876 August of 2025, refiled January of 26? And does the city dispute the timeliness or
877 adequacy of Select's notice?

878 We became aware from it.

879 from one of the parties in the case, I want to say maybe a month ago, there seems to
880 be in the record a reflection that there might have been a phone call to someone at
881 the city that never made it

882 To the...

883 to the mayor at the time, now the water consultant, who would have triggered the
884 activity that we're engaged in with our consultants and attorneys. So I'm not able to
885 say if that phone call took place or not, but we have not seen any written notice at
886 all.

887 And...

888 We received notice that we were able to act on within about, I would say, four weeks.
889 Does the city contest Reed Davis's sworn statement that select conducted A diligent
890 search and that no unlocatable parties exist? We don't contest that.

891 Miss Hodgins.

892 Did you review Select's C108 attachments, including the AOR maps and hydrologic
893 analysis showing that no pathway between the injection zone and the USDW?

894

895 **PD Paul Drakos** 1:38:33

896 Yes, I reviewed that.

897

898 **PH Pecos Hall** 1:38:35

899 You did, alright.

900 What's specifically in those materials are you disputing?

901

902 **PD Paul Drakos** 1:38:45

903 Excuse me. What we're disputing is the competency of the confining layer and the
904 proximity to the faults. I believe they are, they're less than a mile from the basin
905 bounding fault on the western side of the jail basin.

906 And that was not taken into consideration as a potential source of a creation of a
907 potential conduit.

908

909 **PH Pecos Hall 1:39:18**

910 Okay, perfect. Thank you. That was a succinct answer. I appreciate it. What
911 methodology did you use to determine the possibility of an aquifer impact?

912

913 **PD Paul Drakos 1:39:30**

914 Methodology, is that what you said? Yeah, we have, we did an extensive analysis of
915 the Jal Basin using available gamma logs primarily for from oil and gas wells and also
916 wells that the city drilled.

917

918 **PH Pecos Hall 1:39:31**

919 Yes, I did.

920

921 **PD Paul Drakos 1:39:50**

922 as part of their exploration project for their water system. And we have a series of
923 cross sections, north to south, actually east-west cross sections and north-south

924 cross sections that cover the area of

925 the Gel Basin, which is just to the east of the Coyote Well location. And can I share a

926 screen to show this or is that?

927

928 **PH Pecos Hall 1:40:23**

929 No, that's good enough. I'm just, these questions are just supporting my ultimate
930 ruling. So no, that's fine. That's good enough for now. But obviously you'll want to do
931 your best if we do get to a hearing with your participation.

932

933 **PD Paul Drakos 1:40:24**

934 Okay.

935 Oh, okay.

936

937 **PH Pecos Hall 1:40:39**

938 Are you aware of any data indicating a hydraulic connection between the Bell
939 Canyon, Cherry Canyon formations and the aquifer supplying the city wells?

940

941 **PD** Paul Drakos 1:40:51

942 There is no study of that connection.

943

944 **PH** Pecos Hall 1:40:56

945 Okay, thank you.

946

947 **PD** Paul Drakos 1:40:57

948 It is it just based on the information that we have that that it there is a potential for
949 it.

950

951 **PH** Pecos Hall 1:41:00

952 Sure.

953 Those are the questions I have for you, Mr. Domenici, and your witness. I'm going to
954 open this up to Miss Hardy for cross-examination. Thank you.

955 Miss Hodges, a couple questions for you. First, you're not an engineer, correct?

956

957 **PD** Paul Drakos 1:41:38

958 No, I'm A geologist.

959

960 **PH** Pecos Hall 1:41:40

961 Okay, so you don't have experience or training in reservoir engineering or drilling
962 engineering, correct?

963

964 **PD** Paul Drakos 1:41:47

965 I, I am not an engineer of any sort.

966

967 **PH** Pecos Hall 1:41:51

968 And have you ever testified regarding potential impacts of a salt water disposal well?

969

970 **PD** Paul Drakos 1:42:00

971 I have not, no.

972

973 **PH** Pecos Hall 1:42:02

974 And have you ever performed any studies on salt water disposal wells?

975

976 **PD** Paul Drakos 1:42:09

977 Not on salt water disposal wells, we work with drinking water. We did extensive work
978 on a drinking water wells.

979

980 **PH** Pecos Hall 1:42:14

981 And.

982 And...

983 Do you have any experience modeling salt water disposal well injection plumes?

984

985 **PD** Paul Drakos 1:42:25

986 Yeah.

987

988 **PH** Pecos Hall 1:42:28

989 Regarding your statement that was provided, you don't reference or discuss the
990 analysis in Select C108, do you?

991

992 **PD** Paul Drakos 1:42:41

993 Do I? I'm sorry, what can you repeat that? I didn't quite hear that.

994

995 **PH** Pecos Hall 1:42:44

996 Sure, your statement doesn't discuss the analysis that's provided in Select's C108
997 injection application, does it?

