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

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IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:

- Case Nos. 21489, 21490, 21491,  
23214, 23308, 23399, 23400,  
23401, 23402, 23614, 23615,  
23616, 23617, 23711, 23712,  
23782, 23783, 23784, 23785,  
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23843, 23844, 23845, 23846,  
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VIDEOCONFERENCE HEARING

DATE: Thursday, December 7, 2023  
TIME: 8:15 a.m.  
LOCATION: Remote Proceeding  
Santa Fe, NM 87505  
REPORTED BY: James Cogswell  
JOB NO.: 5528960

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A P P E A R A N C E S

ON BEHALF OF CIMAREX ENERGY:

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A P P E A R A N C E S (Cont'd)

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A P P E A R A N C E S (Cont'd)

ON BEHALF OF APACHE CORPORATION:

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A P P E A R A N C E S (Cont'd)

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A P P E A R A N C E S (Cont'd)

ON BEHALF OF MATADOR PRODUCTION COMPANY:

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A P P E A R A N C E S (Cont'd)

ON BEHALF OF MRC PERMIAN COMPANY:

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A P P E A R A N C E S (Cont'd)

ON BEHALF OF FLAT CREEK RESOURCES, INC.:

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ON BEHALF OF DURANGO PRODUCTION COMPANY:

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A P P E A R A N C E S (Cont'd)

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ON BEHALF OF SPUR ENERGY COMPANY:

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A P P E A R A N C E S (Cont'd)

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A P P E A R A N C E S (Cont'd)

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ON BEHALF OF FASKEN OIL AND RANCH, LTD:

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Hailee Thompson, Technical Examiner (by  
videoconference)  
Sheila Apodaca, Law Clerk (by videoconference)

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A P P E A R A N C E S (Cont'd)

ALSO PRESENT: (Cont'd)

Chris Moander, Oil Conservation Division (by  
videoconference)

George Waters, Consultant (by videoconference)

Jordan Kessler, EOG (by videoconference)

Kyle Perkins, Matador Production Company, MRC  
Delaware Resources Company, and MRC Permian  
Company (by videoconference)

Marlene Salvidrez, Oil Conservation Division (by  
videoconference)

Matt Beck, Amtex Energy, Inc, Chap Exploration,  
LLC, Jalapeno Corporation (by videoconference)

Michael Rodriguez, Tap Rock Operating, LLC (by  
videoconference)

Million Gebremichael, Oil Conservation Division  
(by videoconference)

Nicholas Karns, Witness (by videoconference)

Oliver Seekins, ALL Consulting (by  
videoconference)

Phillip Goetze, Oil Conservation Division (by  
videoconference)

Reed Davis, ALL Consulting (by videoconference)

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6	NO.	DESCRIPTION	ID/EVD
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P R O C E E D I N G S

THE HEARING EXAMINER: Good morning.  
It is 8:15 a.m. on December 7, 2023. These are the  
hearings of the Oil Conversation Division. My name is  
Gregory Chakalian, the appointed hearing examiner.

And we are going to begin with the  
docket sent out by Sheila Apodaca, the law clerk here.  
Calling case number 23399. Parties?

MR. SAVAGE: Mr. Hearing Examiner, I  
think that that also includes the five additional  
cases.

THE HEARING EXAMINER: Correct. 23400,  
23401, 23402, 23214, and 23308; is that correct,  
Mr. Savage?

MR. SAVAGE: -- correct. Good morning,  
Hearing Examiner. Darin Savage, with Abadie & Schill,  
appearing on behalf of Cimarex Energy Company.

THE HEARING EXAMINER: Good morning.

MR. PADILLA: Mr. Examiner, Ernest L.  
Padilla, for EGL Resources, Inc.

THE HEARING EXAMINER: Good morning.  
Good morning, Mr. Examiner. Deana  
Bennett, from Modrall --

THE HEARING EXAMINER: Good morning.

MR. PERKINS: Good morning,



1 Mr. Examiner. Kyle Perkins, on behalf of Matador  
2 Production Company, MRC Delaware Resources Company,  
3 and MRC Permian Company.

4 THE HEARING EXAMINER: Good morning.  
5 If that's all the parties, how are we  
6 proceeding?

7 MR. SAVAGE: Mr. Examiner, I believe  
8 Jim Bruce is also representing Mewbourne. And I don't  
9 see him or hear him.

10 MR. BRUCE: Mr. Examiner, Jim Bruce  
11 representing Mewbourne.

12 THE HEARING EXAMINER: Good morning,  
13 Mr. Bruce. Thanks for joining us.

14 How are we proceeding, Mr. Savage?

15 MR. SAVAGE: Well, I have talked to my  
16 client, and I've also talked a little bit to Mr.  
17 Bruce. It looks to me like the parties have basically  
18 come to an agreement; they just have not memorialized  
19 it or papered it up.

20 And so, since this is a final status  
21 conference, I thought it might be a good idea to set a  
22 date for a -- application and make it for long enough  
23 in the future so that they can finalize this and paper  
24 it up. And then we would dismiss the cases at that  
25 point.

1 THE HEARING EXAMINER: So Mr. Savage,  
2 let me understand you. You would like me to set this  
3 for what type of future setting?

4 MR. SAVAGE: It would be -- well, under  
5 the current proceeding, it would be a potential  
6 contested hearing date. We could do another status  
7 conference, but this is that last status conference.  
8 So I believe it would be fruitful to do a hearing  
9 date, and then let us finalize this as that date  
10 approaches.

11 THE HEARING EXAMINER: How long would  
12 you need, or how do you anticipate?

13 MR. SAVAGE: What do you think,  
14 Mr. Bruce?

15 MR. BRUCE: Mr. Examiner, Mr. Savage,  
16 and I have talked about that. I think -- as you have  
17 seen since you've become chief hearing examiner, these  
18 negotiations sometimes go slowly.

19 And I think, at this point, it should  
20 be said as a contested matter, although both Cimarex  
21 and Mewbourne believe it will be settled. But I would  
22 like to see it move, you know, maybe to late February  
23 or early March, just to make sure everything settled,  
24 and we can move forward hopefully with uncontested  
25 hearings.

1           And then I have one comment that which  
2 is that -- and Mr. Padilla can speak to this. EGL is  
3 tied up primarily with Cimarex. So I think those  
4 cases would necessarily have to be set for a contested  
5 hearing. Thank you.

6           THE HEARING EXAMINER: Mr. Padilla?

7           MR. PADILLA: Mr. Examiner, I agree  
8 with Mr. Bruce's recitation. I think that has to be  
9 said for a contested hearing. We were ready in  
10 September, and we've continued this case --  
11 indefinitely it seems like.

12           And I'm not -- we're not sure what the  
13 agreement between the other parties is and how we  
14 stand in that. But obviously, that's going to wind up  
15 being contested hearing anyway. So I'd like to have  
16 it set for hearing.

17           THE HEARING EXAMINER: So  
18 Mr. Padilla -- and just so you know, it is a little  
19 hard to hear you. So if you would speak a little  
20 louder, I think the court reporter would appreciate  
21 that.

22           Can we be specific when we talk about  
23 set for hearing? Can we talk about specific case  
24 numbers that you feel need to be set for a contested  
25 hearing? Or are you agreeing with Mr. Bruce that some

1 could be set for a affidavit hearing, and some could  
2 be reserved for a contested hearing?

3 MR. PADILLA: I'm not sure,  
4 Mr. Examiner, what the agreement between Cimarex and  
5 Mewbourne is; and that depends on the land  
6 configuration. So we'd have to look at it.

7 But we've been ready to drill the  
8 infill well, which is a one-mile lateral. And the  
9 other wells are -- proposed by the other parties are  
10 three-mile and two-mile wells, lateral. So we're in  
11 the east half of Section 16 and proposed to drill an  
12 infill well on that land on the Upper Bone Spring.

13 The other two zones have been drilled  
14 and that's -- we're proceeding under an existing  
15 Compulsory Pooling case. But I'm not sure where we  
16 stand. It seems to me that we would still wind up  
17 with a contested hearing, no matter who's in the game.

18 THE HEARING EXAMINER: So --

19 MR. BRUCE: Mister --

20 THE HEARING EXAMINER: -- Mister --

21 Hold on a second.

22 Mr. Padilla, let me make sure I  
23 understand your position. You're suggesting that I  
24 set all of the cases, one, two, three, four, five, six  
25 cases -- contested hearing as a group?

1 MR. PADILLA: Yeah. So I think that  
2 would be better. And if somebody drops out --

3 THE HEARING EXAMINER: Okay.

4 MR. PADILLA: -- can handle it that  
5 way.

6 THE HEARING EXAMINER: Okay.

7 I haven't heard from Ms. Bennett. And  
8 I have not heard from Matador's counsel.

9 So Ms. Bennett?

10 MS. BENNETT: Mr. Hearing Examiner, I  
11 am only monitoring these cases for Avant. So I  
12 will -- whatever the division decides to do.

13 THE HEARING EXAMINER: Okay.

14 Okay. Matador?

15 MR. PERKINS: Mr. Examiner, on behalf  
16 on Matador, we agree with Mr. Padilla. All these  
17 cases are intertwined. And so if they're going to be  
18 set for a contested hearing, we think it should be a  
19 consolidated hearing of all the cases so that all the  
20 issues can be heard together.

21 THE HEARING EXAMINER: Okay.

22 So was it Mr. Bruce that was speaking  
23 up before?

24 MR. BRUCE: Yes, sir.

25 THE HEARING EXAMINER: Okay.

1 MR. BRUCE: Just to give you the brief  
2 outline. First of all, Cimarex and Mewbourne are  
3 trying to work an acreage trade so that they get out  
4 of each other's hair.

5 THE HEARING EXAMINER: Okay.

6 MR. BRUCE: Mewbourne's cases involved  
7 two-mile laterals. Cimarex cases involved three-mile  
8 laterals. So if Mewbourne moves forward -- Mewbourne  
9 has no issue with EGL. So if they do the acreage  
10 trade, Mewbourne would simply do an affidavit case and  
11 leave EGL alone. And EGL would have to deal with  
12 Cimarex.

13 But again, I agree with what the folks  
14 are stating -- is that set them all for a contested,  
15 combined hearing. And then, if and when the  
16 settlement is reached, we can sort out which ones  
17 could be done by affidavit and which ones still need  
18 to be heard in a contested hearing situation. And we  
19 can go do our business accordingly.

20 THE HEARING EXAMINER: Okay. All  
21 right.

22 Mr. Savage, do you have an objection  
23 for a recommendation on a date for a contested  
24 hearing?

25 MR. SAVAGE: I think early March or

1 mid-March. So March 2nd -- or I believe that's March  
2 16th. I don't know if that docket on March 2nd would  
3 be available, but if it is, I think that'd be a good  
4 date.

5 THE HEARING EXAMINER: Okay. Let me  
6 check with the law clerk.

7 Sheila?

8 THE CLERK: The hearing dates actually  
9 on March 7th or March 21st -- and they're both  
10 available.

11 MR. SAVAGE: Okay. Very Good. Yeah, I  
12 was looking at --

13 THE HEARING EXAMINER: Mr. Savage, do  
14 you have a preference?

15 MR. SAVAGE: I think we should do this  
16 at the 1st of March -- first part of March.

17 THE HEARING EXAMINER: So March 7th?

18 MR. SAVAGE: Seventh.

19 THE HEARING EXAMINER: Okay.

20 And Sheila, is it your understanding  
21 that the parties need to file anything, or are we now  
22 going to issue a prehearing order?

23 THE CLERK: Actually, I'm not sure.  
24 I'll have to ask Marlene.

25 Marlene, are you there?

1 MS. SALVIDREZ: Good morning. We will  
2 issue a prehearing order, and they will need to file  
3 continuances.

4 THE CLERK: Okay.

5 THE HEARING EXAMINER: Perfect.

6 Okay. So I am making notes that we are  
7 going to issue a prehearing order for March 7, 2024,  
8 contested hearing all six cases. And parties will  
9 continue to negotiate to resolve some of the issues  
10 before the hearing. And that the parties also file  
11 continuances through the fee portal. Anything else on  
12 these six cases?

13 Mr. Savage?

14 MR. SAVAGE: Mr. Examiner, let me try  
15 and get on the hearing date. I don't have an  
16 objection to March 7th, but later on in the docket, we  
17 have a bunch of Empire cases that we're going to ask  
18 for setting either late February or early March. And  
19 that may be a two-day hearing.

20 THE HEARING EXAMINER: Okay. We can  
21 set a special hearing for that one. That was my goal  
22 for that, Mr. Padilla. So that's not going to change  
23 the six cases being heard on the 7th of March.

24 MR. PADILLA: Okay.

25 THE HEARING EXAMINER: Okay. So



1 anything else from the parties on these six matters  
2 before we move on?

3 Not hearing anything. Okay.

4 So Mr. Savage and Mr. Bruce know to  
5 file continuances in the fee portal, and we will issue  
6 a prehearing order.

7 MR. SAVAGE: Thank you.

8 MR. BRUCE: Thank you.

9 THE HEARING EXAMINER: Okay. Thank you  
10 everyone.

11 Let's continue. Looks like we're going  
12 to Apache Corporation 21489, 21490, and 21491.  
13 Entries of appearance?

14 MS. BENNETT: Good morning,  
15 Mr. Examiner. Deana Bennett -- Modrall Sperling, on  
16 behalf of Apache.

17 THE HEARING EXAMINER: Good morning.

18 MR. FELDEWERT: Good morning -- Michael  
19 Feldewert, with the Santa Fe office of Holland & Hart  
20 on behalf of Matador Production Company.

21 And I do believe that these cases are  
22 tied somewhat with the Dave Laing applications, which  
23 are cases 23972 through 23979.

24 THE HEARING EXAMINER: All right. Hold  
25 on one second. Let me get my notes here.

1 MR. FELDEWERT: And I'm looking on your  
2 docket, and it looks like those are Docket numbers 24  
3 to 31.

4 THE HEARING EXAMINER: Okay. Hold on  
5 one second. Let me get my bearings here.

6 MR. FELDEWERT: Sure.

7 THE HEARING EXAMINER: Okay. Now I  
8 called 21489 through 21491. And you are saying that  
9 these cases are intertwined with which cases on our  
10 docket?

11 MR. FELDEWERT: It would be cases 24 to  
12 31. Which are cases --

13 THE HEARING EXAMINER: -- through 31 --

14 MR. FELDEWERT: Sorry.

15 THE HEARING EXAMINER: And do you have  
16 case numbers?

17 MR. FELDEWERT: 23972 through 23979.

18 THE HEARING EXAMINER: Okay. There's  
19 an echo, Mr. Feldewert, and so I didn't catch the  
20 first number that you said.

21 MR. FELDEWERT: 23972.

22 THE HEARING EXAMINER: 23972 and 23797,  
23 you said?

24 MR. FELDEWERT: I'm sorry, let me step  
25 back. So if I look at your docket and I look at

1 numbers 24 to 31, you'll see cases 23972, 23973,  
2 23974, 75, 76, 77, 78, and 79.

3 THE HEARING EXAMINER: Okay. Thank  
4 you. Now I understand. So you're saying these cases  
5 are all intertwined, but they're not consolidated at  
6 this point?

7 MR. FELDEWERT: No. And just to jump  
8 ahead, I think we've agreed -- the parties have agreed  
9 to a mutual dismissal, which is why I'm bringing it  
10 up.

11 THE HEARING EXAMINER: Okay. Mutual  
12 dismissal for which cases?

13 MR. FELDEWERT: The cases I just  
14 described and the cases you just --

15 THE HEARING EXAMINER: Okay. So let's  
16 start over again in a fashion. Let me go back.

17 So I am calling, for the record, 21489,  
18 21490, 21491, 23972 through 23979.

19 Does that capture all the cases?

20 MR. FELDEWERT: Yes, sir.

21 THE HEARING EXAMINER: Okay. So you've  
22 entered an appearance.

23 And who else do we have?

24 MS. SHAHEEN: Good morning, everyone.  
25 Sharon Shaheen, Montgomery & Andrews, on behalf of

1 Colgate Operating. We're simply monitoring these  
2 cases.

3 THE HEARING EXAMINER: Okay.

4 Ms. Shaheen, good morning.

5 Sheila, are you able to mute everyone's  
6 microphone? We're getting quite a terrible echo and  
7 it's really hard for me or the court reporter to  
8 understand what people are saying.

9 THE CLERK: Right. Yes. I'll mute  
10 them.

11 THE HEARING EXAMINER: Thank you,  
12 Sheila.

13 Okay. Are there any other entries of  
14 appearance on all of these cases?

15 MR. SAVAGE: Mr. Hearing Examiner, this  
16 is Darin Savage. We actually withdrew all our  
17 representation for the -- Apache Corporation cases  
18 21489 through 21491.

19 So you know, we shouldn't -- I don't  
20 think we should be on that, but we do have entry of  
21 appearance on behalf of Devon for the cases that  
22 appear to be related -- at least currently related, or  
23 tentatively, and that's the Matador cases that are  
24 referenced.

25 So if you're going to hear both of

1 those, I think that we should appear here on behalf of  
2 Devon Energy Production Company.

3 THE HEARING EXAMINER: Okay. Good  
4 morning again.

5 Any other party?

6 MS. KESSLER: Good morning --

7 MR. BECK: Good morning, Mr. Hearing  
8 Examiner.

9 Sorry, go ahead, Ms. Kessler.

10 MS. KESSLER: Thanks.

11 Good morning, Mr. Hearing Examiner.

12 Jordan Kessler, on behalf of EOG, entering an  
13 appearance -- simply for monitoring.

14 THE HEARING EXAMINER: Good morning,  
15 Ms. Kessler. Again, it's very difficult to hear what  
16 you said. I know what you said, but it's still very  
17 difficult to hear what you said.

18 And Mr. Beck, who are you representing?

19 MR. BECK: Good morning, Mr. Hearing  
20 Examiner; Jalapeno Corporation.

21 THE HEARING EXAMINER: And which cases  
22 is Jalapeno involved in?

23 MR. BECK: 21489 through 21491.

24 THE HEARING EXAMINER: Okay. Thank  
25 you.

1 Start off the discussion on --

2 Well, Mr. Feldewert -- you said that  
3 parties have been negotiating and are contemplating  
4 filing a motion to dismiss all of these cases?

5 MR. FELDEWERT: Yes.

6 THE HEARING EXAMINER: Is there  
7 anything else for me to know before we move on?

8 MR. FELDEWERT: I don't think so.

9 THE HEARING EXAMINER: Okay. When do  
10 you anticipate filing this motion?

11 MR. FELDEWERT: Well, hopefully, I  
12 can -- I don't think I'll get to do it today because  
13 there's a lot on the docket. But hopefully -- unless  
14 Deana's going to draft it for me, we can get it filed  
15 tomorrow.

16 THE HEARING EXAMINER: So are any of  
17 the parties in of a different opinion than what  
18 Mr. Feldewert just put on the record?

19 MS. BENNETT: Mr. Examiner, this is  
20 Deana Bennett on behalf of Apache in all of these  
21 cases; and I am not of a different opinion.

22 THE HEARING EXAMINER: Okay. Let me  
23 make a note before we move on.

24 And unfortunately, our note-taking  
25 system is very slow. Not because of my typing, but

1 because once you hit save, it takes quite some time --  
2 capture it.

3 MR. FELDEWERT: You're going to go back  
4 to pen and paper, Mr. Chakalian.

5 THE HEARING EXAMINER: Yes, amen.

6 And, Ms. Bennett, you're going to file  
7 the motion to dismiss or -- be Mr. Feldewert?

8 MS. BENNETT: Mr. Feldewert will be  
9 preparing and filing. Thank you.

10 THE HEARING EXAMINER: Thank you.

11 MR. FELDEWERT: Deana owes me one now.

12 THE HEARING EXAMINER: All right.

13 Let's move on. Let's see.

14 I have Matador Production, cases 23782  
15 through 23785. Entries of appearance?

16 MR. FELDEWERT: Good morning,  
17 Mr. Examiner. Michael Feldewert, with the Santa Fe  
18 office of Holland & Hart, for the applicant.

19 THE HEARING EXAMINER: Thank you.

20 MS. BENNETT: Good morning,  
21 Mr. Examiner. Deana Bennett, from Modrall Sperling,  
22 on behalf of Marathon Oil Permian.

23 THE HEARING EXAMINER: Good morning.

24 MS. HARDY: Good morning, Mr. Examiner.  
25 Dana Hardy, with the Santa Fe office of Hinkle Shanor,

1 on behalf of ConocoPhillips and Burlington Resources.

2 THE HEARING EXAMINER: Good morning.

3 MS. HARDY: And Mr. Examiner, these  
4 cases are connected with case numbers 23947 and 23948.  
5 Those are listed on the hearing's worksheet as numbers  
6 16 and 17. And those --

7 THE HEARING EXAMINER: 16 and 17?

8 MS. HARDY: Yes. And those are the COG  
9 Gardilu [ph] Well cases.

10 THE HEARING EXAMINER: Okay. Let me  
11 call those then.

12 Hold on one second so that I -- so then  
13 we're skipping over then Pride Energy. And we're  
14 going to COG Operating cases 23947, 23948. Besides  
15 Ms. Hardy, do we have any entries of appearance on  
16 those two cases?

17 MR. FELDEWERT: Yes, Mr. Chakalian.  
18 Michael Feldewert, from the Santa Fe office of Holland  
19 & Hart, for Matador Production Company.

20 THE HEARING EXAMINER: Okay.

21 MS. BENNETT: Good morning. Deana  
22 Bennett -- Modrall Sperling. And in those two cases,  
23 I am -- in those two cases for Franklin Mountain  
24 Energy.

25 THE HEARING EXAMINER: Okay. Thank



1 you.

2 MR. SAVAGE: Good morning. Darin  
3 Savage, appearing on behalf of Cimarex Energy Company  
4 and the COG cases.

5 THE HEARING EXAMINER: Good morning,  
6 again.

7 Okay. Who wants to kick off the  
8 discussion on the status conferences?

9 MR. FELDEWERT: I'll go ahead,  
10 Mr. Chakalian. I believe that these contested  
11 matters -- there's a good chance I think they'll be  
12 resolved. We visited briefly with Counsel, I believe,  
13 by email, and there seems to be a consensus to move  
14 these to a -- to consolidate them and move them to a  
15 status conference in January.

16 THE HEARING EXAMINER: In January. Why  
17 don't we put it on the second docket in January?

18 Any objection?

19 MS. HARDY: Not from COG, Mr. Examiner.

20 THE HEARING EXAMINER: Thank you.

21 Can I hear from the other parties,  
22 please, if there's any objection to the second half?

23 MS. BENNETT: Mr. Examiner, this is  
24 Deana Bennett on behalf of Marathon, no objection.

25 THE HEARING EXAMINER: Thank you.

1 MS. BENNETT: And, Deana Bennett,  
2 again, on behalf of Franklin Mountain Energy. I  
3 didn't realize until just now that these cases were  
4 interrelated. So my apologies for a little bit of  
5 discombobulation here.

6 But in the two COG cases, we --  
7 reviewing the Notice of Intervention filed by Cimarex  
8 and evaluating that Notice of Intervention.

9 Just wanted to put that on the record  
10 and to say that with that being said, though, no  
11 objection to moving the cases to a status conference.

12 THE HEARING EXAMINER: Okay. Thank  
13 you.

14 MR. SAVAGE: This is Darin Savage, on  
15 behalf of Cimarex. And no objection to moving it to a  
16 status conference.

17 THE HEARING EXAMINER: Okay. And  
18 Mr. Feldewert?

19 MR. FELDEWERT: No objection.

20 THE HEARING EXAMINER: Okay.

21 So Sheila, what is the date of the  
22 second docket in January?

23 THE CLERK: January 18th.

24 THE HEARING EXAMINER: Thank you.

25 And it's my understanding that the

1 parties have to file through the fee portal to get it  
2 to the January 18 docket. Is that correct, parties?

3 THE CLERK: That is correct.

4 THE HEARING EXAMINER: Okay.

5 All right. Let me make a note. And we  
6 will consolidate all of these cases for a status  
7 conference January 18. That note is made.

8 Let us continue with Pride Energy  
9 23944, 23945. We're here for a status conference.

10 Parties?

11 MS. SHAHEEN: Sharon Shaheen,  
12 Montgomery & Andrews, on behalf of Pride Energy.

13 THE HEARING EXAMINER: Thank you.

14 MR. FELDEWERT: Good morning, Mr.  
15 Chakalian, Michael Feldewert, Santa Fe office of  
16 Holland & Hart, on Matador Production Company.

17 THE HEARING EXAMINER: Good morning.

18 MS. KESSLER: Good morning, Mr.  
19 Examiner. Jordan Kessler with EOG.

20 THE HEARING EXAMINER: Good morning.  
21 Are you just monitoring Ms. Kessler?

22 MS. KESSLER: That's correct.

23 THE HEARING EXAMINER: Okay.

24 Okay. If there are no other parties,  
25 Ms. Shaheen, how are we proceeding?

1 MS. SHAHEEN: Thank you. Yes, I've  
2 conferred with my colleagues. And I understand that  
3 Matador has filed competing applications for the  
4 Wolfcamp wells and that they will be filing competing  
5 applications for the Bones Spring wells shortly.

6 And we've agreed to set this for a  
7 status conference on January 4th, if that's possible.  
8 The parties are actually negotiating now and hope to  
9 resolve the issues before then. But if not, on  
10 January 4th, we'd like to at that time set a contested  
11 hearing date.

12 THE HEARING EXAMINER: Mr. Feldewert?

13 MR. FELDEWERT: I agree with that, and  
14 I can add that the file cases today include 24074  
15 through 76. So those are the cases on -- that will  
16 appear on the January 4th docket that would be part of  
17 the status conference.

18 THE HEARING EXAMINER: I see. So  
19 they're not on today's docket, but they will be on the  
20 January 4 docket. You'd like to see them consolidated  
21 with these two cases?

22 MR. FELDEWERT: For purposes of that  
23 status conference, yes, sir.

24 THE HEARING EXAMINER: Just for the  
25 purposes -- not if we go ahead with this -- with the

1 contested hearing?

2 MR. FELDEWERT: Well, if we go ahead  
3 with the contested hearing, yes, they would likewise  
4 be --

5 THE HEARING EXAMINER: All right.

6 MR. FELDEWERT: They should be  
7 consolidated for both purposes.

8 THE HEARING EXAMINER: Right. May I  
9 have those case numbers again, please?

10 MR. FELDEWERT: Sure. 24074, 24075,  
11 and 24076.

12 THE HEARING EXAMINER: All right.  
13 Those three cases?

14 MR. FELDEWERT: There's three cases  
15 and -- but Ms. Shaheen is right. There's also going  
16 to be some additional cases filed, which is why we're  
17 going to have our status conference on January 4th.

18 THE HEARING EXAMINER: Okay. Thank  
19 you. Okay. I have a note for that purpose. Okay.

20 MS. SHAHEEN: Thank you.

21 THE HEARING EXAMINER: If there's  
22 nothing further, we can move forward through now -- I  
23 don't believe I've called Franklin Mountain Energy 3,  
24 cases 23966, 67, 68, 69.

25 MS. BENNETT: That's correct,

1 Mr. Hearing Examiner. This is Deana Bennett on behalf  
2 of Franklin Mountain Energy 3.

3 In these cases -- and just for your  
4 information, these cases should be discussed with, but  
5 perhaps not consolidated with, case numbers 24043 and  
6 24044, which are the EGL Skyfall [ph] cases. And  
7 those are case numbers 58 and 59 on the Examiner's  
8 docket.

9 THE HEARING EXAMINER: It's getting  
10 very confusing not to call the same case twice since  
11 everything is out of order here. But by all means,  
12 I'm sure you'll remind me when I get to those cases.

13 So I'm also calling 24043, 24044.

14 So for these six cases, Ms. Bennett,  
15 you have an appearance entered.

16 Do we have any other parties?

17 MR. FELDEWERT: Yes. Good morning,  
18 Mr. Chakalian. Michael Feldewert -- Santa Fe office  
19 of Holland & Hart, appearing on behalf of MRC Permian.  
20 And then also appearing on behalf of the  
21 ConocoPhillips Company.

22 THE HEARING EXAMINER: Okay.

23 Any other parties?

24 MR. BECK: Morning, Mr. Hearing  
25 Examiner. Matt Beck on behalf of Amtex Energy, Inc.

1 and Chap Exploration, LLC in case numbers 23968 and  
2 23969.

3 THE HEARING EXAMINER: Thank you.

4 Okay.

5 MR. BRUCE: Jim Bruce, representing EGL  
6 Resources.

7 THE HEARING EXAMINER: Thank you.

8 Ms. Bennett?

9 MS. BENNETT: Thank you, Mr. Examiner.

10 So Franklin Mountain Energy filed these  
11 four cases covering the east half and west half of  
12 sections 27 and 34.

13 And in the meantime, then, EGL filed  
14 objections to the cases going to hearing because EGL  
15 has -- the two Skyfall [ph] cases that we discussed a  
16 moment ago also cover the west half of these  
17 particular sections.

18 And then, EGL indicated and has  
19 confirmed to me that they were sending out proposal  
20 letters for the east half. So there will be competing  
21 applications for both the west half and the east half.

22 But Amtex -- and I'm not trying to  
23 speak for anyone. I'm just giving a summary and then  
24 everyone hopefully will correct me when I'm wrong.

25 But Amtex filed a prehearing statement

1 and entered its appearance only in the east half  
2 cases, which are 23968 and 23969. And Amtex has  
3 separate -- is only involved in those two cases and  
4 has an argument -- or has indicated the existence of a  
5 JOA.

6 And so Franklin Mountain Energy's  
7 preference would be to separate the east half from the  
8 west half because of the differences in the parties  
9 and the differences in the legal arguments and the  
10 hearing -- nature of the hearings.

11 And would prefer that the west half  
12 cases be set for a contested hearing as soon as  
13 possible. And the east half cases be set for a  
14 contested hearing as soon as they're ripe because  
15 Mr. Bruce has not yet filed applications for those,  
16 for the east half.

17 THE HEARING EXAMINER: So Ms. Bennett,  
18 would you use the case numbers to delineate the east  
19 half and the west half?

20 MS. BENNETT: Certainly. So 23966 and  
21 23967 are the west half cases -- Franklin Mountain  
22 Energy's west half cases.

23 THE HEARING EXAMINER: Okay.

24 MS. BENNETT: And EGL's 24043 and 24044  
25 are west half cases.



1 THE HEARING EXAMINER: Thank you.

2 MS. BENNETT: So those cases -- the  
3 competing cases are filed and are ripe and do not  
4 involve Amtex. So that's why I was suggesting those  
5 four cases be set for a contested hearing separately  
6 from the east half cases, which Franklin Mountain  
7 Energy's east half cases are 23968 and 23969.

8 THE HEARING EXAMINER: Okay.

9 MS. BENNETT: And EGL has not yet filed  
10 east half cases.

11 THE HEARING EXAMINER: Okay.

12 So let's confine this discussion then  
13 to those four cases in the west half, 24043, 24044,  
14 23966, and 23967. Ms. Bennett is asking for a  
15 contested hearing as soon as possible.

16 May I hear from the other parties just  
17 on those four cases?

18 MR. FELDEWERT: Mr. Examiner --

19 MR. BRUCE: Mr. Examiner --

20 MR. FELDEWERT: Go ahead, Jim.

21 MR. BRUCE: Go ahead, Mike.

22 MR. FELDEWERT: All right. This is my  
23 Michael Feldewert. What I learned this week is that  
24 Matador -- or MRC Permian is going to be sending out  
25 competing well proposals for both the east half and

1 the west half. Okay?

2 So for that -- and so we're going to  
3 have a lot of parties involved here. Apparently a lot  
4 of -- some nuance in the cases apparently, but I'm not  
5 sure about that.

6 But nonetheless, those are going to go  
7 out. So you know, nothing's going to be ripe until  
8 February at the earliest.

9 My suggestion would be that we set a  
10 status conference in February so that once these  
11 Matador proposals go out, Matador, EGL, and Franklin  
12 Mountain can sit down and talk. And maybe they can  
13 get these resolved and we don't have your docket  
14 plugged up with contested cases.

15 THE HEARING EXAMINER: Okay. Thank  
16 you.

17 Let's go back to Ms. Bennett for a  
18 moment before I speak to you, Mr. Bruce.

19 Ms. Bennett, what do you think about  
20 what you just heard?

21 MS. BENNETT: Well, I wish there was a  
22 way -- just editorializing here for all of our  
23 sakes -- that we could know in advance of the hearing  
24 that competing proposals were going to be sent out so  
25 that we could come to some agreement before we are at

1 the hearing.

2 That being said, I would propose that  
3 we set this for a contested hearing on February 1st, a  
4 non-status conference. There's no reason to continue  
5 to delay these cases.

6 If the parties are filing applications,  
7 that means they intend to move forward. So why  
8 wouldn't we just have a contested hearing rather than  
9 kicking the can down the road?

10 THE HEARING EXAMINER: Mr. Feldewert?

11 MR. FELDEWERT: I would flip that and  
12 say there's no reason to rush this to hearing. I  
13 don't understand why you wouldn't give the parties  
14 time to discuss proposals once they're on paper  
15 because now you're going to have three different --  
16 you're going to have three development proposals out  
17 there.

18 So presumably, the parties could sit  
19 down, review them, digest them, have some discussions,  
20 perhaps, and hopefully get to an agreement; and we can  
21 avoid hearing.

22 So since there's no need to rush, I  
23 don't know why you wouldn't have a status conference  
24 to see where the parties are and then set a hearing.

25 THE HEARING EXAMINER: All right. Now,

1 before I do anything, are there any other parties that  
2 want to want to chime in on these four cases knowing  
3 that Matador is going to be submitting competing  
4 proposals --

5 And when will Matador be doing this?

6 MR. FELDEWERT: Well, since -- they  
7 will be doing this -- well, I guess we can get these  
8 out --

9 Because I just found out about this,  
10 Deana, so that's why you don't know.

11 I mean, I'm sure we can get them out  
12 this month. Which means we should -- let's see, I'm  
13 going through my head here. We should be able to have  
14 applications as needed filed on -- in February.

15 THE HEARING EXAMINER: Because you're  
16 giving that 30-day period?

17 MR. FELDEWERT: Yes, yeah, yeah. And  
18 even then, it would probably be a little shortened,  
19 right, if we get them out this month, but.

20 You know, the first step is you get the  
21 proposals out. And so the parties have everything on  
22 paper. They've got everything in front of them. And  
23 then they can have some fruitful discussions.

24 THE HEARING EXAMINER: Okay.

25 Are there any other parties that want

1 to chime in on this?

2 MR. BRUCE: Mr. Examiner? Jim Bruce.

3 THE HEARING EXAMINER: Yes, sir?

4 MR. BRUCE: I am in agreement with  
5 Mr. Feldewert -- well, first of all, I was going to  
6 ask Mr. Feldewert if he would be filing counter  
7 applications. And so I'm glad he informed me of that.  
8 And I thought it would be MRC Permian. And that kind  
9 of complicates things for me.

10 But I'm looking not only at the four  
11 cases you're talking about, Mr. Examiner. The east  
12 half cases, I really don't care that there's different  
13 ownership. You're looking at the same thing. And if  
14 we're going to have a big hearing on all this, I don't  
15 want to do it twice.

16 And so I would ask -- by the way, EGL  
17 has sent out proposal letters for its east half wells  
18 a week ago and will be filing for the February 1  
19 hearing. But there's plenty of moving parts here  
20 because I believe there's been changes in working  
21 interest ownership and a bunch of other things.

22 So I would go along with Mr. Feldewert  
23 that we ought to have a status conference because, by  
24 February 1, things will settle down a little bit.

25 And I've even talked with my client

1 about the potential of settlement of some of these  
2 things. And my landman's told me that -- would love  
3 to discuss matters with the various people.

4 But, like I said, there's plenty of  
5 moving parts and there's really been no chance to talk  
6 about that. So I think they all, including  
7 Mr. Feldewert's cases and EGL's new cases, should be  
8 set for a status conference on February 1.

9 THE HEARING EXAMINER: Any other  
10 parties want to chime in?

11 Okay. We're going to set this for a  
12 status conference.

13 Ms. Bennett, I understand your  
14 argument, but I find the other argument more  
15 persuasive at this point.

16 So 23966, 23967 are hereby consolidated  
17 with 24043, 24044, which all deal with the west half  
18 of this piece of property. And I suspect we'll be  
19 consolidating Matador's competing applications that  
20 will be filed this month.

21 For a status conference, I suspect that  
22 should be in February, maybe early February. What do  
23 the parties think about that?

24 MS. BENNETT: Mr. Hearing Examiner,  
25 Deana Bennett, the -- I believe Mr. Feldewert proposed

1 February 1st for the status conference, which is the  
2 first docket in February -- and that would be -- I  
3 mean, if -- that's the date that I would prefer.

4 THE HEARING EXAMINER: Okay.

5 MR. BRUCE: And, Mr. Hearing  
6 Examiner --

7 THE HEARING EXAMINER: Let me just --  
8 hold on a second. Let me just make a note of what  
9 we're doing here. Okay. Now, what were you saying,  
10 Ms. Bennett?

11 MS. BENNETT: There is another party  
12 that entered an appearance in the east half cases, and  
13 they don't appear to be on the call today -- on the  
14 hearing today. It's a trust, and I've had -- been in  
15 communications with the trust. And they have an  
16 overriding royalty interest.

17 And so I am in communications with that  
18 party. But I did want to just alert the hearing  
19 examiner that they have entered an appearance and did  
20 object to the cases going forward by affidavit --  
21 completeness.

22 THE HEARING EXAMINER: Okay. So now  
23 I'm going to recall case 23968, 23969. And we have  
24 the parties in front of us, except for a trust.

25 MS. BENNETT: That's correct.

1 THE HEARING EXAMINER: Ms. Bennett, how  
2 do you want to proceed?

3 MS. BENNETT: Well, my preference is  
4 still to bifurcate these from the west half, which it  
5 sounds like what the hearing examiner is inclined to  
6 do.

7 THE HEARING EXAMINER: Done.

8 MS. BENNETT: Okay. Thank you. So I'm  
9 not opposed to setting these cases for a status  
10 conference on February 1st as well. But as long as  
11 that status conference -- or the understanding is that  
12 the cases are bifurcated.

13 THE HEARING EXAMINER: They are.

14 MS. BENNETT: Okay.

15 THE HEARING EXAMINER: Any other  
16 parties have a opinion about a February 1st status  
17 conference for these two cases?

18 MR. FELDEWERT: No, I -- this is  
19 Michael Feldewert. I agree with that and -- attended  
20 that since we're going to have to -- I'm not sure. I  
21 think we need to get the proposals out there and --  
22 parties have some discussions. And then determine at  
23 that whether we need to bifurcate.

24 Hopefully, we can get this resolved,  
25 but I'm not -- at this point, I think it might be



1 premature to say we are going to bifurcate until we  
2 see what we end up with.

3 THE HEARING EXAMINER: Well,  
4 Mr. Feldewert, I've already bifurcated these two cases  
5 from the other case -- the other four cases that we  
6 were discussing earlier.

7 So if there's going to be a motion to  
8 reconsolidate them in February, then I'll hear it.  
9 But for now, they are separated because they're for  
10 the east half instead of the west half.

11 And are you also saying -- what I think  
12 you're saying is that you're going to be filing  
13 competing applications for the eastern half as well as  
14 well?

15 MR. FELDEWERT: Yes. Yes, sir.

16 THE HEARING EXAMINER: Okay. Let me  
17 make a note. Also, in December?

18 MR. FELDEWERT: Yes, yes. Well, let me  
19 step back. We're going to be -- out competing well  
20 proposals. And then we'll be filing applications as  
21 we can after that.

22 THE HEARING EXAMINER: All right.  
23 Anything else on these six cases before  
24 we move on?

25 So I'm not very secure in whether I've

1 called these cases anymore. So I'm just going to call  
2 cases in the order on the docket. And if I -- if  
3 we've already dealt with it, please advise me. 23970,  
4 23971, Avant Operating. Entries of appearance,  
5 please?

6 MS. BENNETT: Good morning,  
7 Mr. Examiner. Deana Bennett, Modrall Sperling, on  
8 behalf of Avant Operating.

9 THE HEARING EXAMINER: Good morning.

10 MR. FELDEWERT: Good morning,  
11 Mr. Examiner. Michael Feldewert from the Santa Fe  
12 office of Holland & Hart, appearing on behalf of COG  
13 Operating.

14 THE HEARING EXAMINER: Good morning.  
15 Are there any other parties? Okay.  
16 I'm not hearing anyone.

17 Ms. Bennett:

18 MS. BENNETT: Thank you, Mr. Examiner.  
19 I have conferred -- so COG entered an appearance in  
20 these cases -- or Counsel for COG entered an  
21 appearance in these cases and objected to the cases  
22 going forward by affidavit.

23 And I've conferred with Counsel for COG  
24 and have -- would request that these cases be  
25 continued to January 4th either for a status

1 conference or if we're able to work out an agreement  
2 with COG, for an uncontested hearing.

3 So that is my request for this morning  
4 for the examiner's consideration.

5 THE HEARING EXAMINER: Okay. So did  
6 you give me a date of when you would like this to be  
7 reset?

8 MS. BENNETT: Yes, January 4th.

9 THE HEARING EXAMINER: January 4.  
10 Okay.

11 Mr. Feldewert?

12 MR. FELDEWERT: Ms. Bennett and I  
13 discussed this briefly late yesterday, and we're in  
14 agreement.

15 THE HEARING EXAMINER: So we will set  
16 these two cases -- I have 23970 -- 71 for a status  
17 conference January 4, 2024, to see how the parties are  
18 progressing.

19 But, Ms. Bennett, you won't be ready on  
20 January 4 for an affidavit hearing, will you?

21 MS. BENNETT: Yes, Mr. Examiner, that  
22 would be the alternative relief I would be requesting  
23 is if we are able to work through an agreement with  
24 COG that we'd be allowed to present the cases by  
25 affidavit on January 4th.

1 THE HEARING EXAMINER: So we'll have a  
2 status conference, and you'll possibly proceed by  
3 affidavit on that date?

4 MS. BENNETT: Yes, that would be my  
5 request.

6 THE HEARING EXAMINER: Okay. That  
7 seems fine with me.

8 MS. BENNETT: Thank you.

9 THE HEARING EXAMINER: Let's move on.

10 MR. FELDEWERT: I can offer some  
11 assistance here, Mr. Examiner -- I think we're on --

12 THE HEARING EXAMINER: -- excellent.

13 MR. FELDEWERT: -- number 32.

14 THE HEARING EXAMINER: Okay. All  
15 right. Right. We already did 72 through 79. Okay.  
16 And I have two columns of numbers to the left of the  
17 case number. One says 36. One says 32. Okay.

18 I am calling 23980 and 23981.

19 MR. FELDEWERT: Good morning,  
20 Mr. Examiner. Michael Feldewert from the Santa Fe  
21 office of Holland & Hart on behalf of the applicant  
22 COG Operating.

23 And you can -- I would suggest you also  
24 call the next two cases, 23982, 23983.

25 THE HEARING EXAMINER: Okay.

1 Wonderful. 23982, 23982.

2 MR. FELDEWERT: 83.

3 THE HEARING EXAMINER: Oh, did I say 82  
4 twice? Thank you. 83. Thank you.

5 Any other parties?

6 MS. BENNETT: Yes, good morning,  
7 Mr. Examiner. Deana Bennett, Modrall Sperling, on  
8 behalf of Franklin Mountain Energy, in all four of  
9 these cases. And I'm sure Mr. Feldewert and I will be  
10 having a robust discussion with you about these cases.

11 But just to preview, these cases  
12 compete with some Franklin Mountain Energy cases that  
13 are currently set for hearing on January 4th for a  
14 contested hearing.

15 THE HEARING EXAMINER: Do you have  
16 those case numbers?

17 MS. BENNETT: Yes, I do. They are case  
18 numbers 23845 through 23852.

19 THE HEARING EXAMINER: -- 52. Okay.

20 MS. BENNETT: Okay.

21 THE HEARING EXAMINER: Let me make a  
22 note. Hold on one sec.

23 All right. Mr. Feldewert --

24 Now, Ms. Bennett, 45 through 52, are  
25 not on today's document. Is that correct?

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1 MS. BENNETT: No, they aren't. They  
2 are subject to a prehearing order that the division  
3 entered on November 8th -- January 4th.

4 THE HEARING EXAMINER: Very good. So  
5 they're set for a contested hearing on January 4th.

6 All right. Mr. Feldewert, how do you  
7 want to proceed on 80 through 83?

8 MR. FELDEWERT: Oh, well, Ms. Bennett  
9 has previewed it correctly. We probably are going to  
10 have a robust discussion.

11 I was just informed this week that MRC  
12 Permian has signed a purchase and sale agreement in  
13 which they're acquiring a substantial interest in this  
14 acreage. And I will tell you in this general area of  
15 Township 18 South 34 East.

16 I -- informed that that purchase and  
17 sale agreement is to close the first part of February.  
18 So obviously, I have not had a chance to do it, but  
19 MRC Permian is going to file a motion to intervene  
20 since they are going to have a substantial working  
21 interest ownership in this area shortly. And they  
22 intend to send out their own development plan.

23 Now that means you got MRC, you got  
24 COG, and you got Franklin Mountain. It seems MRC  
25 would like to have an opportunity to -- once this

1 closes, to meet the parties -- explore -- resolution  
2 of this matter and other cases.

3 And I don't want to -- there are other  
4 cases on this docket, Mr. Chakalian, that are likewise  
5 affected on these -- by this closing. And I can give  
6 you the right -- the correct case numbers at the  
7 appropriate time. But it deals with the number of  
8 cases that you have on the docket that are contested.

