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

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IN THE MATTER OF THE HEARING Docket No.  
CALLED BY THE OIL CONSERVATION 23-24  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:  
Case Nos. 24356, 24358, 24359,  
24360, 24348, 24350, 24351,  
24352, 24353, 24354, 24355,  
and 24362

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HEARING

DATE: Wednesday, June 26, 2024  
TIME: 8:30 a.m.  
BEFORE: Gregory A. Chakalian, Hearing Examiner  
LOCATION: Pecos Hall, Wendell Chino Building  
1220 South Saint Francis Drive  
Santa Fe, NM 87505  
REPORTED BY: James Cogswell  
JOB NO.: 6724131

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A P P E A R A N C E S

ON BEHALF OF FRANKLIN MOUNTAIN ENERGY 3:

DEANA M. BENNETT, ESQUIRE  
Modrall Sperling  
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ON BEHALF OF ARMSTRONG ENERGY CORPORATION AND SLASH  
EXPLORATION:

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A P P E A R A N C E S (Cont'd)  
ON BEHALF OF MRC PERMIAN AND MATADOR PRODUCTION  
COMPANY:

MICHAEL H. FELDEWERT, ESQUIRE  
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Santa Fe, NM 87501  
mfeldewert@hollandhart.com  
(505) 988-4421

ALSO PRESENT:  
Dean McClure, Technical Examiner  
(by videoconference)  
Freya Tschantz, Law Clerk  
Ben Kessel, Witness  
Don Johnson, Witness

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I N D E X

WITNESS:	DX	CX	RDX	RCX
DON JOHNSON				
CASE NOS. 24356, 24358, 24359, and 24360				
By Mr. McClure	31			
By Ms. Bennett		43		
CASE NOS. 24348, 24350, 24351, 24352, 24353, 24354, 24355, and 24362				
By Mr. McClure	62			

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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
Exhibit 24356		
Tab A	Compulsory Pooling Checklists	26/30
Exhibit 24356		
Tab B	Affidavit of Don Johnson, Landman	26/30
Exhibit 24356		
Tab C	Affidavit of Ben Kessel, Geologist	26/30
Exhibit 24356		
Tab D	Declaration of Deana M. Bennett	26/30
Exhibit 24358		
Tab A	Compulsory Pooling Checklists	26/30
Exhibit 24358		
Tab B	Affidavit of Don Johnson, Landman	26/30
Exhibit 24358		
Tab C	Affidavit of Ben Kessel, Geologist	26/30

I N D E X (Cont'd)

E X H I B I T S

1			
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3	Exhibit 24358		
4	Tab D	Declaration of Deana M.	
5		Bennett	26/30
6	Exhibit 24359		
7	Tab A	Compulsory Pooling	
8		Checklists	26/30
9	Exhibit 24359		
10	Tab B	Affidavit of Don Johnson,	
11		Landman	26/30
12	Exhibit 24359		
13	Tab C	Affidavit of Ben Kessel,	
14		Geologist	26/30
15	Exhibit 24359		
16	Tab D	Declaration of Deana M.	
17		Bennett	26/30
18	Exhibit 24360		
19	Tab A	Compulsory Pooling	
20		Checklists	26/30
21	Exhibit 24360		
22	Tab B	Affidavit of Don Johnson,	
23		Landman	26/30
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I N D E X (Cont'd)  
E X H I B I T S

Exhibit 24360		
Tab C	Affidavit of Ben Kessel, Geologist	26/30
Exhibit 24360		
Tab D	Declaration of Deana M. Bennett	26/30
Exhibit 24348		
Tab A	Compulsory Pooling Checklists	59/61
Exhibit 24348		
Tab B	Affidavit of Don Johnson, Landman	59/61
Exhibit 24348		
Tab C	Affidavit of Ben Kessel, Geologist	59/61
Exhibit 24348		
Tab D	Declaration of Deana M. Bennett	59/61
Exhibit 24350		
Tab A	Compulsory Pooling Checklists	59/61

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

Exhibit 24350		
Tab B	Affidavit of Don Johnson, Landman	59/61
Exhibit 24350		
Tab C	Affidavit of Ben Kessel, Geologist	59/61
Exhibit 24350		
Tab D	Declaration of Deana M. Bennett	59/61
Exhibit 24351		
Tab A	Compulsory Pooling Checklists	59/61
Exhibit 24351		
Tab B	Affidavit of Don Johnson, Landman	59/61
Exhibit 24351		
Tab C	Affidavit of Ben Kessel, Geologist	59/61
Exhibit 24351		
Tab D	Declaration of Deana M. Bennett	59/61



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

Exhibit 24352		
Tab A	Compulsory Pooling	
	Checklists	59/61
Exhibit 24352		
Tab B	Affidavit of Don Johnson,	
	Landman	59/61
Exhibit 24352		
Tab C	Affidavit of Ben Kessel,	
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Exhibit 24352		
Tab D	Declaration of Deana M.	
	Bennett	59/61
Exhibit 24353		
Tab A	Compulsory Pooling	
	Checklists	59/61
Exhibit 24353		
Tab B	Affidavit of Don Johnson,	
	Landman	59/61
Exhibit 24353		
Tab C	Affidavit of Ben Kessel,	
	Geologist	59/61

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

Exhibit 24353		
Tab D	Declaration of Deana M. Bennett	59/61
Exhibit 24354		
Tab A	Compulsory Pooling Checklists	59/61
Exhibit 24354		
Tab B	Affidavit of Don Johnson, Landman	59/61
Exhibit 24354		
Tab C	Affidavit of Ben Kessel, Geologist	59/61
Exhibit 24354		
Tab D	Declaration of Deana M. Bennett	59/61
Exhibit 24355		
Tab A	Compulsory Pooling Checklists	59/61
Exhibit 24355		
Tab B	Affidavit of Don Johnson, Landman	59/61

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

Exhibit 24355		
Tab C	Affidavit of Ben Kessel, Geologist	59/61
Exhibit 24355		
Tab D	Declaration of Deana M. Bennett	59/61
Exhibit 24362		
Tab A	Compulsory Pooling Checklists	59/61
Exhibit 24362		
Tab B	Affidavit of Don Johnson, Landman	59/61
Exhibit 24362		
Tab C	Affidavit of Ben Kessel, Geologist	59/61
Exhibit 24362		
Tab D	Declaration of Deana M. Bennett	59/61

1 P R O C E E D I N G S

2 EXAMINER CHAKALIAN: Good morning.  
3 These are the special hearing cases for the Oil  
4 Conservation Division. These are completing  
5 applications between MRC Permian Company and Franklin  
6 Mountain Energy LLC for compulsory pooling and  
7 overlapping spacing units.

8 I'm going to call all of the cases and  
9 then we will hear a few sets of competing cases  
10 separately. So I am calling case numbers 24356,  
11 24358, 59, 60. Cases 24314 through 24319. And I'm  
12 also calling case numbers 24348, 50 through 55 and 62.  
13 And case numbers 24327 through 24334. Interest of  
14 appearance, please.

15 MS. BENNETT: Good morning, Mr.  
16 Examiner. Deana Bennett on behalf of Franklin  
17 Mountain Energy 3 and all of these cases.

18 EXAMINER CHAKALIAN: Thank you. Good  
19 morning.

20 MS. HARDY: Good morning, Mr. Examiner.  
21 Dana Hardy with the Santa Fe office of Hinkle Shanor  
22 on behalf of Armstrong Energy Corporation and Slash  
23 Exploration in case numbers 24356, 24358 through  
24 24360. And the MRC cases 24314 through 24319. So the  
25 first set of cases.

