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

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

Case Nos. 23944, 23945, 24085,
24118, 24119, 24150, 24151,
24154, 24155, 24178, 24180,
24198, 24205, 24206, 24231,
24232, 24320, 24321, 24361,
24363, 24364, 24365, 24366,
24367, 24368, 24369, 24370,
24371, 24372, 24373, 24374,
24378, 24379, 24381, 24382,
24383, 24384, 24385, 24386,
24387, 23944, 23945, 24396,
24397

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VIDEOCONFERENCE HEARING

DATE: Thursday, May 2, 2024
TIME: 8:15 a.m.
LOCATION: Remote Proceeding
Pecos Hall, Wendell Chino Building
1220 South St. Francis Drive
Sante Fe, NM 87505
REPORTED BY: James Cogswell
JOB NO.: 6649759

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A P P E A R A N C E S

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

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Dean McClure, Technical Examiner, OCD
(by videoconference)
Freya Tschantz, Law Clerk, OCD
(by videoconference)

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

ALSO PRESENT (Cont'd):

- Ryan Gyllenband, Witness (by videoconference)
- Greg Buratowski, Witness (by videoconference)
- Hudson Brunson, Witness (by videoconference)
- Charles Crosby, Witness (by videoconference)

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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
24085:		
Exhibit A	Affidavit of Ernest Padilla	87/88
Exhibit B	Affidavit of Ryan Gyllenband	87/88
Exhibit C	Affidavit of Greg Buratowski	87/88

NO.	DESCRIPTION	ID/EVD
24150:		
Exhibit A	Compulsory Pooling Checklist	115/116
Exhibit B	Affidavit of Farley Duvall	115/116
Exhibit C	Affidavit of Greg Buratowski	115/116
Exhibit D	Declaration of Deana Bennett	116/116

NO.	DESCRIPTION	ID/EVD
24151:		
Exhibit A	Compulsory Pooling Checklist	117/117
Exhibit B	Affidavit of Farley Duvall	117/117
Exhibit C	Affidavit of Greg Buratowski	117/117
Exhibit D	Declaration of Deana Bennett	117/117

NO.	DESCRIPTION	ID/EVD
24361:		
Exhibit 1	Order No. R-22574	118/120
Exhibit 2	Landman's Affidavit	119/120

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E X H I B I T S (Cont'd)

NO.	DESCRIPTION	ID/EVD
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24361 (Cont'd):

Exhibit 3	Affidavit of Mailing	119/120
Exhibit 3-B	Certified Notice Spreadsheet	119/120
Exhibit 4	Affidavit of Publication	119/120
Exhibit 5	Application/Proposed Notice	120/120

NO.	DESCRIPTION	ID/EVD
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24363:

Exhibit 1	Order No. R-22574	121/122
Exhibit 2	Landman's Affidavit	121/122
Exhibit 3	Affidavit of Mailing	121/122
Exhibit 4	Affidavit of Publication	121/122
Exhibit 5	Application/Proposed Notice	121/122

NO.	DESCRIPTION	ID/EVD
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24364:

Exhibit 1	Order No. R-22574	122/123
Exhibit 2	Landman's Affidavit	122/123
Exhibit 3	Affidavit of Mailing	122/123
Exhibit 4	Affidavit of Publication	122/123
Exhibit 5	Application/Proposed Notice	123/123

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E X H I B I T S (Cont'd)

NO.	DESCRIPTION	ID/EVD
24365:		
Exhibit 1	Order No. R-22574	123/124
Exhibit 2	Landman's Affidavit	123/124
Exhibit 3	Affidavit of Mailing	124/124
Exhibit 4	Affidavit of Publication	124/124
Exhibit 5	Application/Proposed Notice	124/124

NO.	DESCRIPTION	ID/EVD
24371:		
Exhibit A	Statement of Shelley Klingler	136/136
Exhibit B	Statement of Dana Hardy	136/136

NO.	DESCRIPTION	ID/EVD
24374:		
Exhibit 1	Order No. R-22574	125/126
Exhibit 2	Landman's Affidavit	125/126
Exhibit 3	Affidavit of Mailing	125/126
Exhibit 3-A	Certified Notice	126/126
Exhibit 3-B	Certified Notice Spreadsheet	126/126
Exhibit 4	Affidavit of Publication	126/126
Exhibit 5	Application/Proposed Notice	126/126

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E X H I B I T S (Cont'd)

NO.	DESCRIPTION	ID/EVD
24378:		
Exhibit A	Statement of Ryan Cloer	128/130
Exhibit B	Statement of Keegan DePriest	129/130
Exhibit C	Statement of Notice	129/130
NO.	DESCRIPTION	ID/EVD
24379:		
Exhibit A	Statement of Michael Potts	138/139
Exhibit B	Statement of Ben Breyman	138/139
Exhibit C	Statement of Notice	138/139
NO.	DESCRIPTION	ID/EVD
24381:		
Exhibit 1	Pooling Checklist	140/144
Exhibit 2	Hudson Brunson's Affidavit	141/144
Exhibit 2-A	C-102 for the Well	141/144
Exhibit 2-B	Information on Tracts/Leases	141/144
Exhibit 3	Charles Crosby's Affidavit	142/144
Exhibit 3-B	Landing Zones for the Wells	142/144
Exhibit 3-C	Horizontal Drilling Plans	143/144
Exhibit 4	Affidavit of Mailing	143/144
Exhibit 4-A	Notice Letter, 4/11/24	143/144
Exhibit 4-B	Certified Notice Spreadsheet	143/144

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E X H I B I T S (Cont'd)

NO.	DESCRIPTION	ID/EVD
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24381 (Cont'd):

Exhibit 5	Affidavit of Publication	143/144
Exhibit 6	Application/Proposed Notice	143/144

NO.	DESCRIPTION	ID/EVD
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24382:

Exhibit A	Statement of Mason Maxwell	152/152
Exhibit B	Statement of Dana Hardy	152/152

NO.	DESCRIPTION	ID/EVD
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24383:

Exhibit A	Statement of Mason Maxwell	152/152
Exhibit B	Statement of Dana Hardy	152/152

NO.	DESCRIPTION	ID/EVD
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24384/24385:

Exhibit A	Statement of Adriana Salgado	154/155
Exhibit B	Statement of Charles Crosby	154/155
Exhibit C	Statement of Notice	154/155
Exhibit D	Affidavit of Publication	154/155

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I N D E X (Cont'd)

E X H I B I T S

NO.	DESCRIPTION	ID/EVD
24386/24387:		
Exhibit A	Statement of Adriana Salgado	156/157
Exhibit B	Statement of Charles Crosby	157/157
Exhibit C	Statement of Notice	157/157
Exhibit D	Affidavit of Publication	157/157

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1	Amended Exhibit Packet with Cover Letter	105
2	ORRI Owners Being Pooled	105
3	Special Provision Rewording	111
Case 24378:		
1	Amended Exhibit Packet with Cover Letter	136
Case 24381:		
1	Amended Exhibit Packet with Cover Letter	150
2	Amended Pooling Checklist	150
3	Higher Resolution Image of Exhibit 3-B, page 22	150

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P R O C E E D I N G S

THE HEARING EXAMINER: It's 8:15, May 2, 2024. These are the hearings of the Oil Conservation Division. My name is Gregory Chakalian, and I'm the hearing examiner.

Before we talk about the first case on this docket, we have had some requests from several parties regarding the May 23rd special hearing docket. And so, I would like to address the concerns before we begin.

On May 23rd, we actually have two special hearings that are scheduled. In Case Nos. 24118 and 24119, these are the applications of Avant Operating for approval of a non-standard unit and compulsory pooling in Lee County.

We also have competing applications filed in Cases 24154, 24155, from E.G.L. Resources.

May I have entries of Appearance on those cases, please?

MS. BENNETT: Good morning. Deana Bennett on behalf of Avant Operating LLC.

MR. BRUCE: Mr. Examiner. Jim Bruce, representing E.G.L. Resources.

THE HEARING EXAMINER: Good morning to both of you.

1 So, Ms. Bennett, you came to me, and
2 you wanted me to do what?

3 MS. BENNETT: Thank you, Mr. Examiner.
4 And I think there might be another party in those
5 cases.

6 MS. HARDY: Yes, Mr. Examiner. Dana
7 Hardy on behalf of COG Operating.

8 THE HEARING EXAMINER: Thank you.

9 MR. BRUCE: And I guess I'll state that
10 we also appeared for XTO.

11 THE HEARING EXAMINER: Okay. I don't
12 have those.

13 Ms. Hardy, do you have any cases that
14 are going to hearing on that day, or are you just a --

15 MS. HARDY: I'm a party in -- I
16 represent COG in the Avant and E.G.L. cases.

17 THE HEARING EXAMINER: Okay. Are you
18 going to have witnesses at that hearing?

19 MS. HARDY: I don't believe so.

20 THE HEARING EXAMINER: Are you going to
21 be cross-examining witnesses?

22 MS. HARDY: Possibly.

23 THE HEARING EXAMINER: All right.

24 And Mr. Feldewert?

25 MR. FELDEWERT: At this point, we don't

1 anticipate. We're just observing.

2 THE HEARING EXAMINER: Okay.

3 And you're representing who?

4 MR. BRUCE: XTO.

5 THE HEARING EXAMINER: XTO. Okay.

6 So, Ms. Bennett?

7 MS. BENNETT: Thank you.

8 In discussions with Avant yesterday, it
9 came to my attention that Avant is going to be in
10 Santa -- Avant is a Denver-based company, and they are
11 going to be traveling to Santa Fe on May 29th for a
12 contested hearing. And that is a contested hearing
13 between Avant and Apache.

14 And so to avoid two trips from Denver
15 to Santa Fe, I was wondering if the Division would
16 entertain having the Avant/E.G.L. hearing either the
17 day before or the day after the Avant/Apache hearings?

18 THE HEARING EXAMINER: Okay. Let's
19 find out what the other parties think.

20 Let's start with Mr. Bruce?

21 MR. BRUCE: I have absolutely no
22 objection to that.

23 THE HEARING EXAMINER: Mr. Bruce,
24 you're going to have witnesses at that hearing, aren't
25 you?

1 MR. BRUCE: Yes.

2 THE HEARING EXAMINER: Where are your
3 witnesses coming from?

4 MR. BRUCE: Midland, Texas.

5 THE HEARING EXAMINER: Okay. All
6 right.

7 Ms. Hardy?

8 MS. HARDY: I don't have any objection.

9 THE HEARING EXAMINER: Okay.

10 Mr. Feldewert?

11 MR. FELDEWERT: This is what day?

12 THE HEARING EXAMINER: This is -- we're
13 talking about the May 23rd --

14 MR. FELDEWERT: Yeah. And you're
15 moving and having a hearing when?

16 THE HEARING EXAMINER: Don't know yet.
17 Wanted to know if you had an objection from moving it
18 to May 23rd to another day in May?

19 MR. FELDEWERT: At this point, no.

20 THE HEARING EXAMINER: I know you have
21 something else you want to say about another case,
22 so --

23 MR. FELDEWERT: Yes.

24 THE HEARING EXAMINER: We'll get there.

25 MR. FELDEWERT: Okay.

1 THE HEARING EXAMINER: But regarding in
2 this case, you don't have an objection?

3 MR. FELDEWERT: No.

4 THE HEARING EXAMINER: Okay.

5 So your proposal -- and if we set this,
6 we're not going to move it. This will be set. Would
7 be to have it the day before or the day after the May
8 29 hearing?

9 MS. BENNETT: That's correct. I don't
10 think that -- I don't know what the issues are in the
11 other cases, but I wouldn't want the Division to feel
12 constrained by having two sets of contested cases on a
13 Monday.

14 THE HEARING EXAMINER: Thank you for
15 your concern. So are you suggesting May 28th, the day
16 -- Tuesday, or are you suggesting May 30th?

17 MS. BENNETT: I am suggesting I work at
18 the Division's preference.

19 THE HEARING EXAMINER: Mr. Bruce?

20 Ms. Hardy?

21 Mr. Feldewert?

22 MS. HARDY: Either one is fine.

23 THE HEARING EXAMINER: So it doesn't
24 matter, anyway. Okay. Sounds good.

25 MR. FELDEWERT: Well, I would -- yes.

1 No preference.

2 THE HEARING EXAMINER: No preference.
3 Okay. Well, I think my preference would be May 28th.

4 So, Freya, would you issue an amended
5 pre-hearing order moving the special hearing in Case
6 Nos. 24118, 24119, 25154, 24155 to May 28th? We will
7 start at 8:30 that morning.

8 MS. TSCHANTZ: Okay.

9 THE HEARING EXAMINER: And, Ms.
10 Bennett, your witnesses will be available May 30th?

11 MS. BENNETT: Yes, sir.

12 THE HEARING EXAMINER: Okay. And when
13 will you file continuances to that docket?

14 MS. BENNETT: I will file this
15 continuances --

16 THE HEARING EXAMINER: And, Mr. Bruce,
17 the same? Your witnesses will be available at 8:30 --
18 on Tuesday at 8:30? Because I know the building is
19 locked till eight o'clock, and then I know people have
20 had difficulty. So we're going to start having our
21 docket days at 8:30 to accommodate that as well.

22 MR. BRUCE: Well, since my witnesses
23 are from Midland. They're operating an hour ahead of
24 time --

25 THE HEARING EXAMINER: Okay. So they

1 plan on appearing virtually?

2 MR. BRUCE: I have asked them to be
3 here --

4 THE HEARING EXAMINER: Okay.

5 MR. BRUCE: -- virtually, and I think
6 they will be. But no big deal.

7 THE HEARING EXAMINER: Virtually is
8 acceptable as long as they worked out all the
9 technical things so that they have sound and video.

10 MR. BRUCE: That's out of my hands.

11 THE HEARING EXAMINER: Okay. Okay.
12 Well, it's at their peril if it's not. So okay.

13 All right. So we have dealt with that
14 case.

15 Let's go to the other case, and that
16 would be Case Nos. 23944, and 45. That is the
17 applications of Pride Energy Company. I believe Ms.
18 Shaheen representing that party. Is she with us?
19 Okay. We can come back to that.

20 Freya, can you contact Sharon Shaheen
21 at her firm, and then that we need her on this link so
22 we can discuss these cases? I know Mr. Feldewert has
23 a concern. Okay.

24 Let us begin with our regular docket.
25 We'll come back to that issue. So the first case I'm

1 calling is Franklin Mountain Energy 3, 24198. It's
2 consolidated with 99-24205, 24206, and those cases are
3 also Franklin Mountain Energy.

4 Entries of Appearance, please?

5 MS. BENNETT: Good morning, Mr.
6 Examiner. Deana Bennett on behalf of Franklin
7 Mountain Energy. And then these are also consolidated
8 with MRC Permian cases, et al.

9 THE HEARING EXAMINER: What cases
10 are -- are those the Cases 24367 through 70?

11 MS. BENNETT: Yes.

12 THE HEARING EXAMINER: Okay. Very
13 good. And those are MRC Permian?

14 Mr. Feldewert, are those your cases?

15 MR. FELDEWERT: Yes. No. And I am
16 appearing on behalf of MRC Permian.

17 THE HEARING EXAMINER: Thank you. So
18 these are competing applications?

19 MR. FELDEWERT: Yes, sir.

20 THE HEARING EXAMINER: Okay.

21 And do we have other parties? I think
22 we have other parties, too, entered on these cases?

23 MS. BENNETT: Yes, Mr. Examiner.
24 Michael [sic] Suazo, or James Parrot is in these
25 cases, for Marathon, from Beatty & Wozniak.

1 THE HEARING EXAMINER: Do we have them
2 with us? Well, they're on the -- well, we published a
3 notice. So let's continue.

4 Let's start with you, Ms. Bennett.
5 What do you see happening with these cases?

6 MS. BENNETT: Thank you.

7 In these cases, Matador recently filed
8 competing applications, and I did confirm with
9 Marathon yesterday -- because I also represent
10 Marathon -- to see if I needed to withdraw from these
11 cases.

12 And the information I received from
13 Marathon is that Marathon is not objecting to these
14 particular sets of cases. There are other Franklin
15 Mountain Energy cases not set on today's docket that
16 Marathon is objecting to. So I wish Mr. Parrot were
17 here to confirm that. But I did speak with Marathon
18 about this yesterday.

19 In any event, Franklin Mountain Energy
20 would like to go to hearing as soon as possible on
21 these cases. They have December lease expiration
22 issues, and so they would like to go to hearing as
23 soon as possible.

24 And I e-mailed them this morning about
25 what "as soon as possible" means, and we were thinking

1 mid-to-late June.

2 THE HEARING EXAMINER: How long have
3 the parties been negotiating on these cases?

4 MS. BENNETT: Well, these are -- I'm
5 not entirely sure how long they have been negotiating.
6 But Matador and Franklin Mountain Energy have been
7 negotiating on other cases, but I don't know what the
8 status of any discussions are on these cases.

9 I do know that when I raised this with
10 Franklin Mountain Energy yesterday, I was -- they told
11 me that it's -- Matador is the only one protesting,
12 and that Franklin Mountain Energy needs to go to
13 hearing on these cases because of the December lease
14 expiration issue.

15 THE HEARING EXAMINER: And when you say
16 Matador, do you mean MRC Permian?

17 MS. BENNETT: Yes.

18 THE HEARING EXAMINER: Okay. I just
19 want to make sure I understand. Do you know why the
20 other law firm entered an Appearance on these cases?

21 MS. BENNETT: I believe that Marathon
22 has an interest in the west half. These are these
23 cases -- and by these cases, it's the cases that the
24 Division called this morning -- involved the west half
25 acreage.

1 And I believe that Marathon has an
2 interest in both the west half and the east half, and
3 so I think that's why Marathon entered an Appearance
4 in these cases.

5 It could be that their interest is less
6 in the west half. I don't know the answer to why
7 they're no longer objecting.

8 THE HEARING EXAMINER: Okay. So now
9 you're saying Marathon, and you're talking about a
10 different party than MRC Permian?

11 MS. BENNETT: Right.

12 THE HEARING EXAMINER: Okay. Okay.
13 All right. Well, we don't know. So you would like
14 the hearing, but you -- let's go to Mr. Feldewert.

15 Mr. Feldewert, when were these
16 competing applications sent over to Franklin Mountain
17 Energy?

18 MR. FELDEWERT: Not -- let's see if
19 we're on the May docket -- probably sent out -- I'm
20 guessing here because we filed it in April to reach
21 this docket. So I'm guessing in March.

22 THE HEARING EXAMINER: Okay.

23 MR. FELDEWERT: -- March. I also know
24 that -- it's my understanding that this is part of the
25 overall package that they have been negotiating and

1 are continuing to negotiate.

2 The other thing I would observe is that
3 I think these cases here before you, as Ms. Bennett
4 said involve the west half acreage, I'll call it. The
5 east half acreage, where Marathon is also involved, is
6 set for a final status conference on May 16th.

7 So I think Ms. Bennett and I, perhaps,
8 can do a little more homework with our clients, and
9 see where we are on May 16th when the other cases are
10 on the docket.

11 And I know that they're separate, but
12 they -- they're somewhat -- they all involve adjacent
13 acreage with at least one common partner.

14 So maybe we have a status conference
15 here on May 16th when the other cases are before you,
16 and then we'll have a better idea where they stand
17 with their negotiations.

18 THE HEARING EXAMINER: This is --

19 MR. FELDEWERT: And I think that still
20 accommodates their December lease expiration.

21 THE HEARING EXAMINER: This is the
22 first setting for your competing cases?

23 MR. FELDEWERT: Correct.

24 THE HEARING EXAMINER: Okay. How long
25 do you feel the parties need to either decide that

1 they're going to resolve whatever differences they
2 have in these cases, or that they have irreconcilable
3 differences, and that we need a hearing?