9 So my suggestion is going to be that we  
10 move these cases and these other affected cases to  
11 February for a status conference because that will  
12 allow this purchase and sale agreement to close.

13 It'll allow Matador to send out  
14 competing well proposals, knowing that they're going  
15 to be sending them out before they actually close on a  
16 working interest -- but I don't want to delay this any  
17 more than we have to. But they won't be able to file  
18 the applications until they actually close.

19 And more importantly, once this gets  
20 done and on the board, so to speak, that will allow  
21 Franklin Mountain, COG, Matador, and any other  
22 affected parties to meet and confer on all of these  
23 cases and see if they can reach a resolution.

24 And it's my opinion that given the  
25 amount of acreage involved here and the amount of

1 cases involved here that there's a pretty good chance  
2 that there's going to be some deals made and these  
3 contested cases can be resolved without a hearing.

4 So I don't see any sense in moving  
5 forward with any hearings in January when we know that  
6 MRC is going to be filing competing proposals and  
7 development for this same acreage.

8 The Division's docket is crowded  
9 enough. There's no reason to rush to an unnecessary  
10 hearing or -- then have to -- appeals with a piecemeal  
11 fashion because we still have other cases that are  
12 being filed that involve the same acreage.

13 And I predict -- and I'll put some  
14 money on this, that once the purchase and sale  
15 agreement is closed in February, that a lot of these  
16 cases are going to get resolved. So there's my pitch.

17 THE HEARING EXAMINER: So let me make  
18 sure I understand you --

19 MR. FELDEWERT: Yeah.

20 THE HEARING EXAMINER: -- before we go  
21 back to Ms. Bennett. What you're suggesting is that  
22 23980 through 83 be set for a status conference in  
23 February. Are you suggesting the first docket or the  
24 second docket?

25 MR. FELDEWERT: Well, the purchase and



1 sale agreement is scheduled to close the first part of  
2 February --

3 THE HEARING EXAMINER: So the second  
4 docket. Okay.

5 MR. FELDEWERT: So I would suggest the  
6 second docket. That would seem to make the most sense  
7 and give the parties additional time once the deal  
8 closes.

9 THE HEARING EXAMINER: Okay. Hold on  
10 one second. And you are also suggesting that cases  
11 23845 through 52 that are currently set for a January  
12 4 contested hearing, also be continued until that  
13 second docket in February as a status conference and  
14 all consolidated together?

15 MR. FELDEWERT: Yeah. You would have  
16 to -- we would move to vacate the prehearing order and  
17 then move those cases to the status conference, the  
18 second docket -- February.

19 THE HEARING EXAMINER: Okay.

20 Ms. Bennett?

21 MS. BENNETT: Thank you, Mr. Examiner.  
22 Obviously, this is a frustrating turn of events for me  
23 and for Franklin Mountain Energy.

24 We have been working on trying to get  
25 these cases to hearing for some time. And I hear

1 Mr. Feldewert. I understand his position that there's  
2 no rush. But Franklin Mountain Energy has been  
3 working diligently towards developing this acreage and  
4 the acreage that's that issue in the other cases.

5 And so this isn't a matter of whether  
6 we're rushing to a hearing or not. It's rather that  
7 Franklin Mountain Energy has been diligently doing  
8 what it needs to do to develop this acreage, including  
9 sending out proposal letters, filing applications, and  
10 then, you know, learning piecemeal from these other  
11 parties that after the fact they are filing competing  
12 proposals.

13 So that is frustrating, especially  
14 for -- in terms of actually trying to get this acreage  
15 developed from Franklin Mountain Energy's perspective.

16 You know, I -- Mr. Feldewert was  
17 indicating that MRC just signed this purchase and sale  
18 agreement. He doesn't represent MRC in this matter.  
19 He represents COG. And so I think it's important to  
20 keep that distinction clear here that, as of right  
21 now, there is no MRC entry of appearance in these  
22 cases.

23 And the COG cases are ripe for hearing  
24 and are -- should be consolidated with the parallel  
25 cases -- Franklin Mountain Energy's parallel cases,

1 which are currently set for hearing on January 4th.

2 So I understand that may be  
3 inefficient, but that's where we are today is we have  
4 cases that COG filed that are ripe for hearing on  
5 January 4th and that compete with Franklin Mountain  
6 Energy's parallel cases, which are also set for  
7 hearing on January 4th.

8 So I don't want to elevate form over  
9 substance, so I understand that this may not resonate  
10 with the hearing examiner or with Mr. Feldewert, but I  
11 do think that the parties who are here before the  
12 Division today have cases that are ripe to be heard on  
13 January 4th.

14 THE HEARING EXAMINER: Okay. So  
15 Ms. Bennett, I understand 23845 through 52 are on the  
16 January 4th docket.

17 MS. BENNETT: Yeah.

18 THE HEARING EXAMINER: Are you saying  
19 that there are -- for contested hearing. Are you  
20 saying that there are more cases on the January 4  
21 docket for a contested hearing that are not  
22 encompassed by those numbers?

23 MS. BENNETT: No, not at the moment.  
24 Well, this is complicated because we do have other  
25 contested cases between Franklin Mountain Energy and

1 COG.

2 But looking at this particular set of  
3 cases, there are -- COG filed its Crow [ph] cases,  
4 which are 80 and 81, and it's Moaning [ph] Pheasant  
5 [ph] cases, which are 82 and 83. Those could be and,  
6 in my opinion, should be consolidated and added to the  
7 prehearing order for the January 4th contested  
8 hearing.

9 That was the discussion between the  
10 parties. That we would be having a contested hearing.  
11 That COG would be sending out competing proposals and  
12 filing competing applications. And they have done so.

13 This is slightly further complicated by  
14 the fact that Franklin Mountain Energy filed -- I  
15 filed on their behalf amended applications to correct  
16 some information in the applications, but those are  
17 also on the -- will be on the January 4th docket.

18 So it wouldn't be -- as if we need to  
19 add anything. We just need to correct some case  
20 numbers on the prehearing order. That's a simple fix.

21 And so, to answer your question --  
22 which was, are there other cases on the January 4th  
23 docket? The answer to that is, technically, yes. But  
24 they are the same cases that we're discussing today.

25 THE HEARING EXAMINER: I see. So you

1 mentioned 82 and 83, but you did not mention 80 and  
2 81. Are you saying that those should not be  
3 consolidated in the contested hearing on January 4?

4 MS. BENNETT: No. If I didn't mention  
5 those, that was an oversight on my part.

6 THE HEARING EXAMINER: So then you --  
7 yeah, no, you didn't. So then you're saying 23980  
8 through 83 should all be contested -- sorry, should be  
9 consolidated with 23845 through 52 for the contested  
10 hearing January 4?

11 MS. BENNETT: That's right.

12 THE HEARING EXAMINER: And,  
13 Mr. Feldewert, why do you feel that's inappropriate?

14 MR. FELDEWERT: So first off, like I  
15 said, we have a new entry here. MRC Permian signed a  
16 purchase and sale agreement this week to acquire a  
17 substantial interest in this acreage.

18 And Ms. Bennett's right. It's probably  
19 prudent for me to enter an appearance in these matters  
20 for MRC Permian, and I will do so now. And follow  
21 that up with a notice as needed.

22 And as a result -- and as I said, since  
23 MRC is now going to have a substantial interest,  
24 hopefully by the first of February when it closes,  
25 they're going to be sending out competing well

1 proposals -- okay -- that involve this acreage.

2 I think we're all in agreement.

3 There's no need to rush this. I think we're all in  
4 agreement it would be inefficient if we went forward  
5 on January 4th.

6 So that's the reason for the  
7 suggestion, and I think it would be prudent to have a  
8 status conference in the second docket in February  
9 so -- that we have three matters -- all three  
10 development plans by these parties on the Division's  
11 dockets.

12 But more importantly so, everything's  
13 on the table, and these three parties can have  
14 discussions to hopefully resolve these cases.

15 THE HEARING EXAMINER: So Ms. Bennett,  
16 what's complicating this in my mind -- because I find  
17 your argument persuasive that we should go ahead with  
18 the January 4 contested hearing in these cases.

19 However, now you've heard that MRC --  
20 and we have an entry of appearance for MRC by  
21 Mr. Feldewert -- is signing a purchase agreement for  
22 the same acreage -- or overlapping acreage, I'm not  
23 exactly sure. And is going to also be submitting  
24 competing applications sometime after they purchase  
25 this land in February.

1                   Now, please explain to me how it's  
2 efficient to have a contested hearing and have the  
3 Division working on resolving that contested hearing  
4 when they have not heard from MRC and seen their  
5 competing application.

6                   MS. BENNETT: Thank you. I understand  
7 that -- the efficiency argument and the desire to not  
8 waste the Division's resources or the party's  
9 resources.

10                   MRC has not yet closed on the purchase  
11 and sale agreement, as I understand it. So we're  
12 talking about a hypothetical situation here that could  
13 not come to fruition. And so then we will have pushed  
14 all these cases off another month based on this  
15 hypothetical that may not come to fruition.

16                   I'm not suggesting that there's any  
17 reason why the deal wouldn't close. Please don't read  
18 anything into that. I'm just saying that we're  
19 continuing cases that -- based on a hypothetical or,  
20 you know, a future event that may or may not occur.

21                   That being said, what I would like to  
22 ask the Divisions for is to allow Mr. Feldewert and  
23 myself sometime this morning to have an offline  
24 conversation about these cases and the other Franklin  
25 Mountain Energy, COG cases. As well as -- I think

1 that's it.

2 There's three sets of cases that are  
3 involved in this morning's docket that involve  
4 Franklin Mountain Energy and COG. And there are other  
5 cases, as Mr. Feldewert alluded to, that involve  
6 Franklin Mountain Energy and MRC.

7 And so, with the Division's permission,  
8 would it -- and if Mr. Feldewert is inclined to agree  
9 to this, could we perhaps set a specific time for us  
10 to revert back to you with a discussion on these  
11 cases? Perhaps in an hour or if these cases -- if the  
12 docket goes beyond lunch after lunch today?

13 THE HEARING EXAMINER: Yeah. The  
14 docket will go beyond lunch. And definitely, we can  
15 come back to -- we can recess these cases, and we can  
16 come back to them first thing when we come back from  
17 lunch. How's that?

18 MS. BENNETT: I think that would be  
19 great because I don't want to take the Division's time  
20 either today or on January 4th unnecessarily. I'm  
21 very cognizant of the time.

22 THE HEARING EXAMINER: So when you  
23 say --

24 When the parties say things like "These  
25 cases," it's not helpful to the hearing examiner



1 because I need numbers.

2 So Ms. Bennett, are you specifically  
3 talking about the cases that I called, 23980 through  
4 83, and cases that are not on today's docket, 23845  
5 through 52?

6 MS. BENNETT: I'm talking about those.  
7 Plus -- there are other cases on today's docket that I  
8 would like to ask to be recessed as well.

9 THE HEARING EXAMINER: But we haven't  
10 gotten to them yet, right?

11 MS. BENNETT: We haven't gotten to them  
12 yet.

13 THE HEARING EXAMINER: All right. So  
14 you'll let me know when we get to them that these are  
15 also --

16 MS. BENNETT: Certainly, that seems  
17 like a --

18 THE HEARING EXAMINER: -- cases --

19 MS. BENNETT: -- efficient way to  
20 handle that.

21 If that's acceptable to Mr. Feldewert?

22 MR. FELDEWERT: Yeah. In fact, if I  
23 look at your docket -- next case is the Vulture wells,  
24 right? So that would be -- Ms. Bennett and I are -- a  
25 discussion here. That would be the Gold State wells,

1 Vulture wells, and Nightjar. So we can alert you when  
2 we get to those cases.

3 THE HEARING EXAMINER: Thank you.

4 Okay. We're in recess on those cases  
5 I've not made any decision so far, and we are going to  
6 continue the docket -- we will come back to those  
7 cases and maybe other cases that I don't know about  
8 after lunch.

9 So 23980 to 83 is what we were just  
10 discussing. Let's move on to --

11 So Mr. Feldewert, I'm calling 23987 and  
12 88. Are those two of the cases that you want to be  
13 recessed until this afternoon?

14 MR. FELDEWERT: Yes.

15 THE HEARING EXAMINER: Let me write it  
16 down. Okay. Then I'm not calling them now.

17 23997, 23998, 99 -- let's leave it at  
18 that. We have Flat Creek. Parties, please?

19 MS. SHAHEEN: Sharon Shaheen, from  
20 Montgomery & Andrews, on behalf of Flat Creek.

21 THE HEARING EXAMINER: Yes, ma'am.

22 MS. BENNETT: Good morning,  
23 Mr. Examiner. Deana Bennett, from Modrall Sperlring,  
24 on behalf of Durango Production Company. And this  
25 morning, I filed an entry of appearance on behalf of

1 MEC Petroleum Corp. And both of those entities object  
2 to these cases being presented by affidavit.

3 THE HEARING EXAMINER: Okay.

4 Ms. Shaheen?

5 MS. SHAHEEN: Thank you, Mr. Examiner.  
6 Flat Creek would like to set this for a contested  
7 hearing as soon as possible --

8 THE HEARING EXAMINER: Okay.

9 MS. SHAHEEN: -- are planning to spud  
10 in January and need to have the wells producing by  
11 August 1st, I believe, due to a joint use agreement  
12 that they have with the leasehold owner of the Deeper  
13 [ph] Rights [ph].

14 They do have BLM permits that are  
15 approved, and they're ready to develop. There are  
16 only three working interest owners being pooled. I  
17 didn't know until this morning, just now, that MEC had  
18 also filed an entry of appearance.

19 With respect to Durango, they're not  
20 planning to file competing applications. And they  
21 only have a 6 percent interest in the spacing unit.  
22 We've been discussing these issues with Durango but  
23 have not been able to resolve them.

24 So bottom line is Flat Creek requests a  
25 contested hearing date as soon as possible.

1 THE HEARING EXAMINER: What do you  
2 recommend?

3 MS. SHAHEEN: We could go forward -- we  
4 may be able to go forward as early as December 21st,  
5 but we definitely can go forward on January 4th. It  
6 looks like that docket is opening up a little bit  
7 since Ms. Bennett's other cases won't be heard that  
8 day.

9 THE HEARING EXAMINER: Well, we haven't  
10 quite decided that yet, Ms. Shaheen, but maybe you're  
11 reading the tea leaves. I don't know.

12 Ms. Bennett?

13 MS. BENNETT: Thank you very much,  
14 Mr. Chakalian. So I understand Ms. Shaheen's point  
15 about wanting to have a contested hearing as soon as  
16 possible, but there isn't the urgency that she  
17 indicates.

18 For example, Ms. Shaheen mentioned that  
19 the BLM APDs have been approved, but they have not  
20 been. There are approved APDs, but the sundries --  
21 Flat Creek actually had to sundry the APDs because  
22 they don't even target the Bone Spring, which is the  
23 wells that Flat Creek is targeting here.

24 So the sundries have not been approved.  
25 So there's no urgency. It's not as if Flat Creek has

1 the ability to go out and drill as of right now,  
2 anyway, in January. So the urgency just is not there.

3 Beyond that, though, Durango Production  
4 and MEC both want to have additional time to discuss  
5 recent developments with Flat Creek. We received  
6 information yesterday that we've been evaluating, but  
7 there needs to be more time to evaluate those  
8 materials.

9 And there isn't the urgency that  
10 Ms. Shaheen is alluding to because Flat Creek simply  
11 doesn't have the ability to go out and spud in January  
12 as of today. It doesn't appear that way based on the  
13 materials that Flat Creek submitted.

14 Also, while it's true that Flat  
15 Creek -- or based on Flat Creek's exhibits and in my  
16 discussions with MEC and Durango, they have a  
17 significant portion together of the working  
18 interest -- the acreage in this area.

19 They have about 180 acres together out  
20 of the 640-acre spacing unit. So this isn't an  
21 insignificant interest.

22 And MEC -- it's my understanding -- and  
23 again, this is all coming to light in a very short  
24 amount of time, so I apologize that I don't have more  
25 details on this.

1           But MEC has not been offered or -- MEC  
2 wanted to participate in these wells but was told, as  
3 I understand it, to hold off on submitting its  
4 elections. And then comes to find out that it's going  
5 to be pooled when it was willing to participate in the  
6 wells. And so there's some questions about good faith  
7 negotiations in my mind there.

8           So all of these together militate in  
9 favor of having a contested hearing -- not on December  
10 21st. We would prefer January 18th for the contested  
11 hearing.

12           Again, there's nothing in the record  
13 that shows that Flat Creek has the right to spud these  
14 wells in January as of today's date. If something  
15 changes, then, you know, we can talk about that. But  
16 right now, there's no -- nothing in the record to  
17 support the request for a December 21st hearing date.

18           THE HEARING EXAMINER: Okay. So  
19 Ms. Shaheen is asking for a contested hearing January  
20 4. You're asking for a contested hearing January 18.  
21 And I see Mr. Rankin --

22           Are you a party?

23           MR. RANKIN: Good morning,  
24 Mr. Examiner. I apologize --

25           THE HEARING EXAMINER: Good morning.

1 MR. RANKIN: -- for missing the call --  
2 the hearing. Adam Rankin appearing in these cases on  
3 behalf of Spur Energy Partners LLC.

4 THE HEARING EXAMINER: And what are you  
5 asking?

6 MR. RANKIN: At this time, Mr.  
7 Examiner, we are just entering an appearance to  
8 preserve our rights and tracking the case. So we have  
9 no skin in the game in terms of the hearing date or  
10 when it will go forward.

11 THE HEARING EXAMINER: All right.  
12 Thank you. And welcome back.

13 Okay. So Ms. Shaheen, do you -- is  
14 what Ms. Bennett told me correct?

15 MS. SHAHEEN: There are sundries that  
16 are pending. Flat Creek does have the right to drill  
17 in all of the tracks. And I think what Ms. Bennett  
18 neglects to address is the time that it takes to get a  
19 force pooling order as well. So that's another reason  
20 to go forward with the contested hearing on January  
21 4th.

22 I note that together MEC and Durango  
23 only have 15 percent interest. Neither one of them  
24 are proposing to file competing applications.

25 We filed our exhibits on Tuesday. And

1 you can actually take a look at them at the chronology  
2 of contacts, and you can see that MEC and Flat Creek  
3 have been conferring since September 12th. And they  
4 most recently had emails on November 6th.

5 So I think that Flat Creek has, in good  
6 faith, been negotiating with MEC. So I'm not sure  
7 where that's coming from.

8 But bottom line is neither Durango nor  
9 MEC are going to be developing this acreage. We have  
10 a time limit here to be off the surface by August 1st.  
11 We need to be producing by August 1st. It takes some  
12 time to get an order. And we would like to have this  
13 set for hearing on January 4th.

14 THE HEARING EXAMINER: Okay.

15 Ms. Bennett, would your witnesses be  
16 available January 4th?

17 MS. BENNETT: As far as I know, they  
18 would be.

19 THE HEARING EXAMINER: Okay. And will  
20 you be filing exhibits?

21 MS. BENNETT: I don't know if we'll be  
22 filing exhibits at this time, but if we do, I will be  
23 prepared to file them pursuant to the prehearing  
24 order.

25 THE HEARING EXAMINER: All right.



1 I'm inclined to set this sooner than  
2 later. So we will get a prehearing order out for a  
3 January 4 contested hearing.

4 Is there anything else on these cases?

5 MS. BENNETT: Mr. Examiner, one other  
6 note is that both Flat -- excuse me, Durango  
7 Production and Flat -- sorry, Durango Production and  
8 MEC have concerns about Flat Creek's experience as an  
9 operator here.

10 And so, I understand Ms. Shaheen's  
11 point about their interest. But that is not -- it's  
12 not as if this is going to be a competing application  
13 case. This is about two working interest owners  
14 that have concerns about the operator's experience.

15 THE HEARING EXAMINER: Okay. And how  
16 does that affect my setting this for a January 4  
17 contested hearing?

18 MS. BENNETT: It does not affect that.  
19 I just wanted to make sure that that was clarified for  
20 the record, given that Ms. Shaheen mentioned the  
21 amount -- the percentages of MEC and Durango's  
22 ownership in the tracks.

23 THE HEARING EXAMINER: And is that an  
24 issue to bring up during the contested hearing?

25 MS. BENNETT: Yes, it is.

1 THE HEARING EXAMINER: It is. Okay.  
2 All right. Then we'll hear more about that, I  
3 suspect. But we'll issue a prehearing order setting  
4 these three cases, 97, 98, and 99, for contested  
5 hearing January 4 on our -- docket.

6 All right. So --

7 Thank you.

8 MS. SHAHEEN: Thank you.

9 THE HEARING EXAMINER: Thank you.

10 Let's see. Looks like we have come --

11 Ms. Bennett and Ms. Shaheen, one more  
12 thing that I've seen -- was there a withdrawal of  
13 objection filed yesterday by a party in those three  
14 cases?

15 MS. SHAHEEN: That is correct. That  
16 was Spur. Spur Energy withdrew their objection.

17 THE HEARING EXAMINER: Very good. Very  
18 good. Okay. Thank you very much.

19 Now we're off of those cases, and we're  
20 going to move on to Pilot Water Solutions 24000,  
21 24001, 24002. Entries of appearance?

22 MR. FELDEWERT: I think Mr. Padilla is  
23 for Pilot.

24 THE HEARING EXAMINER: I think so, too.  
25 Mr. Padilla? If you're speaking, maybe

1 your microphone is off, sir? Or no?

2 MR. FELDEWERT: Mr. Examiner, while  
3 he's doing that -- Michael Feldewert with the Santa Fe  
4 office of Holland & Hart, appearing on behalf of  
5 Apache.

6 I'm also glad Earl DeBrine is on here  
7 because we're going to have to withdraw from this  
8 case.

9 THE HEARING EXAMINER: Okay.

10 MR. DEBRINE: And, Mr. Examiner,  
11 yesterday, we filed a Notice of Substitution of  
12 Counsel for us -- for Apache -- for Holland & Hart.  
13 So we'll be proceeding going forward.

14 THE HEARING EXAMINER: Okay. So thank  
15 you, Mr. Feldewert, for giving me that information.

16 So Mr. DeBrine, you'll be representing  
17 Apache here.

18 Mr. Padilla, do you want to enter an  
19 appearance on this case?

20 MR. PADILLA: Yes, Mr. Examiner.  
21 Ernest L. Padilla for Pilot Water Solutions LLC.

22 THE HEARING EXAMINER: And are there  
23 any other parties that you know of, Mr. Padilla?

24 MR. PADILLA: No.

25 THE HEARING EXAMINER: Okay. Very

1 good. How do you want to proceed on these three  
2 cases?

3 MR. PADILLA: Well, let me tell you  
4 what -- I got a call yesterday late after five  
5 about -- from the State Land Office. They have issues  
6 with the borehole -- well location. Apparently,  
7 there's a water well pipeline close by. And we're  
8 trying to resolve that.

9 The Jameis and the Toretta state may be  
10 a -- we may have a problem with that because they're  
11 inside a unit operated by Apache. My understanding  
12 from that discussion with the Counsel for the land  
13 office is that the land office will not approve an  
14 easement that is within the unit.

15 And the wells are on state land. So we  
16 may have to just simply dismiss this. At least the  
17 Jameis and the Toretta applications because they are  
18 within a unit. And judging from the latest decision  
19 that we got from the -- on the Empire case, we may  
20 have to look at that again.

21 So I would suggest that we would either  
22 dismiss this two applications and take a look at the  
23 borehole because the borehole is definitely far away.  
24 It's not close to the unit boundaries. But we need to  
25 look at the location.

1           So rather than take up time, I suggest  
2           that we do a status conference. And then, possibly by  
3           that time, we will have dismissed the two within the  
4           unit.

5           THE HEARING EXAMINER: All right. So  
6           let me let me be clear. First of all, we have an  
7           order number R-22869-A that was issued very recently  
8           by the Division -- by the acting division director  
9           that may have serious impact on all Pilot saltwater  
10          disposal.

11          Also it might also have a serious  
12          impact on other cases that we may be dealing with  
13          later today. Empire has ten cases to revoke  
14          Goodnight's existing saltwater disposal wells. Those  
15          are case numbers 24018, 24027. I'm not calling them  
16          now, but I'm just suggesting that this order is broad  
17          in its scope.

18          And I think that it would be prudent to  
19          dismiss at least two of these cases, Mr. Padilla,  
20          24001, 24002. You can always refile them. I don't  
21          really think that we should have another status  
22          conference on those two cases unless you can give me a  
23          very good reason to keep them around.

24          Now, when it comes to 24000, I think  
25          you're suggesting that it's far enough away from the

1 subject matter of the order to not be impacted. Is  
2 that right?

3 MR. PADILLA: That's correct,  
4 Mr. Examiner. I took a look at the well locations on  
5 the plot this morning and the borehole is definitely  
6 further north of the boundary of the unit.

7 THE HEARING EXAMINER: Okay. So first  
8 of all, to clear up the other two cases, are you going  
9 to file a motion to dismiss those two cases?

10 MR. PADILLA: I guess based on your  
11 direction, I think we will have to file a motion to  
12 dismiss.

13 THE HEARING EXAMINER: Okay. And how  
14 do you want to proceed with 24000?

15 MR. PADILLA: Well, that one, I would  
16 like to see -- I don't know enough about the location  
17 and what the issues are involved with that. But I  
18 would like to at least set it for a status conference  
19 in early January.

20 THE HEARING EXAMINER: Okay. In early  
21 January?

22 MR. PADILLA: Early January.

23 THE HEARING EXAMINER: Why don't we put  
24 it on the second docket in January?

25 We're going to set the 24000 for a

1 status conference January 18, 2024.

2 And you will file a motion to dismiss  
3 24001 and 24002. Okay.

4 Okay. That's what --

5 MR. DEBRINE: And just for the record,  
6 Mr. Examiner, Apache doesn't oppose the dismissal or  
7 the status conference on that date.

8 THE HEARING EXAMINER: No, I didn't  
9 think so. Thank you, sir.

10 Okay. So Mr. Padilla, anything further  
11 on those three cases?

12 MR. PADILLA: No, I don't have anything  
13 else.

14 THE HEARING EXAMINER: All right. Then  
15 we will see you again on that -- okay.

16 My next case is now -- it looks like we  
17 have a group of Empire cases, which I believe -- 24018  
18 through 24027 -- have an entry of appearance?

19 MR. PADILLA: Mr. Examiner, Ernest  
20 L. Padilla for Empire New Mexico, LLC.

21 THE HEARING EXAMINER: -- sir.

22 MR. RANKIN: Good morning,  
23 Mr. Examiner. May it please the Division. Adam  
24 Rankin, with the Santa Fe office of Holland & Hart,  
25 appearing on behalf of Goodnight Midstream.

1 THE HEARING EXAMINER: Very good.

2 MR. PADILLA: Mr. Examiner, Dana Handy  
3 and Sharon Shaheen are also with me on this case.

4 THE HEARING EXAMINER: Very good. I  
5 see them both. But they're all representing Empire?

6 MR. PADILLA: Yes.

7 THE HEARING EXAMINER: Okay. I saw an  
8 email from Mr. Rankin the other day, which I responded  
9 to yesterday when I returned from annual leave. And I  
10 believe it has to do with these cases regarding a  
11 motion to compel.

12 Is that correct, Mr. Rankin?

13 MR. RANKIN: It's actually a different  
14 set of cases, Mr. Examiner.

15 THE HEARING EXAMINER: Okay.

16 MR. RANKIN: And so these are new cases  
17 that were filed by Empire at the end of -- towards the  
18 end, I believe, of November. And so this is the  
19 initial status conference on those cases.

20 THE HEARING EXAMINER: Okay. All  
21 right. So let's go to Mr. Padilla since you're  
22 representing the applicant.

23 Mr. Padilla, how do you want to  
24 consider this division order that was just filed last  
25 week?



1 MR. PADILLA: Well, Mr. Examiner, at  
2 the last status conference, we discussed the question  
3 of whether these cases should be consolidated with the  
4 existing saltwater disposal application in cases 23614  
5 through 17.

6 THE HEARING EXAMINER: Mr. Padilla,  
7 hold on one second. You just said at the former  
8 status conference, but I thought this was the first  
9 status conference.

10 MR. PADILLA: No, I understand that.  
11 But I'm going back to the last time that we were at a  
12 status hearing or discussion on whether we ought to  
13 consolidate the cases that are on docket today with  
14 the existing applications that were going to go to  
15 hearing -- I think they were set for December 19th.

16 THE HEARING EXAMINER: Okay.  
17 Mr. Padilla, please, when you're talking about cases,  
18 I need numbers. Not just for me but for the record as  
19 well. So can you give me case numbers that we had a  
20 status conference on that we had this discussion?

21 MR. PADILLA: The cases were 23614, 15,  
22 16, and 17.

23 THE HEARING EXAMINER: Those four cases  
24 only?

25 MR. PADILLA: Yes.

1 THE HEARING EXAMINER: And they're not  
2 consolidated --

3 MR. PADILLA: And there was another  
4 application that Mr. Rankin can -- probably give us a  
5 case number -- to increase the injection rates in the  
6 Andre Dawson well.

7 THE HEARING EXAMINER: So Mr. Padilla,  
8 I'm just dealing with you right now. So are there any  
9 other cases that were consolidated with 14 through 17?

10 MR. PADILLA: No.

11 THE HEARING EXAMINER: Okay. What  
12 docket were these cases on that we had this discussion  
13 about possibly consolidating these new cases?

14 MR. PADILLA: Ms. Hardy spoke to that.  
15 Maybe she has a better grasp of that date.

16 THE HEARING EXAMINER: Ms. Hardy?

17 MS. HARDY: Mr. Examiner, it was during  
18 our hearing -- we had a status conference and argument  
19 on Goodnight's motion to compel, which I believe was  
20 on November 17th.

21 THE HEARING EXAMINER: Or 16th. Yes, I  
22 remember it, yes.

23 MS. HARDY: Sixteenth, yes. So at that  
24 hearing, this issue came up with regard to all of  
25 these cases, whether they should be consolidated for

1 one hearing.

2 THE HEARING EXAMINER: Thank you.

3 Now, Mr. Padilla, 23614 through 67, who  
4 is the applicant in that case?

5 MR. PADILLA: Goodnight.

6 THE HEARING EXAMINER: That's what I  
7 thought. Okay. Very good. So these are Empire's  
8 competing applications?

9 MR. PADILLA: They're not really  
10 competing applications. The ones on the docket today  
11 are applications to revoke existing Goodnight  
12 applications.

13 THE HEARING EXAMINER: Okay. Very  
14 good. Okay. So are you saying then that this order I  
15 just cited earlier does not impact these -- because I  
16 have a note here that it does have a serious impact on  
17 these Empire cases, 24018 through 27.

18 Are you suggesting that it does not?

19 MR. PADILLA: No. I'm saying that  
20 they're similar cases because the evidence is going to  
21 be pretty much the same. Now, these cases on the  
22 docket today have additional -- will require  
23 additional evidentiary presentations in terms of what  
24 kind of water has been injected into the San Andres  
25 formation.

1           So our focus is to perhaps try all of  
2 the cases -- the existing applications and today's  
3 cases at the same time just to preserve some judicial  
4 economy -- or regulatory economy.

5           THE HEARING EXAMINER: But,  
6 Mr. Padilla, in an effort to do what you just said,  
7 wouldn't it be prudent for the parties to consider  
8 this order number R22869A before we go any further  
9 with these cases?

10           MR. PADILLA: Yes, it would. I mean, I  
11 think that order has considerable impact on the  
12 existing applications and also the applications on the  
13 docket today.

14           THE HEARING EXAMINER: Okay. Okay.  
15 All right.

16           Mr. Rankin?

17           MR. RANKIN: Good morning,  
18 Mr. Examiner. May it please the Division.

19           Yeah, so just kind of sorting through  
20 your questions, Mr. Examiner, and our view of the  
21 situation, you mentioned the order that was issued in  
22 case 22626, which was on an application that was filed  
23 by Goodnight Midstream to authorize injection through  
24 its Piazza SWD well.

25           The Division did issue an order

1 recently on that case. And I do believe it has some  
2 potential impact on the pending applications here.

3           However, the information and exhibits  
4 and testimony that were presented in that case are  
5 going to be very different in what you're going to  
6 hear in these cases that are getting prepared to go to  
7 hearing now.

8           I think the theories and the positions  
9 are going to be very similar, but the evidence is  
10 going to be a lot different. It's going to be a lot  
11 more detailed; a lot more technical. There's going to  
12 be many more witnesses.

13           And I think it's appropriate for the  
14 Division to get all this evidence, all the testimony,  
15 on the table, because what the Division heard and what  
16 it based its decision on in the previous order is  
17 going to be -- is a lot different. So I agree with  
18 Mr. Padilla that we should hear all these cases  
19 together at one time.

20           And for purposes today, because only  
21 cases that were on the docket and that were noticed  
22 for hearing today are the applications that were filed  
23 by Empire to revoke. That's really all I was prepared  
24 to discuss today, understanding, of course, that there  
25 are other issues and related matters.

1           So my proposal would be, Mr. Examiner,  
2 to move these applications to revoke to the status  
3 conference on December 21st, which is the status  
4 conference at which we'll be hearing or discussing the  
5 status of Goodnights applications to inject, which is  
6 23614 and 23617.

7           Now, the other case that's out there,  
8 Mr. Examiner, that we did have a status conference on,  
9 and we had some discussion about following the status  
10 conference, but there's been no resolution or setting  
11 for that case -- and it's the one Mr. Padilla  
12 referenced. It's case number 23755.

13           And that's a case that Goodnight  
14 Midstream filed for an existing authorized injection  
15 well to increase injection rate. And it's Andre  
16 Dawson well.

17           And you'll see as you look at these  
18 applications to revoke that in certain -- of these  
19 applications, I believe that they -- in fact, all of  
20 them, I believe they refer to that case and suggest  
21 and request that their cases be consolidated with that  
22 one.

23           Given the nature of the evidence, the  
24 testimony, and the relationship of all these cases, we  
25 also agree that it would be prudent and beneficial

1 administratively and for efficiency for the Division  
2 to hear all these at once.

3 So there's still some things we need to  
4 sort out, Mr. Examiner. As you referred to, we did  
5 have a motion to compel.

6 We have had some ongoing discovery  
7 discussions with Empire over materials that we've  
8 requested under subpoena. They did produce to us some  
9 additional documents on Monday. We are still  
10 reviewing them. There's a, you know, relatively  
11 decent number of documents there.

12 So I'm not prepared to address those at  
13 the time right now. We have requested -- and you did  
14 grant us an extension to brief any additional legal  
15 issues around, you know, the basis for our discovery  
16 requests until Monday.

17 I'm hopeful that, you know, between  
18 today and tomorrow, I'll be able to confer further  
19 with Empire and let them know our position on that.  
20 And so we'll know whether we need to further brief  
21 anything, hopefully by the weekend.

22 So with that, Mr. Examiner, I would  
23 suggest that these cases be reset for a status  
24 conference on December 21st. That way, we can address  
25 them together. And in that, I would ask that case

1 23755 also be set for a status conference on December  
2 21st.

3 At that hearing, if needed, we can  
4 address any further discovery issues that may be  
5 pending. Hopefully those can have -- will have been  
6 resolved by that time. And then we can discuss an  
7 appropriate time for a hearing on these contested  
8 matters.

9 It may seem overwhelming, Mr. Examiner,  
10 because there are a number of cases at issue. But I  
11 think they're easily grouped into categories where  
12 there may be some slight differences in terms of what  
13 would be considered in each one.

14 But in general, they're all going to  
15 be, you know, all very similar; all essentially  
16 identical testimony for each of these cases.

17 So now, the reason I suggest this,  
18 Mr. Examiner, is that, as you mentioned, there is a  
19 case that was decided by the Division. That case, it  
20 was -- that order was issued just at the end of  
21 November.

22 We will be filing a DeNovo appeal for  
23 that case. And we'll be asking for that in order to,  
24 you know, most efficiently manage all this, that the  
25 DeNovo appeal be stayed pending resolution of these



1 other cases by the Division.

2 This will give the Division -- the  
3 opportunity to make an initial determination on these  
4 cases, which, as I mentioned, will have far more  
5 evidence and testimony and more detail than the  
6 previous case did.

7 That way, you know, as and when, you  
8 know, whoever prevails on these cases -- certainly  
9 they'll be appealed to the Commission unless the  
10 parties are able to reach an agreement. That way, all  
11 these cases can be heard by the Commission at one  
12 time.

13 THE HEARING EXAMINER: Okay. I'm going  
14 to think about this for a few minutes. Let's take a  
15 break until 10 a.m. And we will come back on the  
16 record.

17 And Mr. Rankin, please be prepared to  
18 explain to me how this order that I cited, R22869,  
19 potentially impacts the cases on today's docket 24018  
20 through 27. And the cases that we heard on November  
21 16 -- or we discussed on November 16, 23614 through  
22 17.

23 All right. We are off the record.  
24 Thank you.

25 (Off the record.)

1 THE HEARING EXAMINER: It is 10 a.m.  
2 We're back on the record.

3 Mr. Rankin, before you answer the  
4 question that I'm going to pose to you, do you know  
5 when 23614 through 17 is next on our docket?

6 MR. RANKIN: Mr. Examiner, I do believe  
7 that we have set that for a status conference on  
8 December 21st.

9 THE HEARING EXAMINER: All right. Let  
10 me make a note of that. So we have a December -- and  
11 that's why you're asking -- or you're suggesting that  
12 24018 through 27 be consolidated with those cases and  
13 also heard on the 21st?

14 MR. RANKIN: Heard as a status  
15 conference, yes, Mr. Examiner. Yeah.

16 THE HEARING EXAMINER: And then, you  
17 mentioned a different case, 23755. Is that on today's  
18 docket?

19 MR. RANKIN: That is not, Mr. Examiner.  
20 It was last on the October 5th docket. We  
21 discussed --

22 THE HEARING EXAMINER: And is it set  
23 for anything coming up?

24 MR. RANKIN: It is not, Mr. Examiner.  
25 You had requested for the Counsel to give dates for

1 when they would be available. We had done so, but it  
2 just hadn't come back in the form of a prehearing  
3 order.

4 We had been urging that that case be  
5 consolidated with these other cases as well. And I  
6 think, given the turn of events, it makes even more  
7 sense now than ever that that case be included in this  
8 group of cases.

9 THE HEARING EXAMINER: Okay.

10 And Mr. Padilla, we're going to come  
11 back to you -- unless Ms. Hardy is going to be  
12 speaking on behalf of Empire? And I'd like to get  
13 your take as well, Mr. Padilla.

14 But, Mr. Rankin, I assume that you've  
15 read this order that I'm discussing?

16 MR. RANKIN: I have.

17 THE HEARING EXAMINER: Okay. And in  
18 very plain language, what does the order -- what is  
19 the effect of the order?

20 MR. RANKIN: Well, the effect of the  
21 order is it's limited to the one case, which is the  
22 application that Goodnight filed for authority to  
23 inject in its Piazza SWD.

24 The Division determined in the course  
25 of that assessment that the -- Empire had put on

1 enough evidence to suggest that there was a basis for  
2 continued assessment of the San Andres zone for  
3 potential hydrocarbon development and that --  
4 therefore, they denied the application.

5 THE HEARING EXAMINER: Okay. I see.  
6 Okay. All right. That makes a lot of sense to me.  
7 Give me a minute. Let me finish my note here.

8 Okay. Now, we go to cases 23614  
9 through 17.

10 These are your cases, are they not?

11 MR. RANKIN: That is correct,  
12 Mr. Examiner. Goodnight Midstream's application for  
13 four additional saltwater disposal wells.

14 THE HEARING EXAMINER: I see. Okay.  
15 In a different area or the same area?

16 MR. RANKIN: Similar areas,  
17 Mr. Examiner.

18 THE HEARING EXAMINER: Okay. And so  
19 this order -- that you are going to be filing appeal.  
20 I understand that. This order could negatively impact  
21 those applications?

22 MR. RANKIN: I believe that,  
23 Mr. Examiner, the Division needs to evaluate the  
24 evidence that will be put forward on these other  
25 cases.

1           As you understand, based on our  
2           discovery -- and both parties have now filed their  
3           testimony and exhibits for these four cases on their  
4           initial testimony -- their direct testimony.

5           If you compare what was presented in  
6           the case that you're referring to, the Piazza case, in  
7           which the application was denied, against what the  
8           parties that filed in these cases, the 23614 through  
9           23617, you'll see that the evidence and testimony is a  
10          lot different.

11          Empire has seven witnesses against one  
12          that they had initially. The testimony and the  
13          evidence that they presented is very different. And  
14          so, given -- for that reason -- we've been undertaking  
15          some discovery -- based on our, you know, our subpoena  
16          that was filed in advance of the case. We are  
17          preparing rebuttal.

18          And so what will be presented to the  
19          Division and these cases is going to be very different  
20          than what was presented to the Division previously.

21                 THE HEARING EXAMINER: I understand. I  
22                 get it. And then this other case, 23755, this is also  
23                 your case?

24                 MR. RANKIN: That is, Mr. Examiner.  
25                 That was a case that was administratively filed for

1 administrative approval initially for a rate increase.  
2 It was objected to by Empire.

3 We then, after requesting repeatedly  
4 that it be set for a hearing by the Division, we filed  
5 an application to set it for hearing. And then Empire  
6 also objected to that case going forward by affidavit.  
7 So we went to a status conference at which we  
8 requested that it be consolidated with these cases.

9 THE HEARING EXAMINER: Okay. I  
10 understand that. That gives me a much better footing.

11 Mr. Padilla, I'm assuming that you've  
12 also read this order? Mr. Padilla, would you unmute  
13 yourself if you are muted?

14 MR. PADILLA: Okay. I'm sorry. Yes,  
15 I've read the order. We all have. We think it's a --  
16 order that defines property interests, the disposal  
17 that Goodnight has been conducting and wants to  
18 conduct further disposal on the four applications.

19 And the application -- freeze disposal  
20 rates disposes it to potential oil-bearing formation.  
21 The San Andres is included in the vertical limits of  
22 the Eunice Monument South Unit, which is owned by  
23 Empire.

24 Further disposal into that zone is  
25 going to damage the -- and pressure up the San Andres.

1 And so it damages that. I think the order that was  
2 issued by the Division recognizes that. That it's  
3 certainly an invasion.

4 Goodnight has never gone back and  
5 changed the original parameters -- vertical limits of  
6 the original order that was issued in 1984, unitizing  
7 and establishing the vertical limits of the unit that  
8 is owned by Goodnight -- I mean, Empire.

9 So we view it as simply an invasion and  
10 a trespass and should not be allowed. The Division  
11 was absolutely correct in its ruling that you can't  
12 have an invasion into -- essentially, what Goodnight  
13 is looking at the San Andres here is a community dump.

14 I've called it that, a community dump,  
15 where you don't really have much of a stand in terms  
16 of surface ownership or otherwise on the -- space to  
17 which they want to dispose -- water that's  
18 incompatible -- water that is coming from somewhere  
19 else to the detriment of Empire.

20 It should not be allowed, but that --  
21 we don't have any problem with consolidating all this  
22 cases. But I do think that we have established a  
23 precedent here that is controlling and is correct.

24 I don't care what kind of new evidence  
25 Goodnight wants to put into the hearings. It doesn't

1 change any of the parameters that existed there in  
2 terms of water -- in terms of authority to inject --  
3 other than regulatory -- somehow they --

4 I don't know what else you can invent  
5 in terms of evidence that -- you can have a whole  
6 bunch of experts, but it doesn't change the land  
7 parameters and the existing salt water disposal or  
8 the -- the pool limits are identical to the limits of  
9 the -- vertical limits of the unit. So it's a total  
10 invasion, is the way we look at it.

11 THE HEARING EXAMINER: Okay.

12 Are there any other parties or  
13 attorneys --

14 MR. RANKIN: Mr. Examiner, there are  
15 none that have entered at this time. I would note  
16 that, you know, in addition to Goodnight Midstream  
17 injecting into the San Andres within the Eunice  
18 Monument South Unit, Empire itself is injecting into  
19 the San Andres for disposal purposes within the San  
20 Andres, within the Eunice Monument South Unit.

21 And there are several other operators  
22 who also are injecting either within the Eunice  
23 Monument South Unit or right at the boundaries of the  
24 unit.

25 And so there are other operators who



1 are implicated and involved -- potentially involved or  
2 whose rights and authority to inject are being  
3 implicated by the arguments and the actions that the  
4 Empire is taking, including Empire itself.

5 So no, no other parties have yet  
6 involved themselves in any of these cases. However, I  
7 think it's important for the Division to understand  
8 that at issue here is a broader set of rights and --  
9 injection that don't just affect Goodnight but that  
10 affect several other commercial saltwater disposal  
11 operators.

12 As well as the broader, you know,  
13 production -- you know, production broadly in the area  
14 because these wells that are disposing of -- water  
15 serve a broad area of operators elsewhere who are  
16 producing from the Bone Spring Wolfcamp.

17 So yeah, no, I think it's -- there's  
18 substantial, weighty policy issues here besides -- and  
19 Mr. Padillo was referring to, in property interest --  
20 which, of course, the Division has no, you know, role  
21 in determining or adjudicating.

22 It's simply a question of whether or  
23 not the San Andres is a hydrocarbon-bearing zone. And  
24 so there's some questions around that and whether or  
25 not it was properly unitized in the first place.

1                   So that also -- that question, Mr.  
2 Examiner, whether the Division had authority to  
3 unitize the San Andres is going to be implicated in  
4 these discussions as well going forward.

5                   THE HEARING EXAMINER: Okay. I  
6 understand. When do you anticipate filing the appeal?

7                   MR. RANKIN: Well, we have a statutory  
8 limitation on that. And I plan to do it right away so  
9 we don't have any problems with timing. So we'll get  
10 that done, you know, tomorrow or early next week.