1 EXAMINER CHAKALIAN: Thank you, Ms.  
2 Hardy.

3 MS. HARDY: Thank you.

4 MR. FELDEWERT: Good morning, Mr.  
5 Examiner. Michael Feldewert with the Sante Fe office  
6 of Holland & Hart appearing on behalf of MRC Permian  
7 and Matador Production Company.

8 EXAMINER CHAKALIAN: Thank you. Good  
9 morning.

10 As a preliminary matter, it has come to  
11 my attention that MRC has filed a notice of withdrawal  
12 of objection and, Mr. Feldewert, is it all of the  
13 cases that compete or just some of the cases that  
14 compete?

15 MR. FELDEWERT: It would be in all of  
16 the cases that compete. Yes, sir.

17 EXAMINER CHAKALIAN: Okay. Yet we  
18 still have these cases on our docket because they have  
19 not been dismissed. Would you like to put on the  
20 record why?

21 MR. FELDEWERT: As I state in our  
22 pre-hearing statement, the parties have reached a  
23 tentative agreement in principle that will resolve the  
24 competing nature of the cases. That agreement is  
25 going to take some time yet to finalize. I haven't

1 gotten the latest word. I heard Ms. Bennett said she  
2 thought they'd be done in a couple weeks, so they're  
3 pretty close.

4 They have an agreement in principle,  
5 they're just finishing up the, you know, the paperwork  
6 and the diligence that goes with that. So I fully  
7 expect to be at a position at some point in time to  
8 dismiss our cases. But knowing that sometimes things  
9 happen, okay, we are not in a position to dismiss our  
10 cases yet. We do not intend to present evidence in  
11 support of our cases, and we filed the notice of  
12 withdrawal of our objection and then proceeding by  
13 affidavit so that the Division can move forward as  
14 efficiently as possible with dealing with this set of  
15 cases in this particular circumstance.

16 So I think you can proceed. It'd just  
17 be in a position where they will have presented  
18 evidence to support their cases and we will not  
19 present any evidence to support ours.

20 EXAMINER CHAKALIAN: [Unintelligible  
21 response.]

22 MR. FELDEWERT: Well, one of two ways.  
23 I'll be in a position before the order is issued to  
24 formally dismiss our cases, or secondly the Division  
25 will, presumably, look at their evidence and if it's

1 appropriate, issue an order that would grant their  
2 applications and then deny ours.

3 EXAMINER CHAKALIAN: [Unintelligible  
4 response.]

5 MR. FELDEWERT: Then if the agreement  
6 falls through, then we would be in a position to be  
7 able to appeal the order to the Commission and then  
8 have the competing cases there. If the deal falls  
9 through.

10 THE REPORTER: Mr. Hearing Examiner, I  
11 missed your last question.

12 EXAMINER CHAKALIAN: And I said what  
13 happens if the deal falls through. My microphone  
14 wasn't on. I apologize.

15 THE REPORTER: Thank you.

16 EXAMINER CHAKALIAN: Of course.

17 Before I go to Ms. Hardy and Ms.  
18 Bennett for their positions, it would seem to me, Mr.  
19 Feldewert, I don't see how the Division can proceed to  
20 reviewing these cases until it knows for sure whether  
21 your cases are dismissed or not.

22 MR. FELDEWERT: Well, I would suggest  
23 to you that you can. It would be a circumstance where  
24 a party in the case has chosen for, in this case a  
25 good reason, not to present evidence to support their

1 application. So it would be presented to the Division  
2 in a fashion in which one party has presented evidence  
3 to support their applications and the other party has  
4 not. That, in my mind, will, unless there's something  
5 wrong with their cases that you see, should result in  
6 an order granting their application and denying ours.

7 And, you know, the other alternative is  
8 to continue the cases until the deal is complete. And  
9 I know that you have a reluctance to do that. For  
10 good reasons, I get that. But that would be the other  
11 option, is to continue the matters for however long.  
12 We could discuss how long we could think it would take  
13 to get the agreement in principal completed.

14 EXAMINER CHAKALIAN: Okay. All right.  
15 Thank you.

16 Ms. Hardy?

17 MS. HARDY: Mr. Examiner, I don't have  
18 a position on the proposal.

19 EXAMINER CHAKALIAN: Okay. Thank you,  
20 Ms. Hardy.

21 Ms. Bennett? They're your cases.

22 MS. BENNETT: Yes. Thank you, Mr.  
23 Hearing Examiner.

24 I agree with most everything that Mr.  
25 Feldewert said. I do think that the Division can move



1 forward with taking the Franklin Mountain Energy 3  
2 cases under advisement. In fact, there is precedent  
3 for this. I don't have the case numbers,  
4 unfortunately, in front of me, but there were, back in  
5 the day and Ms. Hardy and I were both involved in  
6 these cases, it was an Ascent, Apache, and Mewborne  
7 situation where Apache and Mewborne -- or Apache and  
8 Ascent originally had competing pooling applications.  
9 And then Apache withdrew its pooling application and  
10 only asked for approval of a proration unit. And the  
11 Division granted Ascent's pooling cases and denied  
12 Apache's. And then Apache appealed to the Commission.  
13 And then after the appeal to the Commission occurred,  
14 Mewborne and Apache both filed new pooling  
15 applications that competed with the applications that  
16 were pending before the Commission and those were  
17 consolidated and then, oh, so many years passed, and  
18 the parties actually reached an agreement and so  
19 dismissed their cases.

20 But that is fairly analogous to what is  
21 happening today. And the Division did take the Ascent  
22 cases under advisement, did issue an order, and Apache  
23 retained its rights to appeal to the Commission and  
24 did so. And as Mr. Feldewert said, the fact that  
25 Matador has decided, voluntarily decided, not to

1 present evidence today, it means that there's no  
2 evidence refuting any of the FME 3 evidence, and  
3 therefore, in my opinion it's tantamount to dismissal  
4 because they do not have -- they have chosen not to  
5 present any evidence to support their applications.

6 And the one area I disagree with Mr.  
7 Feldewert on, or maybe I just don't want it to happen,  
8 is for these cases to be continued. We've spent a lot  
9 of time preparing for the cases, first as contested  
10 cases, then moving forward as affidavit. And so it  
11 would be very unfortunate to have the cases continued  
12 at this late date.

13 EXAMINER CHAKALIAN: Okay. I'm not  
14 considering continuing the cases, so you can put that  
15 fear aside.

16 But what I'm considering as an option  
17 is, instead of taking the cases under advisement  
18 today, leaving the record open for a few weeks for  
19 this deal to be finalized so that the Division knows  
20 for sure that if you go ahead with the evidence it has  
21 in front of it, if something happens with the deal and  
22 it doesn't go through, then we can come back and we  
23 can hear evidence from MRC. And that way we have the  
24 benefit of competing evidence to weigh in a more  
25 intelligent order, either approving or denying MRC's

1 or Franklin Mountain -- it seems to me to have the  
2 Division do all the work to approve Franklin Mountain  
3 applications and then to have to -- and then to find  
4 out that the deal didn't go through and then have this  
5 come before the Commission doesn't seem as efficient.

6 So let me hear from both Mr.  
7 Feldewert and Ms. Bennett on that option. Because I  
8 don't know how long it will take to reduce this to a  
9 written, signed agreement.