4 MR. FELDEWERT: Good question. I think
5 that's something we need -- I need to explore. I
6 haven't had a chance to speak with them recently.
7 That's something we need to -- perhaps can spend --

8 THE HEARING EXAMINER: Okay. My
9 preference would be to set these for another status
10 conference before setting them for a contested
11 hearing, giving the parties enough time to resolve
12 their differences or not, and then come back to me
13 with a firm "Yes. We need a contested hearing. Yes.
14 We're going to show up for that contested hearing. We
15 can't -- we have an impasse here."

16 That's what I'm looking for, Ms.
17 Bennett, is a date that the parties will have had
18 enough time to negotiate decide that.

19 So Mr. Feldewert's not sure about that,
20 and would like to come back for another status
21 conference, maybe even as soon as May 16. That docket
22 is so full. I hate to put any more cases on that
23 docket.

24 As soon as I would be able to have
25 another status conference would be June 13th. That

1 doesn't -- is that enough time for the parties to
2 resolve their differences or not?

3 MS. BENNETT: It might be enough time
4 for the parties to resolve their differences or not,
5 but then that severely impacts our ability to set a
6 June -- or a June hearing date. Or maybe it doesn't,
7 I mean, if the Division is willing to set one shortly
8 thereafter.

9 Although, a June 13th status conference
10 -- the earliest we could have the hearing would be two
11 weeks later, probably, to give us time to prepare
12 exhibits. So that does impact timing for a late June
13 hearing.

14 And then my own schedule is not ideal
15 for the first part of July. But if I have to
16 rearrange things to accommodate a hearing, I will.
17 It's just -- somewhat unfortunate.

18 THE HEARING EXAMINER: We have June 13
19 special hearing -- and excuse me. Excuse me -- docket
20 hearing, June 13th.

21 We have June 26, a special hearing,
22 which means we could have another special hearing
23 either before or after the June 26th one. A day or
24 two before or after.

25 So, Ms. Bennett, I think we could have

1 one on the 25th or 26th, I guess, the twenty -- sorry.
2 I guess the 27th. That gives you two weeks. We could
3 possibly have a contested hearing, if necessary, as
4 early as June 27.

5 So it is possible to still have a late
6 June contested hearing on the cases unless the parties
7 would like to go the next week, which, of course, it
8 is 4th of July week. But we're here the 2nd and 3rd,
9 so that's not an issue for us.

10 So there are some dates that we could
11 accommodate you. Why don't we reset these for June
12 13th status conference? Let's see what's happening.

13 Mr. Feldewert, anything else on these
14 cases?

15 MR. FELDEWERT: No. Thank you.

16 THE HEARING EXAMINER: All right.

17 You're welcome.

18 MS. BENNETT: Thank you.

19 THE HEARING EXAMINER: All right.

20 You're welcome.

21 And do we have Mr. Parrot or Mr. Suazo
22 with us? No? Okay.

23 Well --

24 MS. GRAHAM: Mr. Hearing Examiner, it's
25 Sophia Graham of Beatty & Wozniak.

1 THE HEARING EXAMINER: Yes, Ms. Graham?

2 MS. GRAHAM: We're representing
3 Marathon Oil Permian, LLC --

4 THE HEARING EXAMINER: Yes, Ms. Graham?

5 MS. GRAHAM: I'm sorry. But the sound
6 was cut out for the beginning portion of what you and
7 the parties discussed. But my understanding is that
8 you have set it out for a June contested hearing?

9 THE HEARING EXAMINER: We haven't
10 actually set a date, Ms. Graham, for a contested
11 hearing yet. I was just proposing some dates to Ms.
12 Bennett so she has some things to think about when it
13 comes to the next status conference on June 13th.
14 That's what I said was a June --

15 MS. GRAHAM: Oh, okay --

16 THE HEARING EXAMINER: Which cases have
17 you entered Appearance on?

18 MS. GRAHAM: We have entered
19 Appearances on all eight of these cases that have been
20 consolidated.

21 THE HEARING EXAMINER: All right. Let
22 me count it. Hold on. Four, five, six -- okay.
23 Yeah. Okay. Okay. Wonderful.

24 Did you want to say anything, Ms.
25 Graham, now that you're on?

1 MS. GRAHAM: Oh. I just -- it's our
2 client's position that they would prefer for the cases
3 to be set out further in time. But, ultimately,
4 they'll defer to the applicants on how to best
5 proceed.

6 THE HEARING EXAMINER: And when you say
7 set out further in time, what time frame are you
8 talking about?

9 MS. GRAHAM: I think another status
10 conference would be appropriate. I didn't know if the
11 final status conference or a contested hearing would
12 have been an option for today, but I think at least
13 another status conference would be preferable.

14 THE HEARING EXAMINER: Okay. And you
15 understand that that's what we did?

16 MS. GRAHAM: Yes. Sorry.

17 THE HEARING EXAMINER: Okay.

18 MS. GRAHAM: Of course. I --

19 THE HEARING EXAMINER: Okay.

20 MS. GRAHAM: I missed the initial
21 conversation --

22 THE HEARING EXAMINER: That's fine. I
23 just want to make sure you have accurate information
24 for your client. So these eight cases will be reset
25 once the parties file their continuances to the June

1 13th docket for the status conference.

2 I'm not calling it a final status
3 conference. It may be a final status conference. It
4 really depends on the clients. I mean the MRC Permian
5 cases, this is their first setting. It's not like
6 they have been hanging around for a while.

7 So I like to give the parties some
8 latitude to negotiate and decide whether they can come
9 to a resolution. And if not, we will provide dates
10 for a special hearing.

11 Okay. That's it for those cases.
12 We're off the record on those cases.

13 Let's go on the record in Cases 24178,
14 24180, and 24366. These look like competing cases
15 between E.G.L. Resources and Matador Production.

16 MS. HARDY: Mr. Examiner, Dana Hardy
17 with Hinkle Shanor on behalf of E.G.L. Resources.

18 THE HEARING EXAMINER: Good morning.

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

23 THE HEARING EXAMINER: Thank you.

24 Are there any other parties who have
25 entered an Appearance on these three cases? I don't

1 hear any.

2 Ms. Hardy?

3 MS. HARDY: Mr. Examiner, these cases
4 are competing. Matador and E.G.L. are in discussions
5 because this is an existing unit. And E.G.L. is
6 proposing infill wells, and Matador's proposing a
7 different layout for its wells within the unit. So
8 that's what's going on, and the parties are in
9 discussions.

10 And I'm optimistic about them reaching
11 a resolution. So we would request that these cases be
12 set for another status conference in late June or even
13 early July.

14 THE HEARING EXAMINER: When did you
15 file your cases?

16 MS. HARDY: E.G.L.'s cases were filed
17 on February 2nd, and then Matador's application was
18 filed March 28th.

19 THE HEARING EXAMINER: Okay.

20 Mr. Feldewert?

21 MR. FELDEWERT: I agree with what Ms.
22 Hardy said. I think late June, early July. Parties
23 are talking through things, and I'm optimistic as
24 well.

25 THE HEARING EXAMINER: Okay.

1 It looks like we have openings for --
2 Freya, I can't read this spreadsheet.
3 Is it June 27 would be the second and final docket in
4 June?

5 MS. TSCHANTZ: June 27th. That's
6 correct.

7 THE HEARING EXAMINER: Thank you.

8 So we will reset these three cases for
9 June 27 for a status conference. And if the parties
10 haven't resolved their issues by then, then maybe
11 we'll set it for a contested hearing.

12 MS. HARDY: Thank you.

13 THE HEARING EXAMINER: Okay. We're off
14 the record in those cases.

15 Let's move on to Marathon Oil Permian
16 Case 24231.

17 MS. BENNETT: Good morning, Mr.
18 Examiner. Deana Bennett on behalf of Marathon Oil
19 Permian, LLC, the applicant.

20 THE HEARING EXAMINER: Thank you.

21 Are there any other parties?

22 MS. BENNETT: Yes. Yes, sir.

23 MR. FELDEWERT: Good morning, Mr.
24 Examiner. Michael Feldewert from the Santa Fe office
25 of Holland & Hart, appearing on behalf of MRC Permian

1 in both of these cases, and then separately appearing
2 for Fasken Oil and Ranch in the Case 24232.

3 THE HEARING EXAMINER: Ms. Bennett,
4 what is -- where -- did there used to be one company?
5 This Marathon Oil Permian and MRC, were they one
6 company at one time?

7 MS. BENNETT: No. Well -- no. MRC is
8 Matador, not Marathon.

9 THE HEARING EXAMINER: Got it. Thank
10 you. I see. Thank you.

11 MS. BENNETT: And just for the record,
12 the cases -- these two cases -- and by these two, I
13 mean 24231 and 24232 -- have not been consolidated.

14 THE HEARING EXAMINER: Right.

15 MS. BENNETT: So we're just talking
16 about 24231 for the moment.

17 THE HEARING EXAMINER: Yes. Are you
18 asking them to be consolidated?

19 MS. BENNETT: No --

20 THE HEARING EXAMINER: Okay.

21 MS. BENNETT: But Mr. Feldewert
22 entered his Appearance in both cases, so I just wanted
23 to clarify it for the record.

24 THE HEARING EXAMINER: Thank you. But
25 you're not entered in both?

1 MS. BENNETT: I am.

2 THE HEARING EXAMINER: You're both
3 entered in both cases, but they're not consolidated.
4 Okay --

5 MS. BENNETT: Yes. Right.

6 THE HEARING EXAMINER: We're just
7 talking about this case. When -- is this your case?

8 MS. BENNETT: It is.

9 THE HEARING EXAMINER: When did you
10 file it?

11 MS. BENNETT: February 8, 2024.

12 THE HEARING EXAMINER: Okay. Fine.
13 And is this the first or second status conference?

14 MS. BENNETT: This is the second --

15 THE HEARING EXAMINER: Second. Okay.

16 MS. BENNETT: -- status conference. I
17 believe it's the second.

18 THE HEARING EXAMINER: And what
19 progress have you made since the first?

20 MS. BENNETT: I conferred with Marathon
21 yesterday, and Marathon and Matador, or MRC, are in
22 discussions. And so based on that information,
23 Marathon would like to request an additional status
24 conference on June 13th.

25 THE HEARING EXAMINER: On June 13th.

1 Mr. Feldewert?

2 MR. FELDEWERT: I think that makes
3 sense. The -- both of these cases involve Sections 8,
4 and 7, and 12. And one involves the north half
5 acreage, and one -- the other one involves the south
6 half. I know Fasken is still waiting on a JOA from
7 Marathon. At least, that's what I'm told.

8 Marathon and Matador -- actually, MRC
9 has filed competing applications -- the Brenda Schulte
10 wells -- under Cases 24481 through 24484. They are on
11 the June 13th docket. So I think a status conference
12 on June 13th makes a lot of sense.

13 THE HEARING EXAMINER: Are you asking
14 to consolidate this case with those cases?

15 MR. FELDEWERT: I would suggest that.
16 They are -- they involve, like I said, Sections 8, 7,
17 and 12, and one involves the north half, and one
18 involves the south half.

19 THE HEARING EXAMINER: Did you file
20 those competing applications?

21 MR. FELDEWERT: Yes, sir.

22 THE HEARING EXAMINER: You did? When
23 did you file them?

24 MR. FELDEWERT: Oh -- on June 13th
25 docket, so we filed --

1 THE HEARING EXAMINER: May.

2 MR. FELDEWERT: -- whatever date got us
3 on that --

4 THE HEARING EXAMINER: Okay.

5 MR. FELDEWERT: -- I can't remember.

6 THE HEARING EXAMINER: Now are you --
7 you're not asking to consolidate 24232, the next case,
8 with any of those cases, are you?

9 MR. FELDEWERT: I would consolidate
10 24231, and 24232, and the Matador/MRC cases is on the
11 June 13 docket, which is 24481 through 24484 --

12 THE HEARING EXAMINER: Okay.

13 MR. FELDEWERT: -- for a status
14 conference.

15 THE HEARING EXAMINER: And at a high
16 level, how are they all related?

17 MR. FELDEWERT: They involve -- well,
18 MRC's cases -- MRC's case involves Sections 11 and 12,
19 Bone Spring. Then four spacing units: Two in the
20 north Half, and two in south half of that acreage.

21 Marathon's involves 8, 7, and 12. The
22 north half acreage and south half acreage. So they
23 would overlap in Section 12. That's how they're
24 related.

25 THE HEARING EXAMINER: So one area

1 that's overlapping?

2 MR. FELDEWERT: One section that's
3 overlapping. Correct.

4 THE HEARING EXAMINER: Out of three?

5 MR. FELDEWERT: Out of the three. Yes.

6 THE HEARING EXAMINER: Okay. All
7 right.

8 MR. FELDEWERT: Yeah.

9 THE HEARING EXAMINER: Okay.

10 Let's go back to you, Ms. Bennett.

11 MS. BENNETT: Thank you.

12 We will be filing an entry of
13 Appearance and objection in the Brenda Schulte
14 cases -- the MRC Permian cases that Mr. Feldewert just
15 mentioned.

16 THE HEARING EXAMINER: For those Cases
17 24481 through 84?

18 MS. BENNETT: That's right.

19 THE HEARING EXAMINER: All right.
20 Fine.

21 MS. BENNETT: But I have had -- not yet
22 had a chance to review those filings to see how they
23 relate to either Case 24231 or Case 24232.

24 So at this time, I would ask that the
25 cases not be consolidated, and allow Mr. Feldewert and

1 I some time to -- well, for me to compare the cases.
2 And then we could present a -- some sort of motion or
3 notice to the Division in terms of consolidation.

4 THE HEARING EXAMINER: Okay. Okay.

5 Mr. Feldewert, that sound fair?

6 MR. FELDEWERT: Sound -- I think what
7 she'll find is the overlap in Section 12. But that
8 sounds fair.

9 THE HEARING EXAMINER: Okay. Okay. So
10 we will reset this Case 24231 for a status conference
11 on June 13th.

12 And, Freya, will you -- even though
13 it's not consolidated with 24481 through 84, will you
14 put it on the docket next to those, and maybe make a
15 note that it's -- we're considering consolidation?

16 And if we get a motion from the
17 parties, or a notice, or something, then we will,
18 actually -- and it will show up on the docket as
19 consolidated.

20 But right now, it will just be next to
21 -- oh. Thank you -- on the docket.

22 Anything further on this case?

23 MR. FELDEWERT: Thank you, sir.

24 THE HEARING EXAMINER: No. Okay.

25 Thank you.

1 24232, Marathon Oil Permian. Entries
2 of Appearance?

3 MS. BENNETT: Good morning. Deana
4 Bennett on behalf of Marathon Oil Permian, LLC.

5 THE HEARING EXAMINER: Thank you.

6 MR. FELDEWERT: Good morning, Mr.
7 Examiner. Michael Feldewert from Santa Fe office of
8 Holland & Hart for MRC Permian, and, also, for Fasken
9 Oil and Ranch.

10 THE HEARING EXAMINER: Okay. And do we
11 have any other entries of Appearance? No? Okay.

12 So, Ms. Bennett?

13 MS. BENNETT: Thank you.

14 As with the prior cases, Marathon and
15 MRC are in discussions, and so Marathon would ask that
16 this case be set for a status conference on June 13th.

17 THE HEARING EXAMINER: Okay.

18 And, Mr. Feldewert?

19 MR. FELDEWERT: Agreed.

20 THE HEARING EXAMINER: Then we'll do
21 that.

22 And, Ms. Bennett, do you anticipate
23 that you will file something with the Division
24 consolidating these cases before the June 13th docket?

25 MS. BENNETT: Yes, sir.

1 THE HEARING EXAMINER: Okay. All
2 right. Great. And would it be -- would -- under
3 consideration 31 and 32 with the other cases that we
4 spoke about?

5 MS. BENNETT: Yes, sir.

6 THE HEARING EXAMINER: Okay. So it
7 would be all of them. One, two, three, four. So we
8 would have six cases consolidated at that point.
9 Okay.

10 Freya, would you list 32 next to the
11 other cases we spoke about?

12 MS. TSCHANTZ: Yes. I will.

13 THE HEARING EXAMINER: Okay. Thank
14 you.

15 Okay. We are off the record in those
16 cases. Thank you. Let me make some notes before we
17 move on. Twelve, and thirteen.

18 I'm now calling COG Production Cases
19 24372 and 24373. Entries of Appearance, please?

20 MS. HARDY: Dana Harding with Hinkle
21 Shanor on behalf of COG Operating.

22 MS. BENNETT: Good morning, Mr.
23 Examiner. Deana Bennett on behalf of Cimarex Energy
24 Co.

25 THE HEARING EXAMINER: Thank you.

1 Ms. Hardy, are there any other parties
2 that you know of on these two cases?

3 MS. HARDY: I don't believe so.

4 THE HEARING EXAMINER: Okay. Great.
5 Let me just make a note here for a moment. Okay.

6 Ms. Hardy, they're your cases. When
7 were they filed?

8 MS. HARDY: They were filed on March
9 28th.

10 THE HEARING EXAMINER: Okay. Thank
11 you. And how are you proceeding with negotiations
12 with Cimarex?

13 MS. HARDY: Well, I believe the parties
14 are in discussions. But it's my understanding from
15 Ms. Bennett that Cimarex is planning to file an
16 application to suspend COG's permits to drill for
17 these wells, and that that application would be filed
18 for the June docket. So --

19 THE HEARING EXAMINER: Ms. Hardy, hold
20 on a second. I have not heard of this before. So
21 another oil company can file an application to -- for
22 the Division to suspend permission for other
23 companies?

24 MS. HARDY: On occasion, they can.

25 THE HEARING EXAMINER: And what

1 would --

2 MS. HARDY: But I don't know if -- I'm
3 sure I don't agree with the basis --

4 THE HEARING EXAMINER: Well, I --
5 obviously, yes. But do you know anything about --
6 I'll ask Ms. Bennett in just a moment. But from your
7 perspective, what is the rationale?

8 MS. HARDY: It's my understanding,
9 based on my limited conversation with Ms. Bennett,
10 that there may be a JOA covering this acreage, and
11 that Cimarex is the designated operator.

12 THE HEARING EXAMINER: Okay.

13 MS. HARDY: So I don't know whether
14 that's -- I would probably argue that's not a
15 sufficient ground.

16 THE HEARING EXAMINER: Okay.

17 MS. HARDY: But I haven't seen the
18 motion --

19 THE HEARING EXAMINER: Okay. Okay.

20 MS. HARDY: -- so I don't know.

21 THE HEARING EXAMINER: And okay. So
22 hold on one second, Ms. Hardy. But I need to answer
23 this in my mind.

24 So, Ms. Bennett, what is the grounds
25 for this?

1 MS. BENNETT: So the grounds for this
2 is actually that since -- so COG's applications cover
3 all of Section 5 and Section 8, and Cimarex owns 100
4 percent of the working interest in the west half of
5 Section 5. And Cimarex intends to develop the west
6 half pf Section 5 as it's entitled to do because it
7 owns 100 percent.

8 And despite the fact that Cimarex owns
9 100 percent of the west half of Section 5, COG filed
10 applications for permits to drill that start in
11 Section 8 and have a bottom-hole location in Section
12 5. And so those impede and interfere with Cimarex's
13 plans, and that's the basis for the application to
14 rescind.

15 THE HEARING EXAMINER: And why is it an
16 application? Why is it not, let's say, a legal
17 motion, instead?

18 MS. BENNETT: In the past, it has been
19 an application. And, in fact, in looking through
20 applications that were filed, I found an application
21 filed by Ms. Hardy and one filed by Mr. Feldewert,
22 both seeking to rescind applications for permits to
23 drill.

24 THE HEARING EXAMINER: Okay.

25 MS. BENNETT: And I think the reason

1 why it's done by application is to enable the Division
2 to hold a hearing. There's no case. I suppose I
3 could file a motion in this case to suspend or rescind
4 the applications for permit to drill, which is totally
5 fine with me. I'm fine to file a motion if that's the
6 Division's preference.

7 THE HEARING EXAMINER: Thank you. And
8 I don't know what the Division's preference is yet. I
9 would like to speak to John Garcia about that, and
10 he's not on this meeting right now.