998

999 **PD** Paul Drakos 1:42:54

1000 No.

1001

1002 **PH** Pecos Hall 1:42:57

1003 And you testified earlier that you have looked at the aquifers, right?

1004

1005 **PD** Paul Drakos 1:43:01

1006 Correct.

1007

1008 **PH** Pecos Hall 1:43:03

1009 And I think I heard you say earlier in response to the hearing examiner's questions

1010 that you did not evaluate the confining layers above and below the injection interval.

1011 Is that correct?

1012

1013 **PD Paul Drakos** 1:43:15

1014 We, no, we did not evaluate those layers.

1015

1016 **PH Pecos Hall** 1:43:19

1017 And you haven't modeled the injection plume for this saltwater disposal bowl, have
1018 you?

1019

1020 **PD Paul Drakos** 1:43:24

1021 No.

1022

1023 **PH Pecos Hall** 1:43:26

1024 You stated earlier in response to the hearing examiner's questions that if the
1025 confining layer fails, that injected fluid could migrate. Is that correct?

1026

1027 **PD Paul Drakos** 1:43:39

1028 That is correct.

1029

1030 **PH Pecos Hall** 1:43:42

1031 Your statement that you provided, as well as your testimony here today,
1032 Let me re-ask that. It's going to be confusing. Your statement that you provided does
1033 not contain any conclusion that to a reasonable degree of geologic certainty, there
1034 will be communication between the injection plume and the city's wells, correct?

1035

1036 **PD Paul Drakos** 1:44:10

1037 No, we were just discussing the potential that it could happen.

1038

1039 **PH Pecos Hall** 1:44:16

1040 And...

1041 Looking at your statement.

1042 couple of questions for you.

1043 And I am looking at...

1044 Paragraph 6.

1045 And in paragraph 6C, you state there are likely additional faults, correct?

1046

1047 **PD Paul Drakos** 1:44:48

1048 Yes, this is referring to the...

1049 The cross sections, which are attached to the affidavit, mapping out the approximate
1050 location of faults based on our basin analysis. And in our analysis in the cross
1051 sections, we show one fault.

1052 on the west side based on the location and information and other logs on either side
1053 of that fault. But we...

1054

1055 **PH Pecos Hall** 1:45:15

1056 The.

1057

1058 **PD Paul Drakos** 1:45:22

1059 There's possibly the location of that fault is not exact. We just know that it's in
1060 between where we had data.

1061

1062 **PH Pecos Hall** 1:45:26

1063 Okay.

1064 Okay, so you haven't determined with certainty that there are additional faults in the
1065 area, right?

1066

1067 **PD Paul Drakos** 1:45:38

1068 That is correct.

1069

1070 **PH Pecos Hall** 1:45:40

1071 And in paragraph 6D, you state that faults near an SWD well are potential conduits
1072 for upward movement, correct?

1073

1074 **PD Paul Drakos** 1:45:48

1075 Yes.

1076

1077 **PH Pecos Hall** 1:45:50

1078 And you state that fractures associated with faults may extend beyond the location
1079 of the mapped fault, correct?

1080

1081 **PD** Paul Drakos 1:45:58

1082 That is, yes, that's what it says.

1083

1084 **PH** Pecos Hall 1:46:01

1085 And then a paragraph 6E.

1086 You state that there is a possibility of interconnection between the formations,
1087 correct?

1088

1089 **PD** Paul Drakos 1:46:13

1090 Yes.

1091

1092 **PH** Pecos Hall 1:46:15

1093 And then a paragraph 6F, you state.

1094 that injection could potentially cause migration, right?

1095

1096 **PD** Paul Drakos 1:46:25

1097 Yes.

1098

1099 **PH** Pecos Hall 1:46:27

1100 Then in paragraph 6H, you state again, there is a potential for contamination during
1101 drilling, right?

1102

1103 **PD** Paul Drakos 1:46:36

1104 Yes.

1105

1106 **PH** Pecos Hall 1:46:37

1107 Okay.

1108 But again, you're not a drilling engineer, correct?

1109

1110 **PD** Paul Drakos 1:46:44

1111 I am not a drilling engineer, but I've been on many drilling rigs during drilling of
1112 water wells, and I know there's always a potential for contamination of those sites.