10 MS. BENNETT: Thank you. Franklin  
11 Mountain Energy 3 is hopeful that it will be done in  
12 the next couple of weeks, of course, there's no  
13 guarantee. Things can come up. And also there's the  
14 holiday weekend, or I guess holiday mid-week coming  
15 up. But I was thinking that if that's -- and I sort  
16 of figured that would be your preference, that, you  
17 know, we can agree to that and then when the parties  
18 have reached their agreement, Mr. Feldewert could file  
19 a notice of dismissal of his applications and at that  
20 point I could email the Division and let the Division  
21 know that they could be taken under advisement.

22 EXAMINER CHAKALIAN: Mr. Feldewert?

23 MR. FELDEWERT: That works.

24 EXAMINER CHAKALIAN: Okay. Mr.  
25 McClure, you're ultimately going to be dealing with

1 these cases after it leaves the Hearing Division. Do  
2 you have any preference?

3 MR. MCCLURE: How you laid out would be  
4 my preference.

5 EXAMINER CHAKALIAN: Okay. That's what  
6 we'll do. And Ms. Bennett, I'm not -- I don't have a  
7 timeframe in mind. It really is up to the parties how  
8 quickly they want to, you know, settle this matter and  
9 for MRC to dismiss its cases. I'm just trying to save  
10 the Division some time and effort and the Commission  
11 unnecessarily an appeal to the Commission, because  
12 that's a lot more work and time as well. And  
13 hopefully the deal stays together, you know? But I've  
14 seen these deals come together at the last minute  
15 regularly, so I have confidence in the parties.

16 So okay, now that we've worked that  
17 out, and since we have Mr. Feldewert and MRC's  
18 withdrawal of objections in these competing cases  
19 24314 through 19, which we're dealing with separately,  
20 we're going to deal with them separately, let's hear  
21 an overview of your cases 24356, 58 through 60.

22 MS. BENNETT: Thank you very much.

23 And again, this is Deana Bennett on  
24 behalf of Franklin Mountain Energy 3. These cases are  
25 the Franklin Mountain Energy 3 Gold State Com cases.

1 And I did pass out notebooks, and Mr. McClure, I will  
2 share my screen in a moment because the scans that I  
3 provided to the Division were somewhat hard to read.  
4 But in these cases, and by these cases I mean the Gold  
5 cases, Franklin Mountain Energy is seeking to  
6 compulsory pool uncommitted working interest owners.  
7 And I'm going to go ahead and share my screen and  
8 provide a brief visual of the two sets of --

9 EXAMINER CHAKALIAN: And would you tell  
10 me which exhibit you're going to be showing so I can  
11 look at the book?

12 MS. BENNETT: Yes, it's Exhibit B4 and  
13 it's on page 31 of the Gold hearing packet.

14 EXAMINER CHAKALIAN: Thank you.

15 MS. BENNETT: And so, first of all, I  
16 did want to mention, because MRC has withdrawn its  
17 objection to the cases proceeding by affidavit, I do  
18 intend to proceed by affidavit in a rather summary  
19 fashion.

20 But I also did want to reintroduce two  
21 MFE 3 representatives who are with us today, and that  
22 is Don Johnson the landman from FME 3, and Ben Kessel,  
23 the geologist from FME 3. And they're here in case  
24 the Division does have questions, they're ready to be  
25 sworn in and answer any questions from the Division.

1 But also, they're here to show their support for this  
2 development plan.

3 Franklin Mountain Energy 3 is committed  
4 to this development plan and Franklin Mountain Energy  
5 3 wanted to show that commitment by appearing before  
6 the Division in person and reiterating their  
7 commitment to this project.

8 EXAMINER CHAKALIAN: Thank you, Ms.  
9 Bennett.

10 Mr. Feldewert, will you have any  
11 questions for these two witnesses?

12 MR. FELDEWERT: I suspect not.

13 EXAMINER CHAKALIAN: Okay. Ms. Hardy?

14 MS. HARDY: I don't believe so. Thank  
15 you.

16 EXAMINER CHAKALIAN: And Mr. McClure,  
17 do you want me to get these two witnesses sworn in for  
18 any questions you might have?

19 MR. MCCLURE: Yes. Please do.

20 EXAMINER CHAKALIAN: Okay. Very good.  
21 Let's deal with that now.

22 Could both of you either come up to  
23 that microphone there or that witness box microphone?  
24 We're just going to get you to state your names and  
25 spell them. And get you sworn in. And then when you

1 testify, you'll sit in that box over there.

2 Mr. Kessel?

3 MR. KESSEL: Yeah. Hi. Ben Kessel.

4 K-E-S-S-E-L.

5 EXAMINER CHAKALIAN: First name?

6 MR. KESSEL: Ben, B-E-N.

7 EXAMINER CHAKALIAN: Thank you, Ben.

8 And, sir?

9 MR. JOHNSON: Don Johnson. D-O-N

10 J-O-H-N-S-O-N.

11 EXAMINER CHAKALIAN: Okay. Let's get  
12 you both to stand up and in front of the microphone  
13 together, and then the court reporter will swear you  
14 in.

15 THE REPORTER: Please raise your right  
16 hand.

17 DON JOHNSON and BEN KESSEL,  
18 called as a witness and having been first duly sworn  
19 to tell the truth, the whole truth, and nothing but  
20 the truth, was examined and testified as follows:

21 EXAMINER CHAKALIAN: Good. Please be  
22 seated.

23 Ms. Bennett?

24 MS. BENNETT: Thank you. As we were  
25 discussing earlier today, Franklin Mountain Energy 3

1 was here before the Division for cases involving the  
2 Satellite units and the Cross units that I've shown  
3 here on Exhibit B4. And the Gold and Parallel cases  
4 that we'll be discussing today are companion cases to  
5 the Satellite and Cross cases. So like the Satellite  
6 and Cross cases that we discussed and for which orders  
7 have been issued by the Division, the Gold and  
8 Parallel cases overlap. And Exhibit B4 shows the area  
9 of overlap. And so they overlap in the north half of  
10 the north half of Section 36. And so what that does  
11 is allows Franklin Mountain Energy 3 to have some  
12 efficiencies in terms of its surface facilities, it  
13 can co-develop these two units from a shared set of  
14 service facilities. And as you may recall from the  
15 Cross testimony, it also allows Franklin Mountain  
16 Energy 3 to co-develop the acreage in a way that  
17 allows it to access reserves in the north half north  
18 half of Section 36 that might otherwise or excuse me,  
19 35 that might otherwise be inaccessible due to  
20 technological or other logistical impediments to  
21 landing your first take point. So these --

22 EXAMINER CHAKALIAN: Does this diagram  
23 show us where Sections 35 and 36 are, or are we  
24 supposed to assume it's where the bottom of the red  
25 box?



1 MS. BENNETT: Yes, sir. It's the  
2 bottom of the red box.

3 EXAMINER CHAKALIAN: That's what I  
4 thought. Okay. Thank you.

5 MS. BENNETT: Mm-hmm.

6 And so I did just want to show this  
7 slide to give the Division a visual representation of  
8 what we're -- of the cases that we're talking about  
9 today. Also, there's the green -- on the side of  
10 Gold, on the left-hand side of Gold, there's some well  
11 laterals drawn in. Franklin Mountain Energy 3  
12 previously received orders for the west half west half  
13 of Gold. And so the west half west half is not  
14 involved in these cases. The Franklin Mountain Energy  
15 3 already received orders for those and has drilled  
16 those wells. And so the Gold cases that are before  
17 the Division today are an extension of Franklin  
18 Mountain Energy's plan to develop the acreage in north  
19 half north half of 35, Sections 26 and then a portion  
20 of Section 23 that you see on the screen.