11 But that be what it may, Ms. Hardy, if
12 Cimarex shows your -- if Cimarex shows COG that they
13 own 100 percent of the west half of Section 5,
14 wouldn't COG just amend its application, if it agreed?

15 MS. HARDY: Well, I think that the
16 Division has previously determined that the existence
17 of a JOA does not -- for a part of a spacing unit, it
18 does not preclude a holding.

19 THE HEARING EXAMINER: Okay. All
20 right. So I see --

21 MS. HARDY: So --

22 THE HEARING EXAMINER: I see the
23 dispute. I get it.

24 MS. BENNETT: Mr. Examiner, I just --

25 THE HEARING EXAMINER: Yes?

1 MS. BENNETT: -- clarify --

2 THE HEARING EXAMINER: Sure.

3 MS. BENNETT: -- that does not involve
4 a JOA.

5 THE HEARING EXAMINER: Okay.

6 MS. BENNETT: And the competing -- the
7 other cases -- and by the other cases, I mean COG's
8 Macho Nacho cases, which I want to talk about in just
9 a minute -- do involve a Cimarex JOA where Cimarex has
10 been designated the operator.

11 So in two different instances, side by
12 side, COG is attempting to infringe upon Cimarex's
13 rights.

14 And Ms. Hardy is correct that there --
15 in the past, the Division has held that the existence
16 of a JOA does not preclude pooling. But, as Ms. Hardy
17 knows, she prevailed in a case back where -- before
18 the Division, against me, where the Commission held
19 that a JOA was enforceable, and that the property --
20 the JOA operator could not be equaled.

21 THE HEARING EXAMINER: Okay. Perfect.
22 This will be interesting. Okay. So then if you want
23 to file an application instead of a motion, that's
24 fine. I don't know what the Division's preference is,
25 but it makes sense that if that's how it was handled

1 in the past, that's how we'll handle it now unless I
2 get some direction otherwise.

3 When do you anticipate filing this
4 application?

5 MS. BENNETT: Mr. Examiner, I
6 anticipate filing it on or before -- well, in time for
7 the June 13th docket.

8 THE HEARING EXAMINER: Okay.

9 MS. BENNETT: But, you know, in
10 thinking through your question -- which is a good one
11 about why not a motion -- it could be that in those
12 other cases that I was referring to, there weren't
13 pending -- cases. And so then the application for
14 rescission of the permits to drill started the actual
15 case.

16 So why don't I do a little more
17 research on that, and if it's a motion, then I would
18 file the motion soon. But if it's an application, it
19 would be filed for the June 13th hearing, in which
20 case, there would likely be some briefing that would
21 need to occur.

22 THE HEARING EXAMINER: Sure.

23 MS. BENNETT: And so any contested
24 hearing on the merits of the pooling case, I think,
25 needs to be delayed until after the motion or

1 application is ruled on for rescission.

2 THE HEARING EXAMINER: So in your mind,
3 this would be a motion hearing in which evidence would
4 be admitted --

5 MS. BENNETT: Yes.

6 THE HEARING EXAMINER: -- into the
7 record so that a decision could be made by the
8 Division on the validity of the assertion? Okay.

9 MS. BENNETT: Yes.

10 THE HEARING EXAMINER: Ms. Hardy?

11 MS. HARDY: Mr. Examiner, based on
12 these issues, I would request that these cases be set
13 for a status conference on the June 13th docket.

14 And by that point, we will know whether
15 Ms. Bennett is filing another application or motion,
16 and we can determine how to proceed from there.

17 THE HEARING EXAMINER: Okay. Seems
18 that we have two avenues to go. One is a motion is
19 filed, and we have a motion hearing after briefing.
20 And two, we have an application filed asking for the
21 Division to do something.

22 Now, Ms. Bennett, help me understand
23 this. If you're asking the Division to do something,
24 these applications have not been approved yet that Ms.
25 Hardy filed?

1 MS. BENNETT: Right. There is no
2 order --

3 THE HEARING EXAMINER: So then I could
4 understand filing an application to rescind something
5 that has been done, but nothing's been done yet?

6 MS. BENNETT: Mr. Hearing Examiner, the
7 applications for permits to drill have been approved.

8 THE HEARING EXAMINER: Oh. I didn't
9 understand that.

10 Then what have you filed then?

11 MS. HARDY: So there's a -- we have
12 filed a -- pooling applications.

13 THE HEARING EXAMINER: Okay.

14 MS. HARDY: So they're related but not
15 the same. How operators can obtain APDs prior to
16 pooling in certain circumstances, so.

17 THE HEARING EXAMINER: And those APDs
18 have been approved administratively? Is that the
19 idea? We haven't had a hearing, or?

20 MS. HARDY: Correct. I believe so.
21 Yes. They have not been addressed --

22 THE HEARING EXAMINER: Do you know when
23 they were approved?

24 MS. HARDY: I do not.

25 THE HEARING EXAMINER: Okay.

1 But Ms. Bennett seems to know that they
2 have been approved?

3 MS. BENNETT: Yes. They have been, and
4 I think it was in January or February 2024.

5 THE HEARING EXAMINER: So you have seen
6 them?

7 MS. BENNETT: I have.

8 THE HEARING EXAMINER: Oh. You have
9 seen them?

10 MS. BENNETT: Yeah.

11 THE HEARING EXAMINER: Okay. So your
12 motion is to ask the Division to curtail what they
13 have approved based on this evidence that you have?

14 MS. BENNETT: Exactly. It's to rescind
15 -- so COG has applied for and received eight total
16 APDs.

17 THE HEARING EXAMINER: Eight?

18 MS. BENNETT: Eight for --

19 THE HEARING EXAMINER: Okay.

20 MS. BENNETT: -- the -- their Eata
21 Fajita wells. But only four of them traverse the west
22 half of Section 5.

23 So in that respect, it is a curtailment
24 because Cimarex is not contesting the other four.

25 THE HEARING EXAMINER: Right. Okay.

1 And, Ms. Hardy, you were compulsory
2 pooling application would involve all eight wells? Is
3 that right?

4 MS. HARDY: That's correct.

5 THE HEARING EXAMINER: Oh. And that's
6 why you -- okay. All right. I think we need to deal
7 with this legal issue before we go to a compulsory
8 pooling hearing, don't you, Ms. Hardy?

9 MS. HARDY: I think the evidence would
10 likely be very similar.

11 THE HEARING EXAMINER: Okay.

12 MS. HARDY: Because if Cimarex is
13 arguing that the APDs should be suspended or rescinded
14 because it owns an interest in part of the spacing
15 unit, I'm expecting that would be the same evidence
16 that presents in opposition --

17 THE HEARING EXAMINER: I can understand
18 that position. It's not my position, but I can
19 understand your position. And I would like to deal
20 with this first because then I don't think we would
21 have a contested hearing if we dealt with that issue
22 first.

23 I think it could just be present by
24 affidavit if it's only for four wells, or, if you
25 prevail, it's for all eight wells, and we wouldn't

1 have to have a contested hearing.

2 MS. HARDY: Well, I think the issues
3 are related, but not the same.

4 THE HEARING EXAMINER: Related? What?
5 When you say issues, is there another issue besides --

6 MS. HARDY: Well --

7 THE HEARING EXAMINER: -- the issues
8 you raised?

9 MS. HARDY: -- between the APDs --

10 THE HEARING EXAMINER: Yes?

11 MS. HARDY: -- and whether those should
12 be suspended --

13 THE HEARING EXAMINER: Yes?

14 MS. HARDY: -- or rescinded, and then
15 our pooling application, which involves much --
16 involves additional issues. APDs can be granted if an
17 operator owns an interest in every tract.

18 Pooling addresses the development plan,
19 the interests, the -- which plan will better produce
20 the acreage.

21 So they're not identical.

22 THE HEARING EXAMINER: But would the
23 acres be the same if -- if Ms. Bennett prevails on her
24 motion -- and I'm not saying that she would. I'm just
25 saying, if -- would the acreage be the same in your

1 pooling applications, or would you not amend them to
2 reduce the acreage?

3 MS. HARDY: I don't think that
4 suspending the APDs is determinative --

5 THE HEARING EXAMINER: Okay.

6 MS. HARDY: -- for the applications.

7 THE HEARING EXAMINER: Okay. Well, you
8 know more than I do about this, so that's fine with
9 me.

10 Ms. Bennett, your position?

11 MS. BENNETT: I do think that that the
12 ruling on the APDs is potentially dispositive of the
13 contested hearing.

14 And Ms. Hardy, just a moment ago, in
15 explaining the differences between pooling and
16 application for permit to drill, touched on a very
17 important feature of the application for a permit to
18 drill, which is that you have to own an interest. The
19 operator has to own an interest in every tract.

20 And by virtue of Cimarex owning 100
21 percent in the west half of Section 5, that
22 necessarily negates the validity of the APD.

23 So I agree with you that this legal
24 issue needs to be resolved first. And in speaking
25 with Cimarex, I had proposed to Cimarex a July 25th

1 status conference on the Eata Fajita pooling cases to
2 allow the time for the briefing and the argument on
3 the APDs to move forward --

4 THE HEARING EXAMINER: Okay.

5 MS. BENNETT: -- without having to
6 continually -- try to continue the --

7 THE HEARING EXAMINER: Sure.

8 MS. BENNETT: -- Eata Fajita cases.

9 THE HEARING EXAMINER: Okay. And that
10 makes sense.

11 Ms. Hardy, do you have a response to
12 what Ms. Bennett said about the legal issue being
13 dispositive on the west-half interest?

14 MS. HARDY: I don't agree --

15 THE HEARING EXAMINER: Okay.

16 MS. HARDY: -- that it's dispositive.

17 I think --

18 THE HEARING EXAMINER: Okay.

19 MS. HARDY: -- pooling is a separate
20 issue with separate factors.

21 THE HEARING EXAMINER: Okay.

22 MS. HARDY: I think that would deal --
23 whether the APDs are suspended or not --

24 THE HEARING EXAMINER: Okay.

25 MS. HARDY: -- only deals with the

1 APDs. I mean if COG prevails on its pooling
2 applications, it's able to pool, then it will have an
3 interest by virtue of pooling --

4 THE HEARING EXAMINER: I see.

5 MS. HARDY: -- and can obtaining APDs.

6 THE HEARING EXAMINER: But --

7 MS. HARDY: So even if they were
8 suspended, I think it doesn't --

9 THE HEARING EXAMINER: But if you --

10 MS. HARDY: -- determinative.

11 THE HEARING EXAMINER: But if other
12 party owns 100 percent of this acreage, how could you
13 pool it?

14 MS. HARDY: Because the pooling
15 involves a larger spacing unit.

16 THE HEARING EXAMINER: I see.

17 MS. HARDY: And --

18 THE HEARING EXAMINER: Okay.

19 MS. HARDY: -- the Division, in the
20 past, has looked at the entire development plan, and
21 which --

22 THE HEARING EXAMINER: I see.

23 MS. HARDY: -- plan better produces the
24 acreage.

25 THE HEARING EXAMINER: Okay. I didn't

1 know that. I'm learning a lot today. Okay.

2 My preference is to have a motion
3 hearing so we can resolve the legal issue, and then
4 we'll set a hearing very quickly, so you don't have to
5 worry about being out there too far. I could see a
6 contested hearing, if necessary, or hearing by
7 affidavit in July. Let's deal with this legal issue.

8 So, Ms. Bennett, when would you
9 need -- what date -- what deadline would you file a
10 motion? Let's start with that.

11 MS. BENNETT: If it's a motion, I don't
12 have the same constraints as an application.

13 THE HEARING EXAMINER: Sure. Sure.

14 MS. BENNETT: So probably within the
15 week.

16 THE HEARING EXAMINER: Fine.

17 MS. BENNETT: A week from today.

18 THE HEARING EXAMINER: I knew what you
19 meant. So let's see. How about the 10th? Is May 10
20 a good deadline for you?

21 MS. BENNETT: Yeah. Thank you.

22 THE HEARING EXAMINER: Okay. Okay.

23 Will it be accompanied by evidence?

24 MS. BENNETT: Yes.

25 THE HEARING EXAMINER: Fine. So you'll

1 have exhibits with it?

2 MS. BENNETT: Yes.

3 THE HEARING EXAMINER: Okay. Very
4 good.

5 Ms. Hardy, if a -- how long do you need
6 to respond to the motion?

7 MS. HARDY: I would like to have two
8 weeks to respond. I wasn't aware of this issue until
9 this morning.

10 THE HEARING EXAMINER: I understand.

11 MS. HARDY: And Ms. Bennett's been
12 aware of it or became aware of it. So I would need a
13 little additional time to --

14 THE HEARING EXAMINER: All right. Let
15 me wake my computer up and find out.

16 Ms. Hardy, do the rules -- I don't
17 remember the rules providing actual --

18 19.15.4. I don't have it in front of
19 me, and my laptop has a very small screen. Do you
20 know the rule well enough to know whether there is a
21 timeline for motion practice?

22 MS. HARDY: There is not.

23 THE HEARING EXAMINER: I didn't think
24 it -- I didn't think so. Okay. I would like to have
25 a June motion hearing, which means witnesses available

1 for cross-examination and argument, obviously.

2 But I understand -- I want to be fair
3 to you. It's your applications, and this is the first
4 time you're hearing of this issue. So I'll give you a
5 full two weeks to file your response.

6 Ms. Bennett --

7 So that will be May 24, Ms. Hardy.

8 MS. HARDY: Yes.

9 THE HEARING EXAMINER: All right. And
10 then these dates are close of business. That's 5:00
11 p.m.

12 Ms. Bennett, do you need a reply?

13 MS. BENNETT: I would like to reserve
14 the right to file a reply.

15 THE HEARING EXAMINER: Okay. Let's
16 make that a brief time. How about three business
17 days? So, obviously, we don't count the weekend.
18 What about the Wednesday after May 24?

19 MS. BENNETT: What day of the week
20 is --

21 THE HEARING EXAMINER: Okay. Let's
22 look. I think that's the day we're having -- so we
23 have a special hearing on -- all right. Let's just
24 make it May 31st. Is that fine with you?

25 MS. BENNETT: For my --

1 THE HEARING EXAMINER: Yes. For your
2 reply, if you need one?

3 MS. BENNETT: Yes.

4 THE HEARING EXAMINER: Okay.

5 MS. BENNETT: And I'll be judicious --

6 THE HEARING EXAMINER: Okay.

7 MS. BENNETT: -- need a reply.

8 THE HEARING EXAMINER: Okay. All
9 right. So response, reply. Okay.

10 And then let's set it -- let's set a
11 motion hearing now. So let's look at the first week
12 of June. Let me see what's on this calendar.

13 What? Oh. I thought you said
14 something.

15 But we have a special hearing on June
16 6th. That's Thursday. We could do either Tuesday or
17 Wednesday that week. So that would be the 4th or 5th.
18 Do you -- does anyone have a comment about those
19 dates?

20 MS. HARDY: I am not available on the
21 4th.

22 THE HEARING EXAMINER: Okay.

23 MS. HARDY: I could do the 5th. I
24 would need to make sure my witnesses are available.

25 THE HEARING EXAMINER: And they can

1 appear virtually. They can appear virtually.

2 So far, we have the 5th on the table,
3 Ms. Bennett?

4 MS. BENNETT: Mr. Examiner, I do want
5 to talk about the June 6th hearing as well that
6 involves the other sections that we were alluding to.
7 The Macho Nacho wells --

8 THE HEARING EXAMINER: Okay.

9 MS. BENNETT: -- that cover Sections 5,
10 and -- or 6, and 8, I believe.

11 THE HEARING EXAMINER: Okay.

12 MS. BENNETT: And I am going to be
13 filing a similar motion to rescind COG's APDs --
14 authorization for permit to drill -- in those cases as
15 well. And so that June 6th hearing date is -- for a
16 contested hearing is premature.

17 THE HEARING EXAMINER: Got it.

18 MS. BENNETT: And I apologize. When I
19 asked -- when I came to the Division for the status
20 conference a couple weeks ago, I did not understand
21 the full gamut of what was presented, and so I wanted
22 to bring that up.

23 And I did mention this to Ms. Hardy
24 earlier today that I'm hopeful that we can -- I mean
25 I'm hopeful that we can adjourn that June 6th hearing

1 -- contested hearing because it's definitely
2 premature.

3 THE HEARING EXAMINER: Okay. So we're
4 setting a date for a motion hearing right now. So
5 let's not deal with it -- or are you saying that if we
6 adjourn or continue that June 6th special hearing,
7 that that date could also be for a motion hearing?

8 MS. BENNETT: That date could also be
9 for a motion hearing.

10 THE HEARING EXAMINER: Okay. Well, I
11 know Ms. Hardy is available on the 5th. Are you
12 available on the 5th of June?

13 MS. BENNETT: Let me just double-check.
14 I was -- yes.

15 THE HEARING EXAMINER: Okay.

16 MS. TSCHANTZ: Mr. Hearing Examiner,
17 the room is reserved already, if you would like to
18 have it in-person?

19 THE HEARING EXAMINER: So we have June
20 6th, don't we?

21 MS. TSCHANTZ: Correct.

22 THE HEARING EXAMINER: But you're
23 saying June 5th is reserved?

24 MS. TSCHANTZ: Yes.

25 THE HEARING EXAMINER: I guess we need

1 to talk about June 6th, then. Let's talk about June
2 6th, a special hearing, first. Let me get there
3 because maybe that's the day we have to have this,
4 since we can't have it on June 5th.

5 So let me call the cases in this, and
6 this is 24320 and 24321. Entries of Appearance,
7 please?

8 MS. HARDY: Dana Hardy on behalf of COG
9 Operating.

10 THE HEARING EXAMINER: Thank you.

11 MS. BENNETT: Deana Bennett on behalf
12 of Cimarex Energy Co.

13 THE HEARING EXAMINER: Okay. So we
14 have set a contested hearing at the April 4 status
15 conference. Okay.

16 Whose applications -- are these yours?

17 MS. HARDY: They are.

18 THE HEARING EXAMINER: They are yours.
19 Okay. You have heard what Ms. Bennett said a few
20 moments ago?

21 MS. HARDY: I have.

22 THE HEARING EXAMINER: Okay.

23 MS. HARDY: And I would request time to
24 consult my clients.

25 THE HEARING EXAMINER: Okay.

1 MS. HARDY: -- and with Ms. Bennett to
2 determine a path forward because I haven't had a
3 chance to do that.

4 THE HEARING EXAMINER: Okay. Makes
5 sense. So you're asking me to leave these set for
6 this 6th of June so you can consult.

7 So why don't we then set this motion
8 hearing for the week after since we can't set it for
9 the 5th, and Ms. Hardy is not available for the 4th,
10 which is fine. We have a docket on the 13th. So are
11 the parties available on the 11th or the 12th?

12 MS. HARDY: Mr. Examiner, would there
13 be any chance that we could set this for Friday, June
14 7th, instead of the following week? The motion
15 hearing?

16 THE HEARING EXAMINER: Yes. There is a
17 chance. There is a chance. Yes. There's a chance.
18 Freya, is the room available for June
19 7?

20 MS. TSCHANTZ: Yes. There is.

21 THE HEARING EXAMINER: Okay. Ms.
22 Bennett, are you available June 7th?

23 MS. BENNETT: I am.

24 THE HEARING EXAMINER: Of course.
25 Okay. We will set this for Friday, June 7, for a

1 motion hearing. I would like to start early.

2 8:30, Ms. Hardy?

3 MS. HARDY: That's fine. I will need
4 to confirm my witnesses are available --

5 THE HEARING EXAMINER: Okay. 8:30 a.m.
6 You're available 8:30 a.m.?

7 MS. BENNETT: Yes. I --

8 THE HEARING EXAMINER: You drive up
9 from Albuquerque, don't you? I --

10 UNIDENTIFIED SPEAKER: I do.

11 THE HEARING EXAMINER: -- thought you
12 did. Okay. Okay.

13 So we are -- we have a scheduling, I
14 think -- Freya, let's issue a scheduling order for
15 this motion. Okay. Do you have the dates down? I
16 have them, if you don't.