11                   THE HEARING EXAMINER: Okay. All  
12 right. So then what I think is best to do with all of  
13 these cases -- and when I say all of the cases, I'm  
14 going to be very specific. It's the cases 24018  
15 through 24027, 23614 through 23617, and 23755.

16                   It is my belief and decision that we  
17 should hear all of these cases together as a status  
18 conference on December 21st.

19                   So I believe that the parties -- it's  
20 up to the parties to file continuances through the  
21 portal for those cases that are not already on the  
22 December 21st docket to get them all there together.

23                   And I will consider them on that date  
24 as consolidated cases. And we will, at that time,  
25 decide when to hear these as contested cases.

1 Is that what the parties would like?

2 MR. RANKIN: Mr. Examiner, I believe  
3 that is the most prudent course at this point. That  
4 will allow us to get everything before the Division at  
5 one time.

6 THE HEARING EXAMINER: Okay.

7 Mr. Padilla?

8 MR. PADILLA: I have no problem with  
9 that.

10 THE HEARING EXAMINER: Okay.

11 Wonderful.

12 Then, if there's nothing else with  
13 these cases, we're going to move on to -- and I don't  
14 know if these have already been dealt with or not,  
15 24032 through 24035, COG Operating.

16 MR. FELDEWERT: Good morning,  
17 Mr. Examiner. Michael Feldewert, from the Santa Fe  
18 office for the applicant.

19 And I will preview this because I see  
20 Deana's on the line. This is one of the cases we are  
21 going to discuss over lunch.

22 THE HEARING EXAMINER: Okay. So we're  
23 going to recess on these cases?

24 MR. FELDEWERT: Yes.

25 THE HEARING EXAMINER: Okay. Very

1 good.

2 Ms. Bennett?

3 MS. BENNETT: Yes. Deana Bennett, on  
4 behalf of Franklin Mountain Energy; and agree that  
5 these cases will be -- over lunch.

6 THE HEARING EXAMINER: Very good. All  
7 right.

8 Then we will move on to EGL Resources,  
9 24043 and 44.

10 Mr. Bruce?

11 MR. FELDEWERT: Mr. Examiner, Michael  
12 Feldewert, appearing for COG Operating. I had a  
13 chance to go through and do some marking, so I can  
14 help you through the docket here.

15 This case was addressed this morning.  
16 These two cases.

17 THE HEARING EXAMINER: Okay. Very  
18 good. 24043 and 44 were already dealt with, along  
19 with which other case, Mr. Feldewert?

20 MR. FELDEWERT: It would have been --  
21 hold on a second. It would have been with Franklin  
22 Mountains -- 23966 through 23969.

23 THE HEARING EXAMINER: Okay. Let me  
24 see my notes here.

25 MS. BENNETT: To clarify,

1 Mr. Examiner --

2 MR. BRUCE: -- I agree --

3 MS. BENNETT: I'm sorry, Mister --

4 MR. BRUCE: -- with Mr. Feldewert.

5 THE HEARING EXAMINER: Yes, sir. I  
6 hear you.

7 And I do see in my notes that we  
8 consolidated 43 and 44 with 66 and 67. Yes, I do see  
9 that.

10 Ms. Bennett, did you want to say  
11 something else?

12 MS. BENNETT: No. That was going to be  
13 my clarifying point. Thank you.

14 THE HEARING EXAMINER: Oh, yes.  
15 Thank you for keeping track of this,  
16 Mr. Feldewert.

17 Now we're here with a bunch more  
18 Franklin Energy Mountain cases, 23833 through 23840.  
19 Have we dealt with those already?

20 MS. BENNETT: No, we have not,  
21 Mr. Examiner.

22 THE HEARING EXAMINER: Excellent.  
23 So we're here for a status conference.  
24 Parties, entry of appearance, please?

25 MR. FELDEWERT: Mr. Examiner, Michael

1 Feldewert, with the Santa Fe office of Holland & Hart,  
2 on behalf of Matador Production Company.

3 I would also note that these cases are  
4 related to the Mongoose cases later -- following on  
5 your docket, which is cases 23885 through 23964.

6 THE HEARING EXAMINER: I find that  
7 amazing. Are you sure about those numbers?

8 MR. FELDEWERT: Oh, well, let me  
9 double-check here. I'm sorry. Thank you. 23885  
10 through 23888 and then 23961 through 23964. Thank  
11 you.

12 THE HEARING EXAMINER: Yes, of course.  
13 All right. So let me regroup here.

14 Who do we have representing Franklin  
15 Energy?

16 MS. BENNETT: Mr. Examiner, Deana  
17 Bennett, on behalf of Franklin Mountain Energy.

18 THE HEARING EXAMINER: Okay.  
19 Wonderful. And do you agree with that grouping of  
20 cases, Ms. Bennett?

21 MS. BENNETT: I do.

22 THE HEARING EXAMINER: Okay.

23 So let me then call all the proper  
24 cases. I'm calling 23833 through 23840, 23885 through  
25 23888, 23961 through 23964.

1 Ms. Bennett, before I hear from other  
2 entries of appearances because there has to be other  
3 people involved in all these cases, are all of these  
4 set for a status conference?

5 MS. BENNETT: So there was a prehearing  
6 order issued. Actually, let me take a look. Yeah.  
7 These cases were all actually set for a contested  
8 hearing today.

9 And then we -- in discussions with  
10 Mr. Feldewert, we realized that each of us had some  
11 issues with certain of our applications, but not all  
12 of them. And so, we filed a motion to amend the  
13 prehearing order to reset these cases for a January  
14 4th hearing or the earliest available docket date.

15 And the reason for that was to allow us  
16 time to file amended applications, which I did. And  
17 so, that is where we stand.

18 Oh, and, Mr. Examiner, I believe --  
19 well, I know that Ms. Apodaca sent us an email saying  
20 that you were proposing to set these cases for a  
21 contested hearing -- I'm sorry, a special docket  
22 date --

23 THE HEARING EXAMINER: Yes.

24 MS. BENNETT: -- given the complexity  
25 of the cases.

1 THE HEARING EXAMINER: Yes.

2 MS. BENNETT: And so that is still  
3 Franklin Mountain Energy's preference that these cases  
4 be set for a contested hearing and on a special  
5 docket. And it's Franklin Mountain Energy's  
6 preference -- strong preference that these cases be  
7 set for a contested hearing in January, if that's  
8 possible.

9 THE HEARING EXAMINER: Okay. And  
10 before I go to back to Mr. Feldewert or any other  
11 party who hasn't announced their appearance yet in all  
12 of these cases, are any of these cases currently set  
13 for contested hearing? No?

14 MS. BENNETT: Mr. Examiner, they were  
15 all set for a contested hearing for today. But as of  
16 today, they're not set for a contested hearing.

17 THE HEARING EXAMINER: Right. But we  
18 converted them to a status conference based on the  
19 motion.

20 MS. BENNETT: Yes.

21 THE HEARING EXAMINER: And we haven't  
22 issued a prehearing -- an amended prehearing order  
23 until after we discuss a date for the contested  
24 hearing.

25 MS. BENNETT: That's correct.



1 THE HEARING EXAMINER: Okay. Great.  
2 But I'm still trying to understand something. Had we  
3 consolidated -- or had I consolidated all of these  
4 cases together already?

5 MS. BENNETT: Yes. Yes. I'm looking  
6 at the prehearing order and the joint motion. And I  
7 haven't done a one-to-one -- I'm being perfectly  
8 honest with you right now. I haven't done a  
9 one-to-one, but it was my impression that all of the  
10 cases -- or it was my understanding anyway that all of  
11 these cases would be subject to that prehearing order  
12 that we moved to amend.

13 And, Mr. Examiner, there is at least  
14 one or two other parties in the case. I know you'll  
15 be turning to them in a moment, but --

16 THE HEARING EXAMINER: And,  
17 Ms. Bennett, if I'm not mistaken, I also, in my notes,  
18 thought that two other cases were consolidated with  
19 these cases. But I've been advised that they are not  
20 related. Was it 23711 and 12?

21 MS. BENNETT: Those were the cases that  
22 you had indicated that you thought were consolidated  
23 with these. And I'm not in those cases, but I looked  
24 through the case files, and I didn't see that those  
25 cases were part of these cases.

1 THE HEARING EXAMINER: Okay. Very  
2 good.

3 MS. BENNETT: And, Mr. Feldewert, I  
4 believe is -- represents someone in those cases and  
5 can confirm that.

6 THE HEARING EXAMINER: Okay.  
7 Before we go back to Mr. Feldewert,  
8 were there any other parties in any of these cases?

9 MS. HARDY: Yes, Mr. Examiner. Dana  
10 Hardy with the Santa Fe office of Hinkle Shanor, on  
11 behalf of Armstrong Energy Corporation and Slash  
12 Exploration in all of these cases.

13 THE HEARING EXAMINER: Okay. And while  
14 you're on the camera, are you in agreement that  
15 they -- that all of these cases are consolidated and  
16 that we are going to set a contested hearing date  
17 today?

18 MS. HARDY: Yes, that's my  
19 understanding.

20 THE HEARING EXAMINER: Okay. All  
21 right. Wonderful.

22 And who else do we have?

23 MS. RYAN: Yes, Mr. Examiner. This is  
24 Beth Ryan, appearing on behalf of COG Operating. And  
25 I agree to the consolidation of these cases and that

1 we're looking to set a contested hearing docket.

2 THE HEARING EXAMINER: Okay. Ms. Ryan,  
3 let's start with you. Well, are you presenting  
4 evidence at the hearing?

5 MS. RYAN: Yes, sir. We plan to. And  
6 so we would like -- we would prefer a contested  
7 hearing docket set in February.

8 THE HEARING EXAMINER: Okay. Do you  
9 have any -- do you have a date range in February?

10 MS. RYAN: I think we could agree to  
11 the first or second docket or, you know, a special  
12 docket.

13 THE HEARING EXAMINER: Yes. I'm asking  
14 you -- we are going to set this for a special hearing.  
15 So what dates are you recommending?

16 MS. RYAN: I recommend February 8th or  
17 22nd.

18 THE HEARING EXAMINER: I'm more  
19 inclined for the 8th. So I'm just going to write down  
20 February 8 is your first choice here.

21 Ms. Hardy, would you be available for a  
22 February 8 contested hearing?

23 MS. HARDY: Yes, Mr. Examiner. That's  
24 fine with Armstrong --

25 THE HEARING EXAMINER: Okay.

1 Mr. Feldewert?

2 MR. FELDEWERT: Yes. I think February  
3 8th makes sense for a lot of reasons.

4 THE HEARING EXAMINER: Okay. Great.  
5 Excellent.

6 Ms. Bennett?

7 MS. BENNETT: Thank you, Mr. Examiner.  
8 Again, Franklin Mountain Energy's preference is a  
9 January special docket date.

10 I did confirm with Franklin Mountain  
11 Energy about January special docket dates and had  
12 heard back from Franklin Mountain Energy that we could  
13 make just about any date in the January work.

14 I did just text them about a February  
15 8th docket date and haven't had a chance to confer  
16 with them yet.

17 I understand that you're probably tired  
18 of hearing this from me, but I do think that these  
19 cases are ripe. We have gone through -- Franklin  
20 Mountain Energy has diligently moved forward with  
21 these cases.

22 We were set for a contested hearing  
23 today. We did discover these deficiencies in certain  
24 of our applications, which have been corrected, to my  
25 understanding anyway -- our applications have been

1 filed to correct those deficiencies. And they are set  
2 for January 4th.

3 So again, it's Franklin Mountain  
4 Energy's strong preference to have a hearing in  
5 January and not wait until February. But of course,  
6 if the Division prefers a February docket date, then  
7 we will make ourselves available for that.

8 THE HEARING EXAMINER: Thank you.

9 Okay. So which cases are currently set  
10 for a January 4 contested hearing?

11 MS. BENNETT: No cases are currently  
12 set for a January 4th contested hearing.

13 THE HEARING EXAMINER: I didn't think  
14 so. Okay. I thought you just said -- then, I must  
15 have misunderstood.

16 MS. BENNETT: No, Mr. Examiner. I may  
17 have been not as precise in my language as I should  
18 have been. We filed -- we, Franklin Mountain Energy,  
19 filed amended applications that relate to certain of  
20 our applications that are pending before the Division  
21 on the prehearing order.

22 So we filed those applications. And  
23 those cases are set for January 4th. They are not set  
24 for a contested hearing on January 4th, but they are  
25 set for January 4th.

1 THE HEARING EXAMINER: Okay. I  
2 understand. Thank you.

3 Okay. We are going to issue an amended  
4 prehearing order, setting all of these cases for a  
5 February 8 special contested hearing, which may run  
6 into February 9, depending on the parties. So I need  
7 to make some notes here.

8 And I think in the email that Sheila  
9 sent around, she also mentioned to the parties that  
10 it's their responsibility to file continuances now  
11 that we have discussed the February 8 special hearing  
12 through the fee portal. So I'm just going to make  
13 some notes now.

14 Okay. We are going to continue now.  
15 We're back to Matador.

16 MS. BENNETT: Mr. Examiner, may I ask a  
17 follow-up question?

18 THE HEARING EXAMINER: Please.

19 MS. BENNETT: This is a logistical  
20 question about the Porter [ph] Hall, now known as  
21 Pecos Hall. Will the Pecos Hall be available for  
22 in-person hearings --

23 THE HEARING EXAMINER: Yes.

24 MS. BENNETT: -- by February 8th?

25 Okay.

1 THE HEARING EXAMINER: Yes. Thank you  
2 for bringing that up. Glad you brought it up.

3 We were originally going to have our  
4 December 21st docket in person. That was jettisoned  
5 by IT department. Although, I think they are going to  
6 hold the December 14 commission hearing in person,  
7 even though IT will not be completed with their  
8 upgrade.

9 However, starting in January, on  
10 January 4, for the foreseeable future onward, we will  
11 be in a hybrid situation, which means your witnesses  
12 can appear in person, they can appear virtually. It's  
13 really up to you.

14 MS. BENNETT: Thank you for that  
15 clarification. I wanted to make sure that our notice  
16 letters accurately reflect the status of the room and  
17 of the hearing. So thank you very much for that  
18 clarification.

19 THE HEARING EXAMINER: Thank you for  
20 bringing up that issue.

21 Okay. Let us go on to 24009. This is  
22 the Jim Pierce NOV hearing. Who do we have from the  
23 Division?

24 MR. MOANDER: Hey there, Mr. Hearing  
25 Officer. Chris Moander on behalf of OCD.

1 THE HEARING EXAMINER: Morning, sir.  
2 Do we have your witnesses available?

3 MR. MOANDER: We do. But before we get  
4 started, I had a few things I wanted to address with  
5 you if I might, Mr. Hearing Officer?

6 THE HEARING EXAMINER: Let me finish  
7 calling the parties, sir.

8 Do we have anyone representing Jim  
9 Pierce here today? Not hearing any.

10 Let's turn to you for preliminary  
11 matters, Mr. Moander.

12 MR. MOANDER: Mr. Hearing Officer,  
13 because I do not have any opposition present, nor has  
14 any attorney or any person entered an appearance, I'd  
15 like to move the Hearing Officer to make this decision  
16 by affidavit with that affidavit having been submitted  
17 to OCD.

18 I think it'll -- it's a fairly short  
19 and simple case. And from my perspective, the  
20 affidavit covers everything that I think the Hearing  
21 Officer would need to make a decision.

22 So if you're comfortable with that,  
23 that would be my request.

24 THE HEARING EXAMINER: Okay. I'm  
25 comfortable with that, Mr. Moander, as long as your



1 witness is under oath, adopts the affidavit here  
2 before me, and is available for any cross-examination  
3 questions that might occur.

4 MR. MOANDER: I can absolutely call my  
5 witness, and I can present that affidavit if you would  
6 like, Mr. Hearing Officer.

7 THE HEARING EXAMINER: I think it's  
8 also important to get him qualified as an expert.

9 MR. MOANDER: Okay.

10 THE HEARING EXAMINER: Okay. So let's  
11 begin -- let's first get your witness sworn in.

12 Do we have the court reporter available  
13 to swear in the witness? Otherwise, I can do it.

14 THE REPORTER: I can do --  
15 Is the witness --

16 MR. KARNS: I'm here --

17 MR. MOANDER: I'm sorry --

18 MR. KARNS: -- Nicholas Karns.

19 THE REPORTER: Please raise your right  
20 hand.

21 WHEREUPON,

22 NICHOLAS KARNS,  
23 called as a witness and having been first duly sworn  
24 to tell the truth, the whole truth, and nothing but  
25 the truth, was examined and testified as follows:

1 THE HEARING EXAMINER: Mr. Moander?

2 MR. MOANDER: Thank you, Mr. Hearing  
3 Officer. Mr. Hearing Officer, may I share this  
4 affidavit on my screen? Is that acceptable? This is  
5 my first --

6 THE HEARING EXAMINER: Yes, by all  
7 means, go right ahead.

8 MR. MOANDER: All right. I'm going to  
9 do so.

10 THE HEARING EXAMINER: And has it been  
11 entered into the case?

12 MR. MOANDER: Yes, it has. It was  
13 submitted as part of the exhibit package.

14 THE HEARING EXAMINER: And let me pull  
15 up the imaging system. Give me one minute.

16 MR. MOANDER: Yes, sir. And for  
17 reference, it should be Exhibit 8.

18 THE HEARING EXAMINER: 8?

19 MR. MOANDER: Yes, sir.

20 THE HEARING EXAMINER: Hold on. It  
21 takes me a second to get there. And the date that you  
22 filed this exhibit, sir?

23 MR. MOANDER: This would have been  
24 Tuesday, December 5th.

25 THE HEARING EXAMINER: I see many

1 filings that are dated on the 6th. Many, many.

2 MR. MOANDER: Yes. I can provide proof  
3 that these were submitted as required by Ms. Apodaca  
4 on the 5th. I don't know if she kept the -- I didn't  
5 look at the file -- online file recently.

6 THE HEARING EXAMINER: I see. I see.  
7 Mr. Moander, hold on a second. I see that each  
8 document has an exhibit number in the title of the  
9 document.

10 MR. MOANDER: Excellent.

11 THE HEARING EXAMINER: I see Exhibit 1.  
12 Let's just start with Exhibit 1, if you would.

13 (Exhibit 1 was marked for  
14 identification.)

15 And this deals with Mr. Karn's --

16 MR. MOANDER: Resume.

17 THE HEARING EXAMINER: -- ability to  
18 testify as an expert. Shall we deal with this first?

19 MR. MOANDER: So Mr. Hearing Officer,  
20 in this instance, now that I think about it, we have  
21 not proffered Mr. Karn's as a formal traditional  
22 expert.

23 This is a case where -- the basic facts  
24 are that when OCD ran its monthly global report for  
25 bonding, OCD discovered that the subject well had an

1 issue with some financial assurance as well as had  
2 been inactive beyond the permitted timeframe for a  
3 well to be active -- or be inactive. In fact, it was  
4 substantially beyond that.

5 And so all of this was based off  
6 reporting documents so -- that reflect the data status  
7 as of the date of the NOV.

8 And so this is not a traditional case  
9 where I would -- well, I shouldn't say traditional. A  
10 case where, say, for example, I would need an  
11 engineering expert to go into detail on a certain  
12 engineering concept or anything quite like that.  
13 Rather, this was a records review.

14 So I don't know that I would be  
15 comfortable, nor would I request that Mr. Karns be  
16 designated an expert because that wasn't my intention.

17 THE HEARING EXAMINER: Okay.  
18 Interesting. All right. So it's your position that  
19 he can testify and that his affidavit would be  
20 accepted as a lay witness?

21 MR. MOANDER: Yes, because that would  
22 fit. He would be both a record custodian, and he also  
23 has job duties that center on these reporting  
24 structures. So -- or these reporting documents, and  
25 that's one of his main job duties.

1                   And he advises then OCD legal as well  
2 as engineering that there are inactive wells and/or  
3 financial assurance issues.

4                   THE HEARING EXAMINER: Okay. So  
5 Mr. Moander, since you're not a witness in this case,  
6 would that be considered an opening statement what you  
7 just made?

8                   MR. MOANDER: Yes. I will adopt that  
9 as an opening statement, Mr. Hearing Officer.

10                  THE HEARING EXAMINER: Sounds good.  
11 It's my preference to deal with these exhibits in the  
12 order that they are. So let's deal with Exhibit 1.

13                  MR. MOANDER: Okay.

14                  THE HEARING EXAMINER: Are you asking  
15 for its admission into evidence?

16                  MR. MOANDER: Yes, I am. That would be  
17 the resume of Mr. Karns.

18                  THE HEARING EXAMINER: Okay.

19                  Mr. Karns, did you prepare this  
20 document, Exhibit 1, yourself?

21                  THE WITNESS: I did, yes.

22                  THE HEARING EXAMINER: You did. Okay.  
23 And is it true and accurate to the best of your  
24 knowledge?

25                  THE WITNESS: I believe so, yes.

1 THE HEARING EXAMINER: Are there any --  
2 you believe so? Is it accurate, or is it not?

3 THE WITNESS: No, it's accurate.

4 THE HEARING EXAMINER: Okay. Are there  
5 any changes that need to be made to this document?

6 THE WITNESS: Not that I'm aware of,  
7 no.

8 THE HEARING EXAMINER: Okay.

9 Then, Mr. Moander, are you asking me to  
10 admit this into evidence?

11 MR. MOANDER: I am, Mr. Hearing  
12 Officer.

13 THE HEARING EXAMINER: Okay.

14 So Exhibit 1 is admitted into evidence.  
15 (Exhibit 1 was received into evidence.)

16 Okay. Now, let's go back to your next  
17 exhibit. I see --

18 MR. MOANDER: And that -- sorry -

19 THE HEARING EXAMINER: Pardon?

20 MR. MOANDER: Sorry, Mr. Hearing  
21 Officer, I did not mean to interrupt.

22 THE HEARING EXAMINER: No, not at all.  
23 Now, this one does not have a -- this next document I  
24 have -- and they're not actually all labeled. This  
25 does not have an exhibit number on it, nor does it --

1 is the exhibit number in its title. It's called an  
2 Inactive Well List.

3 MR. MOANDER: It should be labeled  
4 Exhibit 2; date September 7, 2023, Permitting Report.

5 THE HEARING EXAMINER: Okay. Will you  
6 take a look at it and tell me if I'm missing --

7 MR. MOANDER: Yes, sir.

8 THE HEARING EXAMINER: Thank you.

9 MR. MOANDER: Just one moment, please.  
10 All right. Mr. Hearing Officer, it appears that is  
11 correct. That would be Exhibit 2, the September 7,  
12 2023, Permitting Report.

13 (Exhibit 2 was marked for  
14 identification.)

15 THE HEARING EXAMINER: Okay. Are you  
16 asking for this to be admitted?

17 MR. MOANDER: I am, Mr. Hearing  
18 Officer.

19 THE HEARING EXAMINER: Okay. On what  
20 ground?

21 MR. MOANDER: On the ground that this  
22 is, one, it's relevant evidence; two, as a  
23 relationship to that it is the evidence that  
24 establishes the wells that were inactive as of the  
25 date that the NOV was issued.

1                   And therefore, this establishes the  
2 lack of reporting by the respondent. If there was any  
3 production at all, which creates a whole other issue,  
4 that proper reporting and proper filings were done or  
5 were not done with the OCD.

6                   THE HEARING EXAMINER: All right.  
7 Well, since this seems to be the crux of your case,  
8 why don't you ask your witness some questions to  
9 establish a foundation and its authenticity before I  
10 admit it into evidence.

11                   MR. MOANDER: Thank you, Mr. Hearing  
12 Officer.

13                   DIRECT EXAMINATION

14 BY MR. MOANDER:

15                   Q     Mr. Karns, I'm going to put up what's been  
16 marked as OCD Exhibit 2. And I will zoom in a bit on  
17 this for your use. Are you able to see this document?

18                   A     Yes.

19                   Q     Do you recognize this document?

20                   A     I do.

21                   Q     And can you tell me what it is?

22                   A     It's a generated report of inactive wells  
23 that our OCD permitting system generates. And in this  
24 case it's specific to operator, Jim Pierce.

25                   Q     And did you run this report in -- well, did



1 you run a report similar to this in August of 2023?

2 A Yes.

3 Q And does this document reflect the same  
4 information of the report that you generated in August  
5 of 2023?

6 A Yes, it does.

7 Q And was this a basis for you to report to  
8 either legal or engineering that a respondent had a  
9 body of wells that were inactive?

10 A Yes, yes, it is.

11 Q And is it your understanding that this  
12 document and the information contained therein  
13 underpins the NOV in this case against respondent?

14 A Yes.

15 MR. MOANDER: Mr. Hearing Officer, I  
16 would move for admission of Exhibit 2.

17 THE HEARING EXAMINER: Mr. Karns, did  
18 you produce this inactive well list?

19 THE WITNESS: Multiple times, yes, sir.

20 THE HEARING EXAMINER: I'm talking  
21 about this exhibit that is represented as Exhibit 2,  
22 dated September 7, 2023. Did you produce this  
23 document?

24 THE WITNESS: I believe so. I -- I  
25 provided this document to legal around that time. I

1 don't know if this is the exact printout, though.

2 THE HEARING EXAMINER: Mr. Moander, do  
3 you want to establish how this document came into  
4 being?

5 MR. MOANDER: I can do that. I tell  
6 you what, Mr. Hearing Officer, I'm going to go ahead  
7 and request that if we're going to go through this  
8 type of detail on these exhibits, then I think there's  
9 probably no purpose in proceeding by affidavit.

10 And I would probably rather just go  
11 through the exhibits in a full examination because I  
12 feel like that's what we're doing anyway. So if  
13 that's acceptable?

14 THE HEARING EXAMINER: Definitely. Go  
15 right ahead.

16 MR. MOANDER: Okay. So -- I'll start  
17 with a move to withdraw Exhibit 8 from the case.

18 THE HEARING EXAMINER: Which exhibit?  
19 8?

20 MR. MOANDER: Yes, please.

21 THE HEARING EXAMINER: I haven't even  
22 seen that exhibit yet, and --

23 MR. MOANDER: Mr. Hearing Officer, that  
24 would be the affidavit that was submitted for  
25 consideration by the Hearing Officer.

1 THE HEARING EXAMINER: Let me let me  
2 get there. Hold on. Number 8. And I'm not sure  
3 which one it is because none of these are -- here we  
4 have an affidavit. Okay. This isn't marked either as  
5 Exhibit 8.

6 I don't think any of these, except the  
7 first one that I've seen so far, have an exhibit  
8 number --

9 MR. MOANDER: And I apologize because I  
10 understood if I submitted them with titles, they would  
11 be entered so that you could see them in a way that  
12 would make sense. So I apologize, Mr. Hearing  
13 Officer.

14 THE HEARING EXAMINER: Okay. Are you  
15 looking at the imaging system that I'm looking at?

16 MR. MOANDER: I am right now; and I'll  
17 demonstrate that for you, Mr. Hearing Officer.

18 THE HEARING EXAMINER: Okay.

19 MR. MOANDER: This would be --

20 THE HEARING EXAMINER: Yes --

21 MR. MOANDER: -- 24009.

22 THE HEARING EXAMINER: Right. And you  
23 see here that none of those titles -- it just has --

24 MR. MOANDER: Yes.

25 THE HEARING EXAMINER: -- the size of

1 the document and the date. So I don't really know  
2 what's Exhibit 8 and what's Exhibit 1.

3 I have no problem with your proceeding  
4 by affidavit as long as your exhibits can be admitted  
5 into evidence. I'm just having a hard time admitting  
6 Exhibit 2, the Inactive Well List. Even though there  
7 isn't a party objecting to it, I do believe that a  
8 certain amount of foundation needs to be provided.

9 And this witness here -- unless there's  
10 an argument against this position I'm taking -- this  
11 witness here doesn't remember whether he produced this  
12 document. So I don't know where this document came  
13 from.

14 MR. MOANDER: All right. Let me try  
15 again, Mr. Hearing Officer.

16 THE HEARING EXAMINER: Okay. Great.  
17 Thank you.

18 BY MR. MOANDER:

19 Q All right. So Mr. Karns, we're going to  
20 look at what's been marked as OCD Exhibit 2. So  
21 you've been asked some questions about that, right?

22 A Yes, correct.

23 Q Okay. So here's what I want to get at.  
24 You've reviewed this document before today's hearing?

25 A That's correct.

1 Q And so you're familiar with it?

2 A Yes, I am.

3 Q And it was your testimony earlier that this  
4 report is -- I'll even go this far and say identical  
5 to the exact report that you ran in August of 2023?

6 A That's correct.

7 Q Can you identify any material differences  
8 from this document and the original report you ran in  
9 August of 2023?

10 A The only differences would be the printed-on  
11 date and the date in the top left corner of the page.

12 MR. MOANDER: Thank you, Mr. Karns.

13 Mr. Hearing Officer, I'll represent to  
14 you that this document was generated by legal on the  
15 date the NOV was issued to preserve the last best  
16 final date.

17 I would argue that because the only  
18 material difference that Mr. Karns can identify  
19 between this data document and the report that you ran  
20 in August of 2023 that these are, in essence, the same  
21 document. And that Mr. Karns has validated the data  
22 contained herein.

23 THE HEARING EXAMINER: Okay. All  
24 right. I understand, Mr. Moander.

25 Mr. Karns, the data in this Inactive

1 Well List, you've reviewed it this morning -- today?

2 THE WITNESS: Yes.

3 THE HEARING EXAMINER: Okay. And is  
4 all of this information true and accurate to your best  
5 knowledge?

6 THE WITNESS: Yes, it is.

7 THE HEARING EXAMINER: Okay.

8 All right. Mr. Moander, then I'm going  
9 to admit as State's Exhibit 2 the OCD permitting  
10 printout Inactive Well List, printed on Thursday,  
11 September 7, 2023. So this is admitted into evidence.

12 (Exhibit 2 was received into evidence.)

13 So we have two exhibits so far.

14 MR. MOANDER: Thank you, Mr. Hearing  
15 Officer. All right. What I'd like to do then is  
16 proceed to Exhibit 3, which is the next document in  
17 the OCD online imaging system.

18 (Exhibit 3 was marked for  
19 identification.)

20 Exhibit 3 is -- I'm going to move for  
21 admission as a government record because it has the  
22 state seal on the front of it. It also has the  
23 traditional letterhead that is used by OCD and other  
24 EMNRD agencies.

25 It's also a pleading -- well, the

1 opening pleading in this case. So I think there are  
2 multiple grounds for admission on its face.

3 THE HEARING EXAMINER: So you're  
4 suggesting it's self-authenticating?

5 MR. MOANDER: I am, Mr. Hearing  
6 Officer.

7 THE HEARING EXAMINER: Okay. What is  
8 this on page number 4? I can't read this. What is  
9 this down here?

10 MR. MOANDER: Page number 4, that would  
11 be, Mr. Hearing Officer, a copy -- if you zoom in,  
12 that is the civil penalty calculator that was utilized  
13 in this case to determine the fines that were  
14 appropriate.

15 THE HEARING EXAMINER: Okay. And are  
16 you representing to me that this is generated by the  
17 same computer -- by a computer system --

18 MR. MOANDER: No, Mr. Hearing Officer.  
19 This is a distillation of information and data from  
20 the system.

21 OCD uses this particular format because  
22 we found operators find it easier to read this than  
23 other tools and documents we've used in the past.

24 And so this is a distillation of  
25 essentially that same information that you found on

1 Exhibit 2, but it has a bit more detail, which  
2 includes citations to the rules that permit OCD to  
3 impose penalties and fines for various violations.

4 I would also note here that this is --  
5 I would argue this is self-authenticating again  
6 because it does carry the OCD seal on it, which is  
7 identical to the one on the first page of the NOV.

8 THE HEARING EXAMINER: Okay. And who  
9 produces this report here on page 4?

10 MR. MOANDER: That would be produced  
11 usually by someone in Mr. Karn's department.

12 Mr. Karn's --

13 If I might ask some questions about it,  
14 Mr. Hearing Officer?

15 THE HEARING EXAMINER: Yes, please.

16 BY MR. MOANDER:

17 Q So Mr. Karn's, if you will take a look  
18 here -- and I realize we're going through multiple  
19 digital versions here. I'm going to zoom in a little  
20 closer for you.

21 This is exhibit -- let me make sure. Now  
22 I'm getting off base. This is Exhibit No. 3. Do you  
23 recognize page 4 of Exhibit 3, as I'm showing to you  
24 here now?

25 A I've seen this page before, yes.



1 Q And have you looked at the data contained in  
2 this document?

3 A Yes, I have.

4 Q Okay. Do you have any reason to believe  
5 this information is in any way wrong?

6 A No, I don't.

7 Q And do you believe it's a true and correct  
8 representation of the application of OCD penalty rules  
9 to the violations stated within the remainder of the  
10 NOV?

11 A Yes, yes, I do.

12 MR. MOANDER: Okay.

13 THE HEARING EXAMINER: Okay.

14 Mr. Moander, I'll admit Exhibit 3, including this  
15 table on page 4, into evidence.

16 (Exhibit 3 was received into evidence.)

17 Let's move on.

18 MR. MOANDER: All right. Because I  
19 wasn't anticipating laying this level of detail on  
20 it -- and unfortunately one of my witnesses for this  
21 would be assisting the Hearing Officer at the moment.  
22 I don't think I can call that witness, and I did not  
23 prepare her for this.

24 THE HEARING EXAMINER: Are you talking  
25 about Sheila Apodaca?

1 MR. MOANDER: I am talking about  
2 Ms. Apodaca, Mr. Hearing Officer.

3 THE HEARING EXAMINER: I have no  
4 problem with you calling Ms. Apodaca. She's available  
5 to you.

6 I will ask you one thing, though. When  
7 we are done with this hearing --

8 MR. MOANDER: Yes?

9 THE HEARING EXAMINER: -- and  
10 obviously, I'm anticipating concluding this hearing by  
11 admitting all of your exhibits, anything that I admit  
12 I would like you to mark properly and --

13 MR. MOANDER: Absolutely.

14 THE HEARING EXAMINER: -- and resubmit.

15 MR. MOANDER: I can absolutely do that,  
16 and I would imagine I can have it done by the close of  
17 business today, Mr. Hearing Officer.

18 THE HEARING EXAMINER: Okay.  
19 Wonderful. Let's go on to Exhibit 4.

20 MR. MOANDER: Okay. I will briefly  
21 need Ms. Apodaca to lay the brief foundation for  
22 exhibits. And I apologize to Ms. Apodaca because I  
23 didn't anticipate proceeding to this level of detail  
24 today.

25 THE HEARING EXAMINER: Ms. Apodaca,

1 you're going to be sworn in by the court reporter  
2 before you testify.

3 THE CLERK: Okay.

4 THE REPORTER: Please raise your right  
5 hand.

6 WHEREUPON,

7 SHEILA APODACA,

8 called as a witness and having been first duly sworn  
9 to tell the truth, the whole truth, and nothing but  
10 the truth, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. MOANDER:

13 Q So Ms. Apodaca, could you briefly tell us  
14 for whom you work and what your job duties are just on  
15 a very surface level?

16 A Sure. I work as a law clerk for the Oil  
17 Conservation Division. Part of my job duties involve  
18 helping the legal departments and submitting notes of  
19 violations to producers.

20 Q And that includes working with Mr. Tremaine  
21 and myself?

22 A Yes, that's correct.

23 Q All right. One second, please. Now,  
24 Ms. Apodaca, did you have, by chance, the opportunity  
25 to work on an NOV regarding a Mr. Jim Pierce?

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1 A Yes, I did.

2 Q And were you responsible for issuing the NOV  
3 to Mr. Pierce once OCD completed it?

4 A Yes, yes, I did.

5 Q And just as a refresher, Ms. Apodaca, I'm  
6 going to move you back to Exhibit 3. Do you recognize  
7 this document?

8 A Yes. That is the Notice of Violation that  
9 was served.

10 Q And did you issue that for OCD to  
11 Mr. Pierce?

12 A Yes, yes, I did. I prepared it, and it was  
13 signed by the director. And then I served it by  
14 Certified Mail and by electronic mail.

15 Q All right. So I want you to take a look  
16 then at Exhibit Number 4.

17 (Exhibit 4 was marked for  
18 identification.)

19 A Okay.

20 Q Do you recognize this document?

21 A Yes, I do.

22 Q And can you tell me what it is?

23 A That is the printout of the USPS tracking on  
24 the certified mail that was submitted.

25 Q And that was for the Mr. Pierce NOV; the one

1 we're here for today?

2 A Yes, yes.

3 Q All right. Ms. Apodaca --

4 MR. MOANDER: Well, actually, I'll move  
5 for admission, Mr. Hearing Officer of Exhibit 4, this  
6 USPS tracking sheet for Mr. Pierce in the NOV.

7 THE HEARING EXAMINER: Exhibit 4 --  
8 well, the document that will be marked Exhibit 4 is  
9 admitted into evidence.

10 (Exhibit 4 was received into evidence.)

11 MR. MOANDER: Thank you, Mr. Hearing  
12 Officer.

13 BY MR. MOANDER:

14 Q Ms. Apodaca, we're going to switch over just  
15 quickly here. This is Exhibit Number 5.

16 (Exhibit 5 was marked for  
17 identification.)

18 I'm going to rotate this for you because it  
19 drives me nuts to have it going vertically. Do you  
20 recognize this document here?

21 A Yes, that is the -- the envelope -- the  
22 mailing envelope.

23 Q And that was the envelope that you had  
24 Certified Mail to issue to Mr. Pierce?

25 MR. MOANDER: Which, just for

1 clarification, that was -- Mr. Hearing Officer, the  
2 information we have as for Horace Delong, the executor  
3 of the Jim Pierce estate. I'm using Jim Pierce's  
4 shorthand for purposes of this hearing.

5 THE HEARING EXAMINER: Okay.

6 BY MR. MOANDER:

7 Q And Ms. Apodaca, I'm going to show you the  
8 second page of Exhibit Number 5. Is that the green  
9 card for the Certified Mail return receipt for --  
10 Certified Mail for Mr. Pierce?

11 A Yes. That's the front and the back of the  
12 envelope that contained the NOV, the Notice of  
13 Violation that went to Jim Pierce.

14 MR. MOANDER: Thank you, Ms. Apodaca.

15 With that, Mr. Hearing Officer, I would  
16 move for admission of Exhibit 5.

17 THE HEARING EXAMINER: Exhibit 5 is  
18 entered into evidence.

19 (Exhibit 5 was received into evidence.)

20 MR. MOANDER: And then I have one last  
21 exhibit -- or two more exhibits with Ms. Apodaca, if I  
22 may proceed?

23 Actually, I'm going to go ahead and  
24 just move on Exhibit Number 5 [sic].

25 //

1 (Exhibit 6 was marked for  
2 identification.)

3 I'll represent that this is the Oil  
4 Conservation Division's Docketing Notice for this  
5 matter. Because this is a pleading in the case, I  
6 would request that the Hearing Officer admit this  
7 document.

8 THE HEARING EXAMINER: And why does  
9 this document need to be entered into evidence?

10 MR. MOANDER: I will show you  
11 momentarily, Mr. Hearing Officer, because this was  
12 also communicated to the last registered information  
13 we had for Mr. Pierce.

14 THE HEARING EXAMINER: Okay --

15 MR. MOANDER: Do you want to --

16 THE HEARING EXAMINER: -- at this time,  
17 Exhibit 5 [sic] is entered into evidence.

18 (Exhibit 6 was received into evidence.)

19 MR. MOANDER: All right.

20 BY MR. MOANDER:

21 Q Ms. Apodaca, I'm going to show you OCD's  
22 Exhibit 7.

23 (Exhibit 7 was marked for  
24 identification.)

25 A Okay.

1 Q Do you recognize this document?

2 A Yes, I do.

3 Q And can you tell me what it is?

4 A Yes. This is the email that I sent the --  
5 the Docketing Notice to Mr. Delong. This is the --  
6 the registered address that we have for him.

7 Q And I'm going to direct your attention to  
8 the date line, Ms. Apodaca. Could you recite the date  
9 that this email was issued?

10 A Yes. It was Tuesday, November 7th, 2023.

11 Q Thank you, Ms. Apodaca. And then there's a  
12 line that says "Attachments." It says "Docketing  
13 Notice 11/7/23." Is that the Docketing Notice that we  
14 just looked at that was noted as Exhibit 6?

15 A Yes.

16 MR. MOANDER: All right. Thank you,  
17 Ms. Apodaca.

18 I will pass the witness to the Hearing  
19 Officer.

20 THE HEARING EXAMINER: I have no  
21 questions for Ms. Apodaca. Are you asking for Exhibit  
22 7 to be admitted into evidence?

23 MR. MOANDER: Yes, I am, Mr. Hearing  
24 Officer.

25 THE HEARING EXAMINER: So Exhibits 6



1 and 7 are admitted into evidence.

2 (Exhibit 7 was received into evidence.)

3 Before, I misspoke when I said that  
4 your Docketing Notice was Exhibit 5. It's difficult  
5 because none of them are marked.

6 MR. MOANDER: I understand,  
7 Mr. Hearing -- I will rectify that in the future. I  
8 will confess a bit of rust. It's been a while since  
9 I've taken the role of a more trial attorney-centric  
10 role versus corporate counsel.

11 THE HEARING EXAMINER: So to recap,  
12 Exhibits 1 through 7 are now admitted into evidence.  
13 And I think we only have to deal with 8 now.

14 MR. MOANDER: Yes. And based on what  
15 I've laid thus far -- and in particular Exhibit 2, I'm  
16 going to have Mr. Karns adopt this affidavit today as  
17 true and correct. And I will go ahead and submit it  
18 as an exhibit, and we can proceed from there.

19 If you want further testimony, I'm  
20 happy to provide it, but I think it lays out what the  
21 Hearing Officer will need for consideration of the  
22 case.

23 May I proceed?

24 THE HEARING EXAMINER: Oh, yes. Go  
25 right ahead.

1 MR. MOANDER: So Mr. Karns, are you  
2 still available for us?

3 THE WITNESS: Yes, sir.

4 BY MR. MOANDER:

5 Q All right. I'm going to show you what's  
6 marked as Exhibit 8.

7 (Exhibit 8 was marked for  
8 identification.)

9 Do you recognize this document?

10 A I do.

11 Q Can you tell me what it is?

12 A It is my statement regarding Jim Pierce, his  
13 inactive wells, how they were discovered, what they're  
14 in violation of, and it's all laid out.

15 Q And just to clarify, Mr. Karns, this is an  
16 affidavit of yours; is that right?

17 A Yes, that's correct.

18 Q I'm going to scroll down to the second page.  
19 This is page 2 of your affidavit. Is that your  
20 signature before you?

21 A It is my signature, yes, sir.

22 Q And did you enter that signature on December  
23 5, 2023?

24 A Yes, I did.

25 Q And in front of a notary, Ms. Pedro [ph]?

1 A Yes, that's correct.

2 Q And do you have any reason to want to change  
3 any of the information contained herein?

4 A I do not.

5 Q And it's your position this is a truthful  
6 and accurate statement of the facts that ultimately  
7 led to the NOV in this matter?

8 A Yes, yes, it is.

9 MR. MOANDER: Mr. Hearing Officer, I  
10 would move for one -- admission of Exhibit 8 and  
11 confirmation here from the Hearing Officer that,  
12 Mr. Karns, to your satisfaction, has adopted this  
13 statement in its completeness.

14 THE HEARING EXAMINER: Did you ask him  
15 if he adopted this under oath?

16 MR. MOANDER: Oh, you know what?  
17 That's probably a good question --

18 BY MR. MOANDER:

19 Q Mr. Karns, as you sit here today, do you  
20 adopt the contents of this affidavit as your testimony  
21 before the tribunal?

22 A I -- I do.

23 THE HEARING EXAMINER: Thank you,  
24 Mr. Moander.

25 Exhibit 8 is admitted into evidence.

1 (Exhibit 8 was received into evidence.)

2 MR. MOANDER: And so with that,  
3 Mr. Hearing Officer, since I've now got the affidavit  
4 in, I've covered all of the exhibits that have been  
5 provided, may I proceed to a closing statement?

6 THE HEARING EXAMINER: Please.

7 MR. MOANDER: All right.

8 So this is a pretty straightforward  
9 case. We have nine wells that were owned by  
10 Mr. Pierce. We've had no response, no communication,  
11 from the executor or anybody else associated with  
12 these wells.

13 The wells listed on page 2 of the NOV  
14 outline these specific wells by API well name and also  
15 detail the last production. In this case, all of the  
16 wells have not produced within the 15-month window  
17 required for production as found under 1915258,  
18 191559, and several other of the rules that are listed  
19 here in this NOV.

20 Because the wells haven't produced --  
21 they've sat dormant. They're not -- there's no  
22 economic benefit to them. What OCD would like to do  
23 is we -- OCD is not interested in any fines or fees at  
24 this point but rather seeks a plugging and remediation  
25 order from OCD that we can proceed with.

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1 THE HEARING EXAMINER: I understand.  
2 I've made some notes in the case that all the exhibits  
3 have been entered into evidence and that you will mark  
4 them and submit them.

5 MR. MOANDER: Yes.

6 THE HEARING EXAMINER: So at this  
7 point, Mr. Moander, do you rest your case?

8 MR. MOANDER: I do, Mr. Hearing  
9 Officer.

10 THE HEARING EXAMINER: Okay. Very  
11 good.

12 So the evidentiary record is closed at  
13 this point.

14 What do you seek from me going forward?

15 MR. MOANDER: Just a basic order  
16 permitting OCD to move forward with plugging,  
17 remediation, and reclamation.

18 THE HEARING EXAMINER: Okay. And are  
19 you going to draft a proposed order?

20 MR. MOANDER: I'm happy to do that if  
21 the Hearing Officer would so like.

22 THE HEARING EXAMINER: Yes, thank you.  
23 That is what I'm asking you to do. Please include  
24 proposed -- well, we can call them proposed for now --  
25 proposed findings of fact and conclusions of law.