21 So the exhibits that we presented today  
22 are a bit more fulsome than our normal affidavit  
23 exhibits because we were preparing for a contested  
24 hearing. And so we didn't have time to revert to an  
25 affidavit style hearing packet, but the materials are

1 essentially the same.

2 So behind Tab A are the compulsory  
3 polling checklists for all of the Gold cases. Behind  
4 Tab B is the affidavit of Don Johnson, a landman who's  
5 previously testified before the Division, and his  
6 credentials have been accepted as a matter of record.  
7 He provided some unusual, or different, exhibits  
8 because of the nature of the contested case, which  
9 provide an overview of ownership in the units,  
10 development plans, discussion of Franklin Mountain  
11 Energy 3's commitment to this area in terms of adding  
12 infrastructure upgrades.

13 (Exhibit 24356, Exhibit 24358, Exhibit  
14 24359, and Exhibit 24360 were marked  
15 for identification.)

16 But when we get to Exhibit B15 and  
17 beyond, that's the normal suite of exhibits that the  
18 Division is used to seeing for these types of cases,  
19 including the application for each case. The C-102s,  
20 lease tract map and summary of interest, a proposal  
21 letter and AFEs, and a list of the parties to be  
22 pooled in each case.

23 One thing that's a little different  
24 about these exhibits is that they're -- for certain of  
25 the wells there's two different pool and pool codes

1 and so for those wells we've provided three C-102s.  
2 One that shows the overall unit, one that shows -- and  
3 then one for each well, or for each pool, excuse me.

4 EXAMINER CHAKALIAN: I have a question.

5 MS. BENNETT: Yes, sir?

6 EXAMINER CHAKALIAN: Since these  
7 exhibits were prepared for a contested hearing and now  
8 there is a potential agreement between the parties, is  
9 there any information in these exhibits that needs to  
10 be changed?

11 MS. BENNETT: No.

12 EXAMINER CHAKALIAN: No. Okay. So in  
13 other words --

14 MS. BENNETT: If I may expand on that  
15 answer.

16 EXAMINER CHAKALIAN: Yes, please.

17 MS. BENNETT: We went through the  
18 exhibits and removed things that may have been  
19 extraneous while trying to do as little, I'd say,  
20 damage to the exhibit packet as possible, so as to not  
21 have to renumber and recompile things. So we did  
22 remove some information and some slides.

23 I would say the converse, though, is  
24 not true. If the cases are not -- if MRC's cases are  
25 not dismissed, we would need to refile exhibits and

1 supplement them with additional information.  
2 Primarily showing the differences in ownership between  
3 Franklin Mountain Energy and MRC.

4 EXAMINER CHAKALIAN: That's what I  
5 thought. Thank you.

6 MS. BENNETT: Mm-hmm.

7 Tab C is the affidavit of Ben Kessel,  
8 the geologist for Franklin Mountain Energy 3, and he  
9 provides the usual suite of geology exhibits behind  
10 his affidavit. And then Tap D is my self-affirmed  
11 declaration. And Tap D includes a sample notice  
12 letter, the mailing list of interested parties, the  
13 certified mailing tracking list, and then the  
14 affidavit of publication.

15 And I would just note that these cases  
16 have been-- well, we had a prior iteration of the Gold  
17 cases that we noticed, and then we refiled these Gold  
18 cases, which we noticed. And so I've included the  
19 affidavit of publication from the first set of Gold  
20 cases just to really drive home the point that we sent  
21 out a lot of letters and we published to a lot of  
22 people. So I think that notice was more than  
23 sufficient.

24 And we also -- in these applications we  
25 did request, to the extent necessary, approval of

1 overlapping spacing units. And there were no  
2 objections received to the request to approve  
3 overlapping spacing units and so under the Divisions  
4 rules, I don't know that the Division needs to approve  
5 the overlapping spacing unit because it only comes to  
6 hearing if there's an objection. But there's no  
7 objection, so the Division could approve the  
8 overlapping spacing units as well. And we did provide  
9 notice to all the working interest owners and  
10 operators, and the existing wells, with the exception  
11 of one well that has already been plugged and  
12 abandoned. And the parties in that well have all  
13 agreed to the plugging and abandonment of that well.  
14 So with that, I would ask that the Division take the  
15 exhibits in cases 24356, and 24358 to 24360, admit  
16 those exhibits into the record.

17 EXAMINER CHAKALIAN: Ms. Hardy, have  
18 you reviewed the exhibits?

19 MS. HARDY: Yes, I have.

20 EXAMINER CHAKALIAN: Any objections?

21 MS. HARDY: No objection.

22 EXAMINER CHAKALIAN: Mr. Feldewert?

23 MR. FELDEWERT: I have reviewed  
24 exhibits and I do not have any objections.

25 EXAMINER CHAKALIAN: Thank you, sir.

1                   Is there anyone online who has an  
2 objection?

3                   Not hearing any, all of these exhibits  
4 are admitted into evidence. That would be Tab A, Tab  
5 B, Tab C and Tab D.

6                   (Exhibit 24356, Exhibit 24358, Exhibit  
7 24359, and Exhibit 24360 was received  
8 into evidence.)

9                   And let's turn to questions. I've  
10 already asked Ms. Hardy and Mr. Feldewert if there are  
11 any questions, and both have declined.

12                   So we'll go to you, Mr. McClure.

13                   MR. MCCLURE: Yes, Mr. Hearing  
14 Examiner. I do have some questions for Mr. Johnson,  
15 the landman.

16                   EXAMINER CHAKALIAN: Mr. Johnson would  
17 you --

18                   Hold on, Mr. McClure.

19                   Mr. Johnson, would you sit in the  
20 witness box and turn on the microphone? It's the  
21 button on the right, right above the little person  
22 icon.

23                   We're ready, Mr. McClure.

24                   MR. MCCLURE: Thank you, Mr. Hearing  
25 Examiner.

1 DIRECT EXAMINATION

2 BY MR. MCCLURE:

3 Q Mr. Johnson, was all the exhibits under Tab  
4 B, were those prepared by you or under your  
5 supervision?

6 A Yes, they were.

7 Q And my page notation might be a little bit  
8 slow because my notes are actually prepared for the  
9 other cases first, but essentially the same exhibits  
10 in both of these packets. If I may direct your  
11 attention, Mr. Johnson, to page 41 of 166 this should  
12 be B13A exhibit.

13 A Okay.

14 EXAMINER CHAKALIAN: So it's number 41.  
15 Is that what you said, Mr. McClure?

16 MR. MCCLURE: Oh, that's correct, Mr.  
17 Hearing Examiner. Page 41 of 166.

18 EXAMINER CHAKALIAN: Okay. Perfect.  
19 And I'm there too. Thank you.

20 MR. MCCLURE: Yes, sir.

21 BY MR MCCLURE:

22 Q On this C-102, Mr. Johnson, does that first  
23 take point say it's 465 feet from the north fault  
24 line?

25 A Yes. It's 465.

1 Q Is this correct in regards to where the  
2 first take point is for that well?

3 A As -- as far as the survey says, it's  
4 correct.

5 Q And is this well currently producing, do you  
6 know?

7 A I believe it is, yes.

8 Q Let's see if I can find my other C-102 in  
9 this packet. It looks like the C-102 might not be in  
10 this packet. Mr. Johnson, are you aware where the  
11 first take point is for the Parallel Number 801H?