17 MS. TSCHANTZ: I do.

18 THE HEARING EXAMINER: Okay. Great.

19 We'll issue a scheduling order and this
20 legal issue in your cases, Ms. Hardy. And then after
21 the legal issue is over, we'll set it for a contested
22 hearing as quickly as we can.

23 We'll need a special examiner. I'm
24 sorry. We'll need a special -- we'll need a technical
25 examiner, Ms. Freya, so could you e-mail John Garcia

1 and see who he could assign for June 7 for this
2 technical issue?

3 MS. TSCHANTZ: Yes. I will.

4 THE HEARING EXAMINER: Thank you.
5 Because I would like to get a decision as quickly as
6 possible.

7 And then -- and what about
8 post-hearing? What about the post-hearing? I mean at
9 the Environment Department, after the hearing was
10 over, the parties would file proposed findings of fact
11 and conclusions of law.

12 And I don't know how much time -- I
13 know you would like to have a hearing quickly after
14 that. But, of course, we need to have post-hearing
15 briefing.

16 I -- there's a record involved. That's
17 going to take time for the transcript unless the
18 parties want to use the -- this, which I doubt they
19 do. I'm sure they want to verbatim transcript.

20 How long does it take to have a
21 transcript?

22 THE REPORTER: Ten business days.

23 THE HEARING EXAMINER: Ten business
24 days --

25 THE REPORTER: Yeah --

1 THE HEARING EXAMINER: Okay. That's
2 two weeks, basically?

3 THE REPORTER: Yes. It can be
4 expedited, though --

5 THE HEARING EXAMINER: I'm not sure
6 what party would want to pay for that. Okay.

7 So if we're not going to have the
8 transcript until the 21st of June, there's no way
9 we're going to have -- maybe later in July, we could
10 have a contested hearing.

11 The parties are going to need how long
12 for post-hearing submissions?

13 MS. BENNETT: A week --

14 THE HEARING EXAMINER: Okay.

15 MS. BENNETT: -- after the transcript.

16 THE HEARING EXAMINER: Right. Of
17 course.

18 MS. BENNETT: Yeah.

19 THE HEARING EXAMINER: And, Ms. Hardy,
20 would that be enough time for you? A week?

21 MS. HARDY: That would be --

22 THE HEARING EXAMINER: Okay.

23 MS. HARDY: -- if we need those hearing
24 filings. This is a little bit different because it's
25 a motion. So we'll have a motion, response, and

1 reply.

2 THE HEARING EXAMINER: But --

3 MS. HARDY: It's a little bit different
4 from an application where we have a contested hearing,
5 and then submit findings and conclusions.

6 THE HEARING EXAMINER: But we're going
7 to have evidence.

8 MS. HARDY: Yes.

9 THE HEARING EXAMINER: That's the -- to
10 me, it's not just a motion because we're going to have
11 evidence.

12 MS. HARDY: Okay.

13 THE HEARING EXAMINER: All right. And
14 we're going to have cross-examination, and I think the
15 parties are each going to want to advocate for their
16 own client in how I view these facts.

17 So I still think it's -- so is a week
18 okay with you?

19 MS. HARDY: That's fine.

20 THE HEARING EXAMINER: It is fine with
21 you. So then I'm going to put down a deadline for the
22 transcript, Mr. Cogswell, for two weeks --

23 THE REPORTER: Okay.

24 THE HEARING EXAMINER: -- after the
25 hearing. So that would be the 21st. Then we have a

1 post-hearing submissions on the 28th. That will be a
2 Friday, close of business. And I would like a week to
3 work with the technical examiner to arrive at a
4 decision. So now we're talking -- and that's not even
5 a week because of July 4th holiday in there. I'm
6 going to put a target date of July 5th for a decision.

7 And then the next docket after the July
8 5th, it looks like July 11th. So why don't we put --

9 After we have our motion hearing, why
10 don't you continue your application to the July 11th
11 for a status conference?

12 MS. HARDY: Okay.

13 THE HEARING EXAMINER: And at that
14 time, we can set a hearing date for you --

15 MS. HARDY: Okay.

16 THE HEARING EXAMINER: -- depending on
17 how many wells or what acreage we're -- okay?

18 MS. HARDY: Okay.

19 THE HEARING EXAMINER: Okay. So I'm
20 also going to put down a status conference on July 11.

21 Is there anything left on these cases?

22 MS. BENNETT: No, sir.

23 The -- with respect to the other two
24 cases that you called, though, 24320 and 24321, Ms.
25 Hardy and I can confer about those offline and revert

1 back to you with any information about the June 6th
2 hearing date, which I suspect will need to be
3 continued.

4 THE HEARING EXAMINER: Yes. I
5 understand. Okay. How long -- let's set a deadline
6 for this because June 6 is not that far away. It's --
7 well, I guess it's in one, two, three, four -- it's in
8 five weeks. What if we set a deadline for May 16 for
9 a notice or something from the parties?

10 MS. BENNETT: That works for me.

11 THE HEARING EXAMINER: Does it work for
12 you, Ms. Hardy?

13 MS. HARDY: Yes --

14 THE HEARING EXAMINER: Gives you enough
15 time to discuss all this?

16 MS. HARDY: Yes.

17 THE HEARING EXAMINER: All right. So
18 let me write these down. 24320, 21. So we're going
19 to get a.

20 And, Ms. Hardy, what do you anticipate
21 advising -- what issue do you anticipate advising the
22 Hearing Division on, the 16th of June?

23 MS. HARDY: Whether we need to continue
24 the hearing or set a motion hearing date.

25 THE HEARING EXAMINER: Okay. Perfect.

1 In other words, to do something similar than we're
2 doing in -- okay.

3 MS. HARDY: Exactly.

4 THE HEARING EXAMINER: Okay. Perfect.
5 I know it's your position that if we had a contested
6 hearing, these issues could also be dealt with at a
7 contested hearing. It's just my preference to do it
8 this way.

9 MS. HARDY: I understand.

10 THE HEARING EXAMINER: Okay. We are
11 off the record in Case Nos. 24320, 24321, and two
12 cases that are on our docket, 14 and 15.

13 Let's go back to our docket. I'm now
14 calling Fasken Oil and Ranch Cases 24396 and 97?

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

19 THE HEARING EXAMINER: Thank you.

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

23 MS. HARDY: Good morning, Mr. Examiner.
24 Dana Hardy with Hinkle Shanor on behalf of Earthstone
25 Operating and Reed & Stevens.

1 THE HEARING EXAMINER: Okay.

2 Mr. Feldewert?

3 MR. FELDEWERT: Good morning.

4 These matters seek simply to add a
5 drilling extension for matters that were pooled back
6 in -- for the spacing units that were created and
7 pooled back in April of 2022. And the reason for the
8 extension is the same reason for the last extension.
9 And that is that the BLM has not yet issued the
10 drilling permits, something out of Fasken's control.

11 They're ready to go. They have been --
12 they were filed within a month after the pooling case,
13 but they have not been issued by the BLM. Marathon
14 has suddenly objected to this matter, which is
15 perplexing because they were a party that was pooled
16 back in April of 2022. They appeared at the hearing.
17 They didn't object to the hearing. The matters were
18 pooled, and they didn't appeal the pooling orders.

19 So it seems to me that there's no issue
20 here with respect to spacing units. Those have been
21 precluded. Those are -- they have been waived.

22 So the only issue before the Division
23 is whether there's good cause to extend the drilling
24 deadlines. We were here in May of last year under
25 applications to extend the drilling deadline. The

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1 record reflected that they had been filed. The
2 applications for permits to drill have been filed
3 within a month after the pooling orders were issued.

4 The BLM had not yet approved them.
5 Marathon received notice of that application last
6 year. Didn't appear. Didn't object. So the Division
7 extended the drilling deadline because there's good
8 cause, so I'm not sure why they're opposing it now.
9 They didn't oppose the first extension.

10 The second extension, we're here for
11 the same reason. We're waiting on the BLM. That is a
12 good cause. There's been no cash call. In other
13 words, they have not paid their share of the costs of
14 drilling yet, or been -- hadn't left -- had been
15 required to make an election to participate because
16 we're waiting on the drilling permits.

17 So I don't know why they're objecting.

18 THE HEARING EXAMINER: Before we go to
19 Ms. Bennett, Ms. Hardy, are you objecting?

20 MS. HARDY: No. My clients are not
21 objecting. Just --

22 THE HEARING EXAMINER: So are you
23 monitoring?

24 MS. HARDY: Yes.

25 THE HEARING EXAMINER: Oh. You're

1 monitoring. Okay. Okay.

2 Ms. Bennett?

3 MS. BENNETT: Good morning.

4 THE HEARING EXAMINER: Good morning.

5 MS. BENNETT: Yes. Marathon is
6 objecting to the extension. This is not our -- simply
7 an extension. It's the second extension request since
8 the orders were granted. It's routine for the
9 Division to grant a first extension, and the Division
10 has, in the past, granted second exception -- or
11 extensions for a good cause shown.

12 Marathon's concern here, though, is the
13 amount of time it's taking Fasken to begin developing
14 this acreage. Marathon owns a large working interest
15 in this acreage, and, at this point, is considering
16 whether it needs to take steps to develop the acreage
17 itself, given the amount of time that has passed.

18 And, again, these orders were issued in
19 2022, so -- and Fasken is seeking an extension through
20 2025.

21 And I understand Mr. Feldewert's
22 position that it's the BLM that's the holdup. But
23 irrespective of what the holdup is, it's -- if
24 Fasken's application is granted, that's going to be
25 three years of tying up acreage in which Marathon owns

1 a substantial working interest.

2 THE HEARING EXAMINER: Wouldn't
3 Marathon have to get the permission of the BLM to
4 drill?

5 MS. BENNETT: Yes. Marathon would, and
6 Marathon would take that on as well. And Marathon's
7 drilling right next door. It's Queenie wells.

8 And I don't know what the difference is
9 between Marathon getting an APD and Fasken getting an
10 APD. But I do know that Marathon would have to get an
11 APD, but they have had success with that in the past.

12 THE HEARING EXAMINER: Okay.

13 MS. BENNETT: And they're willing to
14 take that on if they have to, to develop this acreage.

15 THE HEARING EXAMINER: So it sounds
16 like we need a contested hearing, right, Mr.
17 Feldewert?

18 MR. FELDEWERT: Well, I suppose that's
19 where we could go. I don't -- the issue -- only issue
20 here is whether there's a good cause for an extension.
21 I don't think the evidentiary presentation is going to
22 be much. It shouldn't take very much time.

23 You are correct that this is federal
24 acreage. They would have to -- I don't know how they
25 would suddenly take this over; okay?

1 But independent of that, I mean they
2 would be in the same boat that Fasken is, and that is
3 waiting on the BLM to issue the drilling permit. My
4 understanding is that this is part of the problem is
5 this is potash area, and they're dealing with some
6 issues with Intrepid that the BLM's working through.
7 But that's on the BLM's timetable.

8 So Fasken is far ahead of where
9 Marathon could be, No. 1. And I don't understand what
10 the hearing would be on because our point would be the
11 BLM -- we're waiting on the BLM, and the -- neither
12 the Division nor the parties can control the BLM's
13 timeline.

14 THE HEARING EXAMINER: What's your
15 position on whether we have -- I mean I don't know how
16 else we would proceed if there's enough -- I have not
17 had this issue before where there's an objection to an
18 amendment request.

19 So, Ms. Bennett, how do you foresee
20 this playing out?

21 MS. BENNETT: The only way I see this
22 playing out is in a contested hearing unless the
23 parties are able to resolve their respective
24 positions. And, certainly, it's unusual for a -- an
25 objection to an extension case.

1 But here, it's Marathon is genuinely
2 concerned about protecting its rights.

3 THE HEARING EXAMINER: Okay.

4 MS. BENNETT: And the Division's rules
5 allow cases by affidavit when they're not contested.
6 And so back in the day, we used to have in-person
7 hearings all the time that weren't by affidavit. And
8 so it doesn't have to be a truly adversarial hearing
9 if we are limited to good cause.

10 But on the other hand, the -- if
11 Marathon decides that it needs to file competing
12 applications, then we would be going to a full-on
13 contested hearing on competing applications. And that
14 is not something that Marathon has reached a decision
15 on at this particular point.

16 So I think it makes sense to, instead
17 of jumping right to a contested hearing, let Marathon
18 and Fasken have some time to figure out if this is
19 something that Marathon can live with, this additional
20 delay.

21 And if not, allow Marathon a time to
22 prepare its own proposal letters, and send them out,
23 and be ready to go to a contested hearing on competing
24 applications.

25 THE HEARING EXAMINER: So you're saying

1 -- I'm just trying to understand --

2 MR. FELDEWERT: It's a totally
3 different issue.

4 THE HEARING EXAMINER: Yes. I know. I
5 have seen that. Yes. I got that.

6 So you're then saying -- when were
7 these applications filed?

8 MR. FELDEWERT: These applications were
9 filed in April --

10 THE HEARING EXAMINER: Okay. Just
11 filed.

12 MR. FELDEWERT: -- to have them filed
13 before the May -- because the deadline is -- to drill
14 the wells expires on May 9th.

15 THE HEARING EXAMINER: Oh. Sure.

16 MR. FELDEWERT: But since we filed our
17 application, I do want to get assurances from the
18 Division that since we filed our application in
19 advance of that date, that the pooling orders are not
20 going to expire until we get this resolved.

21 THE HEARING EXAMINER: I understand.

22 MR. FELDEWERT: And Ms. Bennett is
23 correct. The only issue is good cause here. Now the
24 suggestion that two years later or more, they can come
25 in, and somehow come in with a competing development

1 plan, and reopen the matter is collaterally estopped.
2 The only issue is good cause. And we can have a -- if
3 we got to have a hearing on that, we can have a
4 hearing on that. It won't take very long.

5 THE HEARING EXAMINER: Okay. Yeah.
6 That's a legal issue that we have to have briefing on.

7 How much time do you feel your client
8 needs to negotiate with Fasken regarding the
9 good-cause issue, and whether they're tying up?

10 MS. BENNETT: I'm just looking at my
11 calendar real quickly.

12 THE HEARING EXAMINER: Sure.

13 MS. BENNETT: I would like to suggest
14 June 27th for a status conference.

15 THE HEARING EXAMINER: Mr. Feldewert?

16 MR. FELDEWERT: With assurances from
17 the Division that the pooling orders remain in effect
18 while we work through this, we don't -- I don't object
19 to June 27th status conference.

20 We're all waiting on the BLM. Maybe by
21 then, the BLM will have this matter resolved, and we
22 can move forward because they're ready to go as soon
23 as the BLM approves the drilling permit.

24 So June 27 status conference is fine.

25 THE HEARING EXAMINER: Okay. Well, the

1 -- hold on. You said with assurances from the
2 Division. And, obviously, I can't give you assurances
3 from the Division. I'm sure you know how to get
4 assurances from the Division, but that's not the
5 Hearing Division that would do that.

6 MR. FELDEWERT: Well, I will -- all
7 right. I will state on the record then that we filed
8 the application in advance of the deadline for
9 drilling. It's my understanding, and it has been the
10 Division's practice, that that protects your pooling
11 order.

12 And that if the Division needs
13 additional time to address the issue, that's fine.
14 But the --

15 THE HEARING EXAMINER: I understand.

16 MR. FELDEWERT: -- and we are
17 protected.

18 THE HEARING EXAMINER: I understand.
19 Okay --

20 MS. BENNETT: Mr. Hearing Examiner?

21 THE HEARING EXAMINER: Yes?

22 MS. BENNETT: I completely agree with
23 what Mr. Feldewert said in terms of past practice.
24 And the Division's past --

25 THE HEARING EXAMINER: Right.

1 MS. BENNETT: -- position on this,
2 which is as long as you filed the application --

3 THE HEARING EXAMINER: Right.

4 MS. BENNETT: -- before the expiration
5 of the order, it protects the order.

6 THE HEARING EXAMINER: Okay.

7 Mr. Feldewert, I know that you would
8 like to get an extension of time in place as soon as
9 you can. June 27 seems like a ways away. I'll set it
10 for a status conference on June 27.

11 However, if the parties already know
12 what they're going to do, why not just alert the
13 Hearing Division before June 27th, so we can convert
14 that to a hearing by affidavit?

15 MR. FELDEWERT: Works for me.

16 THE HEARING EXAMINER: Right.

17 MR. FELDEWERT: Let's keep you -- well,
18 we'll use it as a status conference unless you hear
19 otherwise? Does that work?

20 THE HEARING EXAMINER: Yes. Obviously,
21 again, if you resolved the difference, I would like to
22 have a hearing by affidavit --

23 MR. FELDEWERT: Yes.

24 THE HEARING EXAMINER: -- on June 27.
25 Okay. All right. So is there anything else on 23 --

1 sorry -- 24396 or 97?

2 MR. FELDEWERT: So just to clarify --

3 THE HEARING EXAMINER: Yes?

4 MR. FELDEWERT: What I will do is file
5 a motion to continue to June 27th --

6 THE HEARING EXAMINER: Yes.

7 MR. FELDEWERT: -- for either a status
8 conference --

9 THE HEARING EXAMINER: Yes.

10 MR. FELDEWERT: -- or a affidavit
11 hearing?

12 THE HEARING EXAMINER: Yes.

13 MR. FELDEWERT: Would that be
14 appropriate? Okay.

15 THE HEARING EXAMINER: Yes. Why don't
16 you make it -- I don't know if you can do either. I
17 don't -- can you do either?

18 MR. FELDEWERT: Sure.

19 THE HEARING EXAMINER: Oh. You can.
20 It allows that?

21 MS. BENNETT: Well, by it, that's -- we
22 usually just put that in, in our motion.

23 THE HEARING EXAMINER: Oh. You do?

24 MS. BENNETT: And then when we file the
25 pre-hearing statement -- which would be the week --

1 THE HEARING EXAMINER: Oh.

2 MS. BENNETT: -- Mr. Feldewert has
3 already filed a pre-hearing statement, then he or I
4 could file some sort of notice --

5 THE HEARING EXAMINER: I see.

6 MS. BENNETT: -- alerting the Division
7 that this --

8 THE HEARING EXAMINER: Perfect.

9 MS. BENNETT: -- status conference
10 would be converted to an affidavit hearing.

11 THE HEARING EXAMINER: Perfect. Okay.
12 Mr. Feldewert, anything else on these
13 two cases?

14 MR. FELDEWERT: No. Thank you.

15 THE HEARING EXAMINER: Thank you.
16 All right. We're off the record on
17 those cases.

18 We are now on the record, Marathon Oil
19 Permian, 24085. And let me see if they're
20 consolidated with anything. May I have an entry of
21 Appearance on 24085?

22 MR. PADILLA: Mr. Examiner, good
23 morning. Ernest L. Padilla for Marathon Oil Permian.

24 THE HEARING EXAMINER: Mr. Padilla, is
25 this case consolidated, or it stands on its own?

1 MR. PADILLA: It stands on its own.

2 THE HEARING EXAMINER: Thank you, sir.
3 Are there any other Appearances?

4 MR. SAVAGE: Good morning, Mr. Hearing
5 Examiner. Darin Savage with Abadie & Schill on behalf
6 of Cimarex Energy Company.

7 THE HEARING EXAMINER: Okay.

8 Mr. Padilla?

9 MR. PADILLA: Mr. Examiner, this is a
10 compulsory pooling application involving an 800-acre
11 spacing unit in -- comprised of the southeast quarter
12 of Section 25, and the east half of Section 36, both
13 in Township 24 South, Range 20 East, and the east half
14 of Section 1 in Township New 5 South, Range 28 East,
15 in Eddy County.