1113

1114 **PH Pecos Hall** 1:46:54

1115 And then in paragraph 7, 8, again, you state there's a potential for contamination,
1116 right?

1117

1118 **PD Paul Drakos** 1:47:07

1119 Yes.

1120

1121 **PH Pecos Hall** 1:47:07

1122 7A. Okay, and you make similar statements throughout the rest of those paragraphs
1123 under 7A, right?

1124

1125 **PD Paul Drakos** 1:47:08

1126 Yep.

1127 That is, that is correct.

1128

1129 **PH Pecos Hall** 1:47:16

1130 Okay.

1131 Those are all my questions. Thank you. Are those your questions? Yes. All right. Mr.
1132 Domenici, this is not a hearing, so I'm not going to give you an opportunity to
1133 redirect your witness. This is not the point of this. I asked questions. Miss Hardy had
1134 a right to cross-examine the witnesses.

1135 Ah.

1136 I've drafted an order in which I have my findings of fact, my conclusions of law. I'm
1137 not going to read all the findings of fact. They do include your response. So it's up to
1138 date and it's ready for my signature. But I will go through the conclusions of law
1139 because I think

1140 Number one, it's much shorter. And I want to, I want the parties to understand why
1141 I'm coming out on a different side than I did with Desert Ram and with Pilot. I feel it's
1142 premature to strike the city of JAL's

1143 notice of intervention, because I think the division would benefit from their
1144 participation. In other words, I think that they could contribute substantially to the
1145 prevention.

1146 of waste, protection of correlative rights, or protection of public health or the
1147 environment.

1148 I understand that the assertions are at this point.
1149 There is a word that Justice Scalia used in one of those cases in which it changed
1150 how you could get in the court door. And I think it was changing it from
1151 a scintilla of evidence to something that's plausible. So I think I'm at the, I've come to
1152 the conclusion that the city has a plausible
1153 injury in fact or potential injury in fact.
1154 That's a word I'm using because I can't think of any other better word to use. I realize
1155 that under 1915 411 C, a notice of intervention may be struck if an intervener fails to
1156 show standing, unless the intervener shows their participation will contribute
1157 substantially.
1158 Um...
1159 And I'm willing to give the city that opportunity in this case. Select has raised
1160 substantial arguments questioning whether the city can meet the civil law
1161 requirements for standing, including injury in fact, causation and redressability. The
1162 city has also raised substantial arguments that the half mile AOR
1163 In 1915, 26 8B2 relates only to mailed notice, not to standing, and that the order
1164 relied upon by select was overturned.
1165 The city has now identified 3 witnesses whose expected testimony addresses
1166 hydrologic modeling, groundwater vulnerability, previously unidentified faulting,
1167 historical contamination of city water supplies, and a potential catastrophic
1168 consequences for public health and safety.
1169 The city's new evidence, including the Aldridge affidavit, raises technical and factual
1170 issues that the division has not yet evaluated through testimony or examination.
1171 Given the threshold nature of the motion and the discretionary standard in 1915-411,
1172 striking the city's intervention at this time would be
1173 premature. Allowing the city to remain as a limited intervener will ensure the division
1174 has access to all relevant testimony that will not prejudice the parties or delay the
1175 proceeding.
1176 If Select wants to renew its motion to strike at a later time, if the city's testimony is
1177 shown to lack technical basis, exceed the authorized scope, or fail to contribute
1178 substantially to the issues identified in the rule, they may do so.
1179 But at this point, the city of JAL shall be permitted to participate as limited intervener
1180 for the purpose of presenting evidence, testimony, and argument related to
1181 groundwater protection, hydrologic conditions, environmental impacts, and public
1182 health and safety within the scope of 1915-411. You know, Mr. Diminici, that hearing

1183 is scheduled for June 2nd.

1184 Yes, I understand that. And your witnesses will need to be available. Now, you need
1185 to be here. Your witnesses can be virtual if they so choose. Okay. Are there any
1186 questions, Mr. Divenici? No questions. Are there any questions, Miss Hardy? No,
1187 thank you. All right.

1188 Well, thank you for everyone's participation today. I think that concludes, oh no, Ms.
1189 Vance has her finger up. Of course. I just wanted to confirm that on those Corby
1190 cases, case numbers 26008 and 26, I'm sorry, not.
1191 I'm sorry, scratch that. 26057 and 26058. Just confirming we're good for the August
1192 6th and 7th date. Oh, you're confirming good. August 6th and 7th, you said? That's
1193 good. Correct. Okay. And I think we were looking.
1194 Was it Miss McLean? I haven't heard anything back yet, but I did have another
1195 question unrelated. You said that because of the June 2nd hearings that the June 4th
1196 docket was going to be more like smaller than usual. Do you know when you'll know
1197 what the cutoff because, you know, we have a substantial amount of exhibits due
1198 next week.