12 A I'm looking through the exhibits for the  
13 Parallel real quick.

14 MS. BENNETT: Mr. Hearing Examiner, and  
15 Mr. McClure, and Mr. Johnson, I think I might be able  
16 to help with the Parallel 801H C-102. It's in the  
17 Parallel exhibit packet and it's on page 87 of the  
18 Parallel exhibit packet. And I'll share my screen in  
19 just a minute here and be able to show it.

20 EXAMINER CHAKALIAN: So for the record,  
21 this -- is it Exhibit B18A?

22 MS. BENNETT: Yes.

23 EXAMINER CHAKALIAN: Okay. So this has  
24 not been admitted into evidence yet, but it's used for  
25 demonstrative purposes only right now.



1 MS. BENNETT: I'm having some issues  
2 sharing but I think --

3 Mr. McClure, --

4 EXAMINER CHAKALIAN: Well, hold on one  
5 second.

6 Freya? Ms. Bennett is trying to share  
7 her screen but unable to.

8 Are you using your laptop?

9 MS. BENNETT: I am.

10 EXAMINER CHAKALIAN: Will you show her,  
11 please?

12 MS. BENNETT: I think I got it. Thank  
13 you.

14 EXAMINER CHAKALIAN: You got it?

15 MS. BENNETT: Mm-hmm.

16 EXAMINER CHAKALIAN: She got it.

17 Thanks, Freya.

18 MS. BENNETT: So 801 is on page 88.

19 EXAMINER CHAKALIAN: 88?

20 MS. BENNETT: Yup.

21 EXAMINER CHAKALIAN: I see --

22 MS. BENNETT: And --

23 EXAMINER CHAKALIAN: So that would be,  
24 but that's still Exhibit B18A in that separate packet?

25 MS. BENNETT: It is, yes.

1 EXAMINER CHAKALIAN: Okay. Second page  
2 of it.

3 Do you see it, Mr. McClure?

4 MR. MCCLURE: Yes, I do, Mr. Hearing  
5 Examiner.

6 EXAMINER CHAKALIAN: Okay.

7 Mr. Johnson, can you answer the  
8 question now?

9 THE WITNESS: Yes, I can.

10 So the first take point is 100 feet  
11 from the north and 900 feet from the west line as the  
12 estimated first take point.

13 BY MR. MCCLURE:

14 Q Do you believe this is correct, Mr. Johnson?

15 A As far as the estimated first take point,  
16 yes.

17 Q Okay. Thank you, sir. Going back to the  
18 actual exhibit that's in the record, page 40 of 166.  
19 And it should be Exhibit B13. Yup, there we have it  
20 on the screen there. Mr. Johnson, do you see that  
21 exhibit there?

22 A Yes, I do.

23 Q Is this exhibit -- is these diagrams correct  
24 then?

25 A Yes. So the diagrams are correct. The

1 first take points on the plats are based on regulatory  
2 requirements and we are evaluating the first take  
3 point from the first wells drilled. And then aiming  
4 to have the first take point on the additional wells  
5 based on the first take point and not to create any  
6 overlap.

7 Q Okay. Then, so for the Parallel State Com  
8 801H, would it be accurate to say that the first take  
9 point is not going to be 100 feet from the north line?

10 A No. The actual take point will be based on  
11 the take point of the Gold State 801 and determined  
12 based on that well.

13 EXAMINER CHAKALIAN: Mr. McClure, hold  
14 on a second.

15 Mr. Johnson, the question was -- I  
16 don't know that you answered the question.

17 Mr. McClure, would you ask the question  
18 again?

19 MR. MCCLURE: Yeah. I may not ask --  
20 ask it exactly the same way, but.

21 BY MR. MCCLURE:

22 Q Is the first take point for the Parallel  
23 State Com 801H, is that not going to be 100 feet from  
24 the north line?

25 A No, it will not.

1 Q Thank you. So with that in mind, is the C-  
2 102 in the other exhibit packet correct then?

3 A The C-0 -- the C-102 first take points are  
4 estimates based on when we applied for these wells.  
5 And so we are allowed to have discretion on where the  
6 first take point actually happens based on mechanical  
7 impediments and planning for maximizing the recovery.

8 Q So let -- let me ask that question again.  
9 Is the C-102 inaccurate when it says the first take  
10 point is going to be 100 feet from the north line?

11 A Yes, it -- it is. Based on the estimate of  
12 the first take point.

13 Q Is it more accurate to say that the first  
14 take point will be greater than, say, 500 feet from  
15 the north line?

16 A Yes.

17 Q Okay. Thank you. So with that in mind,  
18 this exhibit that we have on the screen here Exhibit  
19 B13. Is that diagram then more accurate than what the  
20 C-102 is reflecting?

21 A On page 41 or on page 40?

22 Q Yeah, page 40.

23 A So yes, page 40 is a more accurate  
24 description of what the actual first take point will  
25 be.

1           Q       Now this diagram, when it comes to the  
2 surface hole location for these wells, do you believe  
3 the diagram to be accurate?

4           A       The wells will be drilled from the same pad,  
5 so for the diagram, I believe it's just a  
6 simplification to show the difference between the two  
7 wells.

8           Q       So with that in mind, would it be accurate  
9 to say -- say the surface hole location is not  
10 accurate in this diagram then?

11          A       The surface hole will be more like the  
12 diagram in the upper left to where they are coming  
13 from, generally, the exact same area and the -- the  
14 lower diagram to the right is just simplifying the  
15 difference between the two well bores.

16          Q       Okay. Thank you, sir. Mr. Johnson, do you  
17 believe that the C-102s for the other wells within  
18 these projects will have a similar error in them as  
19 we're seeing for these 801 wells?

20          A       Yes, they will. These C-02s [sic] are based  
21 on estimates of -- based around the regulatory  
22 requirements of setbacks. So we purposely stated  
23 first take points based on those regulatory setbacks.  
24 So all the other first take points will have similar  
25 first take points on the C-102s, but the actual first

1 take points will be closer to about the 500 to 600  
2 foot from the north range to -- to account for the  
3 build back of the wells.

4 Q Okay. Thank you, sir. Mr. Johnson, if I  
5 can direct your attention to page 42 of 166. That's  
6 your summary of communication.

7 A Okay.

8 Q Can you -- can you please describe for me  
9 what the current status is of your communications with  
10 EG3 Development, LLC?

11 A EG3, we sent them proposals. I've sent them  
12 the JOA for when they first received the proposals and  
13 I have not received communication since. On these  
14 wells I have received emails based on other units, but  
15 nothing regarding this unit.

16 Q Okay. And you are requesting to pool this  
17 person; correct?

18 A Yes.

19 Q When you sent the JOA on -- or did you send  
20 the JOA on 8/18/2023?

21 A Yes. And that was after receiving emails  
22 from them requesting a JOA.

23 Q So was it your impression that they intend  
24 to commit to these wells, or -- let me back up. Is it  
25 your impression that they intend to sign the JOA since

1 you sent it to them?

2 A I can't say whether they will, or they will  
3 not. They have not shown any objections to being  
4 pooled or participating.

5 Q Oh, yes, sir. I'm not asking you to read  
6 their mind and know what they intend to do. My  
7 question is, from your earlier email to them, was your  
8 impression that they're going to sign the JOA?

9 A I -- I can't speculate on that. A lot of  
10 companies request them without signing them.

11 Q Okay. Thank you, sir. Mr. -- well, let me  
12 get a page citation. Mr. Johnson, I'm looking at page  
13 31 of 166. That's Franklin Mountains development  
14 plans in and around Gold development area.