16 THE HEARING EXAMINER: Mr. Padilla, are
17 we having a status conference, or are we having a
18 hearing by affidavit?

19 MR. PADILLA: Hearing by affidavit.

20 THE HEARING EXAMINER: Okay. Thank
21 you. Did you file a new pre-hearing statement?

22 MR. PADILLA: No. I did not.

23 THE HEARING EXAMINER: Okay.

24 MR. PADILLA: I simply relied on the
25 hearing statement that Ms. Bennett had filed.

1 THE HEARING EXAMINER: Okay.

2 MR. PADILLA: They covered all the
3 bases. The --

4 THE HEARING EXAMINER: Okay.

5 MR. PADILLA: -- finance and the need
6 for doing that.

7 THE HEARING EXAMINER: Okay. So you're
8 adopting that?

9 MR. PADILLA: I'm adopting that.

10 THE HEARING EXAMINER: Okay. Perfect.
11 Please --

12 MR. PADILLA: -- difference -- this
13 week, I was informed that Marathon would not be --
14 would be dropping two of the wells -- two of the six
15 wells that it proposed originally. And they're not --
16 they're still passing the first bone, and the second
17 bone, or the third bone, and dropping to the -- and
18 I'll go into that.

19 THE HEARING EXAMINER: So the
20 pre-hearing statement doesn't need to be amended to
21 show that?

22 MR. PADILLA: I don't think it does. I
23 think just the -- I think the controlling thing that
24 will be here would be the compulsory pooling
25 checklist --

1 THE HEARING EXAMINER: Okay. Thank
2 you. Okay. Please proceed.

3 MR. SAVAGE: Mr. Hearing Examiner, if I
4 might --

5 THE HEARING EXAMINER: Yes?

6 MR. SAVAGE: -- add something? Cimarex
7 has an objection to this, and it was pursuant upon the
8 withdrawal -- that objection was pursuant to the
9 special provision being added into this case. And we
10 would just like confirmation that this is addressed up
11 front before we proceed by affidavit.

12 Otherwise, we would allow the affidavit
13 to go forward.

14 THE HEARING EXAMINER: Okay. I --

15 MR. PADILLA: Mr. --

16 THE HEARING EXAMINER: Yes, Mr.
17 Padilla? Did you want to say something?

18 MR. PADILLA: Mr. Examiner, the pooling
19 checklist already has the permission that we agreed to
20 solve the collision issues that Coterra had.

21 THE HEARING EXAMINER: Thank you, Mr.
22 Padilla. Hold on one second, Mr. Padilla.

23 So that was my understanding from
24 speaking with the technical group is that you put a
25 special provision in the pooling checklist which you

1 have.

2 I assume you approved the -- you have
3 seen the checklist, and you approve it?

4 MR. SAVAGE: Yes. I did see it.

5 THE HEARING EXAMINER: You did see it?

6 MR. SAVAGE: Yes.

7 THE HEARING EXAMINER: And you approve
8 the wording?

9 MR. SAVAGE: It's the exact wording
10 that we agreed upon.

11 THE HEARING EXAMINER: And, Mr.
12 Padilla, you feel the same?

13 MR. PADILLA: Yes. Yes, sir.

14 THE HEARING EXAMINER: Okay. So I --
15 if you're basing an objection on something the
16 Division will do down the road, I think you -- I don't
17 know how -- that sounds like a conditional --

18 MR. SAVAGE: No --

19 THE HEARING EXAMINER: -- objection.

20 MR. SAVAGE: I understand that.

21 THE HEARING EXAMINER: Okay.

22 MR. SAVAGE: Oh. We -- it is in the
23 checklist. The Division acknowledges that it's in the
24 checklist, so I think that'll be fine.

25 THE HEARING EXAMINER: Okay.

1 MR. SAVAGE: Our objection's withdrawn.

2 THE HEARING EXAMINER: Okay. Thank
3 you, Mr. Savage. I appreciate it.

4 Mr. Padilla, are you ready to present
5 your case?

6 MR. PADILLA: Yes. I am.

7 THE HEARING EXAMINER: All right. Let
8 me pull it up here so that I can enter your exhibits.
9 Give me one second. All right.

10 Mr. Padilla, I have a document filed a
11 couple of days ago. Let's take a look at it. Okay.
12 Mr. Padilla, I see Exhibits A, B, and C. Are those
13 your exhibits?

14 (24085 Exhibit A through Exhibit C were
15 marked for identification.)

16 MR. PADILLA: Yes. They are, and --

17 THE HEARING EXAMINER: Oh.

18 MR. PADILLA: -- we'll move entry into
19 the record.

20 THE HEARING EXAMINER: Okay. Let's
21 take a look. First of all, Mr. Padilla, are your --
22 so I know Exhibit A is your affidavit.

23 So is there any objection, Mr. Savage,
24 for Exhibit A?

25 MR. SAVAGE: No objection.

1 THE HEARING EXAMINER: No.

2 Mr. Padilla, Exhibit A is admitted.

3 (24085 Exhibit A was received into
4 evidence.)

5 THE HEARING EXAMINER: Exhibit B and C
6 are based on experts. Are you representing that Mr.
7 Gyllenband and Mr. Buratowski are both previously
8 admitted as experts before this Division?

9 MR. PADILLA: Yes. I am.

10 THE HEARING EXAMINER: Okay. Very
11 good.

12 Are there any objections to these
13 exhibits?

14 MR. SAVAGE: No objection.

15 THE HEARING EXAMINER: Okay. Very
16 good. Exhibits B and C are admitted into evidence.
17 (24085 Exhibit B and Exhibit C were
18 received into evidence.)

19 THE HEARING EXAMINER: Are those all of
20 your exhibits, Mr. Padilla?

21 MR. PADILLA: That's it.

22 THE HEARING EXAMINER: Okay. Very
23 good. Are your witnesses available for
24 cross-examination?

25 MR. PADILLA: Yes. They are. They

1 should be.

2 THE HEARING EXAMINER: Very good. So
3 we have our technical examiner with us.

4 Would you introduce yourself for the
5 record?

6 MR. MCCLURE: Dean McClure.

7 THE HEARING EXAMINER: Would you say it
8 a little louder, Mr. McClure?

9 MR. MCCLURE: Oh. Excuse me. Dean
10 McClure.

11 THE HEARING EXAMINER: I heard that.
12 Thank you. It was hard. The speaker wasn't picking
13 up -- the microphone wasn't picking it up well.

14 Do you have any questions for these
15 witnesses, Mr. McClure?

16 MR. MCCLURE: Yes. I do, Mr. Hearing
17 Examiner.

18 THE HEARING EXAMINER: Very good.

19 Let's get the witnesses sworn in.

20 Can we have your two witnesses, Mr.
21 Padilla, turn on their cameras and raise their right
22 hand?

23 MR. PADILLA: Okay.

24 THE HEARING EXAMINER: I see them.

25 Go ahead.

1 WHEREUPON,

2 RYAN GYLLENBAND,

3 called as a witness and having been first duly sworn
4 to tell the truth, the whole truth, and nothing but
5 the truth, was examined and testified as follows:

6 WHEREUPON,

7 GREG BURATOWSKI,

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 THE HEARING EXAMINER: Okay. Would you
12 both leave your cameras on?

13 And would you spell your name, Mr.
14 Gyllenband? Would you start first, please?

15 MR. GYLLENBAND: -- my name is Ryan
16 Gyllenband, and Ryan's R-Y-A-N, last name is
17 G-Y-L-L-E-N-B-A-N-D.

18 THE HEARING EXAMINER: Okay.

19 And the other witness, please? We
20 can't hear you. Is your microphone on, or maybe
21 you're muted?

22 MR. BURATOWKSI: Okay? Hear me now?

23 THE HEARING EXAMINER: Yes, sir.

24 MR. BURATOWKSI: Okay. Thank you.

25 Sorry about that. Yes. Greg, G-R-E-G. Buratowski,

1 B-U-R-A-T-O-W-S-K-I.

2 THE HEARING EXAMINER: Okay.

3 And, Mr. Padilla, do you agree to have
4 your witnesses presented as a panel so that Mr.
5 McClure can ask the question to the panel?

6 MR. PADILLA: Yes, sir. I do.

7 THE HEARING EXAMINER: Okay.

8 Mr. McClure?

9 MR. MCCLURE: Thank you, Mr. Hearing
10 Examiner.

11 Does the agreement between Coterra and
12 Marathon prevent Marathon from drilling additional
13 infill wells in addition to what's currently on the
14 pooling checklist?

15 MR. GYLLENBAND: No. It does not. In
16 my opinion, it would -- those wells would be infill
17 wells that would be drilled as subsequent wells under
18 the order, but they would have to be drilled after
19 these are -- these four are completed.

20 MR. MCCLURE: So then would it be
21 Marathon's intent to drill infill wells nearer than
22 1,000 feet to the edge of the boundary of the HSU?

23 MR. GYLLENBAND: At -- at this time, we
24 don't have plans to drill any more wells in this DSU.
25 But it's -- it's my understanding that we would not be

1 precluded from doing that.

2 MR. PADILLA: And, of course, that's
3 subject to the provision in terms of notice to
4 Coterra; correct?

5 MR. GYLLENBAND: That's correct.

6 THE HEARING EXAMINER: Mr. Padilla --

7 MR. MCCLURE: So --

8 THE HEARING EXAMINER: Oh. Hold on one
9 second.

10 Mr. Padilla, in the future, I'll give
11 you a chance to ask redirect questions after the
12 technical examiner has finished his exam -- his direct
13 examination; okay?

14 MR. PADILLA: Okay. Thank you.

15 THE HEARING EXAMINER: You're welcome,
16 sir.

17 Mr. McClure?

18 MR. MCCLURE: I thank you, sir.

19 Is it your understanding that this year
20 would object to infill wells being drilled nearer than
21 1,000 feet of an HSU?

22 MR. GYLLENBAND: I don't know what
23 Coterra would -- would object to. I think they would
24 just object if they saw that it was going to interfere
25 with -- with their wells.

1 Is -- can I ask, is the --

2 THE HEARING EXAMINER: No. You can't.
3 No. No. You can't ask. You can discuss this with
4 your attorney. We can go -- we can take a break, and
5 if you have questions for your attorney, you can
6 discuss that off the record with him. But you can't
7 ask questions. No.

8 Mr. McClure?

9 MR. MCCLURE: Is it your understanding
10 that the initial two -- what? Initially, there were
11 six wells proposed the application? Is that correct?

12 MR. GYLLENBAND: Yes, sir.

13 MR. MCCLURE: And now Marathon has
14 removed the two wells that was close to the west edge
15 of this pooling area? Is that correct?

16 MR. GYLLENBAND: We have removed two of
17 the wells that were in the third Bone Spring. I don't
18 believe they were the closest. They were removed more
19 so in internal discussions with our team based on what
20 we planned to drill.

21 The removal of those wells was not
22 necessarily because of discussions with Coterra. The
23 discussions with Coterra resulted in some shifting of
24 the wells. That we are going to drill them.

25 MR. MCCLURE: I guess, do you know

1 where those two wells were placed, the ones that were
2 removed?

3 MR. BURATOWSKI: If I might answer
4 that?

5 Yes. One of -- they were -- as far as
6 spacing within the unit, one was on the west line, and
7 one was between the two wells that we -- that remain.

8 But given our understanding of -- of
9 spacing in this particular target formation in the
10 area, we opted to remove those wells. The -- the
11 basis to remove those wells is based upon our current
12 understanding of appropriate spacing in that -- in
13 that formation, and also with consideration to offset
14 depletion of the west.

15 So hence, the -- you know, the -- the
16 decision to shift the walls to the east was not solely
17 based upon discussions with Coterra as well. It was
18 a -- it was a appropriate development plan.

19 MR. MCCLURE: So referenced -- earlier,
20 there seemed like there was reference to concerns with
21 collision or collision concerns. Is that what led to
22 the agreement here between Coterra and Marathon?

23 MR. GYLLENBAND: It's my understanding
24 that -- that that was the concern was the -- that
25 their wells built out across our unit. And in order

1 to drill -- to not -- to not, you know, cause
2 collision issues with those wells as well as future
3 wells, you know, we worked with -- with them to try to
4 make a plan that worked for both of us.

5 MR. MCCLURE: Okay. All right. So is
6 it Marathon's position that they should be able to
7 adequately drain all production from this pooling
8 area, either with the proposed wells or with future
9 infill wells?

10 MR. GYLLENBAND: Yes. That is -- that
11 is our position, especially given our understanding of
12 -- of offsets to the west of this unit.

13 MR. MCCLURE: And is it also your
14 understanding that, should Marathon feel it necessary
15 to drill infill wells further to the west, that they
16 would be able to do so?

17 MR. GYLLENBAND: Can I ask for a
18 clarification?

19 MR. MCCLURE: Yes. Should Marathon
20 determine that they need to drill a well further to
21 the west of the currently proposed wells, that they
22 would be allowed to do so?

23 MR. GYLLENBAND: I can't -- I may not
24 be best to speak to that agreement. However, at this
25 time, Marathon's position is that we are appropriately

1 spacing offset to duct or existing production to the
2 west. It wouldn't be our desire at this time to put
3 another well there.

4 I -- I can't speak to many years down
5 the road. I'm sure that with this space, and like
6 with many others, there'll be consideration for infill
7 drilling. But at -- at this time, this seems to be
8 the appropriate spacing for these wells, given
9 development in this -- in this-- within this unit
10 within the area.

11 And I -- I can also chime in on that.
12 It -- it is our position that we would be able to
13 drill subsequent wells under this order if needed.

14 But as -- as Greg mentioned, we -- we
15 don't have plans to at this time because we believe we
16 are fully developing it.

17 MR. MCCLURE: Okay. Thank you.

18 That concludes my -- or that concludes,
19 I guess, my questions for the experts.

20 But I would like to make two requests.
21 The first being if you could provide a table of all
22 the persons being pooled? Do you have any question in
23 regards to what I'm requesting of you?

24 MR. GYLLENBAND: That should have been
25 included in our exhibits. I'll defer to our counsel

1 as to whether that was provided.

2 MR. PADILLA: Mr. McClure, if you look
3 at the affidavit of Mr. Gyllenband, and at pages 23 to
4 27, we have a listing of the parties that are being
5 pooled -- the parties that are committed, and the
6 parties that are being pooled.

7 MR. MCCLURE: Included in, I guess,
8 that table is a summary of interest. Is that correct,
9 Mr. Padilla?

10 MR. PADILLA: Yes. It is. But it also
11 identifies the committed working interest owners and
12 the pool parties. Actually, what we have is they're
13 listed as committed and uncommitted on page twenty --
14 26.

15 MR. MCCLURE: Mr. Gyllenband, can I
16 direct your attention to page 37 of 87? This is your
17 affidavit of -- your signed affidavit.

18 MR. GYLLENBAND: Let me pull that up.

19 MR. MCCLURE: Yes, sir.

20 MR. GYLLENBAND: Yes, sir. Yes, sir.
21 I have it pulled up.

22 MR. MCCLURE: Your paragraph 29 states
23 that Marathon is seeking to pool overriding royalty
24 interest owners. However, it does -- let me rephrase
25 this as a question.

1 Your paragraph 29, does it state which
2 overriding royalty interest owners Marathon is seeking
3 to pool?

4 MR. GYLLENBAND: Paragraph 29 of the
5 affidavit does not state which overriding royalty
6 owners we are pooling, but we have them listed in one
7 of our exhibits.

8 MR. MCCLURE: Can you direct me to
9 which of the overriding royalty interest owners
10 Marathon is wishing to pool?

11 MR. GYLLENBAND: All -- all of those
12 listed in our exhibits.

13 MR. MCCLURE: And please provide us
14 with a table clarifying that. I don't see where it's
15 written anywhere here that that's the case.

16 MR. GYLLENBAND: You would like it
17 provided in the affidavit explicitly stating which
18 table it's -- it's in?

19 MR. MCCLURE: That's not correct.

20 THE HEARING EXAMINER: Okay. Hold on.
21 Hold on. Hold on.

22 Mr. Padilla, would you please instruct
23 your witness not to ask questions of the technical
24 examiner? And maybe you can help out -- help us out
25 here. And since this is your submission, where is

1 this information that Mr. McClure is asking for in
2 this submission?

3 MR. PADILLA: Okay. I can ask that
4 question, Mr. Examiner.

5 THE HEARING EXAMINER: Go ahead.

6 MR. PADILLA: Mr. Gyllenband, can you
7 direct us to that portion of your exhibits? And I
8 think they start at page B-22? Can you tell the
9 hearing examiner where the overriding royalty owner
10 listing is located so that he can inform himself as to
11 which overriding royalties you are pooling?

12 MR. GYLLENBAND: I don't have the list
13 of the exhibits that you provided to the Commission.
14 I'm just looking at what was provided to you, so if
15 you could tell me the table, I can direct him there.

16 THE HEARING EXAMINER: Mr. Padilla,
17 let's take a break. Let's take a ten-minute break so
18 you and your client can work out what exhibit would
19 satisfy Mr. McClure, if it exists.

20 And if not, we'll have you file an
21 amended exhibit packet; okay?

22 MR. PADILLA: Very good.

23 THE HEARING EXAMINER: All right. So
24 we're going to go off the record. It's 9:46 now.

25 (Off the record.)

1 THE HEARING EXAMINER: It is 9:57 a.m.,
2 May 2nd. We're back on the record.

3 Mr. Padilla, were you able to clarify
4 that exhibit issue?

5 MR. PADILLA: Yes, Mr. Examiner. Mr.
6 Gyllenband did not have a -- and I sent it to him, and
7 he's ready to answer the questions.

8 THE HEARING EXAMINER: Okay. But
9 before that, has that exhibit been entered into
10 evidence?

11 MR. PADILLA: Yes.

12 THE HEARING EXAMINER: Okay. Can you
13 give me a page number?

14 MR. PADILLA: B-25 on Exhibit B.

15 THE HEARING EXAMINER: Okay. Can you
16 give me a page number in the PDF so I can just go
17 right to it?

18 MR. PADILLA: Oh. I don't have it up
19 on my computer, but I can go to the website and get
20 it.

21 THE HEARING EXAMINER: You said it was
22 B-25?

23 MR. PADILLA: Yes.

24 THE HEARING EXAMINER: B-25. I see.
25 So they're labeled at the bottom right corner of each

1 page. I see it now.

2 MR. PADILLA: Yes.

3 THE HEARING EXAMINER: Okay. Okay.

4 Okay. So B-25. What I show is B-25 is on page 38 of
5 your 87-page PDF, and B-20 [sic] -- B-5 [sic] is --

6 I'm not sure that answers the question,
7 Mr. Padilla. What am I supposed to be looking at
8 here?

9 MR. PADILLA: Well, as I understand Mr.
10 McClure's question was which overriding royalty
11 interest owners are being pooled. And what I see is a
12 listing of all overrides, but we may need to
13 supplement which of all of these overriding royalty
14 interest owners -- are being pooled.

15 THE HEARING EXAMINER: Okay. So I
16 don't see -- on B-25, I don't see a list of anything.
17 So can you tell me what you're looking at? Because I.

18 MR. PADILLA: It's a listing of ORRI
19 owners at the top of the summary, and it's part of a
20 summary of interests.

21 THE HEARING EXAMINER: But, Mr.
22 Padilla, at the bottom right corner of every page,
23 there's an exhibit number? Do you agree?

24 MR. PADILLA: Yes.

25 THE HEARING EXAMINER: Okay. You said

1 B-5? B as in boy, 5?

2 MR. PADILLA: No. Incorrect. B-25.

3 THE HEARING EXAMINER: I didn't hear
4 the 2 part. Thank you. Let me get to B-25.

5 Oh. And, Mr. Padilla, in the future,
6 when you submit your exhibits, can you make sure that
7 they're all upright and -- as opposed to on their
8 sides?

9 MR. PADILLA: Will do.

10 THE HEARING EXAMINER: All right.

11 So I'm now on page 58, Mr. McClure.
12 Are you on 58 as well?

13 MR. MCCLURE: Yeah. It was page 58, I
14 believe, is what Mr. Padilla wants to draw our
15 attention to.

16 THE HEARING EXAMINER: Did you say
17 five, eight?

18 MR. MCCLURE: Correct. Five, eight.

19 THE HEARING EXAMINER: That's where I
20 am. I'm on page five, eight. And, Mr. McClure, does
21 this satisfy your question?