1 MR. MOANDER: Yes, sir. And when would  
2 you like that turned in?

3 THE HEARING EXAMINER: That's up to  
4 you. I know the Division would like to move forward  
5 with plugging.

6 MR. MOANDER: Yes, yes, we would.

7 THE HEARING EXAMINER: Yes. So it's  
8 now 12/7. What about two weeks?

9 MR. MOANDER: I think that's probably  
10 doable. You're more generous than some of the  
11 district court judges, and I appreciate that.

12 THE HEARING EXAMINER: Okay.  
13 Wonderful. So it sounds like we're concluded on this  
14 matter.

15 MR. MOANDER: Thank you.

16 THE HEARING EXAMINER: Thank you for  
17 your participation.

18 And thank you, Mr. Karns.

19 MR. MOANDER: Thank you.

20 THE HEARING EXAMINER: Thank you.

21 I am now moving on to case number 23910  
22 and 23911. Entries of appearance, please?

23 MR. SAVAGE: Good morning, Mr. Hearing  
24 Examiner. Good morning, Technical Examiners. Darin  
25 Savage, with Abadie & Schill, on behalf of Devon

1 Energy Production Company, L.P.

2 THE HEARING EXAMINER: Okay. And we  
3 are here for an affidavit hearing, Mr. Savage?

4 MR. SAVAGE: I believe it's a final  
5 follow-up to a hearing that was heard on November 2nd.

6 THE HEARING EXAMINER: That's this  
7 case. Okay. Very good. So you filed the amended  
8 exhibit. I saw that on the same day that we heard the  
9 case originally.

10 So do we need to keep the record open  
11 any longer?

12 MR. SAVAGE: No. We filed an amended  
13 exhibit on that day. And then, there was some  
14 inquire -- investigation by the technical examiners  
15 about the status of the gas-to-oil ratio regarding the  
16 Upper Wolfcamp.

17 And it was concluded that these should  
18 be, as I understand -- and Mr. McLure may clarify, but  
19 as I understand, these are indeed oil wells. And so  
20 the formation designation was correct.

21 And so we did a second amendment of  
22 just the hearing packets for these two cases involving  
23 the Wolfcamp. And we just clarified in the extent of  
24 vertical depth that it was the Upper Wolfcamp.

25 So I believe we're concluded, but the

1 hearing examiners may have additional comment.

2 THE HEARING EXAMINER: Who is our  
3 technical examiner?

4 Ms. Thompson, do you have any questions  
5 for Mr. Savage?

6 MS. THOMPSON: Yeah, I have a few.

7 So you did submit a new packet, you  
8 said, clarifying that the vertical limit changed to  
9 the Upper Wolfcamp, correct?

10 MR. SAVAGE: That is correct. And it's  
11 denoted as a second amended hearing packet for those  
12 two cases today.

13 MS. THOMPSON: Okay. I see. And  
14 that's -- I see that. Okay. Also, while going  
15 through your packet, I did notice something on case  
16 number 23910 for the C102 for well numbered 624H. I  
17 believe that's what it was.

18 MR. SAVAGE: Okay.

19 MS. THOMPSON: It looks like that  
20 well -- were you playing on filing an NSO [ph] for  
21 this well?

22 MR. SAVAGE: I believe in our -- I  
23 believe we have -- yes, I believe we have filed that  
24 as a separate -- for administrative approval. I'm  
25 looking in the application here. That is my



1 understanding, yes.

2 MS. THOMPSON: Okay. Yeah, it's  
3 definitely within our setbacks. So if it hasn't  
4 already been filed, you would need to file an NSO [ph]  
5 for that particular well.

6 MR. SAVAGE: Yes. I believe it's  
7 already been filed, but I'll confirm that.

8 MS. THOMPSON: Awesome. Thank you.

9 MR. SAVAGE: Thank you.

10 MS. THOMPSON: I don't have any other  
11 questions.

12 THE HEARING EXAMINER: Okay. Then, we  
13 will close the evidentiary hearing at this time, and  
14 we will take these two cases under advisement.

15 MS. BENNETT: Mr. Hearing Examiner,  
16 this is Deana Bennett, on behalf of Magnum Hunter  
17 Production --

18 THE HEARING EXAMINER: Yes,  
19 Ms. Bennett.

20 MS. BENNETT: -- I did enter an  
21 appearance in these two cases for the record.

22 THE HEARING EXAMINER: Okay. Thank  
23 you. Do you have any objection to taking these two  
24 cases under advisement?

25 MS. BENNETT: No, I don't.

1 THE HEARING EXAMINER: Okay. Thank  
2 you, Ms. Bennett.

3 Okay. I am moving on now to Franklin  
4 Mountain Energy, a name we have seen a lot today --  
5 23843, 23844. I went over my notes. I don't think  
6 we've called these cases even though they look  
7 familiar.

8 May I have an entry of appearance?

9 MS. BENNETT: Good morning, Mr. Hearing  
10 Examiner. Deana Bennett, on behalf of Franklin  
11 Mountain Energy LLC.

12 THE HEARING EXAMINER: Okay. Thank  
13 you.

14 MS. BENNETT: Franklin Mountain Energy  
15 3 -- sorry.

16 THE HEARING EXAMINER: Okay. And is  
17 that correct -- I'm sorry, hold on. Is that correct  
18 that we have not called these cases yet today?

19 MS. BENNETT: We haven't called these  
20 cases yet today, but we've called cases that compete  
21 with these cases.

22 THE HEARING EXAMINER: That compete  
23 with these cases? Okay.

24 MS. BENNETT: Yes.

25 THE HEARING EXAMINER: But Ms. Bennett,

1 we are scheduled for a hearing today, are we not?

2 MS. BENNETT: Mr. Hearing Examiner, we  
3 are not scheduled for a hearing on these cases. The  
4 prehearing order that the Division entered in these  
5 cases said that we would either be set for a status  
6 conference or set -- the prehearing order said we  
7 would be set for a hearing if there are no objections.

8 And COG has maintained its objections.  
9 And so, we are not set for a hearing on these cases  
10 today.

11 THE HEARING EXAMINER: Okay.

12 And who's representing COG?

13 MR. FELDEWERT: Good morning,  
14 Mr. Examiner. Michael Feldewert with the Santa Fe  
15 office.

16 THE HEARING EXAMINER: Okay. Very  
17 good.

18 And I see, Ms. Kessler. Is she  
19 monitoring the case?

20 MS. KESSLER: Good morning, Mr. Hearing  
21 Examiner. Thank you. I'm a little bit confused. I  
22 am told by other counsel that these cases were going  
23 to be heard with the COG Vulture cases, which were  
24 earlier in the docket and were skipped over.

25 EOG had entered an appearance in those

1 cases, so I am trying to find the correct place to  
2 enter my appearance today.

3 THE HEARING EXAMINER: And when you say  
4 other cases on the docket, which cases are you  
5 specifically referring to?

6 MS. KESSLER: Mr. Examiner, those are  
7 cases 23987 and 23988. If this is not the correct  
8 time to be entering my appearance, I'm happy not to.  
9 I just want to make sure that we are on the record as  
10 appropriate.

11 THE HEARING EXAMINER: All right.  
12 Mr. Feldewert, you've been keeping  
13 track of some of these numbers as I have tried to. Do  
14 you show 23987 and 88 already called today?

15 MR. FELDEWERT: They were called,  
16 Mr. Chakalian. And these are -- those cases you just  
17 listed, as well as the cases now that are before you,  
18 23843 and 23844, are part of the series of cases that  
19 Ms. Bennett and I are going to discuss after lunch.

20 THE HEARING EXAMINER: Yeah. Okay. I  
21 had different -- I had -- give me a moment here.  
22 Okay. I'm here in my notes. And I have 23845 through  
23 52, but I do not have 23843 and 44. I have 23980 and  
24 through 83. So this is the first time I'm hearing  
25 that 43 and 44 are part of all of these other cases

1 here.

2 MR. FELDEWERT: Correct, because this  
3 is the first time it's appeared on the docket. This  
4 is the first time 23843 and 44 have come up on the  
5 docket today.

6 THE HEARING EXAMINER: Okay. All  
7 right.

8 MR. FELDEWERT: Yeah.

9 THE HEARING EXAMINER: But back to the  
10 idea that we're having a hearing today. I'd like to  
11 look and see what our imaging system has to say about  
12 this. So hold on one second. Not that I don't  
13 believe Ms. Bennett. She's generally correct, but I'd  
14 like to understand why we are having so much trouble  
15 today.

16 Now, Ms. Bennett, you said that there  
17 was a prehearing order in these cases.

18 MS. BENNETT: Yes, Mr. Hearing --

19 THE HEARING EXAMINER: Amended hearing  
20 order -- I see it now. Okay.

21 MS. BENNETT: Yes.

22 THE HEARING EXAMINER: So these cases  
23 were consolidated with 23619 and 20 --

24 Mr. Feldewert and Ms. Bennett, are you  
25 also are discussing 23619 and 20 over lunch?

1 MS. BENNETT: No, Mr. Examiner. Those  
2 cases went to hearing on November 2, 2023. And the  
3 Division has entered orders in those cases.

4 THE HEARING EXAMINER: The hearing for  
5 cases 23843 and 44 may be continued to December 7 and  
6 may proceed by affidavit if there are no objections.

7 And Ms. Bennett, you're saying that  
8 there is an objection in these two cases?

9 MS. BENNETT: Yes, there is.  
10 Mr. Feldewert and COG have objected to these cases  
11 going by affidavit --

12 THE HEARING EXAMINER: And when was  
13 that objection filed?

14 MS. BENNETT: That objection was  
15 actually filed before this prehearing statement was  
16 filed -- or the prehearing order, excuse me, was  
17 filed.

18 And what we had hoped was that we would  
19 be able to reach an agreement to allow Franklin  
20 Mountain Energy to proceed by affidavit today. And  
21 that would result in the withdrawal of the objection,  
22 but they did not withdraw their objection.

23 THE HEARING EXAMINER: And then you  
24 filed a continuance at the end of October, maybe  
25 hoping to negotiate further and resolve the objection,

1 but that didn't happen?

2 MS. BENNETT: That's correct.

3 THE HEARING EXAMINER: All right. I'm  
4 beginning to understand what's going on here. All  
5 right. So you are going to discuss these two cases  
6 over lunch along with all the others?

7 MS. BENNETT: That's correct.

8 THE HEARING EXAMINER: So we have to  
9 come back to these cases then?

10 MS. BENNETT: Yes. Yes. Thank you.

11 THE HEARING EXAMINER: Okay. Well,  
12 hold on. I need to have a list of the cases we're  
13 coming back to because it gets longer by the minute,  
14 it seems.

15 So my notes show that we are going to  
16 return after lunch to cases 23980 through 83, 23843  
17 through 52, and 23987 and 88. Is that a complete  
18 list?

19 MS. BENNETT: 23843 to 23852, which  
20 cases are those? I don't have -- sorry. The list I  
21 have is 23980 to 23983. Then 23987 to 23988.

22 THE HEARING EXAMINER: But we also  
23 had -- originally we had discussed 23 -- 45 to 52.  
24 Now we are adding 43 and 44?

25 Is that right, Mr. Feldewert?

1 MR. FELDEWERT: Give me a minute.

2 THE HEARING EXAMINER: Sure.

3 MS. BENNETT: And 23845 to 23852 are  
4 not on today's docket, but they are -- we will be  
5 discussing them. They are not on today's docket. So  
6 if you're asking --

7 THE HEARING EXAMINER: I didn't say  
8 that they were.

9 MS. BENNETT: Oh, okay.

10 THE HEARING EXAMINER: I wasn't --

11 MS. BENNETT: Sorry about that, I  
12 was -- I apologize.

13 THE HEARING EXAMINER: I wasn't  
14 suggesting that they were on the docket. I was  
15 suggesting that they were fodder for your discussions.

16 MS. BENNETT: They are.

17 THE HEARING EXAMINER: Okay.

18 Wonderful. That clears it up for me.

19 We will continue.

20 MS. KESSLER: So Mr. Chakalian --

21 THE HEARING EXAMINER: Yes?

22 MS. KESSLER: I apologize. Is the  
23 appropriate time for me to enter an appearance then  
24 going to be after lunch or is it during lunch?

25 THE HEARING EXAMINER: Why don't you



1 enter an appearance now?

2 MS. KESSLER: That would be wonderful.  
3 Thank you so much. That'll save me some time.

4 Mr. Examiner, Jordan Kessler, on behalf  
5 of EOG in cases 23987 and 23988, which I understand  
6 will be heard at some point.

7 THE HEARING EXAMINER: Yes. We're  
8 going to try to resolve what's happening with the  
9 status conference on all of these cases. Some of them  
10 are on today's docket, some of them are not, but the  
11 parties are discussing them. So we look forward to  
12 some sort of resolution.

13 Okay. Let's see. Let me find where I  
14 was. I believe I am at Matador Company. This would  
15 be 23895, 96, 97, and 98.

16 MS. VANCE: Good morning -- or  
17 afternoon, Mr. Hearing Examiner. Paula Vance, with  
18 the Santa Fe office of Holland & Hart, on behalf of  
19 the applicant Matador Production Company.

20 THE HEARING EXAMINER: Good morning.  
21 Any other parties? No.

22 Okay. Ms. Vance, you're ready to  
23 proceed by affidavit?

24 MS. VANCE: That's correct, Mr. Hearing  
25 Examiner.

1 THE HEARING EXAMINER: Please proceed.

2 MS. VANCE: Okay.

3 In these cases, which are case numbers  
4 23895, 23896, 23897, and 23898, Matador seeks to amend  
5 the Division orders for its Huneke Fed Com wells. And  
6 that's the number 137H, 138H, 213H, and 214H. And  
7 respectfully request an extension of time to commence  
8 drilling the initial wells under the orders.

9 And just very briefly, in our hearing  
10 packet, we have included a copy of the extension  
11 application, which is Exhibit A.

12 (Exhibit A was marked for  
13 identification.)

14 That's followed by a copy of the  
15 original orders, which is Exhibit B.

16 (Exhibit B was marked for  
17 identification.)

18 Followed by Exhibit C, which is an  
19 affidavit from Landman David Johns, who has previously  
20 testified before the Division.

21 (Exhibit C was marked for  
22 identification.)

23 And he provides an explanation as to  
24 why there is good cause for the extension. And in  
25 this case, as has been in the past, most recently,

1 there was -- they're still waiting for BLM approval of  
2 their APDs. And hopefully, we'll get those soon.

3 We have also provided a sub-exhibit,  
4 Sub-Exhibit C1, which is an updated pooling exhibit.

5 (Exhibit C1 was marked for  
6 identification.)

7 And just to note, there are a couple of  
8 parties that Matador reached agreement with. And a  
9 few parties that lease their interest subject to the  
10 pooling order. And we've made note of that in that  
11 updated pooling exhibit.

12 And then lastly, I have my  
13 self-affirmed statement of notice, which is Exhibit D.

14 (Exhibit D was marked for  
15 identification.)

16 And that is -- you've got two sample  
17 letters of the mailing that went out on October 13,  
18 2023, and then November 17, 2023. And I believe we  
19 have some various dates on the notice of publication,  
20 which is the last exhibit in there.

21 (Exhibit E was marked for  
22 identification.)

23 So I won't go through those states with  
24 you, but they were all timely.

25 And unless there are any questions, I

1 would ask that the exhibits and sub-exhibits be  
2 admitted into the record for these cases and that they  
3 be taken under advisement.

4 THE HEARING EXAMINER: Okay. So  
5 Ms. Vance, let's begin by discussing one fine point  
6 here on filing packets. I know that the technical  
7 reviewers find it difficult to review multiple cases  
8 filed within one packet of exhibits.

9 So in the future, please file separate  
10 exhibit packets for each case with one case number at  
11 the top of each packet. Okay?

12 MS. VANCE: I did that, Mr. Hearing  
13 Examiner. I'm just presenting them as consolidated  
14 cases.

15 THE HEARING EXAMINER: And it's fine to  
16 present them as consolidated, but there's a note in  
17 here --

18 Ms. Thompson, do you want to elaborate?

19 MS. THOMPSON: Yes. I believe that  
20 note was when it came to the prehearing statement --  
21 or the second packet in the imaging system -- but it  
22 does look like Ms. Vance submitted the most recent  
23 packet on the 5th, which is only for this case --

24 THE HEARING EXAMINER: Okay. Thank  
25 you, Ms. Thompson.

1           Let me go back to admitting evidence  
2 first before we go to questions. So let's start with  
3 23895. I have a table of contents, Matador Exhibits  
4 A, B, C, D, and E.

5           Are those the exhibits you're asking to  
6 be admitted into evidence, Ms. Vance?

7           MS. VANCE: That's correct, Mr. Hearing  
8 Examiner.

9           THE HEARING EXAMINER: Wonderful. Are  
10 there any objections from any party to admitting these  
11 into evidence? Hearing none, I will admit Exhibits A,  
12 B, C, D, and E.

13           (Exhibits A through E were received  
14 into evidence.)

15           We're going to proceed one case at a  
16 time, Ms. Vance, so --

17           Ms. Thompson, do you have any questions  
18 regarding case number 23895?

19           MS. THOMPSON: I only had one question  
20 when it came to the pooling.

21           You said that on your -- parties list,  
22 one of the parties you reached an agreement with -- do  
23 you have a JOA, correct -- and it's not that you're  
24 actually pooling an additional party?

25           MS. THOMPSON: Can you clarify the

1 question? I'm sorry. I just want to make sure I  
2 understand.

3 MS. VANCE: So in the packet, you  
4 submitted an updated pooled party list, correct?

5 MS. THOMPSON: Correct.

6 MS. VANCE: And that was for which  
7 reason?

8 MS. THOMPSON: Because if you go to  
9 Paragraph 7, I believe it is -- previously, Matador  
10 had pulled Apache Corporation's mineral interest. Oh,  
11 I'm sorry. Previously, it was ZPZ Delaware, leased  
12 their -- okay. I'm sorry.

13 Previously, they had pooled Apache, and  
14 it appears that Apache leased that interest to ZPZ.  
15 So we have listed them on the pooling exhibit now in  
16 place of Apache.

17 MS. THOMPSON: And were they notified  
18 as well since -- by switching it over from Apache to  
19 ZPZ?

20 MS. VANCE: That's correct. If you go  
21 to Exhibit D, the mailing list, you will see that  
22 ZPZ -- and it would be page 20 of the PDF. You will  
23 see that ZPZ received -- well, it was mailed to ZPZ  
24 Delaware. And I believe -- and they should also be  
25 listed on the NOP, which is Exhibit --

1 MS. THOMPSON: Okay. And so you're  
2 just asking for an extension of time and not  
3 necessarily -- additional parties for them?

4 MS. VANCE: That's correct.

5 MS. THOMPSON: Okay.

6 MS. VANCE: These are just extension  
7 applications.

8 MS. THOMPSON: Okay.

9 I have no further questions.

10 THE HEARING EXAMINER: Okay.

11 So this case, 23895, will be taken  
12 under advisement.

13 Let's go now to the exhibit packet for  
14 23896. We have Matador Exhibits A, B, C, D, and E.  
15 Are there any objections to these exhibits to be  
16 admitted into evidence?

17 Hearing none, they are admitted into  
18 evidence.

19 (Exhibits A through E were received  
20 into evidence.)

21 Ms. Thompson, any questions on this  
22 case?

23 MS. THOMPSON: No questions.

24 THE HEARING EXAMINER: No questions.  
25 Okay.

1                   Let's move on then to case number 97.  
2                   And let's look at the exhibit packet which is Exhibits  
3                   A through E. Any objections to these exhibits  
4                   admitted into evidence?

5                   Hearing none, Exhibits A through E are  
6                   admitted into evidence.

7                   (Exhibits A through E received into  
8                   evidence.)

9                   Ms. Thompson?

10                  MS. THOMPSON: No questions.

11                  THE HEARING EXAMINER: Okay. This case  
12                  is taken under advisement.

13                  And then, as we have the -- 95 and 96.  
14                  So all where that's with Ms. Vance is 98. Let's take  
15                  a look at 98.

16                  And the evidence packet here contains  
17                  Exhibits A through E. Are there any objections?  
18                  Hearing none, Exhibits A through E are admitted in  
19                  evidence.

20                  (Exhibits A through E were received  
21                  into evidence.)

22                  Ms. Thompson?

23                  MS. THOMPSON: No questions.

24                  THE HEARING EXAMINER: This case is  
25                  also taken under advisement.



1 Thank you, Ms. Vance.

2 MS. VANCE: I actually have a question,  
3 and I just want to make sure I understand. So we  
4 filed the prehearing statement as a consolidated  
5 prehearing statement to present.

6 Am I hearing correctly that we need to  
7 now file individual prehearing statements for each of  
8 the cases, even if we are presenting as consolidated  
9 cases?

10 Ms. Hailee?

11 MS. THOMPSON: No, just the application  
12 packets, including the checklist and the application  
13 should be presented as individual.

14 MS. VANCE: Okay. And this was correct  
15 then because these were all individually filed? Okay.  
16 I just wanted clarification --

17 MS. THOMPSON: -- when I made that  
18 note, you had not uploaded your application packet,  
19 so.

20 MS. VANCE: Okay. I just want to make  
21 sure that I got myself in check.

22 MS. THOMPSON: It's fine. Yeah.

23 MS. VANCE: Thank you.

24 THE HEARING EXAMINER: Okay. I need to  
25 make a few notes here before we continue. Okay.

1 Okay. Those are done.

2 Let's move on to 23915 -- oh, no, those  
3 are continued. 23946 V and F Petroleum. Looks like  
4 it's a standalone case. Appearances, please?

5 MS. HARDY: Mr. Examiner, Dana Hardy,  
6 with Hinkle Shanor, on behalf of V-F Petroleum.

7 THE HEARING EXAMINER: Proceeding by  
8 affidavit?

9 MS. HARDY: Yes.

10 THE HEARING EXAMINER: Please proceed.

11 MS. HARDY: Thank you.

12 In this case, V-F seeks an order  
13 extending the deadline to commence drilling the wells  
14 authorized by order number R22452 until December 23,  
15 2024.

16 That order pooled interest in the Bone  
17 Spring Formation underlying a 160-acre standard  
18 horizontal unit comprised of the north half of the  
19 northeast quarter of Section 34 and the north half of  
20 the northwest quarter of Section 35, Township 18  
21 South, Range 28 East, in Eddy County and dedicated the  
22 unit to the Burns 3435 State Com 222H and 232H wells.

23 We have provided with our exhibits the  
24 affidavit of Landman Ryan Curry, who provides the  
25 basis for the requested extension, which includes rig

1 availability and changes in the drilling schedule and  
2 also gas takeaway limitations.

3 So those issues are being resolved and  
4 V-F plans to drill the wells but requires additional  
5 time to do that.

6 We also provided our notice exhibits  
7 and we did give notice to the parties who were  
8 notified of the original case. And we did timely  
9 publish.

10 So with that, unless there are  
11 questions, I would ask that the exhibits be admitted  
12 and that this case be taken under advisement.

13 THE HEARING EXAMINER: I have an  
14 exhibit list A, A1, A2, B, B1 through B4. Are there  
15 any objections to admitting these exhibits into  
16 evidence? Hearing none, they are so admitted.

17 (Exhibits A, A1, A2, B, and B1 through  
18 B4 were marked for identification and  
19 received into evidence.)

20 Ms. Thompson?

21 MS. THOMPSON: Sorry. I have no  
22 questions.

23 THE HEARING EXAMINER: Okay.

24 All right. Ms. Hardy, this case is  
25 taken under advisement.

1 MS. HARDY: Thank you.

2 THE HEARING EXAMINER: Thank you.

3 Okay. Let's move on to Mewbourne  
4 23949.

5 MS. HARDY: Mr. Examiner, Dana Hardy,  
6 on behalf of Mewbourne.

7 THE HEARING EXAMINER: And it looks  
8 like we're consolidating or hearing this with 23950?

9 MS. HARDY: That's correct.

10 THE HEARING EXAMINER: Okay. Please  
11 proceed.

12 MS. HARDY: Thank you.

13 In case number 22949, Mewbourne seeks  
14 an order pooling additional interest under the terms  
15 of order --

16 THE HEARING EXAMINER: Ms. Hardy, I'm  
17 sorry to interrupt you, but you said 229. It's 23949,  
18 right?

19 MS. HARDY: You're right.

20 THE HEARING EXAMINER: Okay. I just  
21 don't want --

22 MS. HARDY: It is 239 --

23 THE HEARING EXAMINER: -- the court  
24 reporter to put 229 and get confused.

25 MS. HARDY: You're correct. Thank you.

1 Thank you. Okay. Sorry about that.

2 In case 23949, Mewbourne seeks to pool  
3 additional interest under the terms of order R22818.  
4 That order pooled interest in the Bone Spring  
5 underlying nonstandard horizontal unit, comprised of  
6 Sections 6 and 7, Township 19 South, Range 35 East, in  
7 Lea County, and dedicated the unit to the Beefalo 76  
8 State Com 401H, 404H, and 408H wells.

9 In case number 23950, Mewbourne seeks  
10 an order pooling interest -- additional parties under  
11 the terms of order R22819. That order pulled interest  
12 in the Wolfcamp underlying a nonstandard horizontal  
13 unit comprised of the east half of Sections 6 and 7,  
14 Township 19 South, Range 35 East, and dedicated the  
15 unit to the Beefalo 76 State Com 7168 well.

16 We've provided, in both cases, our  
17 exhibits which include the statement of Landman Brad  
18 Dunn. He provides the standard land exhibits,  
19 including the application, the plot of tracks and  
20 interest, the well proposal and AFEs, and the  
21 chronology of contact with the additional parties.

22 Exhibit B includes my notice affidavit.

23 (Exhibit B was marked for  
24 identification.)

25 And the attachments are the notice

1 letter to the interested parties, the chart  
2 identifying the parties who are noticed, the Certified  
3 Mail receipts and returns, and an affidavit of  
4 publication in both cases.

5 So with that, unless there are  
6 questions, I would request that Exhibits A, and A1  
7 through 5, B, and B1 through B4, in each case, be  
8 admitted into the record and that these cases be taken  
9 under advisement.

10 (Exhibits A, A1 through A5, and B1  
11 through B4 were marked for  
12 identification.)

13 THE HEARING EXAMINER: Okay.

14 Let's start with 23949. Are there any  
15 objections to taking these exhibits into evidence?  
16 Not hearing any. Exhibits A and its subparts, B and  
17 its subparts are admitted into evidence.

18 (Exhibits A, A1 through A5, B, and B1  
19 through B4 were received into  
20 evidence.)

21 Ms. Thompson?

22 MS. THOMPSON: I have no questions for  
23 these cases.

24 THE HEARING EXAMINER: Fantastic.

25 Let's go to 23950. In 23950, I again

1 have Exhibits A and its subparts, B and its subparts.  
2 Are there any objections from any party? Not hearing  
3 any. Exhibits A and its subparts, B and its subparts  
4 are admitted into evidence.

5 (Exhibits A, A1 through A5, B, and B1  
6 through B4 were received into  
7 evidence.)

8 Ms. Thompson?

9 MS. THOMPSON: No questions.

10 THE HEARING EXAMINER: Very good.

11 Then, both of these cases will be taken  
12 under advisement. I just need a moment to make a note  
13 here before we move on.

14 MS. HARDY: Thank you.

15 THE HEARING EXAMINER: Thank you,  
16 Ms. Hardy.

17 All right. My notes are complete. We  
18 are now at Permian Resources 23951 through 23952.  
19 Entries of appearance?

20 MS. MCLEAN: Good morning, Mr. Hearing  
21 Examiner. Jackie McLean on behalf of Permian  
22 Resources. And 23954 is also -- there's a number of  
23 skip there, so.

24 THE HEARING EXAMINER: Thank you,  
25 Ms. McLean. Are we proceeding by affidavit?

1 MS. MCLEAN: Yes, Mr. Examiner.

2 THE HEARING EXAMINER: Please go right  
3 ahead.

4 MS. MCLEAN: Thank you.

5 In case number 23951, Permian Resources  
6 applies for an order pooling all uncommitted interests  
7 in the Bone Spring Formation underlying a 320-acre  
8 standard horizontal spacing unit comprised of the east  
9 half, west half, of Sections 8 and 17, Township 22  
10 South, Range 35 East in Lea County.

11 And Permian seeks to dedicate the unit  
12 to the Butters Stotch 8 State Com 122H well.

13 And in case number 23952, Permian  
14 Resources is applying for an order pooling all  
15 uncommitted interest again in the Bone Spring  
16 Formation underlying a 240-acre standard horizontal  
17 spacing unit comprised of the west half east half of  
18 Section 17, and the west half southeast quarter of  
19 Section 8, Township 22 South, Range 35 East, in Lea  
20 County.

21 And that unit will be dedicated to the  
22 Butters Stotch 8 State Com 123H well.

23 And in case number 23954, Permian  
24 Resources is applying for an order pooling all  
25 uncommitted interest in the Bone Spring Formation



1 underlying a 240-acre standard horizontal spacing unit  
2 comprised of the east half, east half, of Section 17,  
3 and the east half southeast quarter of section 8,  
4 Township 22 South, Range 35 East, in Lea County.

5 And Permian Resources seeks to dedicate  
6 that unit to the Butters Stotch 8 State Com 124H well.

7 The exhibit packets submitted for case  
8 numbers 23951, 23952, and 23954 contain Exhibit A, the  
9 land professional testimony of Chris Astwood.

10 (Exhibit A was marked for  
11 identification.)

12 And Mr. Astwood has previously  
13 testified before the Division and has been qualified  
14 as an expert in petroleum land matters.

15 Attached to Mr. Astwood's testimony are  
16 the standard land exhibits which include the plot of  
17 tracks, ownership interests, the pooled parties list,  
18 a well proposal letter, and C102s, and a summary of  
19 communications.

20 Exhibit B for these cases is the  
21 geology testimony of Ira Bradford, who was also  
22 previously testified before the Division and has been  
23 designated as an expert in geology.

24 (Exhibit B was marked for  
25 identification.)

1           Mr. Bradford's geology exhibits include  
2 a regional locator map, a cross-section map, Bone  
3 Spring subsea structure maps, stratigraphic  
4 cross-sections, and a Gun Barrel Development Plan.

5           And then finally, the Exhibit C for all  
6 of these cases is the notice testimony, which includes  
7 a copy of the notice letter that was sent to all the  
8 parties to be pooled, copies of the Certified Mail  
9 green cards and white slip returns, and an affidavit  
10 of publication that shows we timely published notice  
11 on November 10, 2023.

12                   (Exhibit C was marked for  
13 identification.)

14           And with that, unless there are  
15 additional questions, I ask that Exhibits A, B, and C  
16 be admitted into the records in case numbers 23951,  
17 23952, and 23954. And that the cases be taken under  
18 advisement.

19                   THE HEARING EXAMINER: Thank you,  
20 Ms. McLean. Let's deal with the exhibits case by  
21 case. So let's start with 23951. We have Exhibits A,  
22 B, and C, and their sub-parts.

23                   Are there any injections? Hearing  
24 none, they are admitted into evidence.

25 //

1 (Exhibit A and Exhibit B and Exhibit C  
2 were received into evidence.)

3 Ms. Thompson?

4 MS. THOMPSON: Yeah. I have a few  
5 questions.

6 I guess first, this well -- the Butters  
7 Stotch well, is going through two pools. Is that  
8 correct?

9 MS. MCLEAN: Yes, for this case, that's  
10 correct.

11 MS. THOMPSON: What's the -- Rock Lake  
12 Bone Springs and the -- I guess, the 223505 Bone  
13 Springs?

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

15 MS. THOMPSON: Okay. And that's an  
16 exact, like, 160 acre per pool section?

17 MS. MCLEAN: Yes. Yes, and that's why  
18 we submitted both of the C102s for this case, just  
19 showing that, you know, goes through these two  
20 separate pools.

21 MS. THOMPSON: Okay. And then, going  
22 down to the pool party list, looking at your large  
23 list, I'm assuming that all the stuff that's  
24 highlighted in yellow is the parties?

25 MS. MCLEAN: That is correct. And if

1 you see, we put on the bottom of page 15 of that PDF  
2 on the Division's website, it says there that the pool  
3 party are highlighted in yellow just to make that  
4 extra clear.

5 MS. THOMPSON: Oh. Okay.

6 MS. MCLEAN: Do you see that on the  
7 bottom there?

8 MS. THOMPSON: Yes. I do see it. It  
9 was at the very bottom, yeah. Okay. Sorry. And this  
10 was submitted late, so I didn't have a chance to  
11 actually review the whole packet before right now.  
12 Everything else looks good, so I have no other  
13 questions.

14 MS. MCLEAN: Thank you.

15 THE HEARING EXAMINER: Okay.

16 Let's go on to 23952. I have Exhibits  
17 A, B, and C with their subparts. Are there any  
18 objections? Hearing none, I admit into evidence  
19 Exhibits A, B, C, and their subparts.

20 (Exhibit A and Exhibit B and Exhibit C  
21 were received into evidence.)

22 Ms. Thompson?

23 MS. THOMPSON: No questions.

24 THE HEARING EXAMINER: Okay.

25 Ms. McLean, I wonder -- to give the

1 technical reviewers enough time to meaningfully review  
2 these exhibits -- I was looking at the rule the other  
3 day, and I noticed that in the rule under Subpart 17,  
4 19.15.4.17 it talks about exhibits.

5 And under Subpart B, it says "Parties  
6 introducing exhibits at hearings before the Commission  
7 or Division Examiner shall provide a complete set of  
8 exhibits for the court reporter, each commissioner,  
9 and division examiner," et cetera, et cetera.

10 And I don't see a deadline in the rule  
11 for submission of exhibits. And I am asking you, what  
12 is your interpretation of how late a party can submit  
13 an exhibit list -- and the exhibits themselves?

14 MS. MCLEAN: Mr. Examiner, I believe  
15 that the understanding is that it's 5 p.m. on the day  
16 that the deadline -- that due date. So it would be 5  
17 p.m. on December 5th. These were submitted, as I can  
18 see, from the stamp at 4.13 p.m., so, you know, 45  
19 minutes or so before the deadline.

20 THE HEARING EXAMINER: What I mean  
21 is -- so you are looking at part of the rule that says  
22 48 hours in advance? Is that correct?

23 MS. MCLEAN: That's correct,  
24 Mr. Examiner.

25 THE HEARING EXAMINER: And where are

1 you looking in the rule for that?

2 MS. MCLEAN: For the 5 p.m., I don't --

3 THE HEARING EXAMINER: No, no, no, the  
4 48 hours.

5 MS. MCLEAN: Let me pull up the rule.  
6 Sorry, I don't have it in front of me.

7 THE HEARING EXAMINER: I didn't expect  
8 you would. Take your time. I'll make notes that  
9 we're taking these cases one by one under  
10 advisement --

11 MS. MCLEAN: I think that -- I don't  
12 believe that that is actually in the rule,  
13 Mr. Examiner. I believe that there was a letter sent  
14 by OCD during the pandemic in 2020 that said that we  
15 should provide them on that Tuesday before by 5 p.m.

16 THE HEARING EXAMINER: Okay. Okay.  
17 Very good. So then you are filing it, but yet  
18 somehow, it's not coming through on that day. Let me  
19 look at something here because this is -- well, it  
20 says the 5th here. No, it did come through on that --  
21 on Tuesday.

22 MS. THOMPSON: Mr. Examiner?

23 THE HEARING EXAMINER: Yes.

24 MS. THOMPSON: I believe the problem  
25 arises is that she filed it after four o'clock, which

1 means I was not in the office at that time.

2 THE HEARING EXAMINER: I see.

3 MS. THOMPSON: However, I was doing a  
4 review of pretty much every case on our docket on that  
5 Tuesday. So if it wasn't filed in the morning, I  
6 probably wouldn't have seen it.

7 THE HEARING EXAMINER: Okay. All  
8 right. It sounds like Ms. McLean is following the  
9 rules as they have been propounded, so we will leave  
10 it at that.

11 So let's see, we have dealt with 23951,  
12 23952, and now we're calling 23954. And let's look at  
13 the exhibits in 54. And we have it here, Exhibits A,  
14 B, C, and its subparts.

15 Are there any objections to taking  
16 these into evidence? Not hearing any, Exhibits A, BC,  
17 and C and their subparts are admitted into evidence.

18 (Exhibit A and Exhibit B and Exhibit C  
19 were received into evidence.)

20 Ms. Thompson, any questions on this  
21 case?

22 MS. THOMPSON: The only question I have  
23 is just something I noticed when I was looking at the  
24 C102s on this case and the previous case.

25 Ms. McLean, I believe I only heard you

1 mention a 320-acre space -- but on these ones, I'm  
2 showing 240.

3 MS. MCLEAN: Yes. For case numbers --  
4 I think I went through each one. So on 23951, that  
5 one is a 320-acre unit. And then for 23952 and 23954,  
6 those are both 240-acre units.

7 MS. THOMPSON: Okay. Okay. I just  
8 wanted to clarify that. I have no other questions for  
9 these.

10 THE HEARING EXAMINER: Okay.

11 Then we will take these 3 cases under  
12 advisement 23951, 23952, and 23954.

13 MS. MCLEAN: Thank you.

14 THE HEARING EXAMINER: Thank you,  
15 Ms. McLean.

16 We are moving on to 23955, 56, 57  
17 Permian Resources affidavit hearing.

18 MS. MCLEAN: And that would be me  
19 again, Mr. Examiner. Jackie McLean, for Permian  
20 Resources Operating.

21 THE HEARING EXAMINER: Okay. Please  
22 proceed.

23 MS. MCLEAN: Thank you, Mr. Examiner.

24 In case number 23955, Permian Resources  
25 applies for an order pooling all uncommitted interests



1 in the Bone Spring Formation underlying a 322.26 acre  
2 more or less standard horizontal spacing unit  
3 comprised of the west half west half of Sections 5 and  
4 8, Township 22 South, Range 35 East in Lea County.

5 And that unit will be dedicated to the  
6 Casa Bonita 32 State Com 121H well.

7 In case number 23956, Permian Resources  
8 is applying for an order pooling all uncommitted  
9 interest in the Bone Spring Formation underlying a  
10 242.11 acre more or less standard horizontal spacing  
11 unit comprised of the west half east half of Section  
12 5, and the west half northeast quarter of Section 8,  
13 Township 22 South, Range 35 East in Lea County.

14 And seeks to dedicate that unit to the  
15 Casa Bonita 8 State Com 123H well.

16 And then finally, in case number 23957,  
17 Permian Resources applies for an order pooling all  
18 uncommitted interest in the Bone Spring Formation  
19 underlying a 242.04 acre more or less standard  
20 horizontal spacing unit comprised of the east half  
21 east half of Section 5 and the east half northeast  
22 quarter of Section 8, Township 22 South, Range 35 East  
23 in Lea County.

24 And proposes to dedicate the unit to  
25 Casa Bonita 8 State Com 124H well.

1                   And the exhibit packet that Permian  
2 Resources submitted to the Division for case number  
3 23955, 23956, and 23957 contain Exhibit A, land  
4 professional's testimony of Chris Astwood, and the  
5 standard land exhibits, which are attached to his  
6 testimony, including C102, application and purposed  
7 notice of hearing, the plot of tracks, tracked  
8 ownership interest, list of pooled parties, a well  
9 proposal letter and AFEs, and a summary of  
10 communications.

11                   (Exhibit A was marked for  
12 identification.)

13                   Then we have Exhibit B, the geology  
14 testimony of Ira Bradford.

15                   (Exhibit B was marked for  
16 identification.)

17                   And Mr. Bradford's geology exhibits  
18 include the regional locator map, cross-section map, a  
19 Bone Spring subsea structure map, a stratigraphic  
20 cross-section, and a Gun Barrel Development Plan.

21                   Then Exhibit C, the notice testimony,  
22 which includes a copy of the notice letter that was  
23 sent to the parties to be pooled, copies of the  
24 Certified Mail green cards and white slip returns, an  
25 affidavit of publication that shows that we timely

1 published notice on November 10, 2023.

2 (Exhibit C was marked for  
3 identification.)

4 And I ask that Exhibit A, B, and C be  
5 admitted into the record in case numbers 23955, 23956,  
6 and 23957. And that these cases be taken under  
7 advisement. And I'm happy to answer any questions  
8 that you might have.

9 THE HEARING EXAMINER: Let's start with  
10 23955. I have exhibit index in front of me, A, B, C,  
11 and subparts. Are there any objections? Hearing  
12 none, these exhibits are admitted into evidence.

13 (Exhibit A and Exhibit B and Exhibit C  
14 were received into evidence.)

15 Ms. Thompson?

16 MS. THOMPSON: I have no questions.

17 THE HEARING EXAMINER: No questions.  
18 Okay.

19 Let's move on to the next case, 23956.  
20 I have identical exhibits. Is there an objection to  
21 these exhibits -- hearing any, Exhibits A, B, and C  
22 and their subparts are admitted into evidence.

23 (Exhibit A, Exhibit B, and Exhibit C  
24 were received into evidence.)

25 Ms. Thompson?

1 MS. THOMPSON: No questions.

2 THE HEARING EXAMINER: No questions.

3 Finally, we have case 23957, Exhibits  
4 A, B, and C, and subparts. Are there any objections?  
5 Not hearing any, these exhibits are admitted into  
6 evidence.

7 (Exhibit A and Exhibit B and Exhibit C  
8 were received into evidence.)

9 Ms. Thompson?

10 MS. THOMPSON: No questions.

11 THE HEARING EXAMINER: Wonderful.

12 Okay. Ms. McLean.

13 MS. MCLEAN: Thank you, Mr. Examiner.

14 THE HEARING EXAMINER: Thank you.

15 I just need to make a note or two here  
16 before we continue.

17 The next cases I'm calling are COG  
18 Operating LLC 23958, 23960.

19 MS. MCLEAN: Mr. Examiner, this is  
20 Jackie McLean, for COG for case number 23958, but we  
21 are presenting that one separately from 23960.

22 THE HEARING EXAMINER: Very good. And  
23 so you're presenting this case by affidavit?

24 MS. MCLEAN: Yes, I am, Mr. Examiner.

25 THE HEARING EXAMINER: Please proceed.

1 MS. MCLEAN: Thank you.

2 In case number 23958, COG applies for  
3 an order pooling all uncommitted interests in the  
4 Wolfcamp formation, underlying a 640-acre, more or  
5 less standard horizontal spacing unit comprised of the  
6 east half of Sections 5 and 8, Township 26 South,  
7 Range 34 East in Lea County.

8 And COG seeks to dedicate this unit to  
9 the Gunner 8 Federal Com 601H, 701H, and 706H wells.

10 And this is a proximity tract unit.  
11 And the completed interval of the Gunner 8 Federal Com  
12 601H well will be located within 330 feet of the  
13 quarter quarter section line, separating the east half  
14 east half, and west half east half of Sections 5 and 8  
15 to allow for the creation of that standard 640-acre  
16 horizontal spacing unit.

17 The exhibit packet that was submitted  
18 to the Division for case number 23958 contains Exhibit  
19 A, which is the land professional testimony of Michael  
20 Potts.

21 (Exhibit A was marked for  
22 identification.)

23 Mr. Potts has testified previously  
24 before the Division and is certified as an expert in  
25 petroleum land matters.

1 Attached to Mr. Potts' testimony are  
2 the application and proposed notice of hearing, C102s  
3 for the wells, a plat of tracts, the tracked ownership  
4 interest, a list of parties to be pooled, a sample of  
5 well proposal letter, and AFEs, and a chronology of  
6 contact.

7 Exhibit B is the geology testimony of  
8 Ben Breyman.

9 (Exhibit B was marked for  
10 identification.)

11 Mr. Breyman has not previously  
12 testified before, so we have attached his CV as  
13 Exhibit B1 to his testimony.

14 (Exhibit B1 was marked for  
15 identification.)

16 And as you can see from his CV  
17 Mr. Breyman has extensive experience in petroleum  
18 geology matters. And COG moves to qualify Mr. Breyman  
19 as an expert in petroleum geology.

20 Do you have any questions on that,  
21 Mr. Examiner?

22 THE HEARING EXAMINER: I wasn't sure if  
23 you were finished with your --

24 MS. MCLEAN: I was just asking to  
25 qualify him as an expert in petroleum geology. I

1 didn't know if you wanted to do that now or when we're  
2 done --

3 THE HEARING EXAMINER: Definitely. Is  
4 he with us?

5 MS. MCLEAN: I do not believe so, but  
6 we're hoping to do that by affidavit.

7 THE HEARING EXAMINER: Right. Let me  
8 get to his affidavit. What page is that on in your  
9 exhibit packet?

10 MS. MCLEAN: It is on page -- his  
11 affidavit starts at page 34 of the exhibits, and then  
12 the CV is on page 37.

13 THE HEARING EXAMINER: Okay. Let's go  
14 over the CV. I have it here. Charles Benjamin  
15 Breyman. And you're seeking to have him qualified in  
16 which specialty?

17 MS. MCLEAN: Petroleum geology,  
18 Mr. Examiner.

19 THE HEARING EXAMINER: All right.  
20 Thanks, Mr. McLean. Hold on.

21 Okay. Based on Mr. Breyman's  
22 affidavit, which is Exhibit B1 in this case, I am  
23 receiving him as a expert witness in petroleum  
24 geology.

25 So please continue.

1 MS. MCLEAN: Thank you, Mr. Examiner.

2 Attached to Mr. Breyman's testimony are  
3 the geology exhibits, which include a regional locator  
4 map, cross-section map, a Wolfcamp subsea structure  
5 map, and a stratigraphic cross-section.