15 A Okay. I got that.

16 Q What is the status of the northwest quarter  
17 of Section 23, I think it is?

18 A Avant Operating has drilled well in that  
19 northwest section, so that has already been pooled and  
20 operated by another operator.

21 Q Okay. Thank you, sir. Also, what is the  
22 status of the east half of this development in regards  
23 to the Bone Spring formation?

24 A The east half of the Bone Spring is part of  
25 our phase two development, so we will be sending out

1 Bone Spring proposals on that.

2 Q Okay. So Franklin Mountain intends to, at  
3 some point, cement compulsory pooling applications for  
4 that region as well then? Is that correct?

5 A Yes, that's correct.

6 Q Okay. Thank you. The notice that was sent  
7 out for these cases, was that performed by Ms.  
8 Bennett, or were you involved with that, Mr. Johnson?

9 A The -- the notices were sent out by Ms.  
10 Bennett.

11 MR. MCCLURE: Okay. Thank you.

12 I don't have any further questions for  
13 this witness, Mr. Hearing Examiner.

14 EXAMINER CHAKALIAN: Okay. Before I  
15 turn to the other parties, Mr. McClure, are any of the  
16 admitted exhibits sufficiently incorrect that you need  
17 them to be corrected?

18 MR. MCCLURE: I mean, it would always  
19 be nice if the first take points were accurate rather  
20 than just being 100 foot because our rules require it  
21 to be at least 100 foot. But for purposes of  
22 approving this compulsory pooling order, I have an  
23 understanding of what their proposed plan is, so I do  
24 not think we'll need a new C-102 submitted.

25 EXAMINER CHAKALIAN: Okay. Perfect.



1 Thank you, Mr. McClure.

2 MR. MCCLURE: Mr. Hearing Examiner,  
3 just to maybe clarify. I was referring only, I guess,  
4 to what I was just talking about with Mr. Johnson  
5 with. I will want some other parts of the exhibit  
6 packet to be better images of it submitted to us,  
7 though.

8 EXAMINER CHAKALIAN: Okay. Do you want  
9 to tell Ms. Bennett what images or what exhibit  
10 numbers you need to be enlarged or clarified?

11 MR. MCCLURE: Yes. Yes, I definitely  
12 can do it at this time, Mr. Hearing Examiner.

13 Ms. Bennett, specifically, I'm looking  
14 at the cross sections within Exhibit C. Also I have  
15 page numbers for each of those if that would be  
16 beneficial to you.

17 EXAMINER CHAKALIAN: Please.

18 MR. MCCLURE: Okay. It's page 114,  
19 117, 120, and 123. If we could submit higher  
20 resolutions of each of these cross sections such that  
21 we can make out, you know, at least the measured  
22 depths more appropriately.

23 MS. BENNETT: Thank you. I will do  
24 that. The issue I had was that the file size was too  
25 large for me to file it as I had it. And I didn't,

1 necessarily, want to break it out into multiple parts.  
2 But in order to reach a better resolution, I will need  
3 to break the exhibit packet out into multiple parts,  
4 because I'm assuming that the Division will want me to  
5 resubmit the entire packet, not just the higher  
6 resolution cross sections. So if, with the Divisions  
7 permission, I would like to be able to submit the  
8 packet in two parts.

9 EXAMINER CHAKALIAN: Let's do this  
10 unless Mr. McClure objects to this. Normally I always  
11 want one packet with all the information in it, so  
12 there's no confusion. But in this case, since you're  
13 basically just resolving certain exhibits to a higher  
14 resolution, why don't we do this. We're going to be  
15 leaving the record open anyway. Why don't you  
16 submit -- and can I have those, Ms. Bennett, would you  
17 give me a list of the either exhibit numbers or page  
18 numbers that you're going to resolve higher?

19 MS. BENNETT: Yes, sir. Page 114, 117,  
20 120, and 123.

21 EXAMINER CHAKALIAN: All right. You  
22 said 120 and 123?

23 MS. BENNETT: Yes, I did.

24 EXAMINER CHAKALIAN: Okay. Thank you.  
25 So, Mr. McClure, there'll be four

1 exhibits that will be resubmitted in a -- we'll call  
2 it a supplemental exhibit packet and they'll be at a  
3 much higher resolution. Does that work for you?

4 MR. MCCLURE: Yes, it will, Mr. Hearing  
5 Examiner.

6 EXAMINER CHAKALIAN: Okay. Great.

7 Ms. Bennett, that works for you?

8 MS. BENNETT: Yes, thank you.

9 EXAMINER CHAKALIAN: And that'll allow  
10 you to just submit that one supplemental exhibit  
11 packet with just those four higher resolution images.

12 Okay. So is there any redirect?

13 MS. BENNETT: Yes, I do have some  
14 redirect.

15 EXAMINER CHAKALIAN: Please.

16 MS. BENNETT: So thank you.

17 CROSS-EXAMINATION

18 BY MS. BENNETT:

19 Q Mr. Johnson, on the Parallel C-102s that Mr.  
20 McClure was asking you about. The first take -- they  
21 do show the first take point as estimated at a 100  
22 feet. Is that right?

23 A Correct.

24 Q And was that to show that the first take  
25 point would be no closer than the regulatory

1 requirements?

2 A Correct.

3 Q And does your testimony and the exhibits  
4 show that as a practical reality unless you back build  
5 or have an off lease surface hole location, 100 feet  
6 can't be reached as a practical reality?

7 A Correct.

8 Q And so I think that's what you were getting  
9 at, right, when you said it was a -- you were  
10 complying with the regulatory requirements, and they  
11 were an estimate?

12 A Yes. They were estimated.

13 Q And you will file as-drilled C-102s?

14 A Yes.

15 Q And those will show the actual as-drilled  
16 first take point?

17 A Yup.

18 Q So is it fair to say that the 100 foot first  
19 take point on the C-102 isn't really an error, but an  
20 estimate that you'll be refining as you proceed with  
21 your development plan?

22 A Correct. That will be updated with the as-  
23 drills.

24 Q Thank you. Mr. McClure asked you about EG3  
25 and your communications with them. Do you recall

1 that?

2 A Yes.

3 Q And I think you testified that EG3 has  
4 communicated directly with you about other projects  
5 that you have going. Is that what you testified to?

6 A Yes.

7 Q So they know how to reach you if they want  
8 to?

9 A Yes. They do.

10 MS. BENNETT: Those are the only  
11 questions I have on redirect.

12 EXAMINER CHAKALIAN: Okay. Mr.  
13 McClure, do you have any cross-examination of those  
14 redirect questions?

15 MR. MCCLURE: I do not, Mr. Hearing  
16 Examiner.

17 EXAMINER CHAKALIAN: Okay. Mr.  
18 Feldewert, any questions now that you've heard these  
19 answers?

20 MR. FELDEWERT: No, sir.

21 EXAMINER CHAKALIAN: Okay. And Ms.  
22 Hardy?

23 MS. HARDY: No questions.

24 EXAMINER CHAKALIAN: Okay. Very good.

25 Ms. Bennett, may this witness be

1 excused?

2 MS. BENNETT: Yes. Thank you.

3 EXAMINER CHAKALIAN: Very good.

4 Mr. McClure, do you have any questions  
5 for Mr. Kessel, the geologist?

6 MR. MCCLURE: Mr. Hearing Examiner, I  
7 do not. I believe my only other questions is -- are  
8 for Ms. Bennett.

9 EXAMINER CHAKALIAN: Okay. Then please  
10 proceed with your questions for Ms. Bennett.

11 MR. MCCLURE: Okay. Thank you, Mr.  
12 Hearing Examiner.

13 Ms. Bennett, if I can direct your  
14 attention to page 127.

15 MS. BENNETT: Thank you. I'm there.

16 MR. MCCLURE: Ms. Bennett, is this an  
17 example of one of the notification packets that was  
18 sent out by your office?