22 MR. MCCLURE: No. It does not.

23 THE HEARING EXAMINER: Okay. Fine.
24 Can you explain what is missing here that you need?

25 MR. MCCLURE: I was saying I believe

1 Mr. Padilla, based on what he was saying, he may
2 understand what I'm looking for, but I'll give a brief
3 explanation.

4 The Division would like to have a list
5 or some sort of indication on here as to which of
6 these overriding royalty interest owners are being
7 pooled?

8 THE HEARING EXAMINER: Oh. Very good.
9 I understand your concern.

10 Mr. Padilla, do you understand?

11 MR. PADILLA: Yes. We can supplement
12 this exhibit.

13 THE HEARING EXAMINER: All right. So,
14 Mr. Padilla, we're going to leave the record open. I
15 know that we're not finished with the questions yet,
16 but let's deal with this exhibit here.

17 This is Exhibit B-25. It's on page 58.
18 B-25 on page 58. You're going to submit an amended
19 exhibit packet, and in the amended exhibit packet,
20 it's going to have all the pages that are in your
21 original exhibit packet, except it's going to specify
22 in this table here of ORRI owners, which ones are
23 being pooled.

24 MR. PADILLA: Correct.

25 THE HEARING EXAMINER: Is there

1 anything else that's going to change about this
2 exhibit, Mr. Padilla?

3 MR. PADILLA: No. I think what we can
4 do is to add in another column --

5 THE HEARING EXAMINER: Okay. That's
6 fine with me. Please provide a cover letter to the
7 amended exhibit packet that you file that explains
8 what you're doing so that it's obvious to anyone who
9 looks at it.

10 MR. PADILLA: Very good. I will.

11 THE HEARING EXAMINER: How long will
12 you need? And let's assume that this is the only
13 exhibit that needs to be fixed. How long do you need
14 before you will submit the amended exhibit packet?

15 MR. PADILLA: Let me refer back to Mr.
16 Gyllenband.

17 MR. GYLLENBAND: We'll be able to do
18 that immediately. We're pooling all of the owners, so
19 it would just be the entire -- entire --

20 THE HEARING EXAMINER: Okay. So
21 everyone listed on this table will be pooled?

22 MR. GYLLENBAND: Yes, sir.

23 THE HEARING EXAMINER: Mr. McClure,
24 knowing that everyone on this table will be pooled,
25 does that help you, or do you still want an amended

1 exhibit packet?

2 MR. MCCLURE: I believe that we should
3 still have an amended --

4 THE HEARING EXAMINER: Fine.

5 MR. MCCLURE: -- exhibit packet.

6 THE HEARING EXAMINER: Okay. Very
7 good. Okay. Very good.

8 So then today is Thursday, the 2nd of
9 May. And, Mr. Padilla, if we give you until tomorrow,
10 May 3rd, close of business, does that give you enough
11 time to amend the exhibit packet?

12 MR. PADILLA: It should. And let me
13 defer to Mr. Gyllenband. He said immediately, so I
14 think we should be able to meet that deadline.

15 THE HEARING EXAMINER: Okay.

16 MR. GYLLENBAND: -- Mr. Examiner.

17 THE HEARING EXAMINER: Okay. Thank
18 you, sir.

19 And, Mr. McClure, what other questions
20 do you have for the panel?

21 MR. MCCLURE: I have a quick
22 confirmation for -- from Mr. Padilla --

23 THE HEARING EXAMINER: Please?

24 MR. MCCLURE: -- in regards to his
25 notice.

1 Mr. Padilla, can you confirm for me
2 when written notice of this application was provided?

3 MR. PADILLA: Let me look at what I
4 have done on that exhibit is taken the date of that
5 notice sent out by Ms. Bennett. What's -- December
6 13, 2023.

7 THE HEARING EXAMINER: And, Mr.
8 Padilla, before Mr. McClure follows up, what page are
9 you looking at?

10 MR. PADILLA: I'm looking at my Exhibit
11 A-2.

12 THE HEARING EXAMINER: A-2. Thank you.
13 Is there a paragraph number that you're looking at?

14 MR. PADILLA: Well, I'm looking at the
15 date at the top, but the letter is dated December
16 13 --

17 THE HEARING EXAMINER: I see.

18 MR. PADILLA: -- 2023.

19 THE HEARING EXAMINER: Okay.

20 And, Mr. McClure?

21 MR. MCCLURE: Thank you, Mr.

22 Gyllenband.

23 Thank you, Mr. Hearing Examiner.

24 That concludes my questions for this
25 case.

1 THE HEARING EXAMINER: Thank you, Mr.
2 McClure.

3 Mr. Savage, any questions?

4 MR. SAVAGE: Mr. Examiner, if I could
5 make some comments about the new development, about
6 the two wells being rescinded? Could I?

7 THE HEARING EXAMINER: I'm not sure
8 that this is the proper forum for comments. If we're
9 done with the -- let me -- hold on one second before
10 you make any comments, if that's all you have, and you
11 don't have questions for the witnesses.

12 Mr. Padilla, do you have any follow-up
13 questions to the questions that Mr. McClure asked?

14 MR. PADILLA: No. I think they have
15 all been addressed by Mr. McClure's questions.

16 THE HEARING EXAMINER: Okay. Okay.
17 So, Mr. Savage, are you making some
18 sort of a closing argument?

19 MR. SAVAGE: No. I would like to
20 reconsider the special provision in light of the
21 material development --

22 THE HEARING EXAMINER: Okay.

23 MR. SAVAGE: -- rescinding the two
24 wells.

25 THE HEARING EXAMINER: Okay. Well,

1 what are you saying?

2 MR. SAVAGE: So I'm looking at the
3 special provision. And the special provision has
4 specific language that was negotiated and agreed upon.
5 And it requires a notice -- all wells that are subject
6 to the pooling order.

7 And with the development of the
8 removing the two wells, those wells would no longer be
9 subject to the pooling order.

10 So that creates a bit of a gap, and
11 that is a concern. Mr. McClure is exactly correct
12 there. Coterra and Cimarex has a concern. There is a
13 conflict.

14 There is a risk of collision with the
15 existing locations now we have an unknown in this
16 procedure that we don't know if those two wells would
17 be repropose or proposed as infills. There's no
18 guarantee we -- Cimarex would have notice, and we
19 don't know if that would -- the risk would be surface.

20 So I would like to propose that if we
21 want to proceed with this hearing and review of the
22 application, that we be allowed to present a revised
23 special provision to address that gap.

24 THE HEARING EXAMINER: So you are
25 ultimately then asking if the Division will put this

1 on hold while the parties renegotiate the special
2 provision, and resubmit that special provision in the
3 checklist?

4 MR. SAVAGE: If -- that would be a good
5 approach.

6 THE HEARING EXAMINER: Let's go to Mr.
7 Padilla, first.

8 Mr. Padilla, you have heard what Mr.
9 Savage had to say. Your position?

10 MR. PADILLA: I think the special
11 provision calls for notice. If Marathon wanted to
12 drill any of those wells, including any infill wells,
13 they're required under that provision to give notice
14 to Coterra. They're not going to -- you can't go out
15 and drill. They're bound by this special provision.

16 So I don't see the problem. The way
17 the special provision is worded now, it requires
18 notice, and it requires -- and it -- Coterra can come
19 back and challenge that well after notice.

20 THE HEARING EXAMINER: So, Mr. Padilla,
21 Mr. Savage is saying, though, that with this
22 development, and that the -- your -- these two wells
23 are not going to be part of the approved APD. That
24 they would be outside the special provision. Are you
25 saying that you don't agree with that?

1 MR. PADILLA: No. I don't agree. I
2 think they're subject to the special provision. Any
3 wells that Coterra -- I mean Marathon drills in that
4 spacing unit is subject to the notice of provisions.

5 THE HEARING EXAMINER: Okay.

6 Mr. Savage?

7 MR. SAVAGE: Well, we have a
8 disagreement because just looking at this special
9 provision, that is not how the special provision
10 reads. It's -- reads that any APDs applied for by the
11 operator pursuant to this pooling order and the
12 checklist is a legal part of the pooling order, and it
13 is why it gets approved.

14 So the two wells removed would not --
15 that that language not apply.

16 And then it also has this Part 2, and
17 it says if the operator submits any APDs with well or
18 surface locations or depths that have been changed or
19 altered, the specifications described in this pooling
20 order.

21 So those are the two requirements
22 negotiated for notice, so it falls outside of that --
23 those parameters.

24 THE HEARING EXAMINER: So before I go
25 back to Mr. Padilla, so, Mr. Savage, can you envision

1 language that would in some way deal with these two
2 wells that are -- that you have a concern of?

3 MR. SAVAGE: Yes. And --

4 THE HEARING EXAMINER: You can?

5 MR. SAVAGE: -- it's very simple to do.

6 THE HEARING EXAMINER: Very simple to
7 do. What are you proposing?

8 MR. SAVAGE: It would be
9 addressed -- it -- for example, we could have language
10 such as any wells drilled in this unit that have been
11 pooled, either at the time of the pooling -- that is
12 subject to the pooling order or subject to approval as
13 an infill well, for example. I mean there's a variety
14 of ways. It would be very simple.

15 THE HEARING EXAMINER: Okay.

16 Mr. Padilla, it sounds like -- sorry?

17 MR. PADILLA: -- Mr. Examiner, I don't
18 have any problem with including the infill wells.

19 THE HEARING EXAMINER: Okay. Okay.
20 Okay.

21 So, Mr. Savage, it sounds like Mr.
22 Padilla is open to rewording that special provision.

23 So that can be part of the amended
24 packet that you file, Mr. Padilla. I'll give you more
25 time, though, since this may take a few days to work

1 out the language. Why don't we not say May 3rd for an
2 amended -- for a deadline for the amended package?

3 What deadline would you propose, Mr.
4 Padilla?

5 MR. PADILLA: Probably the -- we should
6 be able to get it done mid-week --

7 THE HEARING EXAMINER: Okay.

8 MR. PADILLA: -- of next week.

9 THE HEARING EXAMINER: So the 8th of
10 May?

11 MR. PADILLA: That's fine.

12 THE HEARING EXAMINER: Mr. Savage?

13 MR. SAVAGE: Yeah. Thank you.

14 THE HEARING EXAMINER: Okay.

15 And, Mr. Padilla, if you need more time
16 to file an amended exhibit packet with the corrected
17 or with an amended checklist, and with the amended
18 B-25, just file something with the Division, and we'll
19 give you some more time.

20 MR. PADILLA: Okay. Thank you.

21 THE HEARING EXAMINER: You're welcome.

22 So, Mr. Savage, you didn't have any
23 questions for the witnesses. All right.

24 So, Mr. Padilla, may the witnesses be
25 excused?

1 MR. PADILLA: Yes, sir.

2 THE HEARING EXAMINER: Okay.

3 Thank you, gentlemen.

4 (The witnesses were excused.)

5 THE HEARING EXAMINER: So the
6 hearing -- so the evidentiary record will remain open
7 for the submission of the amended hearing packet by
8 the close of business, May 8th.

9 And if you need more time, we'll give
10 it to you. But it sounds like we can go off the
11 record in this case. Thank you.

12 MR. PADILLA: Okay.

13 THE HEARING EXAMINER: Thank you, sir.

14 MR. PADILLA: Thank you.

15 THE HEARING EXAMINER: Thank you.

16 So let us continue with our docket. We
17 just finished that one. Let's go on to No. 19 on our
18 docket. That would be Marathon Oil Permian. It looks
19 like it's Cases 24150 and 24151. Entries of
20 Appearance, please?

21 MS. PENA: Good morning, Mr. Hearing
22 Examiner. Yarithza Pena with Modrall Sperling on
23 behalf of Marathon Oil Permian.

24 THE HEARING EXAMINER: Thank you.

25 MR. BRUCE: Mr. Examiner, Jim Bruce

1 representing Red River Energy, and Viper Energy.

2 We have no objection to the matter
3 proceeding by affidavit, and no objection to the
4 exhibits.

5 THE HEARING EXAMINER: Thank you, sir.
6 That's helpful.

7 Ms. Pena?

8 MS. PENA: So I can present these --
9 and we'll go from there.

10 THE HEARING EXAMINER: Fine.

11 MS. PENA: In Case No. 25 -- 24150,
12 Marathon Oil seeks an order pooling all committed
13 interests in a Bone Spring standard spacing unit
14 comprised of 640 acres, more or less in the south half
15 of Section 28 and 29, Township 22 South, Range 27
16 East, in Eddy County.

17 The spacing unit will be dedicated to
18 two Magellan BS Fee wells with the Magellan BS Fee
19 501H well as a proximity tract well which is expected
20 to be less than 330 feet from the adjoining tracts.

21 In Case 24151, Marathon seeks an order
22 pooling all the committed interest in the Wolfcamp
23 standard spacing unit comprised of 640 acres in the
24 south half of Sections 28 and 29, Township 22, Range
25 27 East, in Eddy County. And the spacing unit will be

1 dedicated to four Magellan WC Fee wells.

2 We timely filed exhibit packets for
3 both cases on Tuesday. And each packet is, in each
4 case, is very similar. Exhibits in Tab A contain the
5 compulsory pooling checklists.

6 (24150 Exhibit A was marked for
7 identification.)

8 MS. PENA: Exhibits in Tab B contain
9 the affidavit of Farley Duvall, the landman for
10 Marathon, who has previously testified, and has before
11 the Division, and his credentials have been accepted
12 as a matter of record.

13 (24150 Exhibit B was marked for
14 identification.)

15 MS. PENA: Following his affidavit are
16 the standard land exhibits, including the -- lease
17 tract maps, list of parties seeking to pool, summary
18 of contacts, all proposal letters, and AFEs.

19 Exhibits in Tab C contain the affidavit
20 of Greg Buratowski, geologist for Marathon, who has
21 previously testified before the Division, and his
22 credentials have been accepted as a matter of record.

23 (24150 Exhibit C was marked for
24 identification.)

25 MS. PENA: Following his affidavit are

1 the standard geology exhibits, including locator map,
2 wellbore schematic, separate sub-structure maps,
3 cross-section reference maps, stratigraphic gross
4 interval isochore maps for each formation, and a
5 regional stress orientation overview.

6 Finally, in Tab D, that contains the
7 noticed exhibits and declaration of Deana Bennett with
8 a sample notice letter, a mailing list, certified
9 tracking list.

10 (24150 Exhibit D was marked for
11 identification.)

12 MS. PENA: And out of an abundance of
13 caution, the affidavit of publication, which we
14 published in the Carlsbad Current Argus on January
15 17th of 2024.

16 At this point, I will ask that the
17 exhibits for both 24150 and 24151 be admitted into the
18 record and taken under advisement. And our landman
19 and geologist are available for any questions.

20 THE HEARING EXAMINER: Thank you, Ms.
21 Pena. Knowing that there is no objection to your
22 exhibits, Tabs A, B, C, and D are admitted into
23 evidence in Case No. 24150.

24 (24150 Exhibit A through Exhibit D were
25 received into evidence.)

1 THE HEARING EXAMINER: Mr. McClure, do
2 you have any questions for the witnesses in this case?

3 MR. MCCLURE: I have no questions for
4 this case, Mr. Hearing Examiner.

5 THE HEARING EXAMINER: Thank you.
6 Let's move -- thank you, sir.

7 Let's move on to 24151. Hearing no
8 objections to these exhibits, Tabs A, B, C, and D are
9 admitted into evidence.

10 (24151 Exhibit A through Exhibit D were
11 marked for identification and received
12 into evidence.)

13 THE HEARING EXAMINER: Mr. McClure, do
14 you have any questions on this case?

15 MR. MCCLURE: No, sir. I do not --

16 THE HEARING EXAMINER: Thank you.

17 Thank you, Ms. Pena.

18 MS. PENA: Thank you.

19 THE HEARING EXAMINER: We're now moving
20 on to Case No. 21 on our docket, which is 24361. It
21 is consolidated with 63, and 64, and 65. It's
22 Mewbourne Oil.

23 MR. BRUCE: Mr. Examiner, Jim Bruce
24 representing Mewbourne.

25 THE HEARING EXAMINER: Thank you, sir.

1 Any other entries of Appearance that you know of, Mr.
2 Bruce?

3 MR. BRUCE: Not at all.

4 THE HEARING EXAMINER: All right.
5 Let's present these in a consolidated manner, and then
6 I'll go through -- as Ms. Pena did, and then I'll go
7 through and admit the exhibits.

8 MR. BRUCE: There are -- the exhibit
9 packages are virtually identical. I'll just run
10 through the first one a little bit.

11 THE HEARING EXAMINER: Okay.

12 MR. BRUCE: And get that -- all of
13 these cases involve extending the drilling
14 commencement deadline against certain pooling orders
15 for one year.

16 The first case involves Order R-22574,
17 which pools in the Wolfcamp formation in the north
18 half/northwest quarter of 33 in the north half/north
19 half of 32, 20 South, 28 East.

20 (24361 Exhibit 1 was marked for
21 identification.)

22 MR. BRUCE: Exhibit 2 is the self-
23 affirmed statement of Brad Dunn, one of Mewbourne's
24 landman. He has appeared many times before the
25 Division, and his qualifications as an expert have

1 been accepted by the Division.

2 (24361 Exhibit 2 was marked for
3 identification.)

4 MR. BRUCE: The reason for the
5 extension request is that APDs have been pending at
6 the BLM for about a year and three-quarters, and no
7 end in sight yet. So we need an extension.

8 Exhibit 3, and subparts, is the notice
9 letter sent out together with the certified return
10 receipts.

11 (24361 Exhibit 3 was marked for
12 identification.)

13 MR. BRUCE: Exhibit 3-B is the
14 certified notice spreadsheet, which shows the status
15 of notice.

16 (24361 Exhibit 3-B was marked for
17 identification.)

18 MR. BRUCE: Exhibit 4 is the affidavit
19 of publication.

20 So either by Certified Mail or by
21 publication, everyone did receive notice.

22 (24361 Exhibit 4 was marked for
23 identification.)

24 MR. BRUCE: And Exhibit 5 is the
25 application.

1 (24361 Exhibit 5 was marked for
2 identification.)

3 MR. BRUCE: And with that, I would move
4 the admission of Exhibits 1 through 5, plus subparts,
5 into the record in 24361.

6 THE HEARING EXAMINER: Thank you.

7 Are there any objections?

8 Hearing none, your exhibits are entered
9 into evidence.

10 (24361 Exhibit 1 through Exhibit 5 were
11 received into evidence.)

12 THE HEARING EXAMINER: Mr. McClure, any
13 questions on 24361?

14 MR. MCCLURE: No questions, Mr. Hearing
15 Examiner.

16 THE HEARING EXAMINER: Okay. Very
17 good. Mr. McClure, do you have any questions as to
18 any of these four cases?

19 MR. MCCLURE: By four cases,
20 referencing between Docket No. 21 and 24; correct?

21 THE HEARING EXAMINER: Yes. Yes, sir.

22 MR. MCCLURE: I -- no, sir, Mr. Hearing
23 Examiner. I do not have questions for any of these
24 four cases.

25 THE HEARING EXAMINER: Okay. And the

1 cases I'm speaking of are 24361, 63, 64, and 65.

2 MR. MCCLURE: Yes, sir.

3 THE HEARING EXAMINER: Okay.

4 And then I'll just admit the exhibits
5 into evidence one at a time, and then we'll be --
6 we'll take them under advisement, Mr. Bruce. Give me
7 one second here.

8 MR. BRUCE: And so in the second case,
9 24363, the affected order is R-22575 which covers the
10 pooling of the south half/northwest quarter, and south
11 half/north half, Section 32, same township and range.

12 (24363 Exhibit 1 was marked for
13 identification.)

14 MR. BRUCE: The exact same exhibits,
15 other than the orders involved. The reason is all the
16 same. The BLM has failed to approve any APDs for a
17 year and three quarters.