6 And then finally, we have Exhibit C,  
7 the notice testimony, which includes the notice letter  
8 sent to the parties to be pooled, copies of the  
9 Certified Mail green cards and white slip returns, and  
10 an affidavit of publication.

11 (Exhibit C was marked for  
12 identification.)

13 And unless there are additional  
14 questions, I ask that Exhibits A, B, and C be admitted  
15 into the record in case number 23958 and that the  
16 cases be taken under advisement.

17 THE HEARING EXAMINER: Do I hear any  
18 objections to these exhibits being taken into  
19 evidence? Hearing none, I am admitting Exhibits A, B,  
20 C, and sub-parts into evidence.

21 (Exhibits A, B, B1, and C were received  
22 into evidence.)

23 Ms. Thompson?

24 MS. THOMPSON: I do have questions.

25 Okay. So let me scroll through this real fast. So



1 you look at the -- wanted to use a proximity tract in  
2 this case?

3 MS. MCLEAN: That's correct.

4 MS. THOMPSON: I think my only concern  
5 is where you're pooling in from -- I'm not seeing  
6 another -- like I said, track where that acreage would  
7 be pooled in from that you have planned.

8 So I'm not sure if you might need an  
9 NSO for it either way. So you might have to reach out  
10 to someone at the Division for that.

11 MS. MCLEAN: That's the 601H?

12 MS. THOMPSON: That'd be for the --  
13 correct for the 601H, yeah. But, I guess, in the  
14 past, in general, when I've seen cases where they have  
15 proximity tracts, usually the proximity tract brings  
16 in a track that was not part of the original acreage.

17 So by you bringing in that additional  
18 acreage, I'm just not seeing a track that's being  
19 utilized for that acreage -- or, like, another well  
20 there that would be utilized in that acreage, that's  
21 what I'm saying.

22 MS. MCLEAN: So the 602H well is on the  
23 west half east half of the -- of seven -- of six and  
24 seven -- or -- sorry. And then the --

25 MS. THOMPSON: I do see it now. So I

1 did overlook it. Okay. So that would work. Okay.  
2 I'm sorry, I -- going through this jacket quickly.  
3 This is the downside of when they get turned in quite  
4 late.

5 So I don't think I have any other  
6 questions for these.

7 THE HEARING EXAMINER: Okay.

8 Then, we will take case number 23958  
9 under advisement.

10 Thank you, Ms. McLean.

11 MS. MCLEAN: Thank you, Mr. Examiner.

12 THE HEARING EXAMINER: You're welcome.

13 I'm now calling 23960, COG Operating.

14 Is it, once again, Ms. McLean? No, Ms. Hardy.

15 MS. HARDY: Mr. Examiner, that is me.  
16 Dana Hardy on behalf of COG Operating.

17 THE HEARING EXAMINER: Please proceed.

18 MS. HARDY: Thank you.

19 In this case, COG seeks an order  
20 pooling uncommitted interest in the Bone Spring  
21 formation underlying a 480-acre standard horizontal  
22 spacing unit comprised of the east half of the east  
23 half of Sections 3, 10, and 15, Township 26 South,  
24 Range 29 East in Eddy County; and proposes to dedicate  
25 the unit to the Rock Jelly Federal Com 701H well.

1           Our exhibit packet includes the  
2 affidavit of Land Professional Gianna Romero and  
3 Geologist Chris Ray. Ms. Romero provides the standard  
4 land exhibits. The plot of tracks and ownership  
5 information is included in her Exhibit A3.

6           (Exhibit A3 was marked for  
7 identification.)

8           She's also provided the C102, well  
9 proposal Letter, Ratification Agreement, and  
10 chronology of contact with the parties.

11           Mr. Ray provides with his geology  
12 exhibits, a location map, Bone Spring's subsea  
13 structure map, cross-section Map, and stratigraphic  
14 cross-section.

15           My notice affidavit is Exhibit C.

16           (Exhibit C was marked for  
17 identification.)

18           And I have provided the notice letter  
19 copy, a chart that lists the parties, the Certified  
20 Mail receipts, and our affidavit of publication.

21           With that, unless there are questions,  
22 I would request that Exhibits A, and A1 through A6, B,  
23 and B1 through B4, and finally C, and C1 through C4 be  
24 admitted and that the case be taken under advisement.

25        //

1 (Exhibits, A, A1, A2, A4 through A6, B,  
2 B1 through B4, C, and C1 through C4  
3 were marked for identification.)

4 Thank you.

5 THE HEARING EXAMINER: You're welcome,  
6 Ms. Hardy. Question from me, Mr. Chris Ray, has he  
7 been qualified and is an expert?

8 MS. HARDY: Yes, he has.

9 THE HEARING EXAMINER: Okay. Very  
10 good. I can't find that, so thank you.

11 Any objections, admitting Exhibits A,  
12 B, C, and subparts into evidence? Hearing none,  
13 Exhibits A, B, C, and subparts are admitted to  
14 evidence.

15 (Exhibits A, A1 through A6, B, B1  
16 through B4, C, and C1 through C4 were  
17 received into evidence.)

18 Ms. Thompson?

19 MS. THOMPSON: No questions.

20 THE HEARING EXAMINER: Okay.  
21 We will take this case under  
22 advisement.

23 MS. HARDY: Thank you.

24 THE HEARING EXAMINER: Thank you.

25 And at this point, we're going to take

1 a break for lunch and come back at one o'clock today.  
2 So we are off the record. Thank you.

3 (Off the record.)

4 THE HEARING EXAMINER: It is one  
5 o'clock on December 7. We are back as promised for  
6 the rest of the docket in the Oil Conservation  
7 Division hearings.

8 And we are going to revisit some cases  
9 that we put aside earlier. Those are cases number  
10 23980 through 83, 23843 through 52, 23987, and 23988.

11 Are the parties ready to continue our  
12 discussion?

13 MR. FELDEWERT: Mr. Examiner --  
14 Feldewert --

15 MS. BENNETT: Yes --

16 MR. FELDEWERT: -- is here with COG and  
17 Matador -- Permian.

18 THE HEARING EXAMINER: Okay.  
19 And I see Ms. Bennett. I see  
20 Mr. Padilla.

21 Would you like to begin, Mr. Feldewert?

22 MR. FELDEWERT: Yes. Ms. Bennett and I  
23 conferred. Unfortunately, I guess, Franklin Mountain  
24 is still opposed to the February 15th status  
25 conference that we discussed and all the other parties

1 thought was appropriate.

2 So not much I could do at this point.

3 THE HEARING EXAMINER: So February --  
4 you said the date and February was what?

5 MR. FELDEWERT: I think that second  
6 docket is -- yeah, it's the 15th, according to my  
7 notes.

8 THE HEARING EXAMINER: Okay. All the  
9 parties except for one are in agreement that this  
10 should be continued for a February 15 status  
11 conference. And which party does not agree?

12 MR. FELDEWERT: Franklin Mountain.

13 THE HEARING EXAMINER: Okay. Let's  
14 hear from Franklin Mountain.

15 MS. BENNETT: Thank you.

16 Yes. Mr. Feldewert and I did have a  
17 chance to confer over lunch, and I appreciate the  
18 Division's willingness to let us do that.

19 I looked back at the case files to get  
20 some context on these files for the examiner's  
21 benefit. And the Gold east half west half cases,  
22 which are cases 23843 and 23844 -- which compete with  
23 the COG Vulture cases -- which are case numbers 23987  
24 and 23988. Those -- Franklin Mount Energy sent its  
25 proposal letters out in July of 2023.

1           So we have COG and I guess, MRC -- at  
2     least COG has had plenty of time to evaluate our  
3     proposals and to be prepared for hearing. And in  
4     fact, COG then submitted competing applications in the  
5     Vulture cases and, as a prerequisite to that did send  
6     out proposal letters. And those proposal letters were  
7     sent out in August.

8           So COG was ready -- presumably ready to  
9     take these cases to hearing in August or at least move  
10    forward with these cases. And so, just for those  
11    cases there, the timing just doesn't make sense.

12           I understand Mr. Feldewert's position  
13    is that MRC is going to acquire -- is in the process  
14    of acquiring a large percentage of an interest in this  
15    area. I don't know for certain what interest that is,  
16    but I do know that COG has been marketing its  
17    interest.

18           And if that's the case, then these COG  
19    proposals have been out since August. COG filed its  
20    cases. There's no reason why MRC couldn't succeed to  
21    COG's proposals if that's what we're looking at here.

22           I can't say that that's what we're  
23    looking at because, obviously, we don't know who the  
24    counterparty is. And I'm sure Mr. Feldewert isn't in  
25    a position to reveal that.

1           But this does seem like COG was ready,  
2 submitted proposal letters, submitted applications,  
3 and now we're being held up again by a sale. And it's  
4 frustrating when COG was making attempts, or at least  
5 in good faith, one believes, to move these cases  
6 forward in August. And now we'll be looking at a  
7 February 15th status conference.

8           So that is the Gold east half west half  
9 cases. I would say the same thing is true for the  
10 parallel and COG Crow [ph] Moaning [ph] Pheasant [ph]  
11 cases. The COG sent out proposal letters in October.

12           Again, COG was sending out proposal  
13 letters, preparing to go to pooling cases, file  
14 pooling applications, and now we'll be held up again.

15           So there is some frustration -- and I'm  
16 sorry if it's coming through in my voice -- about the  
17 delay here from Franklin Mountain Energy when they've  
18 done what they can, like I said before we took the  
19 break, to get the proposal letters out in a timely  
20 fashion and then to have this delay.

21           Franklin Mountain Energy's position  
22 would be -- or request would be, for the Gold east  
23 half west half cases that I mentioned a moment ago,  
24 and the parallel -- and Crow [ph] Moaning [ph]  
25 Pheasant [ph] cases, which I'm happy to give you the



1 numbers of those for in a moment, that those cases be  
2 heard as soon as possible, notwithstanding the MRC  
3 Permian interest.

4 Mr. Examiner, one quick note -- yes?

5 THE HEARING EXAMINER: So Ms. Bennett,  
6 you're asking for me to set 23843, 23844, 23987, 23988  
7 before the other cases?

8 MS. BENNETT: Those, yes.

9 THE HEARING EXAMINER: Mr. Feldewert,  
10 do you --

11 MS. BENNETT: And then --

12 THE HEARING EXAMINER: Okay. Hold on,  
13 Ms. Bennett.

14 MS. BENNETT: Okay. Sorry.

15 THE HEARING EXAMINER: What argument do  
16 you have against setting those for a contested hearing  
17 before the other ones?

18 MR. FELDEWERT: So Mr. Examiner, the  
19 argument is still basically the same. I mean, you're  
20 going to have the same parties involved in these Gold  
21 State, Vulture, Nightjar, whether you're dealing with  
22 the west half or the east half. You're going to have  
23 the same issues.

24 You're also going to have -- the MRC  
25 applications are not going to be ripe for any kind of

1 a hearing until likely March because MRC is not going  
2 to have its working interest and being a position to  
3 file the applications until the purchase and sale  
4 agreement closes on the 1st of February.

5 Now, MRC can certainly get its  
6 proposals out, but they're not going to be in a  
7 position to file the applications.

8 Everybody agreed in the morning;  
9 there's no rush here. Everybody agreed in the morning  
10 it's really inefficient to proceed without the MRC  
11 cases because we know they're going to be coming.

12 And more importantly, I think, does not  
13 allow all the parties -- and I'm talking about COG,  
14 MRC, Franklin Mountain, Slash, who's appeared in this  
15 case, Armstrong, and EOG to get together and discuss  
16 all of these matters where everything's on the board  
17 and see if we can reach a resolution where the  
18 Division is not doing these cases piecemeal, and the  
19 Division is not doing then unnecessary pooling cases.

20 THE HEARING EXAMINER: Okay. I  
21 understand.

22 MR. FELDEWERT: Okay.

23 THE HEARING EXAMINER: I got it.

24 So Ms. Bennett, what do you say  
25 specifically to the very simple direct argument that

1 MRC is buying out COG -- I know you don't have a  
2 settlement -- I know you don't have a purchase  
3 agreement yet, but taken upon representation from  
4 Mr. Feldewert, MRC is purchasing COG's interests and  
5 is going to be submitting competing applications.

6 What specifically do you say to that  
7 issue that makes whatever we do, unfortunately, a  
8 waste of time until we can see these competing  
9 proposals and have a hearing, including these cases  
10 that have not been filed yet?

11 As much as I want to move these things  
12 forward, this seems like a real impediment. And I  
13 don't know how to get around it.

14 MS. BENNETT: Thank you. Yes. So  
15 assuming for the moment -- which I don't know that it  
16 is COG's interest that MRC is purchasing -- the simple  
17 answer is MRC can -- will step into COG's shoes and  
18 can proceed with the cases that have been filed and  
19 the proposal letters that have been sent out.

20 So even if we have to wait until after  
21 the purchase and sale closes, that doesn't mean that  
22 we have to send out new proposals -- that MRC has to  
23 file new applications.

24 Assuming for the moment that COG's  
25 application -- COG was -- I believe COG wouldn't have

1 filed pooling applications if they didn't have faith  
2 in their development plans.

3 And MRC can and will succeed to  
4 COG's -- well, to whomever is interest. But if it is  
5 COG's, then they could adopt those proposal letters  
6 and applications, and we could move forward.

7 THE HEARING EXAMINER: So Ms. Bennett,  
8 what I think you're suggesting -- but I want to be  
9 clear -- is that COG can file these competing  
10 applications and MRC steps into their shoes when they  
11 purchase -- if they purchase this interest.

12 Is that what you're saying?

13 MS. BENNETT: More or less -- with the  
14 nuance that COG has already filed the competing  
15 applications. So there are already competing  
16 applications from COG that we could go to hearing on  
17 that MRC could adopt.

18 THE HEARING EXAMINER: And Ms. Bennett,  
19 which case numbers are the COG competing applications?

20 MS. BENNETT: Sure. So in the small  
21 subset that we're talking about now, just these four  
22 cases, it's 23987 and 23988.

23 THE HEARING EXAMINER: Okay.

24 Mr. Feldewert, why shouldn't I go with  
25 what Ms. Bennett just suggested?

1 MR. FELDEWERT: Well, first off, as she  
2 pointed out, those are COG's proposals. It's not  
3 MRC's proposal. Okay? MRC's got its own ideas on how  
4 to develop this acreage. And once they get their  
5 purchase and sale agreement executed, they will act  
6 upon those -- its own ideas, number one --  
7 procedurally -- okay -- it's a material change.

8 You cannot substitute an operator in an  
9 application. That is a material change to the  
10 application, and you cannot proceed accordingly. So  
11 you can't do it procedurally, number one.

12 And number two, MRC's its own entity.  
13 It's not stepping into the shoes of ConocoPhillips.

14 THE HEARING EXAMINER: So if MRC does  
15 take over this property by this interest, are you  
16 going to dismiss 87 and 88?

17 MR. FELDEWERT: That's up to COG.

18 THE HEARING EXAMINER: But what  
19 interest would COG have if MRC buys them out?

20 MR. FELDEWERT: Well, first off, I'm  
21 not at liberty to disclose who MRC is acquiring the  
22 interest from or the nature of the deal. Okay?

23 But that -- what Ms. Bennett is  
24 assuming -- okay -- is that it's COG and that MRC is  
25 acquiring all of their interest. Okay. That's a

1 big -- those are two big assumptions.

2 THE HEARING EXAMINER: Okay. All  
3 right.

4 MR. FELDEWERT: Okay. So what I can  
5 tell you, having entered an appearance for MRC, is  
6 that they do have a purchase and sale agreement.  
7 They're going to acquire a substantial interest in  
8 this area.

9 It's going to close hopefully on  
10 February 1st, and they have their own proposals to put  
11 out there. And they'd like to visit with everybody  
12 when everything's on the board; see if they can get it  
13 resolved.

14 THE HEARING EXAMINER: All right. I  
15 understand.

16 Okay. Ms. Bennett, I don't see how I  
17 can force this to a hearing knowing what I know now.  
18 I think what I -- the best thing I could do is to set  
19 these for the first docket in February 1st and make it  
20 clear to the parties that this will be the final  
21 status conference.

22 And that the sole issue at that time is  
23 what's been resolved between the parties at -- up to  
24 that point. And what date should we have a special  
25 hearing for all of these cases? And I do mean all of

1 the cases, not just the four that we just discussed.

2 That's, I think, the best I can do.

3 MS. BENNETT: Thank you. I appreciate  
4 that.

5 THE HEARING EXAMINER: I understand  
6 that you're frustrated. I understand that. Okay.  
7 So --

8 MS. BENNETT: Thank you.

9 THE HEARING EXAMINER: -- that being  
10 said, I'm going to -- for the court reporters and for  
11 Sheila's benefit, I'm going to restate this.

12 23980 through 83, 23843 through 52,  
13 23987 through 88, and possibly, we might even have  
14 some new cases or new competing applications filed by  
15 MRC.

16 Is that correct, Mr. Feldewert?

17 MR. FELDEWERT: Yes, it is correct.  
18 And I believe you're going to have some new  
19 applications filed by Franklin Mountain based on what  
20 Ms. Bennett told me on our phone call.

21 THE HEARING EXAMINER: Okay. That's  
22 fine. That's our job here.

23 Okay. So are --

24 MS. BENNETT: Mr. Hearing Examine,  
25 would it be beneficial to you if, after the hearing is

1 over today, we sent you a complete list of the cases  
2 that we would like to see?

3 THE HEARING EXAMINER: That would be  
4 wonderful.

5 MS. BENNETT: Okay. Great. Thank you  
6 so much.

7 MR. FELDEWERT: And we can both work on  
8 that and get that to you.

9 THE HEARING EXAMINER: And what we will  
10 do is we will set them -- once you file the proper  
11 continuous through the fee portal for all of these  
12 cases, we will then set that for the February -- the  
13 first February --

14 Does anyone know the date of the first  
15 February docket?

16 MR. FELDEWERT: It's February 1st.

17 THE HEARING EXAMINER: Okay. We will  
18 set this for the February 1, 2024, for a status  
19 conference on all of these cases with the sole  
20 purpose -- this is the last status conference. Then,  
21 we will set this for a contested hearing.

22 And that's the end of these cases for  
23 today. So thank you, everyone, for your  
24 participation.

25 MS. BENNETT: Thank you.



1 THE HEARING EXAMINER: Okay. Now, we  
2 are -- I believe we are at 23965. Let me check.

3 MS. PENA: -- Mr. Hearing Examiner,  
4 Yarithza Pena, with Modrall Sperling, on behalf of  
5 Franklin Mountain Energy 3, LLC.

6 THE HEARING EXAMINER: Okay. Good. So  
7 this is the next case, then?

8 MS. PENA: Yes, I believe so.

9 THE HEARING EXAMINER: Excellent.  
10 Excellent. Are you proceeding to affidavit hearing?

11 MS. PENA: I am.

12 I just wanted to note on the record  
13 that this morning, we did receive an entry of  
14 appearance from XTO -- Mr. Rankin.

15 MR. RANKIN: Yes, Mr. Examiner. Good  
16 afternoon. Thank you --

17 THE HEARING EXAMINER: Good afternoon.

18 MR. RANKIN: -- Rankin, appearing on  
19 behalf of XTO Holdings LLC in this case. We're not  
20 objecting to it proceeding by affidavit, but we are  
21 entering an appearance to preserve rights.

22 I may have a couple of questions for  
23 Ms. Pena. She may not be able to answer them, but I  
24 may have a few questions about their exhibits.

25 THE HEARING EXAMINER: Okay.

1 Ms. Pena, have you been observing how  
2 we've been holding these affidavit hearings?

3 MS. PENA: Yes, I have.

4 THE HEARING EXAMINER: Okay. Very  
5 good. So please proceed.

6 MS. PENA: Okay. Thank you.

7 So in case number 23965, Franklin is  
8 seeking a compulsory pooling order for a 800-acre,  
9 more or less, Bone Spring standard horizontal spacing  
10 unit comprised of the west half southwest quarter of  
11 Section 1, the west half west half of Sections 12 and  
12 13, the east half southeast quarter of Section 2, and  
13 the east half east half of Sections 11 and 14, in  
14 Township 19 South, Range 35 East, in Lea County, New  
15 Mexico.

16 The spacing unit will be dedicated to  
17 the Blue Box Fed Com 505H well. And to note also, the  
18 completed interval for the Blue Box Fed Com 505H well  
19 is expected to be less than 330 feet from the  
20 adjoining tracts, allowing for the inclusion of the  
21 proximity tracts.

22 We have timely filed the standard set  
23 of exhibits that I will just go through quickly.

24 Exhibit Tab A contains the compulsory  
25 pooling checklist.

1 (Exhibit Tab A was marked for  
2 identification.)

3 Exhibits in Tab B contain the affidavit  
4 of Don Johnson, the landman for Franklin, who has  
5 previously testified before the Division, and his  
6 credentials have been accepted as a matter of record.

7 (Exhibit Tab B was marked for  
8 identification.)

9 Following his affidavit are the  
10 standard land exhibits, which include the C102, the  
11 lease track map, summary of interest, a list of  
12 parties seeking to pool, a summary of contacts, and  
13 the well proposal letter, and AFE.

14 Exhibits in Tab C contain the affidavit  
15 of Ben Kessel, the geologist for Franklin, who has  
16 also previously testified before the Division and has  
17 been accepted as an expert in geology matters as a  
18 matter of record.

19 (Exhibit Tab C was marked for  
20 identification.)

21 Following his affidavit are the  
22 standard geology exhibits, which also include the  
23 locator map, well bore schematic, cross-section  
24 reference map, stratigraphic cross-section isopach,  
25 and regional stress orientation overview.

1           And finally, in Exhibit Tab D, that  
2           contains the notice exhibits, including the  
3           declaration of Ms. Deana Bennett, including the sample  
4           notice letter, a mailing list, as well as a Certified  
5           mailing tracking list, and an affidavit of publication  
6           from the Hobbs News-Sun [ph] that shows that we timely  
7           published on November 16, 2023.

8                           (Exhibit Tab D was marked for  
9                           identification.)

10                          At this point, I would ask that  
11                          exhibits in tab A, B, C, and D, and their subparts, be  
12                          admitted into the record in case number 23965 and that  
13                          the case be taken under advisement.

14                                  And I will address any questions that  
15                                  the Division or Mr. Rankin may have -- thank you.

16                                  THE HEARING EXAMINER: Mr. Rankin, any  
17                                  objections to these exhibits?

18                                  MR. RANKIN: No objections to the  
19                                  exhibits being admitted.

20                                  THE HEARING EXAMINER: Okay.

21                                  Tab A, Tab B, Tab C, Tab D, and all  
22                                  sub-exhibits are admitted into evidence.

23                                  (Exhibits Tabs A through Tab D were  
24                                  received into evidence.)

25                                  Let's start with Mr. Rankin. Any

1 questions?

2 MR. RANKIN: Ms. Pena, I just have a  
3 couple of questions. I'm trying to figure out the  
4 ownership breakdown in the exhibits. And it seems  
5 like the way it's represented is it's on a unit-wide  
6 basis, and I can't see exactly who owns and which  
7 tracks.

8 Do you happen to know which track or  
9 tracks XTO Holdings or interests are located in?

10 So we did have that discussion with  
11 Franklin, and what I'm aware of is that there is a  
12 title dispute in this area. So it's a little unclear  
13 as to who owns what percentage exactly in the tracks  
14 between XTO and those other three parties.

15 That's what I -- I don't know if we can  
16 provide any more information as of right now, but  
17 there is a title dispute going on with that.

18 MR. RANKIN: Okay. And the reason --  
19 and so one -- reviewing the exhibits, it seems to  
20 me -- and if I scroll down to the geology exhibits  
21 actually, it appears that at least under the geology  
22 exhibits, the tracks highlighted in yellow seem to  
23 reflect Franklin Mountain's understanding of what it  
24 owns.

25 Do you know if that's a hundred

1 percent -- those tracks that are in yellow, if those  
2 are a hundred percent Franklin Mountain? And the  
3 tracks that are in dispute are the white tracks in  
4 those geology exhibits?

5 MR. PADILLA: -- take a quick look. I  
6 wouldn't be able to say for certain. I mean, I would  
7 be able to provide probably additional information  
8 from the client if -- needed.

9 I would assume -- so that would be  
10 Franklin's ownership that is highlighted in yellow in  
11 the geology exhibits. And then those other, say,  
12 like, three tracks might be that title dispute.

13 MR. RANKIN: Yeah. I'm just kind of  
14 doing the quick math. It looks like, you know,  
15 Franklin Mountains at 85 percent on a unit-wide basis;  
16 and then there's another 15 percent.

17 And, you know, without seeing the track  
18 breakdown on the ownership, I can't discern exactly  
19 what, you know, Franklin Mountain believes maybe the  
20 ownership here. But there's also, of course, other  
21 working interest owners. I guess -- anyway, so it's  
22 just -- I'm a little confused.

23 And that's what I'm kind of trying to  
24 get to the bottom of. I don't understand exactly who  
25 owns and what tracks and how that may affect XTO's

1 interest here.

2 Yeah, I guess, Ms. Pena, if you could  
3 relay to Franklin Mountain -- I'm sure XTO will do the  
4 same, that they're trying to figure out what they  
5 understand the interest to be.

6 And then another question I had -- do  
7 you happen to know -- and you may or may not -- what  
8 the concerns were that XTO had in raise with Franklin  
9 Mountain about the proposed pooling in this case,  
10 other than any concerns or a title?

11 MS. PENA: I actually would not know  
12 the answer to that. I would have to, you know,  
13 converse with Franklin and see about that.

14 One other suggestion that I think might  
15 be helpful is that we can supplement with a tract by  
16 tract ownership maps that we can get by Franklin and  
17 see if we can get a clear understanding of the  
18 ownership.

19 MR. RANKIN: Okay. Thank you.

20 I don't have any other questions at  
21 this time. Thank you, Mr. Examiner.

22 Thank you, Ms. Pena.

23 MS. PENA: Thank you, Mr. Rankin.

24 THE HEARING EXAMINER: Ms. Thompson?

25 MS. THOMPSON: Yeah. I believe if you

1 were to just supply a list or another tract map  
2 showing the owner's pro-tract, that'd be beneficial to  
3 the Division.

4 THE HEARING EXAMINER: Ms. Thompson, if  
5 we're going to require that, then I need to be  
6 involved in it. So can you tell me exactly what you  
7 are wanting?

8 MS. THOMPSON: An updated tract map.

9 THE HEARING EXAMINER: Is there an  
10 exhibit number?

11 MS. THOMPSON: That would be -- sorry,  
12 let me pull up the exhibit real fast.

13 THE HEARING EXAMINER: Maybe the  
14 attorney would know.

15 MS. THOMPSON: B3?

16 MS. PENA: -- or B3, yes.

17 MS. THOMPSON: Yeah.

18 THE HEARING EXAMINER: B is in boy, 3?

19 MS. THOMPSON: Yes.

20 THE HEARING EXAMINER: -- we need an  
21 amended B3?

22 MR. RANKIN: May I interject?

23 I apologize, Ms. Thompson and  
24 Mr. Hearing Examiner.

25 I think actually -- what I think may be



1 helpful, it may be actually the B -- yeah, I guess the  
2 bottom part of B3, which -- the breakdown -- the  
3 ownership breakdown actually is on a unit-wide basis.

4 It would be helpful to see how that  
5 breaks out on those tracts that are represented in the  
6 map in B3. So we actually don't see -- yeah, to  
7 Ms. Thompson's comment, I see the tracts there, but I  
8 don't see how the ownership -- I don't see the  
9 ownership interests on tract basis.

10 MS. THOMPSON: Correct, yes.

11 THE HEARING EXAMINER: Okay.

12 So let me make sure.

13 So Ms. Pena, do you understand what  
14 you're required to file?

15 MS. PENA: Yes, I do.

16 THE HEARING EXAMINER: Okay.

17 So let me just say at this point, the  
18 way we're doing it now is, if you need to file an  
19 amended exhibit, I would like you to file an amended  
20 packet.

21 So I will admit all of these documents  
22 into evidence. I think I already have; I'm sure I  
23 already have. And now, if you want this case taken  
24 under advisement, you amend your Exhibit B3 and file  
25 an amended exhibit list -- I mean, an amended exhibit

1 packet.

2 And put a little cover letter there and  
3 say, "The reason that we're filing this is because the  
4 hearing examiner required an amended B3."

5 MS. PENA: Okay.

6 THE HEARING EXAMINER: That will  
7 direct -- that way, anyone who reviews this down the  
8 line just looks at one packet and doesn't try to put  
9 together a bunch of documents to figure out what's  
10 been changed and what hasn't been.

11 Ms. Thompson, was there more?

12 MS. THOMPSON: Give me one second to  
13 just look at these --

14 THE HEARING EXAMINER: Sure. Take your  
15 time.

16 MS. THOMPSON: -- real fast.

17 And you said this was a proximity well,  
18 correct?

19 MS. PENA: Yes.

20 MS. THOMPSON: Okay. I have no other  
21 questions for it.

22 THE HEARING EXAMINER: Okay.  
23 Wonderful.

24 Ms. Pena, when will you be able to do  
25 as asked?

1 MS. PENA: I believe so -- if I can get  
2 a hold of Franklin quickly today, we might be able to  
3 get that in the next couple of days.

4 THE HEARING EXAMINER: Well, what if we  
5 set a date next week? Give me a date that --  
6 completely reasonable to you.

7 MS. PENA: Can we do December 14th just  
8 to give me a -- to submit all of the -- together.

9 THE HEARING EXAMINER: I have it.

10 Okay. I'm going to put a note in here  
11 that you are going to file this amended exhibit packet  
12 by December -- by close of business December 14, and  
13 we are taking this case under advisement.

14 MS. PENA: Thank you.

15 THE HEARING EXAMINER: You're welcome.

16 Okay. And that was 23965. All right.  
17 Let me make a note.

18 All right. We are moving on to Permian  
19 Resources. It looks like -- two cases going to  
20 affidavit hearing, 23985 and 86 --

21 MR. RANKIN: Mr. Examiner, I'm so sorry  
22 since I was the one that maybe brought this up. But  
23 in that case with Franklin Mountain that we just were  
24 on, it looks like they do have an exhibit that has the  
25 interest by tract. I apologize.

1           But I -- since I only looked at it this  
2 morning. I see -- it's actually on PDF page 18 of the  
3 exhibit packet. It looks like it does break it down  
4 by tract. So that's helpful to me. I appreciate  
5 that.

6           THE HEARING EXAMINER: Okay. Are you  
7 talking about the case we just concluded?

8           MR. RANKIN: I am. And I'm talking  
9 about the requirement for Ms. Pena to submit a  
10 supplemental exhibit. I'm seeing -- it appears to  
11 me -- and this time can look at it. And if she  
12 agrees, I think that I'm satisfied.

13           But -- believe that on PDF page 18 of  
14 the exhibit, it does include a tract breakdown.

15           THE HEARING EXAMINER: Ms. Thompson?

16           MS. THOMPSON: I'm scrolling down to it  
17 right now --

18           THE HEARING EXAMINER: Take your time.

19           MS. THOMPSON: -- give me one sec.

20           Yes, they listen tracts and then the  
21 percentage breakdowns, so --

22           MR. RANKIN: The thing it didn't  
23 show -- it didn't show who owns what in each tract. I  
24 couldn't tell who -- what tract --

25           MS. THOMPSON: Correct. Yeah, correct.

1 THE HEARING EXAMINER: So Ms. Thompson,  
2 are you telling me you don't need an amended Exhibit  
3 B3?

4 MS. THOMPSON: No, this percentage  
5 breakdown would be sufficient.

6 THE HEARING EXAMINER: All right. Let  
7 me change my note.

8 And --

9 MR. RANKIN: Sorry.

10 THE HEARING EXAMINER: -- there's  
11 nothing left to do. We are --

12 MS. THOMPSON: -- it's okay. I  
13 overlooked it, too.

14 THE HEARING EXAMINER: -- under  
15 advisement.

16 MR. PADILLA:

17 MS. PENA: Thank you, Mr. Rankin.

18 I should have brought that up. I just  
19 thought you guys wanted a different tract list, but  
20 yes -- so page 14 of 46 of the PDF is our unit recap.  
21 And it does show the different tracts and the  
22 breakdown percentages.

23 So if that's satisfactory for the  
24 Division?

25 THE HEARING EXAMINER: Okay.

1                   We are moving on to 23985 and 23986,  
2 Permian Resources.

3                   MS. HARDY: Mr. Examiner, Dana Hardy,  
4 with Hinkle Shanor, on behalf of Permian Resources.

5                   THE HEARING EXAMINER: Are you  
6 proceeding by affidavit?

7                   MS. HARDY: Yes, I am.

8                   THE HEARING EXAMINER: Okay. Please  
9 proceed.

10                  MS. HARDY: Thank you.

11                  In case number 23985, Colgate seeks an  
12 order pooling uncommitted interest in the Bone Spring  
13 underlying a 798.54-acre nonstandard horizontal  
14 spacing unit comprised of the north half of irregular  
15 Sections 3 and 4 and the northeast quarter of  
16 irregular Section 5, Township 20 South, Range 30 East  
17 in Eddy County.

18                  The unit will be dedicated to the  
19 Michelada 5 Fed Com 121H and 131H wells, as well as  
20 the Michelada 5 Fed Com 122H and 132H wells.

21                  And I should mention that the applicant  
22 in this -- these cases is Colgate because Colgate is  
23 the working interest owner, but Colgate is seeking to  
24 designate Permian Resources as the operator.

25                  In case number 23986, Colgate seeks an

1 order pooling interest in the Bone Spring underlying  
2 an 800-acre nonstandard horizontal unit comprised of  
3 the south half of irregular Sections 3 and 4 and the  
4 southeast quarter of irregular Section 5, Township 20  
5 South, Range 30 East in Eddy County.

6 That unit will be dedicated to the  
7 Michelada 5 Fed Com 123H, 133H, 124H, and 134H wells.

8 Our exhibit packets in each case  
9 include the self-affirmed statements of Landman Mason  
10 Maxwell. He has previously testified before the  
11 Division. He provides with his exhibits the  
12 application, C102's, the plat of tracts and ownership  
13 information -- parties.

14 Exhibit A4 is Mr. Maxwell's map of the  
15 nonstandard spacing unit and the tract owners in the  
16 surrounding acreage, provides the same a well proposal  
17 letter, AFEs, and the chronology of contacts.

18 (Exhibit A4 was marked for  
19 identification.)

20 Exhibit B in each case is the  
21 self-affirmed statement of Geologist Christopher  
22 Cantin, who has testified previously.

23 (Exhibit B was marked for  
24 identification.)

25 He provides a regional locator map,

1 cross section map, second Bone Spring subsea structure  
2 map, third Bone Spring subsea structure map,  
3 stratigraphic cross-section, and a Gun Barrel diagram.

4 Exhibit C is my notice affidavit.

5 (Exhibit C was marked for  
6 identification.)

7 And I provided the notice letter, a  
8 chart that lists the parties who were notified, as  
9 well as the Certified Mail receipts, and the affidavit  
10 of publication.

11 So with that, unless there are  
12 questions, I would ask that the exhibits be admitted  
13 in each case and that the cases be taken under  
14 advisement.

15 THE HEARING EXAMINER: Are there any  
16 objections to admitting the exhibits in either of  
17 these two cases?

18 Not hearing any. I am admitting  
19 Exhibits A, B, C, and subparts in both 23985 and  
20 23986.

21 (Exhibit A and Exhibit B and Exhibit C  
22 were received into evidence.)

23 Ms. Thompson?

24 MS. THOMPSON: I do have some  
25 questions.



1           Looking at the Offset Owner Notice map  
2 on page 19 of 81 of the packet, I do not see notice  
3 provided to the parties in the caddy corner sections  
4 of the map, which is required for all surrounding  
5 areas around a unit or a sectional space scenario.

6           MS. HARDY: Let me pull up the map.

7           MS. THOMPSON: This is on page 19 of 81  
8 of the packet.

9           MS. HARDY: Yes. I see that. Let me  
10 confirm -- I can confirm with Permian Resources which  
11 parties those were and provide an update if we need to  
12 do that.

13           MS. THOMPSON: Okay. You'll have to  
14 provide proof of notice to those parties. And then  
15 also an updated Offset Notice map as well.

16           MS. HARDY: And, Ms. Thompson, I  
17 think -- well, we always provide notice to the  
18 surrounding tracts, so I think -- we have provided  
19 notice to all of the acreage that abuts the unit.

20           MS. THOMPSON: So that would be my only  
21 concern when it comes to the NSP portion of this case.

22           MS. HARDY: Okay. Let me confirm and  
23 see if the same parties are involved. As part of  
24 Exhibit A5, we identified all the parties. Let me  
25 look at the -- received notice. I think it's just a

1 matter of determining whether we need to submit an  
2 updated map.

3 MS. THOMPSON: Correct.

4 MS. HARDY: Okay. Okay.

5 MS. THOMPSON: And then as long as  
6 those parties -- within your original noticed parties  
7 as well, so.

8 MS. HARDY: I understand.

9 THE HEARING EXAMINER: So Ms. Thompson?

10 MS. THOMPSON: So if Ms. Hardy can  
11 supply an updated notice map, which is Exhibit A4 for  
12 the two cases, which would be a whole new packet with  
13 this updated map in it on both cases and then also  
14 verify whether or not notice was given to those four  
15 corner areas of notice as well, so.

16 THE HEARING EXAMINER: Okay.  
17 Ms. Thompson, let me look at this exhibit list --  
18 which is the exhibit list -- you said A4?

19 MS. THOMPSON: A4, page 19 of the  
20 packet.

21 THE HEARING EXAMINER: Let me get to  
22 page 19. Okay. I'm looking at page 19 of 81, and I'm  
23 seeing an Offset Owner Notice map. So what on this  
24 page needs to be updated for you to be --

25 MS. THOMPSON: So the four caddy

1 corners are supposed to have shown proof of notice.  
2 So this map doesn't show it. And I'm not quite sure  
3 who the interest owners are just off looking at this  
4 and those corners, so.

5 THE HEARING EXAMINER: Okay. What else  
6 do you need?

7 MS. THOMPSON: So we need an updated A4  
8 for both cases. And then for her to verify that  
9 notice to get sent out to those interest owners via --  
10 green cards, so.

11 THE HEARING EXAMINER: I see.

12 MS. THOMPSON: However, did you also  
13 submit notice via publication?

14 MS. HARDY: Yes, we did.

15 MS. THOMPSON: Right. So --

16 MS. HARDY: So I think what I need to  
17 do is confirm with Permian Resources -- well, who the  
18 interest owners are in those corners. And if they are  
19 the same as the ones who are already identified in the  
20 map, we don't need to send new notices.

21 MS. THOMPSON: Correct.

22 MS. HARDY: But if they are, we would  
23 need to send notices to those parties as well.

24 MS. THOMPSON: Correct.

25 MS. HARDY: Okay. Yeah.

1 THE HEARING EXAMINER: So Ms. Thompson,  
2 it sounds to me like -- well, Ms. Thompson, do you  
3 believe this case can be taken under advisement with  
4 that additional information, or should we continue  
5 these cases and leave the record open and come back  
6 after the information is verified?

7 MS. THOMPSON: I believe it could be  
8 taken under advisement. And then if for whatever  
9 reason -- and this already does have to submit notice,  
10 it will just push out that timeline -- two weeks, so.

11 THE HEARING EXAMINER: That makes me  
12 nervous because it's not just something that needs to  
13 be updated. It's something that needs to be verified  
14 and may be accomplished in the future. It's just a  
15 little too much for me.

16 So Ms. Hardy, what I'm going to do is  
17 we're not going to take this under advisement yet. We  
18 will continue it two weeks. Well, you'll have to  
19 continue it.

20 I mean, in fact, I think the policy  
21 says that these cases should be dismissed and refiled,  
22 but I'm not going to force you to do that.

23 What I will do is I will ask you to  
24 file a continuance for these two cases. Get them on  
25 the next docket, which will be December 21st. And by

1 that point, you should know a lot more about these  
2 four corner interests. Is that fair?

3 MS. HARDY: That's fair.

4 THE HEARING EXAMINER: Okay. Let me  
5 make some notes.

6 And, Ms. Thompson, would you also make  
7 notes wherever you need to so we know what to do?

8 And, Ms. Hardy, when you do file an  
9 amended packet, did you understand just to file the  
10 entire packet with a cover letter and then a specific,  
11 in this case, A4 being amended?

12 MS. HARDY: Yes, I will do that.

13 THE HEARING EXAMINER: All right.

14 So let me make a new note here before  
15 we move on to the new case.

16 Okay. Then we're going to move on.  
17 23989 Devon Energy.

18 MS. VANCE: Good afternoon, Mr. Hearing  
19 Examiner and Technical Examiner. Paula Vance, with  
20 the Santa Fe office of Holland & Hart, on behalf of  
21 the applicant, Devon Energy Production Company L.P.

22 THE HEARING EXAMINER: Are you  
23 proceeding by affidavit.

24 MR. BRUCE: That's correct, Mr. Hearing  
25 Examiner.

1 THE HEARING EXAMINER: Okay. Please  
2 proceed.

3 MS. VANCE: All right. In case 23989,  
4 Devon seeks to pool all uncommitted interests in the  
5 Bone Spring formation. And the pool is the Harden  
6 [ph] Tank Bones Spring, and the pool code is 96661.

7 And that's underlying a 240-acre  
8 standard horizontal spacing unit comprised of the east  
9 half of the west half of Section 10 and the east half  
10 of the northeast quarter of Section 15, Township 26  
11 South, Range 34 East, and that's in Lea County, New  
12 Mexico.

13 Devon seeks to initially dedicate the  
14 spacing unit to the proposed North Blondie 3.15 Fed  
15 Com 102H.

16 In this case, we have provided a copy  
17 of the application, provided the compulsory pooling  
18 checklist, as well as the self-affirmed statements of  
19 Landman Daniel [ph] Brunsman [ph] and Geologist  
20 Matthew [ph] Meyer [ph], both of whom have previously  
21 testified before the Division.

22 Mr. Brunsman's [ph] self-affirmed  
23 statement is Exhibit C, which also includes Exhibit  
24 C1.

25 //

1 (Exhibit C and Exhibit C1 were marked  
2 for identification.)

3 It's a overlap notice and diagram. We  
4 didn't ask for approval, but this is overlapping a  
5 previously pooled unit by Devon; and so we included  
6 that information.

7 C2 is the C102.

8 (Exhibit C2 was marked for  
9 identification.)

10 C3 is a land tract map and a list of  
11 the parties to be pooled.

12 (Exhibit C3 was marked for  
13 identification.)

14 C4 is a sample well proposal and AFEs.

15 (Exhibit C4 was marked for  
16 identification.)

17 And C5 is the chronology of contacts.

18 (Exhibit C5 was marked for  
19 identification.)

20 This is followed by Mr. Meyer's [ph] --  
21 his self-affirmed statement and all the standard  
22 geology Exhibits D1 through D3; so locator map,  
23 cross-section, and stratigraphic cross-section.

24 (Exhibits D1, Exhibit D2, and Exhibit  
25 D3 were marked for identification.)

1 In this case, Mr. Meyer [ph] did not  
2 observe any faulting pinch-outs or other geologic  
3 impediments to horizontal drilling of this well.

4 And then lastly is Exhibit E, a  
5 self-affirmed statement from myself on the notice with  
6 a sample letter mailed on November 17, 2023.

7 (Exhibit E was marked for  
8 identification.)

9 And Exhibit F, which is an affidavit of  
10 notice of publication, which was timely published on  
11 November 22, 2023.

12 (Exhibit F was marked for  
13 identification.)

14 And unless there are any questions, I  
15 would ask that the exhibits and sub-exhibits be  
16 admitted into the record, and the case be taken under  
17 advisement.

18 THE HEARING EXAMINER: Are there any  
19 objections to these exhibits being admitted into  
20 evidence? Hearing none, these exhibits are admitted  
21 into evidence in case number 23989.

22 (Exhibits C, C1 through C5, D1 through  
23 D3, E, and F were received into  
24 evidence.)

25 Ms. Thompson?



1 MS. THOMPSON: I have no questions.

2 THE HEARING EXAMINER: Okay.

3 This case will be taken under  
4 advisement.

5 Thank you, Ms. Vance.

6 I am now calling 23990, Crockett  
7 Operating.

8 MS. VANCE: Hello again. Paula Vance,  
9 with the Santa Fe office, on behalf of Crockett  
10 Operating LLC.

11 THE HEARING EXAMINER: -- going, you're  
12 on a roll.

13 MS. VANCE: Okay. I can go ahead and  
14 proceed?

15 THE HEARING EXAMINER: Please.

16 MS. VANCE: Thanks, Mr. Hearing  
17 Examiner.

18 In case number 23990, Crockett seeks to  
19 amend the Division order for its Ackbar 3031A fee 1H  
20 well to add an additional party or parties to the  
21 order.

22 In the exhibit packet we have provided  
23 the application, a copy of the application, which is  
24 Exhibit A.

25 //

1 (Exhibit A was marked for  
2 identification.)

3 And this is followed by a copy of the  
4 original order which is Exhibit B.

5 (Exhibit B was marked for  
6 identification.)

7 Followed by a self-affirmed statement  
8 from the Landman Percy [ph] -- who has previously  
9 testified before the Division, which is Exhibit C.

10 (Exhibit C was marked for  
11 identification.)

12 This also includes Exhibit C1, an  
13 updated pooling exhibit which outlines the parties  
14 that were originally pooled. And they are, I believe,  
15 highlighted in yellow. And then, the new party to be  
16 pooled, which is an estate, is highlighted in orange.  
17 That's the estate of William H. Rabun.

18 (Exhibit C1 was marked for  
19 identification.)