19 MS. BENNETT: Yes, it is.

20 MR. MCCLURE: How many notification  
21 packets were sent out that are included within this  
22 exhibit packet?

23 MS. BENNETT: Looks like we sent one  
24 out for each case. I mean, and when I say it looks  
25 like we did, I don't mean to suggest that we never

1 send out notice for cases, but sometimes when the  
2 notice list is the same for two sets of cases, we'll  
3 send out a single letter instead of sending out two  
4 different letters. So I'm just looking through, but  
5 it looks like we sent -- for example here on page 139  
6 the notice list for case number 24359 and 24360 was  
7 the same. So we sent out a single notice letter. So  
8 while there might be five cases, there would only be  
9 four notice letter examples because one notice letter  
10 was sent for two cases.

11 EXAMINER CHAKALIAN: So hold on, Mr.  
12 McClure.

13 So, Ms. Bennett, the question was how  
14 many? Are you saying that there are four?

15 MS. BENNETT: If you'll give me just a  
16 moment, I'll --

17 EXAMINER CHAKALIAN: Yes. Of course.  
18 Take your time.

19 MS. BENNETT: Thank you. There are  
20 three notice letters.

21 MR. MCCLURE: Okay. Thanks, Ms.  
22 Bennett.

23 Oh, go ahead. I'm sorry.

24 EXAMINER CHAKALIAN: No. I'm just  
25 going to -- I just wanted to make sure that you heard

1 the answer that there are three notice letters.

2 MR. MCCLURE: Oh, yes, I did. Thank  
3 you, Mr. Hearing Examiner.

4 EXAMINER CHAKALIAN: Okay.

5 MR. MCCLURE: Ms. Bennett, if I can  
6 draw your attention to page 150 of 166, which should  
7 be the start of the certified mail tracking tables, I  
8 guess maybe they're called.

9 MS. BENNETT: Yes. Thank you.

10 MR. MCCLURE: Ms. Bennett, it appears  
11 that there's three different sets which would  
12 correlate to the three different sets of notice. My  
13 question, how can I tell which of these orates to  
14 which notice?

15 MS. BENNETT: Yes, thank you. So if  
16 you look on the right-hand side of the mailing ID, it  
17 says reference contents and there's a multi-digit  
18 number. And where the cursor is resting on this  
19 particular one is the case number 24356.

20 The first two numbers there, 10154,  
21 0010, are our internal tracking number and then the  
22 case number follows 24356. So then if I scroll down  
23 to the next set on page 154, the final digits there  
24 are 24358. Which is case number 24358. And then  
25 finally, the final Certified Pro Tracking list or



1 mailing list is on page 158 and that shows case  
2 numbers 59 and 60. We only have a limited ability to  
3 put in a few digits there, so that's for cases 24359  
4 and 24360. And then the -- so does that answer that  
5 question, Mr. McClure?

6 MR. MCCLURE: It does now Ms. Bennett.  
7 When I was reviewing it, I couldn't make heads or  
8 tails of that particular nomenclature. My only  
9 concern here is the last set of tracking, which  
10 references two different cases. Most definitely  
11 reviewing this in the future may be difficult to see.  
12 I guess the request I'll make of you and hopefully  
13 this doesn't complicate the earlier discussion of how  
14 to submit the other exhibits. Can we submit a minute  
15 exhibit here which actually, like some sort of label,  
16 towards the top of the page or bottom of the page,  
17 something that clearly states what case it's for even  
18 beyond the nomenclature that we have here for  
19 reference contents?

20 MS. BENNETT: Yes. I'm happy to do  
21 that.

22 EXAMINER CHAKALIAN: What would it look  
23 like?

24 MS. BENNETT: I will, there's no way  
25 for me to modify what is already on the page, so I

1 appreciate Mr. McClure's suggestion that I affix an  
2 exhibit sticker to the top that perhaps says just the  
3 case number. Or I can even put a header text box on  
4 there that says notice list for case 24356, notice  
5 list for case 24358, notice list for cases 24359 and  
6 24360.

7 EXAMINER CHAKALIAN: So, Mr. McClure,  
8 I'm assuming you don't have an issue now that she's  
9 explained what these last four digits or five digits  
10 are for the case number 24356 and 58. I'm assuming  
11 what you're having an issue with is 59 and 60?

12 MR. MCCLURE: Well, Mr. Hearing  
13 Examiner, I mean, she did verbally tell us, I guess,  
14 on record here as to what each of these tables are  
15 for.

16 EXAMINER CHAKALIAN: Mm-hmm.

17 MR. MCCLURE: Having said that, it  
18 would be -- perhaps be beneficial in regards to  
19 further review, or if we have to review these cases in  
20 the future, so they don't have to -- so a future  
21 reviewer does not have to read the transcript. It may  
22 be beneficial to label all of these even, because  
23 without the verbal explanation I wasn't able to  
24 recognize immediately that these upper ones were for  
25 case 24358, for instance.

1 EXAMINER CHAKALIAN: Okay. Thank you.  
2 I understand. Okay.

3 So it looks like, Ms. Bennett, that  
4 Exhibit D2 needs to be clarified in a way that helps  
5 someone in the future review these. Okay. So in your  
6 packet with the four images that are at higher  
7 resolution would you also include a new D2 or a  
8 modified D2?

9 MS. BENNETT: I will.

10 EXAMINER CHAKALIAN: Okay. Mr.  
11 McClure, that will be done.

12 MR. MCCLURE: Thank you, Mr. Hearing  
13 Examiner, and I have no further questions or requests  
14 in regards to these four cases.

15 EXAMINER CHAKALIAN: Okay. So then in  
16 regards to these four cases, and I don't think that  
17 that brought up any questions from Council?

18 MR. FELDEWERT: No, sir.

19 EXAMINER CHAKALIAN: Okay.

20 MS. HARDY: No. Thank you.

21 EXAMINER CHAKALIAN: Okay. Thank you.  
22 So these four cases, case numbers 24356, 24358, 24359,  
23 and 24360, are you finished presenting evidence?

24 MS. BENNETT: I am. Thank you.

25 EXAMINER CHAKALIAN: Can you turn your

1 mic?

2 MS. BENNETT: I am. Thank you.

3 EXAMINER CHAKALIAN: All right. Thank  
4 you. We will keep the administrative record open to  
5 receive the supplemental exhibit packet with five  
6 items expected. Do you have a timeframe for when you  
7 believe we will get those?

8 MS. BENNETT: Mr. Hearing Examiner, I  
9 would ask that I have through Monday, close of  
10 business.

11 EXAMINER CHAKALIAN: How about next  
12 Friday, a week --

13 MS. BENNETT: Okay. Sounds great.

14 EXAMINER CHAKALIAN: -- there's no, it  
15 doesn't seem like there's a rush with these since  
16 we're leaving it open for the agreement to revitalize.  
17 So why don't we say July 5th?

18 MS. BENNETT: That sounds great. And  
19 then of course, if the parties reach an agreement  
20 before then, I will expedite my submission of these  
21 exhibits.

22 EXAMINER CHAKALIAN: And so we are not  
23 taking these cases under advisory at this point. We  
24 are leaving the record open to receive this  
25 supplemental exhibit packet and to wait for MRC

1 Permian Company to file its Notice of Dismissal. Mr.  
2 Feldewert, those dismissals, do they have to be signed  
3 by the director?