18 Everyone did receive notice, as shown
19 in Exhibits 3 and 4.

20 (24363 Exhibit 2 through Exhibit 5 were
21 marked for identification.)

22 MR. BRUCE: And so I move the admission
23 of Exhibits 1, 2, 3, plus subparts, 4 and 5 in this
24 matter, also.

25 THE HEARING EXAMINER: Okay. Mr.

1 Bruce, your exhibits are admitted in Case No. 24363.

2 Let's proceed for the next case.

3 (24363 Exhibit 1 through Exhibit 5 were
4 received into evidence.)

5 MR. BRUCE: In the next case, the order
6 involved is R-22576 which involves the north half/
7 southwest quarter of 33, and the north half/south half
8 of 32, same township and range.

9 (24364 Exhibit 1 was marked for
10 identification.)

11 MR. BRUCE: Landman's affidavit again
12 sets forth the reason, which is failure to obtain
13 timely approval of an APD from the BLM.

14 (24364 Exhibit 2 was marked for
15 identification.)

16 MR. BRUCE: Exhibit 3, plus subparts,
17 shows that notice was timely given. There are people
18 who did not receive notice of the affidavit of
19 publication, which covers all four cases, which, by
20 the way, was timely published. All the parties did
21 receive actual notice by Certified Mail or publication
22 notice.

23 (24364 Exhibit 3 and Exhibit 4 were
24 marked for identification.)

25 MR. BRUCE: And Exhibit 5 is the

1 application.

2 (24364 Exhibit 5 was marked for
3 identification.)

4 MR. BRUCE: So, again, I move the
5 exhibits of -- move the admission of Exhibits 1
6 through 5 in Case 24364.

7 THE HEARING EXAMINER: And your
8 exhibits are entered into evidence, and this case is
9 taken under advisement.

10 (24364 Exhibit 1 through Exhibit 5 were
11 received into evidence.)

12 THE HEARING EXAMINER: And your last
13 case?

14 MR. BRUCE: In Case 24365, this
15 involves the pooling of the south half/southwest
16 quarter of 33, and the south half/south half 32, same
17 township and range. That's Exhibit 1.

18 (24365 Exhibit 1 was marked for
19 identification.)

20 MR. BRUCE: Exhibit 2, the landman's
21 affidavit again. No APD has been issued, so Mewbourne
22 cannot drill the wells yet.

23 (24365 Exhibit 2 was marked for
24 identification.)

25 MR. BRUCE: Exhibit 3, the same notice

1 materials that shows that everyone did receive notice
2 either by Certified Mail or by publication.

3 (24365 Exhibit 3 was marked for
4 identification.)

5 MR. BRUCE: And the affidavit was again
6 timely published. That's Exhibit 4.

7 (24365 Exhibit 4 was marked for
8 identification.)

9 MR. BRUCE: And Exhibit 5 is the
10 application.

11 (24365 Exhibit 5 was marked for
12 identification.)

13 MR. BRUCE: So I move the admission of
14 Exhibits 1 through 5 in Case 24365.

15 THE HEARING EXAMINER: Your exhibits
16 are so admitted. This case is taken under advisement,
17 as are the other three.

18 Thank you, Mr. Bruce.

19 (24365 Exhibit 1 through Exhibit 5 were
20 received into evidence.)

21 THE HEARING EXAMINER: Okay. I'm going
22 to go on and call the next case on our docket, which
23 is 24374, Mewbourne Oil.

24 MR. BRUCE: Yes, Mr. Examiner. Jim
25 Bruce representing Mewbourne.

1 THE HEARING EXAMINER: Thank you, sir.
2 Please proceed.

3 MR. BRUCE: In this case, Mewbourne
4 seeks the -- again, a one-year extension of the
5 drilling deadline in Order R-22611. Exhibit 1 is a
6 copy of the order.

7 (24374 Exhibit 1 was marked for
8 identification.)

9 MR. BRUCE: And Exhibit 2 is the
10 affidavit of the landman Josh Anderson, who has
11 previously testified before the Division and been
12 qualified by the Division as an expert landman.
13 Again, an APD has not been approved yet, so they
14 cannot drill the well.

15 (24374 Exhibit 2 was marked for
16 identification.)

17 MR. BRUCE: And Exhibit 3 is the notice
18 affidavit and subparts. Notice was sent to the only
19 parties who are pooled. There are three parties being
20 pooled.

21 (24374 Exhibit 3 was marked for
22 identification.)

23 MR. BRUCE: They all received actual
24 certified notice as shown in Exhibit 3-A, and which is
25 also noted on the certified notice spreadsheet, which

1 is Exhibit 3-B.

2 (24374 Exhibit 3-A and Exhibit 3-B were
3 marked for identification.)

4 MR. BRUCE: And there is an affidavit
5 of publication, which was timely filed, but it's
6 really -- at this time.

7 (24374 Exhibit 4 was marked for
8 identification.)

9 MR. BRUCE: And then Exhibit 5 is the
10 application in this matter.

11 (24374 Exhibit 5 was marked for
12 identification.)

13 MR. BRUCE: So Mewbourne would move the
14 admission of Exhibits 1, 2, 3, plus subparts, 4, and 5
15 in this matter.

16 THE HEARING EXAMINER: Are there any
17 objections?

18 Hearing none, they are so admitted.

19 (24374 Exhibit 1 through Exhibit 5 were
20 received into evidence.)

21 THE HEARING EXAMINER: Mr. McClure, do
22 you have any questions on Case No. 24374?

23 MR. MCCLURE: No. I do not, Mr.
24 Hearing Examiner.

25 THE HEARING EXAMINER: Okay. Thank

1 you.

2 Okay. Let's move on to this case we'll
3 be taking under advisement, Ms. -- we're going to move
4 on to Devon Energy Production. It is Case No. 26 on
5 our docket, 24378. Entries of Appearance, please?

6 MR. SAVAGE: Good morning, Mr. Hearing
7 Examiner. And good morning, Mr. Technical Examiner.

8 Darin Savage with Abadie & Schill here
9 on behalf of Devon Energy Production Company, LP.

10 THE HEARING EXAMINER: Good morning.
11 And are there any other parties entered Appearance?

12 MR. SAVAGE: Not that I'm aware of.

13 THE HEARING EXAMINER: Okay. Very
14 good. Please proceed.

15 MR. SAVAGE: Case 24378 covers lands in
16 Section 10 and 33, Township 26 South, Range 31 East,
17 Eddy County, New Mexico.

18 The landman, Ryan Cloer, for these
19 cases has testified before the Division as an expert
20 witness, and his credentials have been accepted as a
21 matter of record.

22 Likewise, the main geologist Keegan
23 DePriest has testified previously before the Division
24 as an expert witness, and his credentials have been
25 accepted as a matter of record.

1 In this case, Devon seeks an order
2 pooling all the committed mineral interests and the
3 interval of the Bone Spring formation underlying
4 standard 240 acres spacing unit comprised of the west
5 half/southwest Section 10 and the west half/southwest
6 quarter of Section 3.

7 The unit is dedicated for initial
8 wells. And these are the Thoroughbred 10-3 Fed Common
9 wells 121H, 521H, 522H, and 523H. Orientation of the
10 wells are stand-up south/north, and their location's
11 orthodox.

12 Mr. Cloer's Exhibit A includes his
13 landman's self-affirmed statement, C-102s, an
14 ownership breakdown, as well as proposal letters with
15 AFEs, and the chronology of contacts.

16 (24378 Exhibit A was marked for
17 identification.)

18 MR. SAVAGE: And, Mr. Hearing Examiner,
19 I would like to point out that in the ownership
20 breakdown, Exhibit A-2, we discovered this morning
21 that on page 1, there's some typos regarding the lease
22 number and some acreage. And we would like to leave
23 to correct that at the appropriate time.

24 Mr. DePriest, Exhibit B for this case,
25 includes his geology statement along with the standard

1 geology exhibits showing potential for development as
2 described in his statement.

3 (24378 Exhibit B was marked for
4 identification.)

5 MR. SAVAGE: Exhibit C shows and
6 confirms notice by mailings and publication, though
7 this was timely mailed and all interest owners were
8 located, locatable, and received notice as far as we -
9 - notice at the location was also timely provided to
10 cover any unforeseen contingencies regarding notice by
11 mail.

12 (24378 Exhibit C was marked for
13 identification.)

14 MR. SAVAGE: At this time, I move that
15 Exhibits A, B, and C and all sub-exhibits be admitted
16 into the record for Case 24378, and that this case be
17 taken under advisement.

18 I am available for questions you may
19 have. And Mr. Cloer, the landman, is available online
20 for your questions. Mr. DePriest, our geologist, he
21 was not able to be present today.

22 But the geologist, Kate Houston
23 Kennedy, who worked closely with Mr. DePriest, is
24 available online to address any questions regarding
25 geology. She has previously testified via affidavit

1 as an expert witness before the Division, and her
2 credentials have been accepted in the record.

3 Thank you.

4 THE HEARING EXAMINER: Okay. Thank
5 you. Are there any objections to these exhibits?

6 Hearing none, they are so admitted into
7 evidence.

8 (24378 Exhibit A through Exhibit C were
9 received into evidence.)

10 THE HEARING EXAMINER: Mr. McClure, do
11 you have any questions for any of the witnesses?

12 MR. MCCLURE: I imagine not, but I'm
13 not sure what correction Mr. Savage would be referring
14 to in the exhibits, I guess?

15 THE HEARING EXAMINER: Mr. Savage, will
16 you take us to page number of the PDF --

17 MR. SAVAGE: Yes.

18 THE HEARING EXAMINER: If we need to --

19 MR. SAVAGE: So the PDF, page 27 of
20 75 --

21 THE HEARING EXAMINER: Thank you.

22 MR. SAVAGE: -- shows the sectional
23 map. And then a bundle to the left, there's Tract 1,
24 Tract 2, and Tract 3. That's where the errors occur.

25 They do not occur within the body of

1 the exhibit that shows the acreage for the tracts,
2 lower down, and also, the recapitulation of those.
3 That's all correct.

4 It was just in that first page. And we
5 will correct, for example, Tract 3 it says, 129.76.
6 That is an error. And 77.44 is an error. And we will
7 correct those.

8 THE HEARING EXAMINER: So will you put
9 on the record what exactly is wrong here in this
10 exhibit, and what you are going say?

11 MR. SAVAGE: Yes. So we would just
12 file a -- another hearing packet, and we would give
13 the correct lease numbers. And I don't have those
14 with me right now, but I will have those available.

15 And then the -- and then instead of the
16 same 77.44, it will say 120 acres. And instead of the
17 129.76, it will say 40 acres.

18 THE HEARING EXAMINER: And so what I'm
19 understanding is there's nothing wrong with Tract 1?
20 The information with Tract 1?

21 MR. SAVAGE: No. There's not --

22 THE HEARING EXAMINER: Including the
23 lease number?

24 MR. SAVAGE: And there's nothing wrong
25 with Tract 2 and Tract 3 within the body of the

1 exhibit.

2 THE HEARING EXAMINER: I understand.
3 But we're talking about this page and this exhibit?

4 MR. SAVAGE: Correct.

5 THE HEARING EXAMINER: So Tract 1,
6 there will be no changes to the exhibit for Tract 1?

7 MR. SAVAGE: That's correct.

8 THE HEARING EXAMINER: Okay. Very
9 good. Tract 2 is -- did you say the lease number is
10 wrong?

11 MR. SAVAGE: Yes. And I'll need to --
12 have to get an update on that. But I was informed
13 that the lease number needs to be --

14 THE HEARING EXAMINER: Okay.

15 MR. SAVAGE: -- revised.

16 THE HEARING EXAMINER: So instead of
17 036379, it's going to say something else?

18 MR. SAVAGE: That's correct.

19 THE HEARING EXAMINER: Okay. And then
20 the acres, it will be 120 acres?

21 MR. SAVAGE: On that one, yes. That is
22 correct.

23 THE HEARING EXAMINER: Okay. And then
24 Tract 3, is that one going to have an adjustment to
25 the lease number?

1 MR. SAVAGE: I believe that will also
2 have an adjustment in the lease number.

3 THE HEARING EXAMINER: But there, it
4 will be 40 acres?

5 MR. SAVAGE: That is correct.

6 THE HEARING EXAMINER: All right.

7 Mr. McClure, with those expected
8 changes -- and we'll talk about the exhibit packet in
9 a minute -- are there any questions?

10 MR. MCCLURE: There are not any
11 questions, Mr. Hearing Examiner.

12 THE HEARING EXAMINER: Thank you, Mr.
13 McClure.

14 So, Mr. Savage, how long do you need to
15 file an amended packet list?

16 MR. SAVAGE: Oh. We could probably do
17 that tomorrow.

18 THE HEARING EXAMINER: Tomorrow. Okay.
19 Well, when you say, "probably," it's going to be a
20 deadline, so --

21 MR. SAVAGE: Yeah. Okay --

22 THE HEARING EXAMINER: May 3rd?

23 MR. SAVAGE: Why don't we say Monday?

24 THE HEARING EXAMINER: Monday -- hold
25 on.

1 MR. SAVAGE: Just give us an extra --

2 THE HEARING EXAMINER: Yes. It will.

3 All right. So May 6th. All right. So I'm giving you
4 a deadline of May 6th to file an amended packet with a
5 cover letter explaining the exact changes you're
6 making, so it's easy.

7 And that amended packet will have
8 everything that this packet has with the changes in
9 the cover letter. Okay. Very good.

10 So this case will be taken under
11 advisement once you file that amended packet list.

12 MR. SAVAGE: All right.

13 THE HEARING EXAMINER: Is there
14 anything more on this case? No?

15 MR. SAVAGE: Not for me.

16 THE HEARING EXAMINER: Okay. Well --

17 MR. SAVAGE: Yeah.

18 THE HEARING EXAMINER: Well, you're the
19 only one here, so the answer, I guess, is no.

20 All right. Very good. We're going to
21 move on. We're off the record in that case. Thank
22 you, sir.

23 We are going to move on to COG
24 Operating, 24371.

25 MS. HARDY: Mr. Examiner, Ms. McLean is

1 presenting, and she is on the Webex.

2 THE HEARING EXAMINER: Oh. Thank you
3 very much. I guess I can't hear her, so maybe that's
4 the problem.

5 MS. MCLEAN: Can you hear me?

6 THE HEARING EXAMINER: I can now. Yes.
7 You speak up a little louder?

8 MS. MCLEAN: Yes. I'll make sure to
9 speak extra loud.

10 THE HEARING EXAMINER: Thank you, Ms.
11 McLean.

12 MS. MCLEAN: Thank you.

13 In Case No. 24371, COG is seeking an
14 extension -- a one-year extension of Order No.
15 R-22672, which was entered in Case No. 23303 on May 7,
16 2023. And this is due to COG's ability to drill the
17 wells being impacted by delays, and an upgrade to the
18 power grid in the area, which is necessary to drill
19 complete, and produce the wells.

20 And for this reason, we're requesting
21 the one-year extension to commence showing the wells
22 to May 7, 2025.

23 And unless there are any questions, we
24 ask that the exhibits submitted in Case No. 24371 be
25 admitted into the record, and that the case be taken

1 under advisement.

2 THE HEARING EXAMINER: Thank you, Ms.
3 McLean, for that brief presentation.

4 We have Exhibits A and B. Are there
5 any objections?

6 Not hearing any, they're so admitted
7 into evidence.

8 (24371 Exhibit A and Exhibit B were
9 marked for identification and received
10 into evidence.)

11 THE HEARING EXAMINER: Mr. McClure, any
12 questions on 24371?

13 MR. MCCLURE: No questions, Mr. Hearing
14 Examiner.

15 THE HEARING EXAMINER: Okay. Very
16 good.

17 And, Ms. McLean, would you state once
18 again what is the good cause? I heard something about
19 a power line.

20 MS. MCLEAN: Yes. There is needed --
21 there needs to be upgrades to the power grid in the
22 area where these wells will be drilled, and it has to
23 be done, and it can't be done yet. And so until it's
24 done, they're not able to drill, or complete, or
25 produce the wells.

1 THE HEARING EXAMINER: Okay. Very
2 good. Thank you. This case will be taken under
3 advisement. Thank you.

4 MS. MCLEAN: Thank you.

5 THE HEARING EXAMINER: Okay. We are
6 now on the record, 24379, COG Operating. Entries of
7 Appearance, please?

8 MR. FELDEWERT: If it would please the
9 examiner, Michael Feldewert with Santa Fe office of
10 Holland & Hart --

11 THE HEARING EXAMINER: Thank you, sir.

12 MR. FELDEWERT: -- on behalf of
13 Applicant.

14 THE HEARING EXAMINER: Thank you.
15 Please proceed.

16 MR. FELDEWERT: Yes. The COG Operating
17 seeks to pool an overriding royalty interest in a
18 960-acre horizontal well spacing unit in the Wolfcamp
19 formation underlying the east half of Section 34 and
20 25 South, 32 East, and in the east half of Section 3,
21 and 10, and 26 South, 32 East, for their pile-driver
22 wells, which are stand-up wells covering this acreage.

23 Our app or hearing packet contains the
24 compulsory pooling checklist along with the
25 application.

1 It then has the -- as Exhibit A, the
2 land statement from Michael Potts, who has previously
3 testified with the Division, with the AFEs, and the
4 tract map, and then the ratification letter for the
5 overriding royalty interest owner.

6 (24379 Exhibit A was marked for
7 identification.)

8 MR. FELDEWERT: You'll notice there's
9 less exhibits than there usually are, and that's
10 because we're just dealing with an overriding royalty
11 interest owner.

12 Then we have an Exhibit B, which is
13 from our geologist Ben Breyman, who's also previously
14 testified. He has a location map. He has your subsea
15 structure map, cross-section map, and then the
16 stratigraphic cross-section.

17 (24379 Exhibit B was marked for
18 identification.)

19 MR. FELDEWERT: And then, finally,
20 Exhibit C is a self-affirmed affidavit of notice. And
21 you'll see that the overriding royalty interest owner
22 received notice of this hearing.

23 (24379 Exhibit C was marked for
24 identification.)

25 MR. FELDEWERT: So there is no further

1 exhibits. So with that, we would move the admission
2 of Exhibits A, B, and C.

3 THE HEARING EXAMINER: Are there any
4 objections?

5 Not hearing any, the exhibits are so
6 admitted.

7 (24379 Exhibit A through Exhibit C were
8 received into evidence.)

9 THE HEARING EXAMINER: Mr. McClure?

10 MR. MCCLURE: No questions, Mr. Hearing
11 Examiner.

12 THE HEARING EXAMINER: Excellent. This
13 case is taken under advisement.

14 Thank you, Mr. Feldewert.

15 MR. FELDEWERT: Thank you.

16 THE HEARING EXAMINER: Okay. We're now
17 going to move on to Case No. 24381. It's Mewbourne
18 Oil. Entries of Appearance, please?

19 MR. BRUCE: Mr. Examiner, Jim Bruce for
20 Mewbourne.

21 THE HEARING EXAMINER: Thank you.

22 MR. FELDEWERT: Good morning, Mr.
23 Examiner. Michael Feldewert with Santa Fe office of
24 Holland & Hart on behalf of Burlington Resources Oil &
25 Gas Company. It's been a while since I have Appeared

1 for them.

2 THE HEARING EXAMINER: And do you have
3 any objections to this case proceeding by affidavit?

4 MR. FELDEWERT: No.

5 THE HEARING EXAMINER: Okay. Good.
6 And do you have any objections to any of the exhibits
7 in this case?

8 MR. FELDEWERT: I do not.

9 THE HEARING EXAMINER: Okay. Very
10 good. Okay.

11 Mr. Bruce, please?

12 MR. BRUCE: Okay. Mr. Examiner, the
13 exhibits were filed as part of a Part 1 and Part 2.
14 Simply, it's easier for me to upload in smaller
15 packages to the Division.

16 THE HEARING EXAMINER: Okay.

17 MR. FELDEWERT: Exhibit 1 is the
18 pooling checklist, which shows that the plans for
19 being pooled are the Bone Spring formation underneath
20 the west half of Section 25, and the west half of
21 Section 24, 18 South, Range 32 East, in Lee County.