1199 And with the holiday weekend and everyone here's birthdays, we would love to have
1200 some direction. Good point, good point. Okay, that's well taken. Ms. Chance, at this
1201 time, if I'm not mistaken, aren't there like 90 cases on that docket?
1202 I believe so. I'm pulling it up now. That's what I remembered from earlier in the week.
1203 Jesus.

1204 I can tell you we're going to be continuing some. Oh, you will. Okay.
1205 Well, good. Thank you.

1206 Look.

1207 Yes, there's approximately 90. OK, and.

1208 I was talking to Mr. McClure. We have limited technical advisors for that docket
1209 because of other commitments with Mr. Garcia and Mr. Fordyce. And Mr. Mr.
1210 McClure is also the technical examiner for the cases on the
1211 contested docket on the 2nd of June. Freya, who's in the number one position on
1212 June 2nd?

1213 It's A Powderhorn hearing. I don't have the case number handy. Ms. Vance, you're
1214 nodding. Does that mean that's your case? Yeah, so we're representing Matador,
1215 Miss McLean and Miss Hardy are representing Powderhorn. That's right. And that's
1216 why I continued that case from May.

1217 Good. So Miss Hardy, Miss Vance, that powder horn. I'm sorry, Catera.

1218 What is he saying? Admissions represents MRC. MRC. That case is still moving
1219 forward? It is at this point, yes, yes. It is at this point. Okay. All right. Well, that's
1220 number one on our docket. So then we'll have the 3rd of June for select. So Mr.
1221 Domenici, just so you know, we may not hear it on the 2nd.
1222 depending on what happens with this other contested case, it may be on the 3rd. But
1223 one way or another, it's going to be heard that week, even if we have to hear it on
1224 the 4th or 5th. I mean, that's why we give ourselves this leeway. So please let your
1225 witnesses know to be available. Yes, of course. So with that being said, I have now
1226 normally our docket is limited to about 50.
1227 Okay.
1228 Based on the other, and Mr. McClure is also going to be involved in the Select case
1229 and the Powderhorn MRC case, I have a feeling the docket will be somewhere
1230 between 30 and 40 hearings by affidavit. I don't know that we have a list yet.
1231 which cases, I think it's the cases that got bumped from the last docket go first on
1232 this docket. So I don't know if you know what those are or not, and I don't either.
1233 Freya, is there any way to give the parties any idea what the first 30 or 40 will look
1234 like?
1235 I can distribute the docket tomorrow. I was just waiting for kind of what the total
1236 would be so that I would know how to make the cuts. But that's very helpful. Brian,
1237 that would be really helpful if we could cut that down to, let's say, 40. And then I've
1238 spoke to Mr. McClure this morning and said to him,
1239 If you can't get to some of them, then we'll just have to continue them. We don't like
1240 doing that, but at least you'll know which ones we're definitely not hearing.
1241 Yeah. And, you know, based on our availability, we may be able to add, I mean, since
1242 those cases will be noticed, we may be able to add something toward the end of
1243 June. Freya, it's my understanding that you sent out some dates for special dockets.
1244 in later June and no one seems to really want them. Is it possible that we hear the
1245 rest of those cases later in June?
1246 We could on June 23rd or the 30th. So we have some options here so that we can
1247 move cases along. We haven't spoken to technical yet, so I don't know that yet. But
1248 let's make some decisions after we
1249 Survey the docket, get out the 40 cases. We'll try to hear June 4th, and then I can talk
1250 to technical next week or so to see if they would be open to having another hearing
1251 by affidavit document docket to clean up those other cases that we don't get to.
1252 That work for you?

1253 I have three cases that are time sensitive, and so I just want to make sure that, and I
1254 know I'm going to be continuing some other cases. So if I can give those to Freya to
1255 just make sure that I get at least these three on the dock. You're waiting to talk to
1256 Freya after the hearing is over, and I think we are, unless you want to say something
1257 else. I think we're done. No, I think we're done.
1258 I'm good. I don't. Nothing further for me. We're good Miss Hatley. All right, excellent.
1259 All right, Mr. Domenici, we'll see you here in Pecos Hall on the, well, whatever day it
1260 will be, second, 3rd, 4th, who knows. Thank you, we're off the record.

1261

1262● **Pecos Hall** stopped transcription