20 And then, this is followed by Exhibit  
21 C2, a copy of the sample well proposal letter and  
22 AFEs, and a lease -- copy of the lease offer.

23 (Exhibit C2 was marked for  
24 identification.)

25 And then Exhibit C3 is a chronology of

1 contacts.

2 (Exhibit C3 was marked for  
3 identification.)

4 Lastly is Exhibit D, a self-affirmed  
5 statement of notice from myself with a sample copy of  
6 the letter that was mailed out.

7 (Exhibit D was marked for  
8 identification.)

9 Both were received by the heirs of that  
10 estate, and so we did not need to include the NOP.

11 And unless there are any questions, I  
12 would ask that the exhibits and sub-exhibits be  
13 admitted into the record, and the case be taken under  
14 advisement at this time.

15 THE HEARING EXAMINER: Are there any  
16 objections? Not hearing any. The exhibits in case  
17 number 23990, as filed, are admitted into evidence.

18 (Exhibits A, B, C, C through C3, and D  
19 were received into evidence.)

20 Ms. Thompson?

21 MS. THOMPSON: I have no questions.

22 THE HEARING EXAMINER: Okay.

23 Then this case is taken under  
24 advisement.

25 Okay. We will move on now to 23993,

1 23994, of which we received some late-filed exhibits.

2 Ms. Thompson, did you see those?

3 MS. THOMPSON: I am currently working  
4 on -- now.

5 THE HEARING EXAMINER: Okay. Do you  
6 need more time to review them?

7 MS. THOMPSON: I should be able to get  
8 through -- by the time they finish --

9 THE HEARING EXAMINER: Okay. Very  
10 good. All right.

11 Ms. Vance, you again?

12 MS. VANCE: Me again, Mr. Hearing  
13 Examiner.

14 THE HEARING EXAMINER: Okay. Please  
15 proceed.

16 MS. VANCE: Okay.

17 So Matador is seeking approval to --  
18 oh, I'm sorry, these are overlapping. So I did want  
19 to point out that these are -- both applications ask  
20 for approval of overlapping spacing units.

21 The notice went out. That is a part of  
22 the landman exhibits. We did not receive any  
23 objections, so I believe we can drop that at this  
24 point. So I just wanted to point that out before I  
25 get started on the pooling portion.

1           So in these cases, Matador is seeking  
2 approval to pool all the uncommitted interests in the  
3 Bone Spring Formation. And there's actually two pools  
4 because each of the laterals penetrates two pools. So  
5 I'm not going to read those out loud. There's one  
6 with quite a bit of numbers and letters to it.

7           And so, in case number 23993, Matador  
8 seeks to pool a standard 400-acre, more or less  
9 overlapping horizontal well spacing unit. And that's  
10 comprised of the west half west half of Section 6,  
11 Township 22 South, Range 33 East and the west half  
12 west half of Section 31, and the west half of the  
13 southwest quarter of Section 30, Township 21 South,  
14 Range 33 East. And that is in Lea County, New Mexico.

15           And Matador seeks to initially dedicate  
16 that spacing unit to the Paul Flowers State Com 111H,  
17 131H, and 151H.

18           Then, in case number 23994, Matador  
19 seeks to pool a standard 400-acre, more or less  
20 overlapping spacing unit. And that's going to be  
21 comprised of the east half of the west half of Section  
22 6, Township 22 South, Range 33 East, and the east half  
23 of the west half of Section 31, and the east half of  
24 the southwest quarter of Section 30, Township 21  
25 South, Range 33 East. And again, that's in Lea

1 County, New Mexico.

2 And Matador seeks to initially -- to  
3 dedicate the spacing unit initially to the proposed  
4 Paul Flowers State Com 112H -- I'm sorry, I have the  
5 wrong -- I believe it is the 112H, 132H, and 152H.  
6 Sorry about that.

7 In these cases, we have included a copy  
8 of the applications, provided a copy of the compulsory  
9 polling checklist, and the affidavit or self-affirmed  
10 statement of David Johns, an affidavit of Blake  
11 Herber, both of whom have previously testified before  
12 the Division.

13 Mr. Johns' statement is Exhibit C,  
14 which includes sub exhibits C1, a copy of that  
15 overlapping notice that I started off by discussing.

16 (Exhibit C and Exhibit C1 were marked  
17 for identification.)

18 This is followed by C2, the C102s,  
19 which I did provide revised C102s to account for the  
20 two C102s for each of the pools that the wells  
21 penetrate.

22 (Exhibit C2 was marked for  
23 identification.)

24 And then, that's followed by C3, a land  
25 tract map; C4, an ownership schedule that lists the

1 parties to be pooled; and then C5, sample well  
2 proposal letter and AFEs; and C6, which is the  
3 chronology of contacts.

4 (Exhibits C3 through C6 were marked for  
5 identification.)

6 This is followed by Mr. Blake's  
7 affidavit, which includes all the standard geology  
8 exhibits, locator map, subsea structure map, and  
9 structural cross-section map.

10 (Exhibit D was marked for  
11 identification.)

12 In these cases, Mr. Blake did not  
13 observe any faulting pinch-outs or other geologic  
14 impediments to the drilling of these wells.

15 And then lastly is Exhibit E, my  
16 self-affirmed statement of notice with a copy of  
17 the -- or a sample copy of the letters that were  
18 timely mailed on November 17, 2023.

19 (Exhibit E was marked for  
20 identification.)

21 All of the mail was delivered and  
22 received, so we did not include the NOPs -- affidavit  
23 of NOPs.

24 And unless there are any questions, I  
25 would ask that the exhibits and sub-exhibits be

1 admitted into the record, and the cases be taken under  
2 advisement at this time.

3 THE HEARING EXAMINER: Are there any --

4 MS. VANCE: And -- oh, sorry,  
5 Mr. Hearing Examiner. I did want to point out that  
6 EOG did enter an appearance in one of the cases. It  
7 was 23994. And I did talk with Ms. Kessler, and  
8 she -- I don't believe she's still on, but she  
9 mentioned she did not have any objection to our  
10 exhibits.

11 THE HEARING EXAMINER: Okay. Are there  
12 any objections to exhibits as proffered?

13 Not hearing any, I'm going to admit  
14 into evidence Matadors Exhibit A, B, C, sub-parts of  
15 C, D, sub-parts of D, E, and F, along with the revised  
16 Exhibit C2. They're all in evidence now.

17 (Exhibits C, C1 through C6, D, and E  
18 were received into evidence.)

19 (Exhibit A, Exhibit B, and Exhibit F  
20 were marked for identification and  
21 received into evidence.)

22 Ms. Vance, in the future, when you want  
23 to revise or amend an exhibit, please file an amended  
24 exhibit packet. Please attach a cover letter to  
25 explain why you're doing this and identifying the



1 exhibits that have been modified. But please don't  
2 just file a single exhibit amended.

3 MS. VANCE: Understood. We'll do that.

4 THE HEARING EXAMINER: All right.

5 Ms. Thompson?

6 MS. THOMPSON: Yeah, I just wanted some  
7 clarifying questions. I -- see any major issues.

8 So you have what looks like three wells  
9 that are going through two different Bone Springs  
10 pools?

11 MS. VANCE: That's correct.

12 MS. THOMPSON: Okay. For a total of  
13 roughly 400 acres?

14 MS. VANCE: That's correct.

15 MS. THOMPSON: Okay. And then -- give  
16 me one second, I was looking up different part of your  
17 packet. And then I was just briefly trying to look at  
18 your pooling list. I was not seeing -- or I guess I  
19 did not see a interest breakdown for some of the  
20 people on your pooling list.

21 It's, like, tracts one, two, and three,  
22 I guess. Oh, never mind, those are under -- okay.

23 Okay. So yeah, I don't have any other  
24 questions.

25 THE HEARING EXAMINER: Okay.

1                   Now, let's move to 23994. I'm going to  
2 admit into evidence the Matadors Exhibits A, B, C, D,  
3 E, and F, and its sub parts, and the revised exhibit  
4 as filed today, Exhibit C2.

5                   (Exhibits C, C1 through C6, D, and E  
6 were received into evidence.)

7                   (Exhibit A, Exhibit B, and Exhibit F  
8 were marked for identification and  
9 received into evidence.)

10                  Okay. That concludes these two cases.  
11 They'll both be taken under advisement.

12                  Ms. Vance?

13                  MS. VANCE: I just wanted to clarify --  
14 I did include the NOPS on these cases. I was mistaken  
15 that with a previous case of -- or a previous case of  
16 mine.

17                  And I just wanted to confirm I do not  
18 need to file new hearing packets for these with the  
19 revised exhibits? I'm happy to do that if that's  
20 easier.

21                  THE HEARING EXAMINER: I think at this  
22 point -- I mean, I thought about that, but then we'll  
23 have your original packet, we'll have the amended  
24 exhibit, and then we'll have an amended packet. And I  
25 think that at that point, it's just getting too

1 confusing.

2 So just in the future, if you could do  
3 it that way, it'll be better.

4 MS. VANCE: Understood.

5 THE HEARING EXAMINER: Okay. Thank  
6 you.

7 MS. VANCE: Thank you.

8 THE HEARING EXAMINER: Okay. So let's  
9 see -- I just need to make a note here.

10 Okay. I'm now calling 23995, 23996  
11 Fasken Oil.

12 MS. CATALANO: Yes, good afternoon,  
13 Mr. Hearing Examiner. Samantha Catalano, with  
14 Montgomery and Andrews, on behalf of Fasken Oil and  
15 Ranch.

16 THE HEARING EXAMINER: Good afternoon.  
17 Are you prepared for an affidavit hearing?

18 MS. CATALANO: Yes, Mr. Hearing  
19 Examiner.

20 THE HEARING EXAMINER: Okay. Please  
21 proceed.

22 MS. CATALANO: Thank you.

23 In case number 23995, Fasken seeks to  
24 amend order numbers R-21922 and R-21922-A to extend  
25 the time for drilling to December 7, 2024, of the Thai

1 Curry Fed Com 223H and 224H, the Bone Spring wells,  
2 which are located in a standard 560-acre, more or  
3 less, horizontal spacing and proration unit with  
4 proximity tracts comprised of the east half of Section  
5 22 and the northeast quarter and the north half of the  
6 southeast quarter of Section 27, Township 20 South,  
7 Range 32 East, in Lea County, New Mexico.

8 And in case number 23996, Fasken seeks  
9 to amend order numbers R-21923 and R-21923-A to extend  
10 the time for drilling to December 7, 2024, of the Thai  
11 Curry Fed Com 433H and 434H wells, which are the  
12 Wolfcamp wells, which are located in a standard 560  
13 acre, more or less, parallel spacing unit with  
14 proximity tracts, which is comprised of the east half  
15 of Section 22 and the northeast quarter and north half  
16 of the southeast quarter of Section 27, Township 20  
17 South, Range 32 East, in Lea County, New Mexico.

18 In our exhibit packet for these cases,  
19 we have the applications to amend order numbers  
20 R21922, 21922A, 21923, and 21923-A, which are attached  
21 as Exhibits A1 and A2, as well as those orders, which  
22 are attached as Exhibits A3, A4, A5, and A6.

23 (Exhibits A1 through A6 were marked for  
24 identification.)

25 We also have the notice letter attached

1 as Exhibit A7.

2 (Exhibit A7 was marked for  
3 identification.)

4 And the affirmation of notice written  
5 by my colleague, Ms. Sharon Shaheen, attached as  
6 Exhibit B.

7 (Exhibit B was marked for  
8 identification.)

9 Notice of these applications were sent  
10 by Certified Mail on November 17th of 2023 to all  
11 parties that were previously pooled under orders  
12 R21922 and R21923 that still own an interest and to  
13 parties that subsequently acquired previously pooled  
14 interests.

15 The evidence of mailing is attached as  
16 Exhibit B-1.

17 (Exhibit B-1 was marked for  
18 identification.)

19 Some notices were returned, but we  
20 maintain that those who did not receive the notice  
21 were provided notice by publication. Notice by  
22 publication was provided timely in advance of the  
23 holiday in the Hobbes New-Sun [ph] on November 21st of  
24 2023, which is reflected in the affidavit of  
25 publication, which is attached in our exhibits as

1 Exhibit B-2.

2 (Exhibit B-2 was marked for  
3 identification.)

4 We also have the landman affirmation,  
5 which is attached as Exhibit A.

6 (Exhibit A was marked for  
7 identification.)

8 Fasken's landman is Mr. David  
9 M. Wallace. Mr. Wallace has previously testified  
10 before the Division, and his credentials as a  
11 petroleum landman have been accepted by the Division.

12 In Mr. Wallace's affirmation, you'll  
13 find the description of the Thai Curry wells and an  
14 explanation of good cause for granting the  
15 applications to extend the drilling time for these  
16 wells.

17 The wells are located in a potash area,  
18 and the BLM takes more time to approve these permits,  
19 which are in a potash area than for other permits.

20 Fasken has been waiting for the BLM to  
21 approve these permits, and that is why Fasken requests  
22 the extension of time for drilling.

23 Fasken expects BLM to approve the  
24 permits in February of 2024 and plans to spud the  
25 wells within three to four months of receiving BLM

1 approval.

2 At this time, Fasken respectfully  
3 requests the hearing examiner to take this case under  
4 advisement and to admit the exhibits into the record.

5 I will stand for any questions.

6 THE HEARING EXAMINER: Thank you. You  
7 said take this case under advisement. Do you mean  
8 these cases?

9 MS. CATALANO: I apologize, Mr. Hearing  
10 Examiner. Yes, these cases.

11 THE HEARING EXAMINER: Okay.

12 So with regard to 23995, I'm seeing  
13 Exhibits A, A1 through A7, and B. Are those all the  
14 exhibits in this case?

15 MS. CATALANO: Sorry, Mr. Hearing  
16 Examiner. I believe that there's also B1.

17 THE HEARING EXAMINER: Okay. Let me  
18 find B1 because I don't see it on your table of  
19 contents. Will you take a look at it and see what  
20 I'm --

21 MS. CATALANO: Yes, I apologize. B1 is  
22 the evidence of mailing, and B2 is the notice of  
23 publication.

24 THE HEARING EXAMINER: Okay. All  
25 right. But they're here in the packet?

1 MS. CATALANO: Yes, Mr. Hearing  
2 Examiner.

3 THE HEARING EXAMINER: Let me go down  
4 and find it, hold on. I see B2. I have no idea what  
5 page B1 is. Can you tell me?

6 MS. CATALANO: Yes, I'm sorry, one  
7 moment. I believe it begins on PDF page 41. But let  
8 me just --

9 THE HEARING EXAMINER: Okay. Okay.  
10 All right. Let me get up to B1. Exhibit B1, yes,  
11 you're correct.

12 MS. CATALANO: Yes --

13 THE HEARING EXAMINER: Okay. So I'm  
14 also admitting into evidence Exhibit B1 and B2 in this  
15 case.

16 (Exhibit B1 and Exhibit B2 were  
17 received into evidence.)

18 Let me go back to case number 6. Now,  
19 in this one, we have a table of contents, also the  
20 same. Do we also have a B1 and B2 here?

21 MS. CATALANO: Yes, Mr. Hearing  
22 Examiner. And just for your reference, B2 is on page  
23 108 of the PDF -- sorry, Exhibit B2 is on page 108.

24 THE HEARING EXAMINER: Right. Okay.  
25 But we also have a B1 too, right?



1 MS. CATALANO: Yes, Mr. Hearing  
2 Examiner.

3 THE HEARING EXAMINER: Okay. That's  
4 fine.

5 So in 23996, I am admitting into  
6 evidence Exhibit A, A1 through A7, B1, and B2.

7 (Exhibits A, A1 through A7, B, B1, and  
8 B2 were received into evidence.)

9 Ms. Thompson?

10 MS. THOMPSON: Yeah, I just had --  
11 questions.

12 -- layout like you were just talking  
13 about. I see that on the table of contents that A7 is  
14 the notice letter -- know if you just, like,  
15 overlooked it, or -- is that part of the B Section?

16 MS. CATALANO: That's on PDF page 33.

17 MS. THOMPSON: Page 33. Okay.

18 MS. CATALANO: -- is exhibit A7.

19 MS. THOMPSON: Okay. Yes, I see it.  
20 Okay. I don't really have any questions for you, just  
21 more of a comment, which I think the hearing examiner  
22 brought up at the beginning of today, which was just  
23 having consolidated cases and one PDF packet.

24 And, like, going forward with having  
25 them separated out, even though you could present

1 something -- at the same time, so.

2 MS. CATALANO: Okay. Yes, thank you.  
3 I apologize. We were unaware of that rule prior to  
4 today, but we will do that going forward.

5 THE HEARING EXAMINER: I wouldn't  
6 exactly call it a rule. It's more of a request.

7 MS. THOMPSON: Yes.

8 THE HEARING EXAMINER: But thank you.  
9 Okay. We're moving on to 24007, Tap  
10 Rock. It looks like there's also 24008.

11 MR. RODRIGUEZ: Good afternoon, Michael  
12 Rodriguez with Tap Rock Operating LLC.

13 THE HEARING EXAMINER: Good afternoon,  
14 Mr. Rodriguez. Are you proceeding by affidavit?

15 MR. RODRIGUEZ: Yes, that's my intent.

16 THE HEARING EXAMINER: Sounds good.  
17 Please proceed.

18 MR. RODRIGUEZ: Thank you.

19 In these cases, Tap Rock is requesting  
20 a one-year extension to commence drilling operations.  
21 And specifically, in case number 24007, the Division  
22 issued order number R22603 in case number 22933 on  
23 March 30, 2023.

24 And in that order, the Division pooled  
25 all uncommitted interests within the Bone Spring

1 formation underlying a 640-acre standard horizontal  
2 spacing unit comprised of the east half of Sections 11  
3 and 14 within Township 20 South, Range 32 East, in Lea  
4 County and designated Tap Rock as the operator of the  
5 unit and the wells dedicated to the unit.

6 Likewise, in case number 24007, a  
7 similar order was issued. However, this one covers  
8 the west half of Sections 11 and 14.

9 Both orders are set to expire on March  
10 31, 2023. And Tap Rock requests the Division extends  
11 the deadline to commence drilling the wells under  
12 these orders until March 31, 2025, which is one year  
13 from the current deadline.

14 The exhibit packet submitted to the  
15 Division in support of these cases are identical and  
16 contain Exhibit A, which is the landman's testimony  
17 explaining that good cause exists for time extension  
18 since Tap Rock's ability to commence drilling the  
19 wells has been impacted by -- permitting delays.

20 (Exhibit A was marked for  
21 identification.)

22 And this exhibit also includes the  
23 applications filed in these cases as A1.

24 (Exhibit A1 was marked for  
25 identification.)

1                   And the current orders as A2.

2                   (Exhibit A2 was marked for  
3                   identification.)

4                   And Exhibit B is my self-affirmed  
5                   statement that all notice requirements for these  
6                   applications has been met.

7                   (Exhibit B was marked for  
8                   identification.)

9                   It includes B1, which is the sample  
10                  notice of hearing letters, and a tracking sheet  
11                  providing the status of the parties who are notified  
12                  of this hearing via Certified Mail.

13                  (Exhibit B1 was marked for  
14                  identification.)

15                  And B2, which is the affidavit of  
16                  publication.

17                  (Exhibit B2 was marked for  
18                  identification.)

19                  And with that is that Exhibits A and B,  
20                  and A1, A2, B1, and B2 be admitted into the record and  
21                  case numbers 24007 and 24008 be taken under  
22                  advisement.

23                  THE HEARING EXAMINER: Mr. Rodriguez,  
24                  are you saying that the exhibit packet filed in these  
25                  two cases is identical?

1 MR. RODRIGUEZ: Yes.

2 THE HEARING EXAMINER: Okay.

3 All right. Let's start with 24007.

4 Any objections to the exhibits in this case? Not  
5 hearing any, I admit into evidence Exhibit A, A1, A2,  
6 B, B1, B2.

7 (Exhibits A, A1, A2, B, B1, B2 were  
8 received into evidence.)

9 We'll deal with the two cases  
10 separately.

11 Ms. Thompson?

12 MS. THOMPSON: No questions.

13 THE HEARING EXAMINER: No questions.

14 Now I'm going to go to 24008, and I'm  
15 going to admit into evidence Exhibit A, A1, A2, B, B1,  
16 B2.

17 (Exhibits A, A1, A2, B, B1, B2 were  
18 received into evidence.)

19 Ms. Thompson, any questions?

20 MS. THOMPSON: No questions.

21 THE HEARING EXAMINER: No questions.

22 Thank you, Mr. Rodriguez.

23 MR. RODRIGUEZ: Thank you.

24 THE HEARING EXAMINER: You're welcome.

25 Matador Production Company 24010, 011,

1 012, 013, 014. We're here for hearing.

2 Ms. Vance?

3 MS. VANCE: No, actually, it's my  
4 colleague, but you did have 24010, which is the Paul  
5 Flowers. We dismissed this case and I wasn't sure if  
6 you were going to call it, so.

7 THE HEARING EXAMINER: I think the  
8 motion to dismiss came in late. That's why it's still  
9 on today's docket. Yeah, I do see that. Thank you  
10 for showing that.

11 When a motion to dismiss is filed  
12 within the 48-hour timeframe, Ms. Vance, what normally  
13 happens?

14 MS. VANCE: Previously it just was a  
15 late-filed dismissal and -- I don't think that -- I  
16 don't I don't know of any other course of action other  
17 than it being granted.

18 THE HEARING EXAMINER: Okay. So it  
19 being granted, does that mean that you still have to  
20 file something through the fee portal to dismiss the  
21 case or only to continue a case?

22 MS. VANCE: Only to continue.

23 THE HEARING EXAMINER: Okay.

24 MS. VANCE: So we filed -- I don't  
25 believe there's anything else from us.

1 THE HEARING EXAMINER: Then your motion  
2 is granted.

3 We move on to the cases I already  
4 announced.

5 Mr. Feldewert?

6 MR. FELDEWERT: Yes, good afternoon.  
7 Michael Feldewert -- Holland & Hart appearing on  
8 behalf of the applicant in these four cases --  
9 right -- 24011 through 24014?

10 THE HEARING EXAMINER: Yes, four cases.

11 MR. FELDEWERT: And I don't think  
12 there's going to be any other appearances.

13 THE HEARING EXAMINER: Then please  
14 proceed.

15 MR. FELDEWERT: All right. So  
16 Mr. Examiner, you -- these four cases mirror what was  
17 presented on November 2nd -- at the November 2nd  
18 docket under cases 23931 through 23934.

19 THE HEARING EXAMINER: And why is that  
20 important for me to know?

21 MR. FELDEWERT: I'm going to tell you  
22 right now. Okay. And that is, there was a concern  
23 raised by Examiner McLure at that time about the  
24 applications pooling to the base of the bone --  
25 Wolfcamp formation due to the existence of a shallower

1 Wolfcamp oil pool and a deeper Wolfcamp gas pool.

2 And Mr. McLure and I went back and  
3 forth and talked about it and raised some very  
4 interesting issues.

5 We know that the -- or I can tell you  
6 that the proposed wells are targeting in the -- an oil  
7 zone. And it's the same oil zone that's being  
8 developed by an adjacent well -- the Theo [ph]  
9 Thorsenas [ph] well. It's got an API number  
10 3002546154.

11 And that well was placed in that Upper  
12 Wolfcamp oil pool. It's the one identified in our  
13 applications in these cases and in the compulsory  
14 pooling checklist.

15 So having had that discussion with  
16 Mr. McLure -- having sent an email to the Division  
17 that they've recently responded to, I thought we  
18 should just file revised applications.

19 And that's what we've done. And these  
20 applications now don't seek to pool to the base of the  
21 Wolfcamp. They only seek to pool to the base of that  
22 oil pool, wherever that is.

23 And, of course, we don't know that.  
24 You don't know that. The only people that know that  
25 is the Division.



1           And as before, it does not pull from  
2 the top of the Wolfcamp formation. It pulls from a  
3 depth -- ownership depth severance interval 12,412  
4 feet measure depth in the well that we identified.

5           And the reason for that and, as  
6 testified in our landman statement, is that Tap Rock  
7 owns a working interest above that depth severance  
8 line but not below it.

9           For everybody else, the ownership is  
10 the same. Okay. So that's why we are pooling from  
11 that depth severance line now down to the base of that  
12 oil pool. That should avoid the Division's concerns  
13 about the lower gas pool.

14           So if the Division grants the  
15 applications in these cases, then they can dismiss the  
16 cases I just described to you. That's why I've noted  
17 them, 23931 to 23934.

18           Now, as before, the exhibits here are  
19 very similar in all four cases. In fact, they're very  
20 similar to what we previously presented. And I will  
21 run through the exhibits filed in the first case,  
22 24011, rather than all four. Okay. So that's what I  
23 have in front.

24           And what you'll see is we have that --  
25 we have a compulsory pooling checklist that identifies

1 that Upper Wolfcamp oil pool along with the pool code.  
2 It also identifies the ownership depth severance in  
3 that compulsory pooling application -- or a checklist.  
4 The application likewise mirrors that.

5 We then have the land statement of Nick  
6 [ph] Weeks [ph]. And he provides all the usual  
7 information with the addition of discussing in  
8 Paragraph 5 the limitation in depth that's caused by  
9 the ownership depth severance, which he goes on to  
10 discuss in Paragraph 6 and notes that Tap Rock owns  
11 above that line but not below. And that's the only  
12 ownership difference.

13 He also notes that, as a result of  
14 that, we have provided notice to Tap Rock as the  
15 offsetting vertical owner. So they're not being  
16 pooled, but they've gotten notice of this applications  
17 since it's a depth severance.

18 With the remaining exhibits -- mirror  
19 what was provided before, and that is there's a letter  
20 that dealt with the overlapping spacing unit, which is  
21 why we're just seeking pooling because no one  
22 objected.

23 It provides a form C102 with the Upper  
24 Wolfcamp oil pool listed as the pool. It provides as  
25 Exhibit A3, the tracts that are involved in this

1 particular case.

2 (Exhibit A3 was marked for  
3 identification.)

4 A4 provides your ownership breakdown  
5 and identifies the parties to be pooled with an  
6 asterisk.

7 (Exhibit A4 was marked for  
8 identification.)

9 There's three working interest owners,  
10 and on subsequent pages of that exhibit, identified  
11 with asterisks as pooled parties or a group of  
12 overriding loyalty interest owners and a record title  
13 owner.

14 Exhibit A5 is a well proposal letter  
15 that was sent out for these proposed wells along with  
16 the AFE.

17 (Exhibit A5 was marked for  
18 identification.)

19 And then Exhibit A6 is the chronology  
20 of contacts.

21 (Exhibit A6 was marked for  
22 identification.)

23 Exhibit B, as in boy, is the statement  
24 from Liz [ph] Olson [ph], who's the geologist who  
25 testified in the prior case and has previously been

1 accepted as an expert.

2 (Exhibit B was marked for  
3 identification.)

4 She provides, as Exhibit B1 her locator  
5 map. She provides -- Exhibit B2, her structure map  
6 with a cross-section line that was then utilized to  
7 create her structural cross-section, A to A prime,  
8 which is Exhibit B3.

9 (Exhibit B1, Exhibit B2, and Exhibit B3  
10 were marked for identification.)

11 She identifies on that Exhibit B3 the  
12 top of the pooled interval. In other words, that  
13 depth severance line, and that we're pooling below  
14 that down to the base of that Wolfcamp oil pool. And  
15 she identifies the target zones for the proposed wells  
16 in each case.

17 We then have as Exhibit C the affidavit  
18 of publication, which includes not only notice to the  
19 parties that are listed to be pooled but also again  
20 Tap Rock, which is the offsetting vertical owner.

21 (Exhibit C was marked for  
22 identification.)

23 And then we have the affidavit of  
24 publication as Exhibit D, as in David, for those  
25 that -- where the hearing notice had not been fully

1 delivered, which I think were very few or they're  
2 waiting to be delivered or whatever the Post Office  
3 does.

4 (Exhibit D was marked for  
5 identification.)

6 SO with that, I would move the  
7 admission of Exhibits A through D in each of these  
8 four cases, and I would ask that the Division take  
9 these four cases under advisement.

10 THE HEARING EXAMINER: Okay. Let's  
11 deal with the cases individually when it comes to  
12 admitting the exhibits into evidence.

13 I have before me Exhibits A, B, C, and  
14 D and subparts in 24011. Are there any objections?

15 Hearing none, those exhibits are  
16 entered into evidence.

17 (Exhibits A3 through A6, B, B1 through  
18 B3, C, and D were received into  
19 evidence.)

20 Ms. Thompson?

21 MS. THOMPSON: Yes, I actually have a  
22 few questions. So I have talked to Mr. McLure quite a  
23 bit about this case, and I've seen their  
24 correspondence back and forth.

25 Going to Exhibit B3, the cross-section

1 map, I noticed that what is in your latest packet is  
2 not what was supplied via your email communications  
3 with the Division. And this looks to be outdated.

4 MR. FELDEWERT: Well -- I would say  
5 it's been modified, so this is not outdated --

6 MS. THOMPSON: So --

7 MR. FELDEWERT: Go ahead, I'm sorry.

8 MS. THOMPSON: With your email  
9 correspondence with Mr. McLure, you have another B3  
10 cross-sectional map in there, which shows less, I  
11 guess, of the highlighted section. Whereas this one  
12 seems to be, I think, the original.

13 So if you want to clarify that with me.

14 MR. FELDEWERT: So I can -- first off,  
15 I want to make sure there's no confusion. We did have  
16 a B3 in the first case -- cases --

17 MS. THOMPSON: Correct.

18 MR. FELDEWERT: -- which then resulted  
19 in discussions with Mr. McLure that had -- emails.  
20 Then this is what we have filed for this case to, you  
21 know, reflect the top of the pooled -- now, if there  
22 are differences between the two that you would need to  
23 explore, I believe our geologist is available. And we  
24 can have a discussion as needed.

25 But this is what she sent to me, which

1 identifies the target interval for these acres -- four  
2 wells in this particular case.

3 MS. THOMPSON: Okay. Because what I'm  
4 seeing -- give me one second, sorry. The -- from what  
5 you had sent to us, seems to look different. Okay.  
6 One second.

7 MR. FELDEWERT: Sure.

8 MS. THOMPSON: Okay. So I think just  
9 to refresh your memory real fast, I think you sent  
10 correspondence on November 6th to Mr. McLure with an  
11 attached B3 saying that this was the new updated B3  
12 that you would be submitting in the new packet.  
13 And -- for discussions on these cases.

14 I now just want to verify that this B3  
15 in the email is either the correct or the incorrect B3  
16 versus the one that's in the latest packet.

17 MR. FELDEWERT: What I can tell you --  
18 and I have not compared the two. And I don't know if  
19 there were any changes made for purposes of the  
20 presentation at this hearing because they did  
21 double-check to make sure that it followed what was  
22 the target zone for the Theo [ph] well.

23 But I'm corresponding right now, live  
24 here with -- this is what's nice -- with Matador and  
25 he's telling me that the -- I guess the title -- what

1 he says, the title version in the email is the correct  
2 one.

3 MS. THOMPSON: Okay. And so that means  
4 the highlighted zone goes from about 12,800 feet to  
5 just below the 13,000-foot marker.

6 And then the one that I'm seeing in our  
7 packet that you have in our imaging system goes from  
8 the 12,800 marker to quite a bit further down, which  
9 at 13,500-ish.

10 MR. FELDEWERT: And I think you are  
11 correct, and I am informed that that was a mistake on  
12 Matador's part and that we can -- we will supplement  
13 this and provide the correct Exhibit B3.

14 MS. THOMPSON: Okay. Perfect. And  
15 then while you're doing that -- also, I was just  
16 taking a quick look at your checklist as well in the  
17 packet. And it seems that you did change it to --  
18 say, Upper Wolfcamp and the pool name and code.

19 However, under the formations and  
20 vertical extent section, it just says Wolfcamp  
21 formation. If you would like -- it's not necessary,  
22 you can change that to a -- camp as well. It would be  
23 more correct -- aspects.

24 MR. FELDEWERT: Change it to the what?

25 MS. THOMPSON: From Wolfcamp to Upper



1 Wolfcamp.

2                   And then, if we were to take these ones  
3 under advisement, you would be dismissing cases 23931  
4 through 34.

5                   MR. FELDEWERT: You know, I guess I'm a  
6 little more cautious about that. I would say don't  
7 take any action on those other cases.

8                   Well, let me think about that. You're  
9 right. If we take these under advisement, we don't  
10 need those cases. So yes, I could dismiss those.

11                   MS. THOMPSON: Okay --

12                   MR. FELDEWERT: -- these addressed the  
13 concerns raised by the Division in prior cases.

14                   MS. THOMPSON: Okay. And then my only  
15 last question was -- is when you supplied notice, I  
16 just wanted to verify that the notice supplied was for  
17 the newer cases, the 24011 through 14 and not a  
18 rehashing of cases 23931 through 34.

19                   MR. FELDEWERT: No, in fact, if you  
20 look, for example, at the notice of publication, it  
21 has the new cases on it. And if you -- and given the  
22 date of the application -- I'm sorry, date of the  
23 notice letter -- November 17th.

24                   MS. THOMPSON: Okay. Give me one  
25 second.

1 MR. FELDEWERT: Sure. So I'm sorry if  
2 I go -- let me be more specific. If I go to Exhibit  
3 C, my affidavit has the case number on it for these  
4 new cases.

5 MS. THOMPSON: Okay. I do you see  
6 that --

7 MR. FELDEWERT: And you will see --

8 MS. THOMPSON: -- yeah.

9 MR. FELDEWERT: Okay.

10 MS. THOMPSON: Yeah.

11 MR. FELDEWERT: Good question.

12 MS. THOMPSON: Okay. Perfect. So  
13 yeah, that would be it. And then, of course, you'd be  
14 resubmitting these exhibits in a -- one full packet.  
15 Correct?

16 MR. FELDEWERT: The B3s?

17 MS. THOMPSON: The B3s and the  
18 checklist you would be --

19 MR. FELDEWERT: I can do that. If  
20 you'd like me to change --

21 MS. THOMPSON: -- whole packet.

22 MR. FELDEWERT: Yeah, I can do that in  
23 each case. I'll correct the B3, and we will change  
24 Wolfcamp to Upper Wolfcamp in the compulsory pooling  
25 checklist.

1 MS. THOMPSON: Okay. Perfect.

2 THE HEARING EXAMINER: Okay. So let's  
3 see. I'm taking these one at a time. So let me make  
4 notes as we go along.

5 And what I understand from this  
6 conversation is that Mr. Feldewert is going to be  
7 submitting an amended exhibit packet. And that  
8 amended exhibit packet will have a cover letter that  
9 explains the purpose of the amendment is to modify the  
10 Exhibit B3 and the compulsory pooling checklist.

11 Did I get that correct?

12 MS. THOMPSON: Correct.

13 THE HEARING EXAMINER: Okay.

14 MR. FELDEWERT: I would just clarify  
15 the -- cover pleading. You guys -- send a letter --  
16 file a pleading.

17 THE HEARING EXAMINER: Okay. Let's  
18 move on to 24012. In this case, I'm going to admit  
19 Exhibits A and its subparts, B and its subparts, C and  
20 D into evidence.

21 (Exhibits A3 through A6, B, B1 through  
22 B3, C, and D were received into  
23 evidence.)

24 And we are expecting an amended exhibit  
25 packet with the same changes to case number 24011.

1 Correct?

2 MR. FELDEWERT: Yes, sir.

3 THE HEARING EXAMINER: All right.

4 Now, I'm moving on to case number  
5 ending in 13. I am admitting into evidence Exhibits A  
6 and its subparts, B and its subparts, C and D into  
7 evidence.

8 (Exhibits A3 through A6, B, B1 through  
9 B3, C, and D were received into  
10 evidence.)

11 And we are going to expect an amended  
12 exhibit packet with the same changes as the last two.

13 And finally, we are going to the case  
14 ending in 14. I am admitting it to evidence A and its  
15 subparts, B and its subparts, C and D with the same  
16 amended exhibit packet discussed in the previous three  
17 cases.

18 (Exhibits A3 through A6, B, B1 through  
19 B3, C, and D were received into  
20 evidence.)

21 Is there anything further on these  
22 four?

23 MR. FELDEWERT: The only thing I will  
24 do then, Mr. Examiner, is we alluded to -- once these  
25 are taken under advisement, I will dismiss cases 23931

1 through 34 so the Division does not need to do  
2 anything with those.

3 THE HEARING EXAMINER: Okay. I have  
4 those case numbers in my notes, but let me just make  
5 sure. Hold on one second. I have 23931 through 34.  
6 Okay.

7 First, when should we expect the motion  
8 to dismiss those cases?

9 MR. FELDEWERT: Tomorrow.

10 THE HEARING EXAMINER: Okay. Fine.

11 MR. FELDEWERT: Since you're taking  
12 these under advisement.

13 THE HEARING EXAMINER: We are.

14 MR. FELDEWERT: Okay.

15 THE HEARING EXAMINER: And when should  
16 we expect the amended exhibit packets?

17 MR. FELDEWERT: Shortly.

18 THE HEARING EXAMINER: -- suggesting --

19 MR. FELDEWERT: I'm assuming -- I  
20 haven't checked with my client. I'm hoping we can get  
21 that filed tomorrow or early next week. So it should  
22 be --

23 THE HEARING EXAMINER: Why don't you --  
24 the end of next week? Why don't we say --

25 MR. FELDEWERT: OH, that's fine. Yeah,

1 certainly by the end of next week.

2 THE HEARING EXAMINER: December 14?

3 MR. FELDEWERT: Yes.

4 THE HEARING EXAMINER: I have a  
5 deadline of December 14 for those amended exhibit  
6 packets. Thank you very much.

7 MR. FELDEWERT: Thank you.

8 THE HEARING EXAMINER: You're welcome.

9 All right. We're moving on to 24028,  
10 29. That would be Permian Resources. Looks like  
11 we're having a hearing by affidavit.

12 Ms. Vance?

13 MS. VANCE: Correct. Good afternoon,  
14 Mr. Hearing Examiner --

15 THE HEARING EXAMINER: Good afternoon.

16 MS. VANCE: -- technical examiner --  
17 Paula Vance, with the Santa Fe office of Holland &  
18 Hart, on behalf of Permian Resources Operating LLC.

19 THE HEARING EXAMINER: Please proceed.

20 MS. VANCE: Okay.

21 So in both of these cases, Permian is  
22 seeking approval of overlapping spacing units. And  
23 just like before, we have created -- or we've included  
24 a copy of the overlapping notice letter that went out  
25 in the landman exhibits. We did not receive any

1 objections. So I believe we can drop that portion of  
2 the application at this point.

3 So in these cases, Permian is seeking  
4 approval to pool the uncommitted interest in a portion  
5 of the Bone Spring formation. Specifically, that's  
6 the first Bone Spring. And the pool is the Ojo Chiso  
7 Bone Spring, and the pool code is 96553.

8 In case number 24028, Permian is  
9 seeking to pool the interest in the first Bone Spring  
10 in a spacing unit that is comprised of the west half  
11 of the east half of Section 31, Township 21 South,  
12 Range 35 East, and the west half east half of Section  
13 6, Township 22 South, Range 35 East. And that is in  
14 Lea County, New Mexico.

15 And Permian seeks to initially dedicate  
16 this spacing unit to the Eric Cartman 6 State Com  
17 303H.

18 And then, in case number 24029, Permian  
19 is seeking to pool the first Bone Spring in the east  
20 half of the east half of Section 31, Township 21  
21 South, Range 35 East, and the east half east half of  
22 Section 6, Township 22 South, Range 35 East. And  
23 again, that's in Lea County, New Mexico.

24 And Permian seeks to initially dedicate  
25 this spacing unit to the proposed Eric Cartman 6 State

1 Com 304H.

2 In these cases, we have included a copy  
3 of the application, the compulsory pooling checklist.  
4 I will note, just like my colleague, Mr. Feldewert, I  
5 did notice, because we are all only pooling the first  
6 Bone Spring, that I do need to update our compulsory  
7 pooling checklist for that -- pooling this vertical  
8 extent and make a notation that it is just the first  
9 Bone Spring in both of those.

10 So also we have provided the  
11 self-affirmed statements of Landman Chris Astwood and  
12 Geologist Ira Bradford, both of whom have previously  
13 testified before the Division.

14 Mr. Astwood, his self-affirmed  
15 statement in both cases is Exhibit C, which also  
16 includes sub-Exhibit C1, which is that overlapping --  
17 a sample copy of the overlapping notice that I  
18 discussed previously, a list of the parties that were  
19 noticed for the overlap, and a diagram depicting the  
20 overlap with the existing and the proposed units.

21 (Exhibit C and Exhibit C1 were marked  
22 for identification.)

23 Then, C2 is the C102s for these wells.

24 (Exhibit C2 was marked for  
25 identification.)



1 C3 is a land tract map with a list of  
2 the owners to be pooled that are highlighted in  
3 yellow.

4 (Exhibit C3 was marked for  
5 identification.)

6 C4 is a sample copy of the well  
7 proposal letter and AFEs.

8 (Exhibit C4 was marked for  
9 identification.)

10 And lastly is C5, a chronology of  
11 contacts.

12 (Exhibit C5 was marked for  
13 identification.)

14 This is followed by Mr. Bradford's  
15 self-affirmed statement, which is Exhibit D and  
16 includes the sweep of geology exhibits on D1, the  
17 locator map; D2, a cross-section locator map; D3, a  
18 first Bone Spring structure map; D4, a structural  
19 cross section; and D5 -- because we are only pooling  
20 the vertical extent of the first Bone Spring, we have  
21 included a type log for the reference well used for  
22 the pooling that specific vertical extent.

23 (Exhibits D and D1 through D5 were  
24 marked for identification.)

25 In this case, Mr. Bradford did not

1 observe any faulting pinch-outs or other geologic  
2 impediments to the horizontal drilling of these wells.

3 And then lastly is Exhibit E, a  
4 self-affirmed statement of notice for myself with the  
5 sample copy of the notice letters that went out that  
6 were mailed out on November 17, 2023.

7 (Exhibit E was marked for  
8 identification.)

9 And then lastly, that's followed by  
10 Exhibit D [sic], which is the affidavit of Notice of  
11 Publication that was published on November 22, 2023.

12 (Exhibit F was marked for  
13 identification.)

14 And unless there are any questions, I  
15 would ask that these cases be taken under advisement  
16 by the Division at this time.

17 THE HEARING EXAMINER: Okay.  
18 Ms. Vance, let me pull up your packet.

19 Are there any objections to the  
20 exhibits Ms. Vance just outlined? Hearing none, I'm  
21 admitting into evidence Exhibits A, B, C and its  
22 subparts, D and its subparts, E, and F in case 24028.

23 (Exhibits A, B, C, C1 through C5, D, D1  
24 through D5, E, and F were received into  
25 evidence.)

1 I'll deal with 24029 in just a moment,  
2 Ms. Vance.

3 Ms. Thompson, any questions on this  
4 case?

5 MS. THOMPSON: I have no questions on  
6 this case.

7 THE HEARING EXAMINER: All right. Very  
8 good.

9 So we'll take that case under  
10 advisement, Ms. Vance. And then the exhibits in case  
11 ending in 29, I'm admitting into evidence Exhibits A,  
12 B, C, and its subparts, D and its subparts, E and F  
13 into evidence.

14 (Exhibits A, B, C, C1 through C5, D, D1  
15 through D5, E, and F were received into  
16 evidence.)

17 Ms. Thompson, any questions?

18 MS. THOMPSON: No questions.

19 THE HEARING EXAMINER: Very good.

20 Thank you, Ms. Vance. They're both  
21 under advisement.

22 MS. VANCE: Thank you. And I will file  
23 the revised hearing packets with those revised  
24 compulsory pooling checklists to be sure -- to make  
25 sure that we've identified the vertical extent. And

1 I'll do that after the hearing.

2 THE HEARING EXAMINER: Okay. Thank you  
3 very much. So Ms. Vance, we're taking these under  
4 advisement with revised -- what exhibit are you  
5 revising?

6 MS. VANCE: It would be Exhibit A in  
7 our hearing -- excuse me, I'm starting to lose my  
8 voice. And that would be our compulsory pooling  
9 checklist.

10 THE HEARING EXAMINER: I just wanted to  
11 make sure I got the right exhibit. Thank you.

12 Now calling 24030 Permian Resources --

13 MS. VANCE: Oh, I'm sorry, I didn't  
14 quite hear you. Yes, that's myself again, Mr. Hearing  
15 Examiner.

16 THE HEARING EXAMINER: Okay.

17 MS. VANCE: On behalf of -- Paula Vance  
18 with the Santa Fe office of Holland & Hart, on behalf  
19 of Permian Resources Operating LLC.

20 THE HEARING EXAMINER: Okay. Please  
21 proceed.

22 MS. VANCE: Thank you, Mr. Hearing  
23 Examiner.

24 I did want to note before I go through  
25 my exhibits that we are relying on our Notice of

1 Publication. However, although we submitted it timely  
2 to the newspaper, the newspaper was not able to  
3 publish the notice before that November 22nd deadline.  
4 I believe they published it on November 24th.

5 So I would like to present the case,  
6 but leave it open for to perfect notice, and we'll  
7 continue it.

8 THE HEARING EXAMINER: That's fine.  
9 That's what we'll do.

10 MS. VANCE: Thank you, Mr. Hearing  
11 Examiner.

12 So in this case, Permian seeks to  
13 reopen its case number 23395 and contract the pooled  
14 vertical interval. It is related to the last case  
15 that I presented, which is case 24029. They actually  
16 overlap.

17 And in this previous case, Permian  
18 pooled both the first and second Bone Spring, but to  
19 its preferred method of managing its development in  
20 this area would like to separate the pooling for  
21 the -- its 300 series wells, which is what I just  
22 presented, and this particular -- in this particular  
23 case, which was its 500 series wells.