22 (24381 Exhibit 1 was marked for
23 identification.)

24 MR. FELDEWERT: And These are for the
25 King's Landing wells. This is a non-standard unit.

1 The NSP has been requested administratively as noted.

2 Exhibit 2 is the affidavit of the
3 landman Hudson Brunson, who has previously -- Division
4 -- testified before the Division and qualified as an
5 expert. That gives the usual information.

6 (24381 Exhibit 2 was marked for
7 identification.)

8 MR. FELDEWERT: Exhibit 2-A contains
9 the C-102 for the well. And I wait with baited breath
10 for Mr. McClure to make his comments on those.

11 (24381 Exhibit 2-A was marked for
12 identification.)

13 MR. FELDEWERT: Exhibit 2-B contains
14 information on the tracts involved, the leases
15 involved, and the interest ownership involved.

16 (24381 Exhibit 2-B was marked for
17 identification.)

18 MR. FELDEWERT: And at a page 11 of
19 Exhibit Package 1, on the upper half of the page, it
20 highlights all the people being pooled and the total
21 interest being pooled.

22 Exhibit -- the exhibit also contains
23 the usual information requesting overhead rates of
24 8,800 per month and a 200-percent risk charge. It
25 also contains a summary of communications Mewbourne

1 has made with the interest owners.

2 And Exhibit 2-B, AFEs for the well.

3 And Exhibit 3 should be at page 19 of
4 the submitted exhibits. The affidavit of Charles
5 Crosby, a landman who has testified many times before
6 the Division and has been qualified as an expert. And
7 it contains the usual information. A structure map,
8 which also shows other wells that immediately are
9 nearby.

10 (24381 Exhibit 3 was marked for
11 identification.)

12 MR. FELDEWERT: This area is a little
13 more thinly developed than others. But these are
14 north/south-to-north wells, and main drill, and the
15 testing second Bone Spring sand.

16 And then there's Exhibit 3-B, which is
17 the cross-section which shows the landing zones for
18 the wells. And the landing zone is pretty uniform and
19 thick across the well unit. And each quarter or
20 section in the well unit will contribute more or less
21 equally to production.

22 (24381 Exhibit 3-B was marked for
23 identification.)

24 MR. FELDEWERT: And Exhibit 3-C
25 contains the horizontal drilling plans.

1 (24381 Exhibit 3-C was marked for
2 identification.)

3 MR. FELDEWERT: Part 2 of the exhibits
4 contains Exhibit 4, my affidavit of mailing. And
5 Exhibit 4-A is the notice letter, which was timely
6 sent on April 11, 2024, and it contains all of the
7 green cards received.

8 (24381 Exhibit 4 and Exhibit 4-A were
9 marked for identification.)

10 MR. FELDEWERT: And Exhibit 4-B is the
11 certified notice spreadsheet showing the status of
12 certified notice.

13 (24381 Exhibit 4-B was marked for
14 identification.)

15 MR. FELDEWERT: Affidavit of
16 publication, Exhibit 5, again, was timely published.
17 And so between the affidavit of publication and the
18 Certified Mail, all the parties received notice.

19 (24381 Exhibit 5 was marked for
20 identification.)

21 MR. FELDEWERT: And then Exhibit 6 is
22 simply the application in this case. Believe all the
23 usual materials are in there.

24 (24381 Exhibit 6 was marked for
25 identification.)

1 And so, I move the admission of
2 Exhibits 1 through 6, plus subparts.

3 THE HEARING EXAMINER: Your exhibits
4 are so admitted.

5 (24381 Exhibit 1 through Exhibit 6 were
6 received into evidence.)

7 THE HEARING EXAMINER: Mr. McClure, any
8 questions?

9 MR. MCCLURE: Yes, I do, Mr. Hearing
10 Examiner.

11 THE HEARING EXAMINER: Please? Which
12 is the question? Is the question for Mr. Bruce, or is
13 the question for one of his expert witnesses?

14 MR. MCCLURE: It's possible Mr. Bruce
15 might know the answer, but I'm sure their witnesses
16 might be the most appropriate to take a --

17 THE HEARING EXAMINER: Okay.

18 MR. MCCLURE: -- shot at it.

19 THE HEARING EXAMINER: Thank you, Mr.
20 McClure. Let's get your witnesses sworn in, Mr.
21 Bruce.

22 MR. BRUCE: Okay.

23 Mr. Bronson, I know -- yes. They're
24 both -- they should be listening here. So, gentlemen,
25 would you turn on your screen and raise your right

1 hand?

2 WHEREUPON,

3 HUDSON BRUNSON,

4 called as a witness and having been first duly sworn
5 to tell the truth, the whole truth, and nothing but
6 the truth, was examined and testified as follows:

7 WHEREUPON,

8 CHARLES CROSBY,

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

12 THE HEARING EXAMINER: Would you both
13 state and spell your names for the record?

14 MR. CROSBY: Go ahead, Hudson.

15 MR. BRUNSON: Hudson Bronson. H-U-D-S-
16 O-N, Brunson, B-R-U-N-S-O-N.

17 THE HEARING EXAMINER: Thank you.

18 MR. CROSBY: Charles Crosby, C-H-A-R-L-
19 E-S, C-R-O-S-B-Y.

20 THE HEARING EXAMINER: Okay.

21 And, Mr. Bruce, will your witnesses
22 stand as a panel for questions?

23 MR. BRUCE: Oh, yes.

24 THE HEARING EXAMINER: Okay. Very
25 good. Mr. McClure, just ask your questions to the

1 panel.

2 MR. MCCLURE: All right. Thank you.

3 Does -- is Mewbourne requesting to pool
4 the Bone Spring formation, or to specifically this
5 specific pool? Do you understand my question?

6 MR. BRUNSON: Can you repeat that?

7 MR. MCCLURE: Okay. I maybe might need
8 to draw your attention to your pooling checklist on
9 Page 2 of 24 of the first exhibit packet?

10 MR. BRUNSON: Yes, sir.

11 MR. MCCLURE: If you look down where it
12 says, the section formation/pool -- you see where I'm
13 referring to? It's maybe a third of the way down the
14 page?

15 MR. BRUNSON: Okay. Yes, sir.

16 MR. MCCLURE: And the third line within
17 this pooling -- or within that section says, the
18 vertical extent is the entire Bone Spring formation.
19 Do you see where I'm referring to?

20 MR. BRUNSON: Yes, sir.

21 MR. MCCLURE: And then the next line
22 directly below that has a specific pool referenced
23 with the pool called 5-zil-51-zil. Do you see that as
24 well?

25 MR. BRUNSON: Yes.

1 MR. MCCLURE: Which of these two is
2 Mewbourne requesting to pool here?

3 MR. CROSBY: I believe it to be the
4 entire Bone Spring formation. And I believe that pool
5 code should represent the whole Bone Spring.

6 MR. MCCLURE: You believe that
7 Mewbourne is, or you know Mewbourne is?

8 MR. BRUNSON: I was just saying that
9 pool code should represent the -- the Bone Spring
10 formation.

11 MR. MCCLURE: Okay. With -- do you see
12 within that pool name where lower Bone Spring is
13 referenced? Do you see that, sir?

14 MR. BRUNSON: Yes.

15 MR. MCCLURE: I guess do you have an
16 awareness of how the pool nomenclature names is done
17 by the Division?

18 MR. BRUNSON: I was informed that that
19 was the pool that we were using.

20 MR. MCCLURE: Let me back up just to
21 confirm one more time. Is it your understanding that
22 Mewbourne wishes to pool the entirety of the Bone
23 Spring formation?

24 MR. BRUNSON: Yes, sir.

25 MR. MCCLURE: Okay. Thank you. With

1 that in mind, please, provide us an amended pooling
2 checklist and remove the pool code -- the pool name
3 and pool code from that line, and leave it blank.

4 MR. BRUCE: I'll take care of that.

5 THE HEARING EXAMINER: How long will it
6 take --

7 MR. MCCLURE: Thank you, Mr. Bruce.

8 MR. BRUCE: By tomorrow morning.

9 THE HEARING EXAMINER: Okay. Tomorrow
10 morning.

11 Mr. McClure, any other questions?

12 MR. MCCLURE: No other questions.

13 But I would like to request a
14 supplement or an amended document.

15 THE HEARING EXAMINER: Okay. Which
16 document?

17 MR. MCCLURE: This is a part of the
18 geology exhibit. If I may draw your attention to page
19 22 of 24, I think it was Mr. Crosby and maybe was the
20 geologist? Is that correct?

21 MR. CROSBY: Yes, sir.

22 MR. MCCLURE: Yes, sir. You see where
23 I'm referring to? The cross-section there?

24 MR. CROSBY: I haven't pulled up. Yes,
25 sir.

1 MR. MCCLURE: Please provide us a
2 higher resolution image of that cross-section.

3 MR. CROSBY: Okay.

4 MR. MCCLURE: Thank you, sir.

5 MR. CROSBY: Okay.

6 MR. MCCLURE: Thank you, sirs.

7 I have no more questions, Mr. Hearing
8 Examiner.

9 THE HEARING EXAMINER: Thank you, Mr.
10 McClure. So we have an -- the need for an amended
11 checklist, and an amend -- and a much clearer Exhibit
12 3-B.

13 MR. MCCLURE: Yes, Mr. Hearing
14 Examiner, if you are asking me.

15 THE HEARING EXAMINER: I was not, but
16 thank you for --

17 MR. MCCLURE: Oh. You were telling.

18 THE HEARING EXAMINER: I was.

19 MR. MCCLURE: Okay.

20 THE HEARING EXAMINER: I was. Yes.

21 So, Mr. Crosby, since it is your
22 exhibit, how long will it take you to provide us with
23 a higher-resolution 3-B?

24 MR. CROSBY: Oh. I -- I could get that
25 by tomorrow morning at the latest. I mean --

1 THE HEARING EXAMINER: Okay.

2 MR. CROSBY: -- since I believe Mr.
3 Bruce was updating the pool code at that time,
4 anyways, I can get it to him.

5 THE HEARING EXAMINER: Okay.

6 Mr. Bruce, we'll give you --

7 MR. CROSBY: If that works?

8 THE HEARING EXAMINER: Yes, sir.

9 We'll give you to the close of business
10 on May 3rd.

11 MR. BRUCE: Thank you.

12 THE HEARING EXAMINER: Okay. So just
13 to review, we have a checklist that needs a new --
14 that needs a line to be removed. It's the line with
15 the pool code and the pool name. And then we have a
16 much clearer higher resolution 3-B.

17 So this amended exhibit list will
18 mirror your original checklist where you Part 1 only,
19 but please put a cover letter to explain what's going
20 on. Okay. Once you do that, this case will be taken
21 under advisement.

22 MR. BRUCE: Okay. And if I may, just
23 for Mr. McClure, I have been dealing with this pool
24 off and on for 30 years, and I think it's the only
25 Bone Spring pool out here. And I don't know why that

1 is, but it's just happenstance. Almost all of the
2 wells --

3 THE HEARING EXAMINER: Okay. All
4 right. We're off the record in that case. Let's go
5 to 24382. This is Earthstone Operating.

6 MS. MCLEAN: Good morning, Mr.
7 Examiner. Jackie McLean from Hinkle Shanor on behalf
8 of Earthstone Operating. And we actually requested
9 that 24382 be consolidated with 24383 for hearing.

10 THE HEARING EXAMINER: Okay. And
11 that's granted.

12 MS. MCLEAN: Thank you. In Case Nos.
13 24382 and 24383, Earthstone is requesting one-year
14 extension to commence drilling the wells authorized by
15 Order Nos. R-22738 and R-22739 until June 7, 2025.

16 And as the good cause to extend the
17 deadline to commence drilling the wells, that is
18 because Earthstone's overall development plan are best
19 served by codeveloping these wells -- the Outland
20 State wells with the wells and adjacent tracts.

21 And due to rig availability, Earthstone
22 has not been able to commence drilling the wells and
23 the adjacent tracts. And for that reason, we would
24 like a one-year extension until June 7, 2025, to begin
25 drilling the wells authorized by Order Nos. R-22738,

1 and R-22739.

2 And lesser questions. I ask that the
3 exhibit packets submitted for Case Nos. 24382 and
4 24383 be admitted into the record, and that these
5 cases be taken under advisement.

6 THE HEARING EXAMINER: Thank you, Ms.
7 McLean. Are these -- are there any objections to the
8 exhibits in Case No. 24382?

9 Not hearing any, these exhibits are so
10 admitted.

11 (24382 Exhibit A and Exhibit B were
12 marked for identification and received
13 into evidence.)

14 THE HEARING EXAMINER: Mr. McClure, any
15 question in Case No. 24382?

16 MR. MCCLURE: No questions for this
17 case, Mr. Hearing Examiner.

18 THE HEARING EXAMINER: Okay. Thank
19 you. And now let's go to 24383. Are there any
20 objections to these exhibits?

21 Not hearing any, these are so admitted
22 into evidence.

23 (24383 Exhibit A and Exhibit B were
24 marked for identification and received
25 into evidence.)

1 THE HEARING EXAMINER: Mr. McClure, are
2 there any questions on 24383?

3 MR. MCCLURE: No question for this
4 case, Mr. Hearing Examiner.

5 THE HEARING EXAMINER: Okay.
6 Fantastic. Thank you. Ms. McLean, these two cases
7 will be taken under advisement.

8 MS. MCLEAN: Thank you, Mr. Examiner.

9 THE HEARING EXAMINER: Thank you. All
10 right. I'm now calling Mewbourne Oil, 24384.

11 MR. FELDEWERT: And good morning, Mr.
12 Examiner. Michael Feldewert with Santa Fe office of
13 Holland & Hart, appearing on behalf of the applicant.
14 And we can consolidate this case with the next one,
15 24385?

16 THE HEARING EXAMINER: Perfect. Please
17 proceed.

18 MR. FELDEWERT: In each of these cases,
19 the company seeks to create two 240-acre horizontal
20 well spacing units in the Bone Spring formation
21 underlying the northwest quarter of Section 3 in the
22 north half of Section 4 in 18 South, 29 East, over
23 there in Eddy County, for their Samonsite wells, which
24 are lay-down wells.

25 You will see in the hearing packages

1 that our land and geology statements are the same in
2 both cases. Each packet has the compulsory pooling
3 checklist along with the application. Then we have
4 our land statement from Adriana Salgado, who has
5 previously testified before the Division.

6 (24384/24385 Exhibit A was marked for
7 identification.)

8 MR. FELDEWERT: Where, for each case,
9 she provides the Draft C-102 for the particular well
10 involved, a tract ownership map, a sample of the well
11 proposal letters, and the AFEs, and then a chronology
12 of contacts.

13 Exhibit B in each package is a
14 self-affirmed statement of Charles Crosby, a
15 geologist. He provides a location map, a subsea
16 structure map, and a very detailed stratigraphic
17 cross-section that has a high resolution, maybe.

18 (24384/24385 Exhibit B was marked for
19 identification.)

20 MR. FELDEWERT: And then Exhibit C is
21 the self-affirmed statement of notice from my office
22 for the parties that they seek to pool.

23 (24384/24385 Exhibit C was marked for
24 identification.)

25 MR. FELDEWERT: And then since there

1 are some that did not receive notice for a lot of
2 different reasons, we have an affidavit of publication
3 which is Exhibit D as in David.

4 (24384/24385 Exhibit D was marked for
5 identification.)

6 MR. FELDEWERT: With that, I would move
7 the admission of Exhibits A, B, C, and D in each case.

8 THE HEARING EXAMINER: Are there any
9 objections?

10 Not hearing any, your exhibits in both
11 cases are so admitted into evidence.

12 (24384/24385 Exhibit A through Exhibit
13 D were received into evidence.)

14 THE HEARING EXAMINER: Mr. McClure, do
15 you have any questions for Case No. 24384 or 85?

16 MR. MCCLURE: Mr. Examiner, I do not
17 have any questions for either these cases.

18 THE HEARING EXAMINER: Marvelous.

19 These cases will be taken under
20 advisement. Thank you, Mr. Feldewert.

21 And then we have, finally, our last two
22 cases of the day, 24386 and 24387.

23 MR. FELDEWERT: May it please the
24 examiner, Michael Feldewert from Santa Fe office of
25 Holland & Hart, on behalf of the applicant.

1 THE HEARING EXAMINER: Thank you.
2 Are there any other parties? No?
3 Please proceed.

4 MR. FELDEWERT: Mr. Examiner, again in
5 in these two cases, the -- they kind of correspond
6 with the previous case because they're kind of
7 toe-to-heel, but there's different ownership involved,
8 which is why we kept them separate.

9 But they seek to create, again, a
10 240-acre horizontal well spacing units in the Bone
11 Spring formation, this time under the northeast
12 quarter of Section 3, and then the north half of
13 Section 2 in 18 South, 29 East, in Eddy County for
14 what are known as the Swanson wells, which, again,
15 lay-downs.

16 We have the same land and geology
17 statements in both cases. You'll see that again Ms.
18 Salgado is the land person who has provided the -- her
19 affidavit or statement in which she provides the C-102
20 for each particular case, a tract ownership, a well
21 proposal letter, and AFEs, and then a chronology of
22 contact.

23 (24386/24387 Exhibit A was marked for
24 identification.)

25 MR. FELDEWERT: Again, we have a self-

1 affirmed statement, Charles Crosby, the company's
2 geologist who provides a location map, the subsea
3 structure map, and then the stratigraphic cross-
4 section map for this particular set of cases.

5 (24386/24387 Exhibit B was marked for
6 identification.)

7 MR. FELDEWERT: Exhibit C is the self-
8 affirmed statement of notice from my office.

9 (24386/24387 Exhibit C was marked for
10 identification.)

11 MR. FELDEWERT: And then again because
12 there are some parties we seek the pool did not
13 receive notice, we have an Exhibit D which is an
14 affidavit of publication.

15 (24386/24387 Exhibit D was marked for
16 identification.)

17 MR. FELDEWERT: And so with that, I
18 would move the admission into evidence of Exhibits A,
19 B, C, and D in each one of these two cases.

20 THE HEARING EXAMINER: Are there any
21 objections?

22 I'm not hearing any. Your exhibits in
23 both cases are so admitted.

24 (24386/24387 Exhibit A through Exhibit
25 D were received into evidence.)

1 THE HEARING EXAMINER: Mr. Feldewert, I
2 have a question about the affidavit publication. It
3 says that it was published on April 17. And how many
4 days is it before the hearing that it has to be
5 published?

6 MR. FELDEWERT: It is ten business
7 days. And I counted them out, so we got that.

8 THE HEARING EXAMINER: That sounds
9 good. Ten business days. Is there another -- oh.

10 MR. FELDEWERT: And then notice of the
11 hearing goes out 20 days in advance. Those are not
12 business days.

13 THE HEARING EXAMINER: Got it. Thank
14 you very much. Okay.

15 Mr. McLean, any questions for -- and on
16 these two cases?

17 MR. MCCLURE: I'm assuming you're
18 referring to me, Mr. Hearing Examiner? I have no
19 questions for you in these cases.

20 THE HEARING EXAMINER: Did I say Mr.
21 McLean? I meant Mr. McClure. I apologize -- thank you
22 for -- thanks for pointing that out. Okay.

23 So these two cases will be taken under
24 advisement. And that concludes the hearings of the
25 Oil Conservation Division.

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Thank you, everyone, for your participation.

And thank you, Mr. McClure.
(Whereupon, at 10:36 a.m. the proceeding was concluded.)

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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.

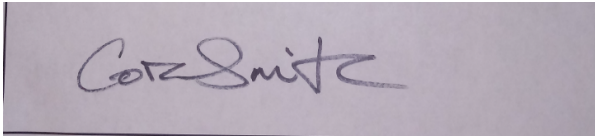


JAMES COGSWELL
Notary Public in and for the
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, CORA SMITH, 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.



CORA SMITH

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[acknowledges - agreed]

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