24 So in this case, we are reopening to  
25 contract the pooled vertical extent and limit it just

1 to the second Bone Spring.

2 In this case, I have -- or in the  
3 hearing packet, I have provided a copy of the  
4 application, which is Exhibit A.

5 (Exhibit A was marked for  
6 identification.)

7 Exhibit B is a copy of the approved  
8 order, and that is order number RTAC 22689.

9 (Exhibit B was marked for  
10 identification.)

11 This is followed by the self-affirmed  
12 statement of Chris Astwood, which is Exhibit C and  
13 provides a short explanation for the request.

14 (Exhibit C was marked for  
15 identification.)

16 And then Exhibit D is the self-affirmed  
17 statement of Ira Bradford, which does include the same  
18 type log from the previous two cases that provides the  
19 stratigraphic equivalent in reference for the  
20 different target zones.

21 (Exhibit D was marked for  
22 identification.)

23 This is followed by Exhibit E, which is  
24 a self-affirmed statement of notice for myself.

25 Again, timely mailed on November 17, 2023.

1 (Exhibit E was marked for  
2 identification.)

3 And the notice that I discussed at the  
4 start, and that is Exhibit E [sic].

5 (Exhibit F was marked for  
6 identification.)

7 And unless there are any questions, I  
8 would ask that this case be taken under advisement.

9 THE HEARING EXAMINER: So we're not  
10 really taking it under advisement, if I'm not  
11 mistaken, right, Ms. Vance?

12 MS. VANCE: Right, right. Well, taking  
13 it under advisement but leaving it open to perfect  
14 notice.

15 THE HEARING EXAMINER: Yeah, I'm not  
16 going to do that. What I will do is I will --  
17 evidentiary record open so that we can come back on  
18 December 21st, hear about your notice and how it's  
19 been resolved, and then end the questioning there, and  
20 then take it under advisement. Is that okay?

21 MS. VANCE: That sounds like a plan,  
22 Mr. Hearing Examiner.

23 THE HEARING EXAMINER: All right. All  
24 right. Very good. So first, let me admit into  
25 evidence your exhibits, and then I'll go to Ms. Hailee

1 Thompson for any questions that she might have.

2 And Ms. Vance, I think you will have to  
3 file for a continuance to get this on the December  
4 21st docket. Okay?

5 MS. VANCE: We will take care of that.

6 THE HEARING EXAMINER: All right.

7 Sounds good. So first, let's discuss your exhibits in  
8 this case.

9 I see in 24030 Exhibits A, B, C, D,  
10 subparts to D, E, and F. Any objections? Not hearing  
11 any. They're admitted into evidence.

12 (Exhibits A through F were received  
13 into evidence.)

14 Ms. Thompson?

15 MS. VANCE: Oh, I think you're on mute,  
16 Ms. Thompson.

17 MS. THOMPSON: Thank you.

18 Just a few clarification questions.

19 So you're looking to amend the order in  
20 order to change the vertical interval?

21 MS. VANCE: That's correct. In the  
22 original case, we pooled both the first and second  
23 Bone Spring. And we're just separating out so that,  
24 in this case, we are only pooling the second Bone  
25 Spring.



1                   And the case that I just -- prior to  
2 this case, was presenting, that's overlapping this  
3 particular spacing unit. And that one is only going  
4 to be pooling the first Bone Spring.

5                   MS. THOMPSON: Okay. And then will  
6 this be, I guess, excluding old parties that were  
7 pooled onto the original order?

8                   MS. VANCE: Not necessarily because  
9 it's my understanding it's all the same parties pooled  
10 in -- or it's the same parties through the entire  
11 vertical interval. I believe so. I'm not -- I would  
12 have to double-check, but I believe that that's the  
13 case. I don't believe it changes any of the pooling  
14 parties.

15                   MS. THOMPSON: That's fine. I'm sure  
16 we'll bring it back up during the next hearing. Let's  
17 see. I don't think I have any other questions at the  
18 moment. Just, like, maybe a notation on verbiage.

19                   As we don't -- I guess, at the OCD  
20 technically reopen cases, but we do, like, mend  
21 hearing orders.

22                   MS. VANCE: I will note that for the  
23 next time.

24                   MS. THOMPSON: Okay.

25                   THE HEARING EXAMINER: All right. We

1 will hear more about this case in two weeks from  
2 today.

3 Thank you, Ms. Vance.

4 MS. VANCE: Thank you.

5 THE HEARING EXAMINER: I'm now calling  
6 24031.

7 Mr. Savage?

8 MR. SAVAGE: Yes, good afternoon,  
9 Mr. Hearing Examiner. Good afternoon, Ms. Technical  
10 Examiner. Darin Savage with Abadie & Schill appearing  
11 on behalf of Devon Energy Production Company L.P.

12 THE HEARING EXAMINER: Are you prepared  
13 to proceed by hearing -- by affidavit?

14 MR. SAVAGE: I am.

15 THE HEARING EXAMINER: Please proceed.

16 MR. SAVAGE: Case 24031 covers lands in  
17 Section 35, Township 23 South, Range 29 East. And  
18 Section 2, Township 24 South, Range 29 East; Eddy  
19 County, New Mexico.

20 The landman, Aaron Young, for this case  
21 has testified before the Division as an expert  
22 witness. His credentials have been accepted and made  
23 a matter of record, as so has the geologist, Sarah  
24 Jancuska, who has also testified. And her credentials  
25 have been accepted as a matter of record.

1           In this case, Devon seeks to reopen  
2 case 23788 and amend order number R22941 in order to  
3 expand the spacing unit slightly by including the  
4 northwest northeast of Section 35 as an additional  
5 quarter quarter to establish a standard 639.2-acre  
6 unit covering Lots 1 and 2 in the south half northeast  
7 quarter and the southeast quarter of Section 2 and the  
8 east half of Section 35.

9           And that is in lieu of and instead of  
10 the nonstandard 599.2-acre unit that was originally  
11 applied for.

12           As explained by Mr. Young in his  
13 statement, Devon has been working closely with the  
14 Bureau of Land Management and had anticipated that the  
15 BLM would have agreed to the original nonstandard unit  
16 that excluded the unleased federal acreage in the  
17 northwest northeast of Section 35.

18           However, after we received the  
19 nonstandard approval, after further discussions with  
20 the BLM, the BLM decided that it wanted to include the  
21 unleased quarter quarter section in the unit and  
22 account for the acreage at a future date pursuant to a  
23 communitization agreement.

24           Devon respectfully asked the Division  
25 to help Devon accommodate the interests of the BLM by

1 allowing for a respacing of the unit.

2 The unit, same as in the original  
3 proposal, will be dedicated to the same wells, that  
4 being the Tater Tot 2-35 Fed Com 662H, 624H, and 713H  
5 wells.

6 Mr. Young's Exhibit D for case 24031  
7 includes his landman self-affirmed statement, C102s  
8 showing the wells in the revised unit, an ownership  
9 breakdown based on the revised unit, and, for your  
10 reference, a copy of the original well proposals and  
11 AFEs.

12 (Exhibit D was marked for  
13 identification.)

14 Ms. Jancuska's Exhibit E for this case  
15 includes her self-affirmed statement confirming that  
16 her previous testimony about the geology of the unit  
17 is still applicable and valid.

18 (Exhibit E was marked for  
19 identification.)

20 And Exhibit F provides the  
21 self-affirmed statement of notice for mailings and the  
22 publication notice.

23 (Exhibit F was marked for  
24 identification.)

25 Notice was timely mailed. Devon found

1 working interest owners to be locatable, although two  
2 mailings are reported as still in transit. And  
3 there -- it came up to be five overriding -- interest  
4 owners, which the letters were marked as  
5 undeliverable.

6 A service for Notice by Publication was  
7 timely to account for any unlocatable parties or  
8 contingencies regarding notice.

9 Mr. Young and Ms. Jancuska both submit  
10 that the granting of this application would prevent  
11 waste, protect -- rights, and avoid the drilling of  
12 unnecessary wells.

13 And at this time, I move that Exhibits  
14 D, E, and F and all sub-exhibits be admitted into the  
15 record for case 24031 and that the case be taken under  
16 advisement subject to any questions you may have.

17 THE HEARING EXAMINER: Mr. Savage, you  
18 asked that Exhibits D, E, and F be admitted, but  
19 there's also Exhibits B, B1, and B2.

20 MR. SAVAGE: Those have previously been  
21 admitted in the original case. And those were part of  
22 the -- we received a -- the order, and it has the  
23 compulsory pooling checklist. And it has all those --  
24 it has Exhibits A, B, and C referenced.

25 All those remain the same except for

1 Exhibits D1 and D2. And those were -- those modify A1  
2 and A2 of the original pooling --

3 THE HEARING EXAMINER: Mr. Savage, I  
4 don't know if this is how things were done in the  
5 past. You know better than I do. But Ms. Thompson  
6 just mentioned a moment ago that the Division doesn't  
7 reopen old cases. It modifies orders based on new  
8 cases.

9 So with that in mind, how do you want  
10 me to proceed with your exhibits?

11 MR. SAVAGE: I would like to amend the  
12 R -- the previous order.

13 THE HEARING EXAMINER: Right.

14 MR. SAVAGE: R22941.

15 THE HEARING EXAMINER: Right.

16 MR. SAVAGE: I believe you would have  
17 to reopen the original case to modify that order, as I  
18 understand.

19 THE HEARING EXAMINER: Okay. Well,  
20 we're not going to get into a legal discussion because  
21 I don't have the basis for that.

22 So if you're comfortable moving  
23 forward, what I will do is ask if there are any  
24 objections to these exhibits?

25 Hearing none, I will admit exhibits --

1 well, I'm going to say Tab 1, Tab 2, Tab 3, and Tab  
2 4 -- to be as broad as I can be to possibly help you  
3 out -- into evidence.

4 (Exhibit Tab 1 through Tab 4 were  
5 marked for identification and received  
6 into evidence.)

7 Ms. Thompson?

8 MS. THOMPSON: Yeah. I just wanted to  
9 clarify a few things.

10 So I believe I helped you with this  
11 case a while ago. On the original order, you did  
12 receive -- NSP. And then now you're saying that the  
13 BLM have finally approved that additional acreage. So  
14 you're going to include it into that order, which will  
15 make it from a nonstandard spacing into a standard  
16 spacing unit. Correct?

17 MR. SAVAGE: That's correct.

18 MS. THOMPSON: Okay. Meaning the NSP  
19 won't be needed anymore --

20 MR. SAVAGE: That's -- and if we need  
21 to dismiss the NSP -- but I think it's just -- goes  
22 by -- would go by the --

23 MS. THOMPSON: -- can't really, like,  
24 dismiss the NSPs. It's just going to be there  
25 forever. So I honestly don't see any problems with

1 this.

2 So yeah, no questions. I just wanted  
3 to clarify that.

4 THE HEARING EXAMINER: Okay. Very  
5 good, then.

6 Thank you, Mr. Savage. We will take  
7 this case under advisement.

8 MR. SAVAGE: Thank you very much.

9 THE HEARING EXAMINER: And now I'm  
10 going to call, now I'm going to call 24036 through  
11 24041, Mewbourne?

12 MR. BRUCE: Mister --

13 THE HEARING EXAMINER: I only heard the  
14 word "Mister," Mr. Bruce.

15 Let's move on until Mr. Bruce can get  
16 back with us. I'm going to move on to 24042. It's a  
17 pressure maintenance --

18 MR. BRUCE: Mr. Examiner?

19 THE HEARING EXAMINER: Yes?

20 MR. BRUCE: I'm sorry, my phone  
21 self-muted. I am here for Mewbourne.

22 THE HEARING EXAMINER: Okay. Good.  
23 Are you ready to proceed by affidavit?

24 MR. BRUCE: Yes, sir.

25 THE HEARING EXAMINER: Okay. Very



1 good.

2 And I see, Mr. Feldewert, are you  
3 monitoring?

4 MR. FELDEWERT: Yes, sir. We just  
5 appeared in 24036 and 37 for Matador Production  
6 Company.

7 THE HEARING EXAMINER: -- to monitor?

8 MR. FELDEWERT: Yes.

9 THE HEARING EXAMINER: Okay. Great.  
10 Did you have a chance to review the exhibits that  
11 Mr. Bruce filed?

12 MR. FELDEWERT: I did.

13 THE HEARING EXAMINER: Okay. Good.

14 Any objections?

15 MR. FELDEWERT: No, sir.

16 THE HEARING EXAMINER: Okay. Very  
17 good.

18 Mr. Bruce, do you want to present them  
19 all together as one --

20 MR. BRUCE: Yes. I will present the  
21 first case and then just note the differences in the  
22 second case --

23 THE HEARING EXAMINER: Okay. Very  
24 good. Go ahead.

25 MR. BRUCE: Mr. Examiner, in the first

1 case, Mewbourne seeks to force pool, essentially the  
2 west half east half of Section 33 -- 23 South 28 East.  
3 And then the west half east half of Section 4 -- 24  
4 South 28 East, for purposes of pooling the Bone Spring  
5 formation.

6 The subject well is the Foreigner [ph]  
7 33-4 Fed Com well number 525H, which is a second Bone  
8 Spring test.

9 Exhibit 1 is the pooling checklist.

10 (Exhibit 1 was marked for  
11 identification.)

12 Exhibit 2 is the affidavit of Mitch  
13 [ph] Robb [ph], the landman who has previously  
14 testified.

15 (Exhibit 2 was marked for  
16 identification.)

17 The affidavit contains the usual  
18 information. The C102 -- and I'll get back to that in  
19 a minute -- the land plats, the ownership interest.

20 And when you look at the ownership  
21 interest, you'll actually see that MRC Permian has a  
22 greater interest in the well units than Mewbourne  
23 does. Obviously, they're in communication regarding  
24 these issues.

25 Exhibit 2C is the Summary of

1 Communications and the Well Proposal.

2 (Exhibit 2C was marked for  
3 identification.)

4 And then, of course, 2D is the AFE for  
5 the well.

6 (Exhibit 2D was marked for  
7 identification.)

8 Then Exhibit 3 is the Statement of  
9 Tyler Hill, the geologist who contains -- contains the  
10 usual information regarding a structure map; the  
11 affidavit testifies this to the preferred well  
12 orientation.

13 (Exhibit 3 was marked for  
14 identification.)

15 Exhibit 3B is the cross-section, and  
16 then you have the pooling horizontal drilling plans  
17 for the well.

18 (Exhibit 3B was marked for  
19 identification.)

20 Exhibit 4 is my affidavit of certified  
21 notice. There were a couple of parties who did not  
22 receive notice, which is notified -- noticed on my  
23 Exhibit 5, the status of certified notice spreadsheet.  
24 But those parties who did not receive actual notice  
25 did receive notice by -- timely notice by publication,

1 notified on Exhibit 6.

2 (Exhibit 4, Exhibit 5, and Exhibit 6  
3 were marked for identification.)

4 And then Exhibit 7 is the application  
5 and the proposed notice.

6 (Exhibit 7 was marked for  
7 identification.)

8 I would notice, as I said -- I just  
9 noticed this as I was looking at this five minutes  
10 ago, the C102, which is Exhibit 2A, the well unit is  
11 the west half east half of the two sections.

12 For some reason, known only to the back  
13 of my brain, I outlined the east half east half of  
14 those sections. And if the Division wants me to  
15 correct that, I will.

16 In the second case, it's virtually the  
17 same, but in this case, it is actually the east half  
18 east half of the two sections to the forced pool for  
19 purposes of growing the Foreigner [ph] 334 Fed Com  
20 well number 528H, which is again a second Bone Spring  
21 test.

22 The rest of the testimony is virtually  
23 identical, including the notice.

24 And with that, I would move the  
25 admission of Exhibits 1, 2, 2A through 2D, 3, 3A

1 through 3D, 4, and 4A, 5, 6, and 7.

2 (Exhibits 2A, 2B, 3A, 3C, 3D, and 4A  
3 were marked for identification.)

4 And subject to questioning, I would ask  
5 that the matters be taken under advisement.

6 THE HEARING EXAMINER: Okay.

7 Mr. Bruce, so we're just dealing with two cases right  
8 now and that's 24036 and 37. Is that correct?

9 MR. BRUCE: That is correct.

10 THE HEARING EXAMINER: All right. So  
11 I'm admitting into evidence Exhibits 1, 2 and it's  
12 subparts, 3 and it's subparts, 4, 5, 6, 7, and 4A into  
13 evidence in this case.

14 (Exhibits 1, 2, 2A through 2D, 3, 3A  
15 through 3D, 4, 4A, 5, 6, and 7 were  
16 received into evidence.)

17 Ms. Thompson, are you going to require  
18 Mr. Bruce to file an amended checklist?

19 MS. THOMPSON: I am.

20 THE HEARING EXAMINER: Okay.

21 Mr. Bruce, did you hear that?

22 MR. BRUCE: Yeah. It's really not the  
23 checklist; it's the C 102.

24 But I will check to make sure,  
25 Ms. Thompson, that the checklist is correct. And I

1 will take care of that by tomorrow morning.

2 THE HEARING EXAMINER: Okay. Now, it's  
3 my understanding, Mr. Bruce, that the checklist or  
4 C102 for 24037 does not need to be amended?

5 MR. BRUCE: That is correct.

6 THE HEARING EXAMINER: All right. Very  
7 good.

8 So I will admit into evidence the same  
9 exhibits in 24037, and we will not expect an amended  
10 exhibit packet in that case.

11 (Exhibits 1, 2, 2A through 2D, 3, 3A  
12 through 3D, 4, 4A, 5, 6, and 7 were  
13 received into evidence.)

14 Ms. Thompson, any questions on either  
15 case?

16 MS. THOMPSON: No. I think that the  
17 amended C102 is all we need.

18 THE HEARING EXAMINER: And the C102 is  
19 not a checklist, Ms. Thompson?

20 MS. THOMPSON: No, it's the -- it's  
21 on -- if you have the exhibits pulled up, it would be  
22 on page 9 of this packet.

23 THE HEARING EXAMINER: What do you call  
24 it?

25 MS. THOMPSON: It's our C102 form.

1 It's also known as the Well Location and Acreage Plot.

2 THE HEARING EXAMINER: Okay. Okay.

3 MS. THOMPSON: And it looks like he  
4 does have it outlined in the wrong section. That  
5 being the case, if he just wants to verify all the  
6 information is correct on the updated C102, including  
7 the first and last -- points -- the correct acreage  
8 area as well.

9 MR. BRUCE: I will do that by  
10 tomorrow --

11 THE HEARING EXAMINER: Anything else,  
12 Ms. Thompson. Ms. Thompson, anything else?

13 MS. THOMPSON: That is it. I don't  
14 have any other questions.

15 THE HEARING EXAMINER: Let me just make  
16 a note here.

17 And then, Mr. Bruce, are you handling  
18 24038 and 39?

19 MR. BRUCE: Yes, sir.

20 THE HEARING EXAMINER: And then are you  
21 then handling 40 and 41? Are they going to be two  
22 separate presentations?

23 MR. BRUCE: Yes, those will be  
24 handled -- Mr. Examiner.

25 THE HEARING EXAMINER: -- very good.

1 Why don't you begin with 38 and 39?

2 MR. BRUCE: Okay, Mr. Examiner.

3 In these cases -- let's just take the  
4 first case, 38. In this case, Mewbourne seeks to  
5 force pool -- although there are lots involved, it is  
6 essentially the north half north -- south half of  
7 Section 12 of 21 South 25 East. And then, separately,  
8 the north half south half of Section 7, 21 South, 26  
9 East for the purposes of drilling the Stage Fright  
10 12-7 -- well number -- 16H, which is a third Bone  
11 Spring test.

12 The entire Bone Spring is being forced  
13 pooled, and there is no depth severance. That's  
14 Exhibit 1, the pooling checklist.

15 (Exhibit 1 was marked for  
16 identification.)

17 Exhibit 2 is the statement of Adianna  
18 [ph] Rodriguez [ph], a landman for Mewbourne who has  
19 previously testified -- sets forth all the usual  
20 information. The land plats -- the C102, the land  
21 plats, summary of communications, the requested  
22 overhead rates. The C102 is attached. The land plats  
23 showing the working interest ownership.

24 (Exhibit 2 was marked for  
25 identification.)



1           The only party who is being pooled is  
2 Chevron USA, Inc. And again, I would note, just in  
3 case I get any questions, Chevron has a slight  
4 majority of interest in the unit. And my only comment  
5 on that is that Mewbourne and Chevron get along quite  
6 well. And Chevron makes decisions slower than  
7 Mewbourne does.

8           And I know they're working together,  
9 and Chevron has not objected to this. And they will  
10 eventually come to terms.

11           And then, of course, the proposal  
12 letter, the AFE. Then there's the self-affirmed  
13 statement of Charles Crosby, the geologist who's  
14 previously testified.

15           If you look at Exhibit 3A, you will see  
16 these wells are laydown units; there are no nearby  
17 wells.

18           (Exhibit 3A was marked for  
19 identification.)

20           But in his affidavit, Mr. Crosby,  
21 states that the laydown wells are preferred due to the  
22 regional stress orientation in this area.

23           And the affidavit contains the other  
24 useful information -- Exhibit 4 is my affidavit of  
25 notice. The only party notified was Chevron USA,

1 Inc.; and they did receive notice. And because there  
2 was only one party, I did not do it pooling  
3 spreadsheet. It's clear that they received certified  
4 notice, and that is shown in Exhibit 4 and 4A.

5 (Exhibit 4 and Exhibit 4A were marked  
6 for identification.)

7 And then the application and proposed  
8 notice are submitted as Exhibit 5.

9 (Exhibit 5 was marked for  
10 identification.)

11 And then, in case 24039, it's pretty  
12 identical. And I will raise one issue to ask what the  
13 Division wants.

14 In this case, Mewbourne seeks to force  
15 pool the south half south half of Section 12, 21, 25.  
16 And the south half south half of Section 7, 21, 26.  
17 It also tacks on an extra 40 acres. The southwest  
18 southwest of Section 8 of 21 South, 26 East. And I'll  
19 get more into that in a minute after I go through the  
20 regular exhibits.

21 Again, the landman's affidavit, Exhibit  
22 2, contains all the usual information.

23 (Exhibit 2 was marked for  
24 identification.)

25 The C102, the land plats, proposal

1 letter, AFE, and then the geologist's Exhibit is the  
2 same as -- identical as the previous situation.

3 And then again, Exhibit 4, is the  
4 notice.

5 (Exhibit 4 was marked for  
6 identification.)

7 The only party to be notified is  
8 Chevron, and they received actual notice. So I did  
9 not do a certified notice spreadsheet simply for one  
10 party.

11 And Exhibit 5 is the application post  
12 notice.

13 (Exhibit 5 was marked for  
14 identification.)

15 Now, this application, rather than  
16 being essentially 320 acres long, is 360 acres. Under  
17 my interpretation of the Division's rules, this is a  
18 standard horizontal spacing unit.

19 The reason for the request of the 80  
20 acres -- I mean the additional 40 acres, is that the  
21 acreage to the east of this well unit is federal land,  
22 which is unleased.

23 And Mewbourne -- and this is addressed  
24 in the landman's affidavit, Mewbourne has been  
25 informed that the acreage will not be leased in the

1 near future. And Mewbourne wants to drill these wells  
2 and wants to make sure that it's 40 acres, the  
3 southwest quarter southwest quarter of Section 8 does  
4 not end up stranded.

5 And the reason I bring that up,  
6 Mr. Examiner, is, like I said, I believe this is a  
7 this is a standard well unit. And therefore no notice  
8 was required to the offset interest owners.

9 But if the Division decides that it  
10 would like me to notify the BLM of adding this 40  
11 acres on -- to have time to object to that, I will do  
12 so.

13 Now, of course, they will receive  
14 notice through the filing of the APD, but I just want  
15 to bring that up to make sure everything I'm --  
16 everything is clear with the Division and Mewbourne.

17 And with that subject to questions, I  
18 would move the admission of Exhibits 1 through 5 plus  
19 subparts in each case.

20 THE HEARING EXAMINER: Okay.  
21 Mr. Bruce, let's start with 24038.

22 Any objections to these exhibits? Not  
23 hearing any. I'm admitting Exhibits 1 through 5 and  
24 their subparts into evidence.

25 //

1 (Exhibits 1 through 5 were received  
2 into evidence.)

3 Ms. Thompson?

4 MS. THOMPSON: I'm not seeing, like, a  
5 major problem with -- I guess -- with adding in that  
6 40 acres. This is a 40-acre building block,  
7 Mr. Bruce?

8 MR. BRUCE: Yes, yes, ma'am.

9 MS. THOMPSON: I think there would be  
10 some concerns for stranded acreage. I would honestly  
11 have to get with another one of our examiners to  
12 double-check on this. But I think notice might  
13 probably be the best course of action.

14 MR. BRUCE: Okay. And would it be okay  
15 if I could continue this to the 21st? You could --  
16 you at the Division could discuss this. And if  
17 additional notice is required, I would like to know as  
18 soon as possible and I could take care of that.

19 MS. THOMPSON: Yeah. I don't see a  
20 problem with that --

21 Mr. Hearing Examiner?

22 THE HEARING EXAMINER: I want to make  
23 sure I understand what's going on before I say  
24 anything.

25 So Hailee, what are you questioning

1 here?

2 MS. THOMPSON: So on the C102, which is  
3 on page 8 of the hearing packet.

4 THE HEARING EXAMINER: Let me go there.  
5 Okay. I'm on page 8 --

6 MR. BRUCE: And, Mr. Examiner --

7 THE HEARING EXAMINER: Yes?

8 MR. BRUCE: 24039 is what this one is.

9 THE HEARING EXAMINER: Oh, are we not  
10 discussing 24038?

11 MS. THOMPSON: No, no. This was on --  
12 039.

13 THE HEARING EXAMINER: So are we taking  
14 24038 under advisement?

15 MS. THOMPSON: I guess. There's  
16 nothing wrong with that case.

17 THE HEARING EXAMINER: Okay. So let me  
18 then switch gears here.

19 Thank you, Mr. Bruce.

20 Let me go to --

21 MR. BRUCE: And, Mr. Examiner -- maybe  
22 the best thing to look at rather than a pooling  
23 checklist would be go to Exhibit 2A and look at the --

24 THE HEARING EXAMINER: What page?

25 MS. THOMPSON: Page 8.

1 MR. BRUCE: 2A.

2 THE HEARING EXAMINER: Yeah. I heard  
3 the exhibit number, Mr. Bruce. I was asking for the  
4 page number.

5 MR. BRUCE: Yeah. I'm pretty ignorant  
6 on those. I better get better.

7 MS. THOMPSON: Page 8 of the hearing  
8 packet.

9 THE HEARING EXAMINER: So you said page  
10 8?

11 MS. THOMPSON: Correct.

12 THE HEARING EXAMINER: Well locations,  
13 the C102. Okay.

14 MS. THOMPSON: Yes.

15 THE HEARING EXAMINER: I'm ready. Go  
16 ahead.

17 MS. THOMPSON: So if you, I guess, zoom  
18 in a little bit on that yellow highlighted area?

19 THE HEARING EXAMINER: Right, right.

20 MS. THOMPSON: On the right side, where  
21 you can see it's broken up into three major -- three  
22 blocks.

23 THE HEARING EXAMINER: Yes.

24 MS. THOMPSON: That last little bit is  
25 by itself, just 40 acres by itself -- so off to the

1 right. And that's the concern for stranded acreage  
2 when it comes to, I guess, other parties who might  
3 want to drill in this area down the road.

4 THE HEARING EXAMINER: Okay.

5 MS. THOMPSON: So --

6 THE HEARING EXAMINER: What are you  
7 asking Mr. Bruce to do?

8 MS. THOMPSON: To give notice to the --  
9 or for us to go ahead and continue the case while I  
10 could get with Mr. Lowe to see what would be the best  
11 course of action on this case.

12 THE HEARING EXAMINER: Well, I --

13 MS. THOMPSON: I still think we can  
14 take it under advisement, though. This is -- it's  
15 just going to end up taking a little bit longer for me  
16 to get around to -- because there might end up being a  
17 notice issue when it comes to the BLM.

18 MR. BRUCE: And Mr. Examiner -- and I  
19 see Ms. Thompson's point, but rather than take it  
20 under advisement and -- you know, I had a problem with  
21 that with another case recently. Maybe continue it to  
22 December 21, and she can get together with Mr. Lowe  
23 and decide if I really do need to notify the BLM --  
24 which I am more than happy to do.

25 I would like to know as soon as



1 possible so that if it's continued, it doesn't get --  
2 maybe I could get it continued simply for notice  
3 purposes to mid-January and take care of it that way.

4 But --

5 THE HEARING EXAMINER: Okay.

6 MR. BRUCE: -- to notice it -- yeah.

7 THE HEARING EXAMINER: I understand.

8 Got it.

9 Okay. So we'll do what Mr. Bruce is  
10 asking.

11 But Mr. Bruce, you have to file for a  
12 continuance through the portal.

13 MR. BRUCE: Yes.

14 THE HEARING EXAMINER: Okay. So then  
15 this hearing will be continued and not taken under  
16 advisement in this one case, 24039. Let me make a  
17 note here because I did not expect this one to be --

18 MR. BRUCE: And I will file that  
19 continuance today so that --

20 THE HEARING EXAMINER: So affidavit  
21 hearing continued to December 21st, allowing Hailee  
22 Thompson to confer with Lowe.

23 Is it Rob Lowe? No, it's not Rob Lowe.

24 MS. THOMPSON: Leonard.

25 THE HEARING EXAMINER: Oh, well.

1 MS. THOMPSON: And --

2 MR. BRUCE: Maybe that's inappropriate,  
3 Mr. Examiner.

4 THE HEARING EXAMINER: Regarding  
5 spacing or --

6 MS. THOMPSON: It's regarding stranded  
7 acreage.

8 THE HEARING EXAMINER: Stranded  
9 acreage. Very good.

10 MR. BRUCE: I couldn't of taken care  
11 of -- originally, but it didn't dawn on me while I was  
12 doing it. That's all.

13 THE HEARING EXAMINER: No worries.

14 Okay. So Ms. Thompson, are you going  
15 to get back to Mr. Bruce in a particularly --

16 MS. THOMPSON: I'll start a email  
17 correspondence with him sometime --

18 THE HEARING EXAMINER: Excellent.  
19 Excellent. Would you copy me?

20 MS. THOMPSON: Yes.

21 THE HEARING EXAMINER: That way, I can  
22 kind of see what's going on.

23 Okay. Then, this hearing is continued.

24 And, Mr. Bruce, do you want to continue  
25 with 24039 and 40 -- or 40 and --

1 MR. BRUCE: 40 and --

2 THE HEARING EXAMINER: Yes.

3 MR. BRUCE: Okay. May I begin?

4 THE HEARING EXAMINER: Yes, please.

5 MR. BRUCE: Oh boy. You know what? I  
6 don't know what I did here, Mr. Examiner.

7 THE HEARING EXAMINER: Are you talking  
8 about the exhibit -- packets?

9 MR. BRUCE: Yeah. Mr. Examiner, for  
10 some reason, I know I prepared them, but I did not  
11 include the pooling checklists.

12 THE HEARING EXAMINER: Okay.

13 MR. BRUCE: I certainly apologize for  
14 that. But let me -- if I may go on -- and I can file  
15 those pooling checklists today because they're on my  
16 computer. And I just can't believe --

17 THE HEARING EXAMINER: Okay. I have  
18 some questions, Mr. Bruce -- I have some questions.

19 MR. BRUCE: Sure.

20 THE HEARING EXAMINER: Are we talking  
21 about case 24040?

22 MR. BRUCE: 24040 and 24041.

23 THE HEARING EXAMINER: Right. I'm  
24 looking at 40. I can't look at both at the same time.  
25 I do see Exhibit 1, a pooling checklist. And I think

1 it's here, but you're saying it's not here?

2 MR. BRUCE: Well, at least -- the  
3 exhibit package that I'm looking at don't have it. I  
4 thought I -- if it's on the computer at the Division,  
5 then I did file it. And I don't know what I -- but I  
6 know I have the pooling checklist on my computer. But  
7 I can't believe I --

8 THE HEARING EXAMINER: Okay. Mr.  
9 Bruce --

10 MR. BRUCE: -- don't have them in my --

11 THE HEARING EXAMINER: Let me just --  
12 it's getting late in the day, so let me try to move  
13 this along.

14 I see two exhibit packets in 24040.  
15 One has a blue cover; one has a pink. The blue  
16 cover --

17 MR. BRUCE: Okay.

18 THE HEARING EXAMINER: The blue --

19 MR. BRUCE: Thank you for reminding me.  
20 Okay.

21 THE HEARING EXAMINER: The blue --  
22 sir --

23 MR. BRUCE: And --

24 THE HEARING EXAMINER: Could I  
25 possibly --

1 MR. BRUCE: Now it -- now it just  
2 dawned on me. Mr. Examiner, what happened -- and I  
3 excised them from my main exhibit packages.

4 Yesterday morning, I woke up, and I was  
5 going through everything for the hearing as I normally  
6 do. And I was looking at the pooling checklist. And  
7 on the pooling checklist for both these cases -- and  
8 thank you, please, please for reminding me.

9 I was going through the checklist, and  
10 I saw the overhead rates; the operating costs. And I  
11 had put down \$8,000 per month as the drilling overhead  
12 rates and \$8,000 a month, also, for the producing rate  
13 when it should have been 800 bucks a month.

14 So yesterday morning, I corrected the  
15 pooling checklist. And what you have on the pink  
16 cover are the pooling checklists for each case.

17 THE HEARING EXAMINER: Okay. I --

18 MR. BRUCE: And --

19 THE HEARING EXAMINER: Now, Mr. Bruce,  
20 can you stop talking for a minute?

21 MR. BRUCE: Yes.

22 THE HEARING EXAMINER: Again, it's  
23 getting late in the day. Let's try to keep this to as  
24 simple -- discussion is possible. Let's get rid of  
25 all the extraneous material here.

1 I understand now that the pink list  
2 corrects the blue exhibit -- 102. I got that -- or  
3 the pooling checklist. Sorry.

4 MR. BRUCE: Well, then I will -- in a  
5 hurry.

6 THE HEARING EXAMINER: What I am asking  
7 you in the future to do is instead of filing a single  
8 amended exhibit all by itself, please just file the  
9 entire exhibit packet again, mark it amended exhibit  
10 packet with a cover pleading describing what is  
11 changed within the packet. Okay?

12 MR. BRUCE: Okay. I will do so.

13 THE HEARING EXAMINER: So please start  
14 with 24040.

15 MR. BRUCE: Okay. Mr. Examiner, in  
16 this case, Mewbourne seeks to force pool north half  
17 north half of Sections 1 -- 2 and 1, 19 South, 28  
18 East, for the purpose of drilling two Bone Spring  
19 wells, a second and a third Bone Spring well, the  
20 521H, 611H that is shown on Exhibit 1 -- revised  
21 Exhibit 1, the pooling checklist.

22 (Exhibit 1 was marked for  
23 identification.)

24 And then the rest of the pooling  
25 package is what you heard me talk about before -- the

1 landman's affidavit, which contains the usual  
2 information, the C102s, the land plats, proposal  
3 letter, AFEs.

4 Exhibit 3 is the self-affirmed  
5 statement of Charles Crosby, the affidavit, which is  
6 for both wells, giving both the second and third Bone  
7 Spring geology, and the horizontal drilling plans.

8 (Exhibit 3 was marked for  
9 identification.)

10 Exhibit 4 is my affidavit of notice.

11 (Exhibit 4 was marked for  
12 identification.)

13 The only person notified was Marathon,  
14 and they received a certified notice. And so, since  
15 it's only one party, I did not do a certified notice  
16 spreadsheet.

17 And then Exhibit 5 is the application  
18 proposed notice.

19 (Exhibit 5 was marked for  
20 identification.)

21 And then for 24041, again, it is  
22 basically identical except the lands involved are the  
23 south half north half of Sections 1 and 1, 19 South,  
24 28 East. And the wells involved are the Rio Grande  
25 523H and the Rio Grande 613H wells.

1 I believe all the information is there.  
2 And I'm glad you pointed out the pink listing because  
3 it ceased my heart attack. And I would move the  
4 Exhibits 1 through 5 plus subparts into the record.

5 (Exhibit 2 was marked for  
6 identification.)

7 And subject to questioning by the  
8 examiners, I'd ask that the matters be taken under  
9 advisement.

10 THE HEARING EXAMINER: -- case number  
11 24040. Are there any objections to admitting into  
12 evidence Exhibits 1 through 5 and its subparts and the  
13 additional exhibit -- Let me see how I'm going to -- I  
14 guess you would call it a revised Exhibit 1 in this  
15 case.

16 MR. BRUCE: Yes.

17 THE HEARING EXAMINER: Hearing no --  
18 Yes, sir.

19 Hearing no objections, I am admitting  
20 those exhibits into evidence in this case.

21 (Exhibits 1 through 5 were received  
22 into evidence.)

23 Ms. Thompson?

24 MS. THOMPSON: No questions.

25 THE HEARING EXAMINER: Okay.



1           Mr. Bruce, before I go to the second  
2 case, did you -- and I didn't catch it if you said it.  
3 Are your experts -- have they been previously  
4 qualified before the Division?

5           MR. BRUCE: Yes. They've testified  
6 many times before the Division.

7           THE HEARING EXAMINER: Right. But  
8 they've been accepted as experts in the fields --

9           MR. BRUCE: -- geologists before the  
10 Division.

11          THE HEARING EXAMINER: So was that a  
12 yes?

13          MR. BRUCE: Yes.

14          THE HEARING EXAMINER: Okay.

15          Now we're going to 24041. I'm  
16 admitting Exhibits 1 through 5, and its subparts. And  
17 the revised Exhibit 1 that was filed separately.

18                 (Exhibits 1 through 5 were received  
19 into evidence.)

20          Mr. Bruce understands that in the  
21 future, he's going to file the entire packet as  
22 amended with a cover pleading.

23          MR. BRUCE: Yes.

24          THE HEARING EXAMINER: But in this  
25 case, we're allowing it.

1 Ms. Thompson, any questions in this  
2 case?

3 MS. THOMPSON: No questions.

4 THE HEARING EXAMINER: Mr. Bruce, we're  
5 taking both of these cases under advisement. Thank  
6 you for your participation today.

7 MS. THOMPSON: Mr. Hearing Examiner?

8 THE HEARING EXAMINER: Yes?

9 MS. THOMPSON: Is it possible to back  
10 that to 24039? I was able to get an answer for  
11 Mr. Bruce.

12 THE HEARING EXAMINER: Oh, fantastic.  
13 Mr. Bruce, are you still with us?

14 MR. BRUCE: Yes, sir.

15 MS. THOMPSON: Okay.

16 THE HEARING EXAMINER: Okay.

17 Ms. Thompson?

18 MS. THOMPSON: So it's not going to  
19 cause any issues with stranded acreage. However,  
20 based on potential mineral rights, you're still going  
21 to end up having to give notice to BLM.

22 MR. BRUCE: Okay. Okay.

23 If that's the case, Mr. Examiner, may I  
24 file a continuous motion to -- let me see. Today's  
25 the 7th. Trying to think of the notice period. Could

1 I file a continuous motion on 24039 to January 4th??  
2 That would allow adequate the 20-day notice period to  
3 the BLM.

4 THE HEARING EXAMINER: So let's go  
5 back. Let us reopen case number 24039. After we have  
6 just closed 24040 and 41 and taken both of those cases  
7 under advisement.

8 Now, give me a minute, and let me go  
9 back to my notes for 24039.

10 So Ms. Thompson, what did you find out  
11 from your staff?

12 MS. THOMPSON: So because of the size  
13 of the building blocks, which are 40, which is --

14 THE HEARING EXAMINER: Yes.

15 MS. THOMPSON: -- what Mr. Bruce was  
16 saying. It's not going to cause an issue as far as  
17 stranded acreage goes. And because of the type of  
18 pool it's in as well, we shouldn't have any issues.

19 So the only issue is -- really comes  
20 down to mineral owners and stuff like that. So  
21 Mr. Bruce will still have to give notice to BLM on it.

22 THE HEARING EXAMINER: Okay. Hold on.  
23 So the affidavit hearing is being continued to resolve  
24 notice issues?

25 MS. THOMPSON: Notice issues.

1 THE HEARING EXAMINER: With the BLM  
2 specifically or anyone else?

3 MS. THOMPSON: I believe it's just the  
4 BLM because that's the area where that gets -- it's  
5 BLM land.

6 THE HEARING EXAMINER: And Mr. Bruce,  
7 when are you going -- when do you want this to be  
8 continued to?

9 MR. BRUCE: Either January hearing,  
10 whatever the Division prefers, just let me notice,  
11 so -- let me just -- let me know so that I can put the  
12 proper hearing date on the notice letter to the BLM.

13 THE HEARING EXAMINER: And, Mr. Bruce,  
14 do you have our schedule for January of next year?

15 MR. BRUCE: Yeah. I believe it's  
16 either January 4th or the 18th.

17 THE HEARING EXAMINER: We'll put it on  
18 the 18th, sir.

19 MR. BRUCE: Thank you.

20 THE HEARING EXAMINER: Thank you.

21 Notes have been saved. Let us move on  
22 from Mewbourne to Cimarex, 24045 and 46.

23 Mr. Bruce, are these your cases as  
24 well?

25 MR. BRUCE: Yes, sir.

1 THE HEARING EXAMINER: Okay. Why don't  
2 you --

3 MR. BRUCE: These are -- these are --

4 THE HEARING EXAMINER: These are what?

5 MR. BRUCE: I will. These are simple.

6 THE HEARING EXAMINER: These are  
7 affidavits?

8 MR. BRUCE: Yes. These are affidavit  
9 hearings. And first and foremost, the only witness is  
10 Pat Gray, the landman, who's previously testified  
11 before the Division. I'll go through the first case  
12 very rapidly.

13 Cimarex -- go -- excuse me, sir?

14 THE HEARING EXAMINER: I just said go  
15 ahead.

16 MR. BRUCE: In the first case, 45,  
17 Mewbourne seeks to amend order number R222 -- excuse  
18 me, R22468, to extend the drilling deadline one year.

19 In the original order, Mewbourne --  
20 excuse me, I got that on my mind -- Cimarex received a  
21 pooling order, which pooled the west half west half of  
22 Sections 29 and 32, 25 South, 27 East, for purposes of  
23 drilling at Southern Hills 1H well. The order was  
24 entered on December 23, 2022.

25 These cases were involved in about ten

1 wells that were big fights, including one that went up  
2 to the -- actually, several that went up to the  
3 commission level.

4 Mr. Feldewert, I think, who is still  
5 here, can agree with that.

6 And the parties were in negotiations  
7 for a long period of time. And -- which slowed down  
8 drilling. And drilling deadline is coming up on the  
9 23rd of December. Not only was it the settlement  
10 discussions that slowed things down, the Bureau of  
11 Land Management has been slow in approving APDs.

12 And then there are a number of wells  
13 for both Chevron and Cimarex in this area that I'm  
14 sure they all want to be drilled in -- batch drilled  
15 so that --to minimize drilling costs.

16 So what Cimarex is requesting is a  
17 one-year extension of the drilling deadline to  
18 December 23, 2024. They plan on drilling before then,  
19 but one year has become kind of the standard deal.

20 In the second case, it's 24046. It's  
21 the same situation, except it's order number 22469.  
22 And the lands involved are the east half west half of  
23 29 and 32 in 25 South, 27 East, for the Southern Hills  
24 2H well

25 And it's basically the same -- they

1 need to get all this stuff cleared up. Cimarex and  
2 Chevron are still dealing with each other. They've  
3 settled out, but Cimarex just needs additional time to  
4 get the APDs and get the drilling program going and --

5 THE HEARING EXAMINER: Okay.

6 MR. BRUCE: -- would request --

7 THE HEARING EXAMINER: Okay.

8 Mr. Bruce --

9 MR. BRUCE: -- an extension --

10 THE HEARING EXAMINER: Got it.

11 So we have Exhibits 1 through 5. Are  
12 there any objections to these being admitted into  
13 evidence?

14 Hearing none, your exhibits, sir, 1  
15 through 5, and subparts are admitted into evidence.

16 (Exhibits 1 through 5 were marked for  
17 identification and received into  
18 evidence.)

19 Ms. Thompson, any question on case  
20 number 24045? Did you say something?

21 MS. THOMPSON: I'm sorry, I had myself  
22 on mute. No questions.

23 THE HEARING EXAMINER: No questions.

24 Okay. Let's go to 24046. All right.

25 Mr. Bruce, we have Exhibits, again, 1

1 through 5, and its subparts.

2 Are there any objections? Hearing  
3 none, Exhibits 1 through 5 and their subparts are  
4 admitted into evidence.

5 (Exhibits 1 through 5 were marked for  
6 identification and received into  
7 evidence.)

8 Ms. Thompson, any questions?

9 MS. THOMPSON: No questions.

10 THE HEARING EXAMINER: All right.  
11 Mr. Bruce, we have taken these two cases under  
12 advisement.

13 MR. BRUCE: Thank you.

14 THE HEARING EXAMINER: Thank you, sir.

15 I am now calling Spur Energy 24042.

16 MR. RANKIN: Good afternoon,  
17 Mr. Examiner. Adam Rankin, with Holland & Hart.

18 I know we're trying to get through a  
19 lot. I just want to make sure all my witnesses are  
20 available. We're presenting this case by affidavit.  
21 However, I imagine the Division may have some  
22 questions. So we have witnesses available who can be  
23 sworn in and to testify. It looks like they all are  
24 here. And based on that, Mr. Examiner, I think that  
25 we can proceed.



1                   So restating my entry here, Adam  
2 Rankin, with the Santa Fe office of Holland & Hart,  
3 appearing on behalf of the applicants, in this case,  
4 Spur Energy Partners.

5                   And as I mentioned, we'll have three  
6 witnesses that are presenting testimony by affidavit  
7 and also will be available for cross-examination by  
8 the Division examiners.

9                   THE HEARING EXAMINER: And are you  
10 aware of any other parties, whether they object or not  
11 to this case?

12                  MR. RANKIN: I am not.

13                  THE HEARING EXAMINER: Okay. Please  
14 proceed.

15                  MR. RANKIN: Thank you, Mr. Examiner.

16                  Mr. Examiner and Division may please  
17 the Division. In this application, Spur is seeking  
18 approval of a pressure maintenance project through  
19 which it will inject -- produce gas into its BKU or  
20 Burch Keely Unit number 556 well.

21                  And it has proposed, in this case, to  
22 create a pressure maintenance project area of  
23 approximately -- what are the acres here? Apologize.  
24 I don't have the exact numbers here, but it's in the  
25 application. I'm sorry, I thought -- had the exact

1 acreage in my mind, but I don't.

2 In any event, they're seeking to create  
3 a pressure maintenance project as defined in the  
4 application by injecting through the Burch Keely Unit  
5 number 566 well.

6 The exhibit packet that we filed on  
7 Tuesday contains a copy of the application that was  
8 filed in this case, as well as the self-affirmed  
9 statement of three witnesses.

10 First is Mr. Oliver Seekins.  
11 Mr. Seekins has previously testified before the  
12 Division and has had his credentials as an expert in  
13 Class 2 Injection approved and made a matter record by  
14 the Division.

15 In his statement, he reviews the  
16 critical elements of the C108 application for  
17 injection. Attached to his exhibit -- his  
18 self-affirmed statement is the C108 application, which  
19 reviews all the elements necessary for authorization  
20 to inject.

21 Attached to his statement is Exhibit  
22 A2.

23 (Exhibit A2 was marked for  
24 identification.)

25 And that is a list of the project area

1 wells that will be benefited by the injection in this  
2 case.

3 Exhibit B is the self-affirmed  
4 statement of Mr. Reed Davis.

5 (Exhibit B was marked for  
6 identification.)

7 He has previously been recognized and  
8 has testified before the Division as an expert in  
9 geology, petroleum geology, and geophysics. Mr. Davis  
10 reviews and analyzes the target interval here within  
11 the Yeso [ph] group, identified as essentially the  
12 uppermost portion of the paddock.

13 And his geology confirms that the  
14 acreage within the project area will confine the  
15 injected gas geologically.

16 Exhibit C is a self-affirmed statement  
17 of Mr. George Waters.

18 (Exhibit C was marked for  
19 identification.)

20 He's a petroleum engineer. He's also  
21 been previously qualified before the Division to  
22 testify as an expert in petroleum engineering.  
23 Mr. Waters reviews the basis for and the reasons why  
24 Spur is seeking to conduct this pressure maintenance  
25 project in the acreage and identifies the wells

1 that -- intend to be benefiting here.

2 Following Mr. George Waters' statement,  
3 we have the Exhibit D, which is a copy of the Notice  
4 of Hearing that was sent out by Certified Mail.

5 (Exhibit D was marked for  
6 identification.)

7 With that is an affidavit that I  
8 prepared reflecting that we provide notice of today's  
9 hearing and of the application to each of the parties  
10 within the half-mile area of review who are affected  
11 by the case in the application.

12 Following that is the Exhibit E, which  
13 is the affidavit of publication, reflecting that we  
14 have given notice by publication to each of the  
15 affected parties required under the Division's rules.

16 (Exhibit E was marked for  
17 identification.)

18 So I kind of went over that very  
19 quickly, Mr. Examiner, because I didn't want to spend  
20 a lot of time in the detail here, but does -- all the  
21 testimonies are written out.

22 And with that, I would move the  
23 admission of Exhibits A through E into the record.  
24 And then if the examiners have any questions, each of  
25 the witnesses are available for -- to respond to

1 questions that the Division may have.

2 THE HEARING EXAMINER: Thank you,  
3 Mr. Rankin. I was looking at page 2 of the  
4 application while you were presenting your brief case.

5 If the land description is proper  
6 here -- by my calculations, it's about 800 acres. I  
7 see Section 13, east half of east half -- that'd be  
8 160 acres. Section 12 is the southeast quarter of the  
9 southeast quarter, that's 40 acres.

10 Then we have the Township 17. We have  
11 Section 18 there. That's all of it; 640 acres. And  
12 then ultimately, we have the south half of the south  
13 half, which is another 160.

14 So by my calculations, it's -- 800  
15 acres. That sound about fair?

16 MR. RANKIN: That's about right,  
17 Mr. Examiner.

18 THE HEARING EXAMINER: All right.  
19 Good. So let's take a look here at your exhibits.

20 Now, you have experts here. Have they  
21 all been qualified previously?

22 MR. RANKIN: They all have,  
23 Mr. Examiner.

24 THE HEARING EXAMINER: Okay. Very  
25 good.

1                   Are there any objections to admitting  
2 Exhibits A through E into evidence? Hearing none  
3 Exhibits A and subparts A1 and A2, B through E are all  
4 admitted evidence.

5                   (Exhibits A2, and B through E were  
6 received into evidence.)

7                   (Exhibit A and Exhibit A1 were marked  
8 for identification and received into  
9 evidence.)

10                  Which technical examiners do we have  
11 for this case?

12                  MR. RANKIN: I thin Mister --

13                  MR. GEBREMICHAEL: Yeah.

14                  I'm here. Million Gebremichael from  
15 OCD.

16                  THE HEARING EXAMINER: Yes,  
17 Mr. Gebremichael, do you want to begin the questions?

18                  MR. GEBREMICHAEL: All right. I was  
19 kind of expecting, you know, they make their  
20 presentation, but I do have some questions. Probably  
21 I will reserve them for later. That's okay with you?

22                  THE HEARING EXAMINER: Well, when you  
23 say reserve them for later, the exhibits have been  
24 entered into evidence. And I don't know that -- I  
25 don't believe Mr. Rankin is going to put on -- I mean,

1 his witnesses are here for cross-examination --

2 MR. GEBREMICHAEL: Okay. That's fine.  
3 I could present my questions. Yeah, I have a few  
4 questions prepared already.

5 THE HEARING EXAMINER: And Mr.  
6 Gebremichael, if you want to just ask your question to  
7 the panel, the witnesses can be presented to you as a  
8 panel, or you can specify a witness if you prefer.

9 MR. GEBREMICHAEL: I think I'll proceed  
10 as a panel. That's okay with you?

11 THE HEARING EXAMINER: Okay. Okay.

12 MR. GEBREMICHAEL: Yes. Thank you,  
13 Mr. Examiner.

14 THE HEARING EXAMINER: Of course.

15 MR. GEBREMICHAEL: Yeah. The first  
16 question I have is going through the C108 application.  
17 I have seen your maximum injection -- the surface  
18 injection pressure is 1,077 PSI. Is that correct?

19 But I haven't seen any -- how did you  
20 get there? How did you acquire it? I'm assuming you  
21 did utilize the modified Peng-Robinson formula? But  
22 it didn't show how you get to that -- the maximum  
23 pressure.

24 MR. RANKIN: Oliver -- is this the  
25 proper question for you, Mr. Seekins?

1 MR. SEEKINS: Yes. I can answer this  
2 one.

3 You would be correct, Million. We used  
4 the same formula that was presented to us for the  
5 Pinto [ph] case, and our Chief Geologist, Tom  
6 Tomastik, performed that calculation. I have the  
7 calculations on my computer if we need to submit those  
8 as an exhibit to you.

9 MR. GEBREMICHAEL: Yes, and it should  
10 be part of the C108 application because we need to  
11 know the specific gravity and everything, and then if  
12 you could add that one, that would be nice.

13 The next question I have is, I noticed  
14 in your gas analysis there is CO2 there. What is your  
15 corrosion mitigation plan for this well?

16 MR. WATERS: This is George Waters with  
17 Spur. We plan on running plastic-coated tubing.

18 MR. GEBREMICHAEL: Yes, but in addition  
19 to that, though, is there any -- protection or  
20 anything else or just the plastic --

21 THE HEARING EXAMINER: Okay.  
22 Mr. Gebremichael, my mistake. You know what we need  
23 to do? Let's get these witnesses sworn in because you  
24 are asking them for evidence.

25 And so, Mr. Waters, are you able to



1 turn on your camera?

2 MR. WATERS: Yes. Let's see.

3 THE HEARING EXAMINER: Okay. I can see  
4 you, sir.

5 And then, who else do we have,  
6 Mr. Rankin, as witnesses today?

7 MR. RANKIN: In addition to Mr. Waters,  
8 we have Mr. Oliver Seekins --

9 THE HEARING EXAMINER: Okay.

10 MR. RANKIN: -- who is present on his  
11 video camera. And Mr. Seekins is -- I'll say the  
12 project manager -- the C Class 2 UIC expert who  
13 oversaw the C108 preparations.

14 And then we have Mr. George -- sorry,  
15 Mr. Reed Davis, who is the petroleum geologist who is  
16 available to address any geology issues or questions  
17 that may come up.

18 THE HEARING EXAMINER: Okay. Great.  
19 So Mr. Rankin, do we -- so we have so we have three  
20 witnesses here today. Is that correct?

21 MR. RANKIN: Correct.

22 THE HEARING EXAMINER: Okay. We have  
23 Mr. Walters, Mr. Seekins, and Mr. Davis. I know I saw  
24 Mr. Seekin's affidavit in here. Do we have it  
25 affidavit or any testimony written testimony from

1 Mr. Walters or Mr. Davis?

2 MR. RANKIN: We do. And they're in  
3 sequence. So Mr. Seekins first, and then Mr. Davis  
4 second, is Exhibit B, and then Mr. Waters is Exhibit  
5 C.

6 THE HEARING EXAMINER: Okay. Very  
7 good.

8 So let's get all 3 of you to raise your  
9 right hands. There we go.

10 WHEREUPON,

11 GEORGE WALTERS,  
12 called as a witness and having been first duly sworn  
13 to tell the truth, the whole truth, and nothing but  
14 the truth, was examined and testified as follows:

15 WHEREUPON,

16 REED DAVIS,  
17 called as a witness and having been first duly sworn  
18 to tell the truth, the whole truth, and nothing but  
19 the truth, was examined and testified as follows:

20 WHEREUPON,

21 OLIVER SEEKINS,  
22 called as a witness and having been first duly sworn  
23 to tell the truth, the whole truth, and nothing but  
24 the truth, was examined and testified as follows:

25 THE HEARING EXAMINER: Very good. I've

1 heard a yes from all three people.

2 Okay. So Mr. Walters, now would you  
3 answer the question Mr. Gebremichael put to you?

4 MR. WALTERS: Yes, sir.

5 We haven't discussed anything besides  
6 running plastic code tubing for corrosion mitigation.

7 MR. GEBREMICHAEL: Okay. That's fine.  
8 All right. Thank you.

9 All right. Mr. Examiner, may I proceed  
10 with the next question?

11 THE HEARING EXAMINER: Of course.

12 MR. GEBREMICHAEL: Yes.

13 So with this injector well -- I have  
14 seen almost, what, 46 wells -- correct me if I'm  
15 wrong, they're going to be affected by this injection  
16 well. I think one of them is abandoned and -- well.

17 My question to you is, have you done  
18 any simulation, modeling, like, a plume expansion, or  
19 RTA, like Rate Transit Analysis? How that's going to  
20 cover that area, you know, the affected area?

21 MR. WATERS: This is George again.

22 We use a third party for reservoir  
23 simulation, but we have not done one for this project  
24 yet.

25 MR. GEBREMICHAEL: So how did you

1 determine the affected area by this injector well?  
2 The reason why I'm asking this question is we would  
3 like to find out the boundary of this -- the injector  
4 well's gas expansion or migration, the plume model.

5 And then you do mention this 46  
6 wells -- will be affected by this injector. And then  
7 I just want to know how you determine that?

8 MR. WATERS: We just used a half-mile  
9 radius for the project area.

10 MR. GEBREMICHAEL: Yeah, but you  
11 haven't carried out any simulation; did you?

12 MR. WATERS: No, we haven't.

13 MR. GEBREMICHAEL: But do you have any  
14 plan to do that, though?

15 MR. WATERS: If it is a requirement.

16 MR. GEBREMICHAEL: Yeah, because your  
17 maximum injection, you proposed 10 million, you know,  
18 cubic feet per day. You know, at that rate, probably  
19 having a prediction, you know, how far this gas is  
20 going to migrate would be beneficial. Don't you  
21 think?

22 MR. WATERS: Yes, I agree.

23 MR. GEBREMICHAEL: All right. Okay.  
24 The next question I have is -- yeah, one of the wells  
25 that penetrated the injection zone out of the 46 wells

1 is abandoned. Is that right? I think I got the name  
2 of the well here is. It's good you did describe the  
3 cement work and everything. But do you have any CBL  
4 for this well?

5 MR. SEEKINS: It's Oliver Seekins here  
6 answering that question.

7 I would have to go back and review the  
8 well file for this one to know if we had a CBL. I'm  
9 trying to determine that real quickly for you.

10 MR. GEBREMICHAEL: Yeah, but in your  
11 statement, you did mention the mechanical integrity,  
12 and the cement integrity is sound enough for this, you  
13 know, injector. So you kind of assured us, you know,  
14 there is not going to be out-of-zone flow there. How  
15 did you reach that conclusion? So a CBL would be good  
16 or any other alternative methods.

17 MR. SEEKINS: In this case, we had our  
18 Chief Geologist, Tom Tomastik, review the well files,  
19 the well history, and the plugging report. And it was  
20 his determination that this well would not allow for  
21 migration of the injectate to leave the zone.

22 Past that, I'm not intimately familiar  
23 with what review was done by him.

24 MR. GEBREMICHAEL: Yeah. It's very  
25 important. Especially, you see those active wells --

1 you do monitor them from time to time, but when it  
2 comes to the abandoned and plagued wells, it is very  
3 imperative that we know they are mechanically sound,  
4 so they don't serve as a conduit for a lot of zone  
5 injection -- out of zone flow; right?

6 Okay. Just give me one second here.  
7 The other question that I have is, if you're planning  
8 to inject your maximum amount of 10 million cubic feet  
9 per day, does this well equipped with any subsurface  
10 safety valve, or do you have plans for that one?

11 MR. WATERS: I'm sorry, could you  
12 repeat the question?

13 MR. GEBREMICHAEL: Well, my question  
14 is, this gas injection, especially when you go at the  
15 maximum between 5 million to 10 million cubic feet a  
16 day, do you have any subsurface safety valve  
17 installed, or do you have a plan to install it?

18 MR. WATERS: Not at this time.

19 MR. GEBREMICHAEL: You don't have it,  
20 and then you're not planning at all?

21 MR. WATERS: No, we don't currently  
22 have plans to run a subsurface safety valve.

23 MR. GEBREMICHAEL: Okay. Okay.

24 Well, these are my questions,  
25 Mr. Examiner. I think those are all I have for today.

1 THE HEARING EXAMINER: Thank you,  
2 Mr. Gebremichael.

3 Mr. Goetze, do you have any questions?

4 MR. GOETZE: Yes, I'd like to follow-up  
5 on a point that was brought up BY Million.

6 Good afternoon, all. In the discussion  
7 about this project as a pressure maintenance project,  
8 typically, we like to see a boundary. This area is  
9 quite elusive considering its history, especially with  
10 the formations that are involved.

11 So it is my understanding -- and I'll  
12 ask this to the group, but we really don't have any  
13 pinch-outs or structural feature with the injection  
14 that will keep it within the designated -- essentially  
15 what I'm seeing is a half-mile radius is the project  
16 area.

17 Is there anybody that can illuminate me  
18 on this, or is this something that we're just using  
19 the half-mile circle as a justification?

20 MR. RANKIN: Mr. Goetze, I wonder --

21 Mr. Seekins, is that something that you  
22 would be able to address to some extent?

23 MR. SEEKINS: To some extent.

24 So the project area that we set  
25 initially, we looked at the subject well and then the

1 offset wells that Spur operates and has the acreage  
2 for that they believe would be stimulated from the  
3 project.

4 And then looked at that continuous  
5 section of land and set the boundary on the outside of  
6 it, outside of the extent at which we believe the gas  
7 would horizontally migrate given the surrounding of  
8 pressure sinks from the Spur wells attempting to be  
9 stimulated.

10 I don't know if that fully addresses  
11 your question or not, Mr. Goetze. That --

12 MR. GOETZE: Well --

13 MR. SEEKINS: -- taken to set the  
14 boundary.

15 MR. GOETZE: I think Million's  
16 presentation with regards to maybe we ought to have a  
17 little bit more clarity on the model and the response  
18 to the reservoir would be beneficial for us.  
19 Especially since we're not bounding this with the  
20 geologic features.

21 So I would support you providing us at  
22 least some sort of indication of how far you're going  
23 to reach out with this effort as a pressure  
24 maintenance project.

25 So I would request that information if



1 it's not already been stated.

2 Second item in Mr. Waters'  
3 presentation, I noticed in Paragraph 11 -- and this is  
4 typical of an enhanced recovery project. We do  
5 mention a process to evaluate a positive response. To  
6 that, I would request that the applicant provide us at  
7 least with something a little more definite than we'll  
8 take a look.

9 If you have offsetting wells that you  
10 think are good candidates at this time, let's go ahead  
11 and include them. We did this with other pressure  
12 maintenance projects that are somewhat larger, such as  
13 the North Hobbs project by Oxy.

14 So for the effort down the road, I  
15 would request also that Spur provide us with at least  
16 a flexible list of wells that they're going to look at  
17 and use as a measurement of the performance of this  
18 EOR project.

19 So -- that are the only two things I  
20 have.

21 THE HEARING EXAMINER: Okay. Mister --

22 MR. WATERS: Okay. Thanks, Phil. Yes,  
23 we can do that.

24 THE HEARING EXAMINER: Okay.

25 Mr. Rankin, do you have any follow-up questions based

1 on the cross-examination questions?

2 MR. RANKIN: I do. I'm going to see if  
3 we can maybe, you know, resolve at least some part of  
4 Mr. Goetze and Mr. Gebremichael's questions.

5 And not to say that we won't also  
6 follow up with the submission of the requested  
7 information, but this may help get a little more of a  
8 response or help address some of their questions or  
9 concerns.

10 Now, Mr. Seekins, it's your  
11 understanding that the Division's rules provide for  
12 what the project area should be for a pressure  
13 maintenance project. Is that your understanding?

14 MR. SEEKINS: Yes.

15 MR. RANKIN: And generally, it's the  
16 spacing unit on which the well is located plus  
17 offsetting wells -- offsetting space units that are  
18 operated by the operator of the proposed injection; is  
19 that correct?

20 MR. SEEKINS: That is my understanding,  
21 yes.

22 MR. RANKIN: And here, given the fact  
23 that Spur, in this case -- is it your understanding  
24 that SPUR is a hundred percent working interest owner  
25 in the proposed project area as defined in the

1 application and the testimony?

2 MR. SEEKINS: Yes.

3 MR. RANKIN: So based on that, is your  
4 understanding that Spur selected and identified the  
5 proposed project area based on the fact that it is a  
6 hundred percent working interest owner and that that  
7 area is likely to be able to contain the proposed  
8 injection volumes?

9 MR. SEEKINS: Yes, that is correct.

10 MR. RANKIN: And I'll address some  
11 other questions to Mr. Waters, but essentially,  
12 because all these offsetting wells within the project  
13 area are completed in the same pool that are expected  
14 to benefit, those wells are going to be creating, as  
15 you understand, a pressure sink, and they'll be  
16 preventing the outflow of that injection gas --  
17 injected gas outside of the project area?

18 MR. SEEKINS: Yes, that is my  
19 understanding.

20 MR. RANKIN: Okay.

21 Let's see. I guess that's all I have  
22 for Mr. Seekins.

23 Mr. Waters, just to kind of follow up  
24 on the same set of questions. As to the defined  
25 project area, the project area that is identified in

1 the application and in the testimony, it's -- when you  
2 look at the C108 -- I'm going to -- maybe I'll share  
3 my screen so everyone can see it. So there's no  
4 question. One moment.

5 Let me all know when you can see my  
6 screen.

7 MR. WATERS: Yeah.

8 MR. RANKIN: Okay.

9 Mr. Waters, I'm showing here what's  
10 part of the Exhibit A2 of the hearing packet. And  
11 this is PDF page 34 of 64. This is the area of review  
12 map. Do you recognize this map, Mr. Waters.

13 MR. WATERS: Yes.

14 MR. RANKIN: And that and the area  
15 that's outlined in red here that is the proposed  
16 project area for this pressure maintenance project as  
17 defined in the application and then the hearing  
18 testimony?

19 MR. WATERS: Correct.

20 MR. RANKIN: Okay. And so this is the  
21 area that Spur owns a hundred percent working interest  
22 within is that your understanding?

23 MR. WATERS: Correct.

24 MR. RANKIN: And Spur went a little  
25 beyond what the minimum size is defined as in the

1 Division rules for pressure maintenance in order to  
2 ensure that it captured all the -- that may be  
3 influenced by the proposed injection volumes; correct?

4 MR. WATERS: Correct.

5 MR. RANKIN: But you actually didn't do  
6 an actual formal stimulation to confirm that; right?

7 MR. WATERS: Correct. We have not done  
8 a reservoir simulation.

9 MR. RANKIN: And if you would just  
10 explain us a little bit, I mean, the number of wells  
11 that you've identified here in Exhibit -- A1, are all  
12 wells that are completed within the project area, a  
13 hundred percent operated by Spur, and they're  
14 completed in the same pool as the injection interval  
15 here.

16 They would be positively -- there'd be  
17 a positive response from these wells; is that correct?  
18 The expectation is that they would show a positive  
19 response?

20 MR. WATERS: Yes.

21 MR. RANKIN: And because these wells  
22 all surround the injection well is -- explain a little  
23 bit how -- is it your understanding or your  
24 anticipation that those wells would prevent the ward  
25 migration of gas outside of the project area?

1 MR. WATERS: Yes. It's our  
2 understanding that the -- or our belief that the  
3 project area is large enough. But to 100 percent  
4 confirm that, we would have to run a computer  
5 reservoir simulation.

6 MR. RANKIN: Okay. And Mr. Goetze  
7 asked you some questions about, you know, what Spur's  
8 plans are to monitor and document a positive response.

9 If you would just explain based on the  
10 wells that are within the project area, what would  
11 Spur do? What are Spur's plans to confirm that  
12 there's a positive response in the wells within the  
13 project area?

14 MR. WATERS: Daily production  
15 monitoring, as well as monitoring the pumping unit run  
16 times, as well as shooting monthly fluid levels.

17 MR. RANKIN: And those tests and  
18 monitoring would be performed by the wells identified  
19 in the list of wells in A2?

20 MR. WATERS: Correct.

21 MR. RANKIN: Okay.

22 So based on that, Mr. Goetze and  
23 Mr. Gebremichael, I presume you still would like Spur  
24 to submit a model simulation to confirm that the  
25 injection volumes anticipated here will be contained

1 within the product area number one?

2 And would you like a written plan from  
3 Spur to confirm how it intends to monitor and track  
4 the response from the injection?

5 MR. GEBREMICHAEL: Yes.

6 MR. RANKIN: Okay.

7 I think those are the only two items  
8 that I have on my list.

9 Is there anything additional, Mr.  
10 Goetze or Mr. Gebremichael, that you would like to see  
11 from Spur in response as a follow-up?

12 MR. GOETZE: May I talk, Mr. Examiner?

13 THE HEARING EXAMINER: Sure. Hold on  
14 one second.

15 Let me first go to Mr. Gebremichael.

16 Mr. Gebremichael, when you were going  
17 through your questions, there were specific things  
18 that you asked for -- to be admitted into evidence  
19 before we could take this under advisement.

20 Can I have it in your own words, what  
21 you're looking for?

22 MR. GEBREMICHAEL: What is the  
23 simulation model that seems to be agreed -- and then  
24 the other one is I would like to know how they arrive  
25 to the maximum injection -- maximum surface injection

1 pressure they reach. Just a written formula and  
2 specific gravity and everything.

3 THE HEARING EXAMINER: I'm sorry.  
4 Mr. Gebremichael, I didn't understand that. Can you  
5 say it slower and a little louder?

6 MR. GEBREMICHAEL: Yes. Can you hear  
7 me now?

8 THE HEARING EXAMINER: Yes. The second  
9 item that you want. A written --

10 MR. GEBREMICHAEL: So the second item  
11 is they have -- it's a thousand seventy-seven PSI per  
12 feet. So I would like to see the calculation -- how  
13 they arrive to that figure. I think Mr. Seekins, he  
14 has it in his -- I could present that one, I guess.

15 And then the other one that is the CBL  
16 for the abandoned plagued well that exists or any  
17 other alternative evidence that shows that the cement  
18 integrity is intact for that one.

19 THE HEARING EXAMINER: Okay.

20 MR. GEBREMICHAEL: Pretty much those  
21 are the things. The other ones, the questions I  
22 asked, I needed more clarification, just seeking  
23 evidence. So those are the three ones that I would --

24 THE HEARING EXAMINER: So there are  
25 three. And just to repeat them, because I'm making



1 notes to make sure that we get what you want.

2 We have a simulation model?

3 MR. GEBREMICHAEL: Yes, sir.

4 THE HEARING EXAMINER: We have a  
5 written report on how they're arriving at their  
6 calculations of PSI?

7 MR. GEBREMICHAEL: No, the calculation  
8 to reach the maximum surface injection pressure.

9 THE HEARING EXAMINER: Maximum  
10 surface --

11 MR. GEBREMICHAEL: Injection pressure.

12 THE HEARING EXAMINER: -- injection  
13 pressure.

14 MR. GEBREMICHAEL: Yes, sir.

15 THE HEARING EXAMINER: Okay. And then,  
16 finally, we have alternative evidence on cement  
17 integrity of the well?

18 MR. GEBREMICHAEL: No, CBL. Or if they  
19 don't have a CBL, alternative evidence to show the  
20 cement integrity.

21 THE HEARING EXAMINER: So what does CBL  
22 stand for?

23 MR. GEBREMICHAEL: Cement Bond Log.

24 THE HEARING EXAMINER: Cement Bond Log.

25 MR. GEBREMICHAEL: Yes, sir.

1 THE HEARING EXAMINER: And so since --  
2 so you're not asking for a cement bond log then?

3 MR. GEBREMICHAEL: Well, if they have  
4 it, it is better. But in absence of CBL, they could  
5 have an alternative method.

6 THE HEARING EXAMINER: Now I  
7 understand.

8 MR. GEBREMICHAEL: Yeah.

9 THE HEARING EXAMINER: To demonstrate  
10 the integrity of the cement well?

11 MR. GEBREMICHAEL: Yes, sir.

12 THE HEARING EXAMINER: Okay. Very  
13 good. I understand now.

14 Mr. Goetze, what information do you  
15 require at this point?

16 MR. GOETZE: I would just ask for a  
17 Spur to go ahead and put together -- they have a list  
18 of wells; they have listed items. Let's go ahead and  
19 put together something that they can be committed to  
20 as far as monitoring so that we can include it in any  
21 order, as opposed to me dreaming up something which  
22 they may regret.

23 THE HEARING EXAMINER: So you need --  
24 you're asking for a list of wells to be monitored?

25 MR. GOETZE: Well, the listing and what

1 they're going to do. And then we'll tell them to  
2 submit that information. As opposed to us --

3 THE HEARING EXAMINER: But Mr. Goetze,  
4 I have to understand what you're asking for to put it  
5 in my notes. So could you be very specific on what  
6 you want?

7 MR. GOETZE: I would want a list of  
8 wells that are going to be used to monitor the  
9 performance and what is going to be measured and at  
10 what cycles.

11 THE HEARING EXAMINER: Okay. So I have  
12 down -- I have a list of wells needing to be  
13 monitoring for performance. What is going to be  
14 measured at what sites?

15 MR. GOETZE: At what times.

16 THE HEARING EXAMINER: Not at what  
17 sites, but at what times?

18 MR. GOETZE: The wells will be the data  
19 points.

20 THE HEARING EXAMINER: I see.

21 MR. GOETZE: And what they're measuring  
22 in the wells, they will tell us and then what time  
23 they measured it. And then typically, we'd turn this  
24 into an annual, semi-annual, quarterly, whatever to  
25 provide us to put into the history of the project

1     itself.

2                   THE HEARING EXAMINER:   I understand.  
3     Was there anything else that you wanted to say before  
4     we had this hearing?

5                   MR. GOETZE:   Well, I just want to  
6     remind Spur -- and I'm well aware that this is a very  
7     crowded area.  We have a lot of things going on.

8                   And so this will be the first pressure  
9     maintenance or injection of gas in this area.  So we  
10    really do want to be careful to make sure that it's  
11    done properly.  And we want to make sure that it is  
12    something -- that it is a true pressure maintenance.  
13    So it assures that Spur's efforts are well protected.

14                   So we just remind you that there are  
15    many folks out there considering the pressure  
16    maintenance as a way to get rid of gas.  We do wish  
17    the operators to reuse it, and this is a good area to  
18    do it.

19                   But again, it is full of old wells and  
20    old water floods and operations that have been handed  
21    down age after age.  So just want to make sure we have  
22    things in place so that we can verify and as well as,  
23    you know, have your assets pay off.

24                   That's all.  Thank you.

25                   THE HEARING EXAMINER:  Thank you,

1 Mr. Goetze.

2 So Mr. Rankin, at this point, it looks  
3 like we need to hold the hearing open for additional  
4 evidence. Do you agree?

5 MR. RANKIN: Without question.

6 THE HEARING EXAMINER: Okay. Fine.  
7 All right. So how long do you want me to hold this  
8 open?

9 MR. RANKIN: I need to confer -- I  
10 think the one item I anticipate may take the most  
11 time -- and I'll have to look to Spur and maybe their  
12 third-party contractor ultimately to tell us what  
13 that's going to take -- but in order to run that  
14 simulation, I don't know what the timeframe will be.  
15 I just don't.

16 So I may ask Spur, and maybe by a nod  
17 of the head -- let me see. I'm getting a note real  
18 quick if I can confer that. But I'll need to confer  
19 with them, but I would guess, Mr. Examiner, we may  
20 need at least a month or so to do that.

21 THE HEARING EXAMINER: Okay. What if  
22 we do this? What if I require a status -- we don't  
23 have to have a status hearing, Mr. Rankin, but what if  
24 you file some sort of a status update for me, which I  
25 can share with Mr. Gebremichael and Mr. Goetze? How

1 about in one month from today?

2 MR. RANKIN: I think that's  
3 appropriate, Mr. Examiner. One month from today would  
4 allow us time to perhaps get the simulation done. And  
5 if not, we can report on the status.

6 THE HEARING EXAMINER: Okay. Very  
7 good.

8 Okay. So the hearing is not closed.  
9 The hearing will remain open for this additional  
10 information. I have a list of the four items that  
11 Mr. Gebremichael and Mr. Goetze have requested before  
12 we can take this case under advisement.

13 And Mr. Rankin has a deadline of  
14 January 7 to provide a status update to me and to copy  
15 Mr. Goetze and Mr. Gebremichael with that.

16 MR. RANKIN: Mr. Examiner, will this be  
17 on the docket on that date?

18 THE HEARING EXAMINER: No --

19 MR. RANKIN: So we just file it --  
20 okay. Okay.

21 THE HEARING EXAMINER: I don't think we  
22 need to put this on the docket. I think we just need  
23 to hear from you and let us know what's happening.

24 And if we need to, you know, reopen an  
25 actual virtual hearing to ask some more questions to

1 the witnesses, once this data comes in, which I have a  
2 feeling that will happen, then we can figure out which  
3 docket to put it on once we get the information. And  
4 once the Division's technical examiners have a chance  
5 to review it.

6 MR. RANKIN: Very good.

7 THE HEARING EXAMINER: Okay. All  
8 right. We are off record in 24042.

9 Thank you, Mr. Goetze.

10 Mr. Gebremichael.

11 We have two cases remaining.

12 Are they yours, Mr. Rankin?

13 MR. PADILLA: No, Mr. Examiner.

14 They're mine.

15 THE HEARING EXAMINER: Oh, Mr. Padilla.  
16 Very good. So 23711 and 23712, Mr. Vidya, are you  
17 presenting these by affidavit?

18 MR. PADILLA: Yes, I am. And we've  
19 consolidated both for hearing.

20 THE HEARING EXAMINER: Of course you  
21 have.

22 I just need a five-minute break. Maybe  
23 some other people do as well. So let's come back --  
24 it's now 4:06. Let's come back at 4:11 so we can  
25 conclude these last two cases for you.

1 (Off the record.)

2 THE HEARING EXAMINER: It is 4:10 p.m.  
3 We are continuing the Oil Conservation Division  
4 hearings.

5 Ms. Apodaca brought up a series of  
6 cases that she believes we have not dealt with. They  
7 were lines 54 through 57 on our spreadsheet, COG  
8 Operating, 24032, 24033, 34 and 35. I don't have  
9 notes showing how we disposed of those cases.

10 Do we have any parties here that were  
11 part of that case -- those cases?

12 MR. FELDEWERT: Mr. Examiner, Michael  
13 Feldewert with the COG Operating here.

14 THE HEARING EXAMINER: Yes, thank you.

15 MR. FELDEWERT: It may not have been  
16 entirely clear, but the case numbers that you --  
17 remember when we had the discussions with Franklin  
18 Mountain, and we decided on a February 1st status  
19 conference?

20 THE HEARING EXAMINER: Yes, I do.

21 MR. FELDEWERT: -- list of cases that  
22 was subject to that. This series of cases, 24032  
23 through 24035, will be included in that.

24 THE HEARING EXAMINER: Okay. Thank  
25 you. All right. I have to make a note here.



1 Thank you for remembering because I did  
2 not. So we have 24032 through 35. We are setting  
3 these -- so you are going to file a motion to continue  
4 these to the February 1st docket?

5 MR. FELDEWERT: Yes.

6 THE HEARING EXAMINER: Okay. Very  
7 good.

8 MR. FELDEWERT: Yes. In fact, I  
9 believe Ms. Bennett and I worked together in getting a  
10 list of cases, but she's getting a list of cases to  
11 you.

12 THE HEARING EXAMINER: Very good. And  
13 that's going to be part of it.

14 THE HEARING EXAMINER: Okay. Very  
15 good. Thank you very much.

16 Okay. Mr. Padilla, excuse the  
17 interruption. Please proceed.

18 MR. PADILLA: Mr. Examiner, and  
19 technical examiners, this is a huge undertaking in  
20 terms of statutory unitization case.

21 This case involves approximately 19,000  
22 acres that FAE put together. There's some long  
23 history, starting in 1920, of oil and gas production  
24 and development in this area.

25 THE HEARING EXAMINER: Mr. Padilla, I

1 hate to say this to you, but we are -- we started this  
2 morning eight hours ago. And I'm going to fade if we  
3 have a long presentation.

4 Do you think we need to continue these  
5 to tomorrow, or would you be able to expedite these  
6 today?

7 MR. PADILLA: Well, what I plan to do  
8 is simply have the three witnesses that I have simply  
9 summarize this case. And it would go very quickly  
10 rather than me trying to explain and -- what this case  
11 is about, including geology and -- engineering.

12 THE HEARING EXAMINER: Okay. Thanks,  
13 Mr. Padilla.

14 Mr. Feldewert, did you enter an  
15 appearance on this case?

16 MR. FELDEWERT: Yeah. I was going to  
17 speak up, but I was going to let Ernie go on for a  
18 little bit. I've entered appearance in both of these  
19 cases for COG Oil and Gas and for ConocoPhillips.

20 I also believe that there was another  
21 appearance in these cases by Pilot Water Solutions.

22 THE HEARING EXAMINER: Okay.

23 MR. PADILLA: That entry of appearance  
24 has been withdrawn.

25 THE HEARING EXAMINER: Okay.

1 MR. FELDEWERT: Okay. All right.  
2 Thanks.

3 THE HEARING EXAMINER: That was  
4 Mister --

5 MR. FELDEWERT: Okay. Then I'm in the  
6 case. I do have questions for each of these  
7 witnesses.

8 THE HEARING EXAMINER: Very good.  
9 Okay. Very good.

10 Mr. Padilla, I don't see your three  
11 witnesses here. I see a gentleman down here. It  
12 looks like Mister -- well, it doesn't say his name.  
13 Who do we have on the camera?

14 MR. PADILLA: Joe Kent is on the  
15 camera.

16 THE HEARING EXAMINER: Okay. What is  
17 his name?

18 MR. PADILLA: Joe Kent.

19 THE HEARING EXAMINER: Can you spell  
20 it?

21 MR. PADILLA: K-E-N-T.

22 THE HEARING EXAMINER: Kent. Okay.  
23 Mr. Kent. And then we have two other witnesses,  
24 Mr. Padilla?

25 MR. PADILLA: There should be

1 Mr. Hooper and Vanessa Neal.

2 THE HEARING EXAMINER: Are you all  
3 three together, Mr. Kent and Mister -- okay. Very  
4 good. I see you all there. All right.

5 So let me pull up the documents in this  
6 case. This is 23711 and 12. Give me a moment here.  
7 Let me get to the imaging system.

8 Because we're running out of time  
9 today, and if you can summarize --

10 If each of the witnesses can summarize,  
11 let's say we give each witness about five minutes to  
12 summarize what's already been -- well, what  
13 Mr. Padilla will offer into evidence and which --  
14 unless there's an objection, I will admit into  
15 evidence.

16 We're going to keep these summaries  
17 quite short unless you need more time, and then we can  
18 continue these tomorrow.

19 And I'll leave that to you,  
20 Mr. Padilla.

21 But let me take a look and see what we  
22 have here -- and I'm sure what -- let me look at each  
23 document here. I have hearing exhibits. I have  
24 Exhibits A, B, C, and D. Okay. I have --  
25 Mr. Hooper --

1           Mr. Hooper, have you been qualified as  
2 an expert before this Division?

3           MR. HOOPER: Yes, I have.

4           THE HEARING EXAMINER: Okay.

5           MR. HOOPERS: I have previously  
6 testified before the Division.

7           THE HEARING EXAMINER: Okay.  
8 Fantastic. And Mr. Hooper, I can barely hear you, so  
9 you are going to have to speak louder if you're going  
10 to sit that far away.

11           Then we have Ms. Neal.

12           Ms. Neal, have you been previously  
13 qualified as an expert?

14           MS. NEAL: Yes.

15           THE HEARING EXAMINER: You have. Okay.  
16 Very good.

17           Am I missing the --

18           MR. PADILLA: Mr. Examiner, you're  
19 missing Joe Kent. He's director of land for FAE. And  
20 his curriculum vitae is part of his exhibit --

21           THE HEARING EXAMINER: And where is his  
22 exhibit?

23           MR. PADILLA: It's Exhibit A. It  
24 follows the self-affirmed statement of him.

25           THE HEARING EXAMINER: I don't have

1 that here, sir. So let me keep looking at documents  
2 in this case. Maybe it's filed separately.

3 MR. PADILLA: We had to -- because  
4 there are about 5,000 pages, we had to submit it in  
5 smaller packets. What I'm looking at is a total  
6 complete package, but I'm not sure what the -- whether  
7 the Division -- what we did with uploading to the  
8 Division website.

9 THE HEARING EXAMINER: Okay. I've  
10 checked every document in the imaging system while you  
11 were talking. On the 1st of December, I have a  
12 exhibit packet. We have Exhibit A, D, C, and D.  
13 Nothing here has Mr. Kent's testimony or CV.

14 Is there a page number or a Bates  
15 number that you think you have assigned to it?

16 MR. PADILLA: Bate number 4 to 5 of  
17 Exhibit A.

18 THE HEARING EXAMINER: Okay. Hold on.  
19 I have an application to start with. I have an  
20 application. Sir, I don't have what you're saying  
21 should be where it should be. So I do not have that.

22 MR. PADILLA: Well, can I ask him to  
23 state his credentials for the record?

24 THE HEARING EXAMINER: Well, no,  
25 because you're asking to summarize testimony that we

1 don't have here as an exhibit. And then Mr. Feldewert  
2 or the technical examiners will not have that  
3 testimony to review in a meaningful way to ask  
4 Mr. Kent questions.

5 So we're not -- we don't have at least  
6 two exhibits. Exhibit A in my -- in the document you  
7 filed on November 30th is an application for  
8 authorization to inject, C108, pages 1 through 6.  
9 Application for statutory unitization, pages 7 through  
10 361. Affidavit of Notice, 362 to 364. Hearing  
11 Notice, 365 to 374.

12 Then we have Exhibit B with -- Charles  
13 Hooper. We have well logs, structure maps,  
14 cross-sections, water analysis. Then we have a  
15 self-affirming statement of Vanessa Neal as Exhibit 3.  
16 And then we have affidavit of publication.

17 So we're completely missing one of your  
18 witnesses' testimony and his CV.

19 Yes, sir?

20 MR. KENT: Mr. Hearing Examiner, my  
21 name is Joe Kent. I'm the director of land -- at 40  
22 acres. My resume and self-affirmed statement is in  
23 27312, which is consolidated with this case.

24 THE HEARING EXAMINER: Okay. So let me  
25 go there. I don't know why it's not in this case, but

1 let me go to that case. So are you not a witness in  
2 number in case number 11?

3 MR. KENT: I guess not, no. Probably  
4 not for the C108.

5 THE HEARING EXAMINER: Okay.

6 Mr. Padilla, I think these are legal  
7 questions that you should be answering. Is Mr. Kent a  
8 witness in 11?

9 MR. PADILLA: Yes, he is.

10 THE HEARING EXAMINER: Mr. Kent, you  
11 are a witness in case number 11. I think since your  
12 information, though, is filed in a -- in this other  
13 packet, I might be able to get around unless there's  
14 an objection to it with a good reason.

15 I do see here the self-affirming  
16 statement of Joseph Kent, page 1 through 3, and your  
17 CV in 4 to 5 in case 23712.

18 So Mr. Feldewert, do you have an  
19 objection in my using these -- this exhibit -- these  
20 pages in this exhibit in case numbers 11?

21 MR. FELDEWERT: No, I don't. And in  
22 fact, I'm going to be referring to and looking at  
23 exhibits filed in 23712, which deal with the statutory  
24 unitization, which I think is the first thing you have  
25 to address before you go to the approval of the



1 injection. So sequentially, I think it makes sense to  
2 go that direction.

3 THE HEARING EXAMINER: Okay.

4 MR. FELDEWERT: And I -- Mr. Kent's  
5 affidavit is primarily addressed -- the statutory  
6 unitization issues.

7 THE HEARING EXAMINER: Okay. All  
8 right.

9 You know, Mr. Padilla, this seems to --  
10 I don't think this is going to be a quick presentation  
11 by affidavit, and we all go home in 15 minutes. I  
12 have a feeling this is going to be at least an hour,  
13 just by what I'm hearing here.

14 So I'm going to, under my authority, to  
15 continue this until tomorrow. We are going to pick  
16 this up tomorrow morning.

17 What time works for you, Mr. Padilla?

18 MR. PADILLA: Nine o'clock works if --  
19 that works, nine o'clock.

20 THE HEARING EXAMINER: Do you want your  
21 witness -- let's hear from the witnesses.

22 Mr. Kent?

23 MR. KENT: I'm sorry, Mr. Hearing  
24 Examiner. What was the question?

25 THE HEARING EXAMINER: Nine o'clock

1 tomorrow, will you be ready to proceed?

2 MR. KENT: Yes, sir.

3 THE HEARING EXAMINER: Okay. What  
4 about the two witnesses sitting next to you?

5 MR. HOOPER: Yes, that'll work.

6 THE HEARING EXAMINER: Okay.

7 MS. NEAL: Yes.

8 THE HEARING EXAMINER: Okay.

9 Mr. Goetze, will that work for you?

10 MR. GOETZE: I appreciate Mr. Padilla's  
11 selection of time. I think nine would be very nice.

12 THE HEARING EXAMINER: Okay. Very  
13 civilized. Mr. Goetze, are you the only technical  
14 examiner tomorrow?

15 MR. GOETZE: I will be the special  
16 examiner. Million, may participate. I'll leave that  
17 up to him, but he is also reviewing the application.

18 THE HEARING EXAMINER: Okay. Now, when  
19 I ran into Marlene a few moments ago, she had  
20 mentioned that if we are continuing tomorrow that she  
21 will have to issue a new Webex link.

22 Marlene, is that correct?

23 MS. SALVIDREZ: That's correct. And it  
24 will be posted before five.

25 THE HEARING EXAMINER: Posted. Okay.

1 Where will it be posted?

2 MS. SALVIDREZ: On the notice webpage.

3 THE HEARING EXAMINER: Okay.

4 Does everyone know where to go to find  
5 this link?

6 MR. PADILLA: I think so, Mr. Examiner.

7 THE HEARING EXAMINER: Well, I'm not  
8 sure --

9 Marlene, are you here tomorrow?

10 MS. SALVIDREZ: Yes.

11 THE HEARING EXAMINER: Oh, okay. Okay.

12 Very good. All right. So if we have any problems,  
13 Marlene will be here to help us through it.

14 Okay. Then we are adjourned until  
15 tomorrow at 9 a.m. Thank you everyone.

16 (Whereupon, at 4:24 p.m., the  
17 proceeding was concluded.)

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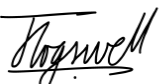
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CERTIFICATE

I, JAMES COGSWELL, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



JAMES COGSWELL  
Notary Public in and for the  
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, CHRISTY ANDERSON, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



CHRISTY ANDERSON

[& - 15th]

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[bennett - bones]

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[bonita - business]

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[irregular - keely]

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[keep - landman]

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**[landman - limits]**

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[looking - manager]

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