4 MR. FELDEWERT: So we would file our  
5 dismissal, then the, I guess, the order of dismissal  
6 would be signed by the director or the acting  
7 director.

8 EXAMINER CHAKALIAN: Yeah. Why does a,  
9 I mean, in the criminal world, if the state dismissed  
10 this case, you'll need a judge to sign off on a  
11 dismissal. Why do we need it to be director or acting  
12 director to sign an order dismissing a case?

13 MR. FELDEWERT: Good question. I don't  
14 know why.

15 EXAMINER CHAKALIAN: Okay. You don't  
16 know --

17 MR. FELDEWERT: I'm with you. I've  
18 always kind of wondered if it's a Notice of Dismissal  
19 and it's in the file, why do you need an order? And I  
20 don't know the answer to that.

21 EXAMINER CHAKALIAN: Yeah. I was  
22 wondering if you knew that. Okay. That's fine.  
23 Okay. So we will keep the record open and Mr.  
24 Feldewert, would you kindly send an email to myself,  
25 and Mr. McClure, and Ms. Tschantz, letting us know

1 that you are filing? When you do file your  
2 dismissals, will you send an email so that we can then  
3 take these cases under advisement?

4 MR. FELDEWERT: Certainly.

5 EXAMINER CHAKALIAN: Okay. Good. And  
6 Mr. McClure, I'll share that with you when I get --  
7 obviously if something doesn't go as planned, you'll  
8 also let me know that you want a contested hearing  
9 date so you can come back on the record and present  
10 your evidence.

11 MR. FELDEWERT: Certainly.

12 EXAMINER CHAKALIAN: Okay. Perfect.  
13 Okay, Mr. McClure, if there's nothing further then  
14 we're going to closeout -- or not close out, but we're  
15 going to leave. We're going to go into recess on  
16 these four cases, and we're going to move to the  
17 Parallel cases.

18 MR. MCCLURE: Okay. That sounds good,  
19 Mr. Hearing Examiner.

20 EXAMINER CHAKALIAN: All right.

21 Ms. Bennett, would you -- let me just  
22 call the cases again so that we have a good divider on  
23 the record. I'm now calling case numbers 24348, 24350  
24 through 24355, 24362. Those are applications of  
25 Franklin Mountain Energy 3 for compulsory pooling and

1 approval of an overlapping spacing unit to the extent  
2 necessary and the competing cases, MRC Permian Company  
3 for the same 24327 through 24334. Interest of  
4 appearance, please.

5 MS. BENNETT: Good morning, Mr.  
6 Examiner. Deana Bennett, on behalf of Franklin  
7 Mountain Energy 3.

8 EXAMINER CHAKALIAN: Thank you.

9 MS. HARDY: Good morning, Mr. Examiner.  
10 Dana Hardy, on behalf of Armstrong Energy Corporation  
11 and Slash Exploration.

12 MR. FELDEWERT: Good morning. Michael  
13 Feldewert. The Santa Fe Office of Holland & Hart for  
14 MRC Permian and Matador Production Company.

15 EXAMINER CHAKALIAN: Thank you. And  
16 for the record, what is the status of your competing  
17 cases?

18 MR. FELDEWERT: The parties have  
19 reached a tentative agreement. We anticipate that the  
20 agreement will be finalized shortly, so as indicated  
21 in our pre-hearing statement, we do not object to  
22 these matters moving forward by affidavit or  
23 self-affirmed statement, but we are maintaining our  
24 cases on file in event that the deal, for some reason,  
25 does not close.

1 EXAMINER CHAKALIAN: Okay. And have  
2 you had a chance to review the exhibits in these  
3 cases?

4 MR. FELDEWERT: Yes.

5 EXAMINER CHAKALIAN: Okay. Good. Are  
6 there any objections to?

7 MR. FELDEWERT: No objection.

8 EXAMINER CHAKALIAN: Ms. Hardy, have  
9 you had a chance?

10 MS. HARDY: I have reviewed them, and I  
11 don't have any objections.

12 EXAMINER CHAKALIAN: No objections.  
13 Ms. Bennett?

14 MS. BENNETT: Thank you.

15 Again, these are the Parallel cases  
16 which the hearing examiner just called our companion  
17 cases to the Gold cases. And I have shown on the  
18 screen which is Exhibit B5 and is page 50 of the  
19 Parallel exhibit packet, the same slide that I showed  
20 for the Gold packet which gives -- for the Gold cases,  
21 which gives the overview of the development plan. And  
22 shows the Parallel development to the south of Gold,  
23 with the overlap area and the north half north half of  
24 Section 35. And so these, the cases that we're  
25 discussing now, are the Parallel cases and they



1 involve Sections 35 and 2. And FME 3 is seeking to  
2 pool all uncommitted working interest owners in those  
3 sections. And Franklin Mountain Energy has proposed  
4 both Wolfcamp and Bone Spring wells.

5 EXAMINER CHAKALIAN: Ms. Bennett?

6 MS. BENNETT: Yes, sir?

7 EXAMINER CHAKALIAN: Just a question.  
8 The way this diagram is set up where it says Gold,  
9 Satellite, Parallel, and Cross. Do those correspond  
10 to full section 640-acre sections?

11 MS. BENNETT: They do and they don't.  
12 So for Parallel, for example, there's a dividing line  
13 right in the middle, and that's a section dividing  
14 line.

15 EXAMINER CHAKALIAN: Mm-hmm. Okay. So  
16 what's the top half of Parallel? What section is  
17 that?

18 MS. BENNETT: That is 35.

19 EXAMINER CHAKALIAN: That's 35.

20 MS. BENNETT: And then below is 2.

21 EXAMINER CHAKALIAN: Bottom is 2?

22 MS. BENNETT: Yes.

23 EXAMINER CHAKALIAN: Bottom is 2.

24 Okay. Very good. Okay. Please continue.

25 MS. BENNETT: Thank you. So in the

1 exhibit packet, we included the compulsory pooling  
2 checklists for each case. Those are behind Tab A of  
3 the exhibit packet. Tab B is the affidavit of Don  
4 Johnson, the landman for Franklin Mount Energy 3,  
5 who's previously testified before the Division and his  
6 credentials been accepted as a matter of record.

7 Again, there's some overview exhibits  
8 that we've provided and then starting with Exhibit B17  
9 through Exhibit B24, those are the case specific  
10 exhibits that we've submitted and those are very  
11 similar to the exhibits that the Division is used to  
12 seeing in affidavit cases, including the application  
13 for each case, the C-102s for the wells, lease tract  
14 map and summary of interest, well proposal letters,  
15 and example AFEs, and then a list of parties to be  
16 pooled in each case.

17 Again, for those wells that have two  
18 pools and pool codes, we've provided three C-102s, an  
19 overview C-102 and then a C-102 for each pool.

20 Behind Tab C is the affidavit of Ben  
21 Kessel, the geologist with Franklin Mountain Energy 3,  
22 who's previously testified before the Division and his  
23 credentials have been accepted as a matter of record.  
24 And behind his affidavit are the usual suite of  
25 exhibits, geology exhibits.

1           And then Tab D is my self-affirmed  
2       declaration with a sample notice letter, mailing list  
3       of interested parties, the mailing tracking list, and  
4       then the affidavit of publication.

5           (Exhibit 24348, Exhibit 24350, Exhibit  
6           24351, Exhibit 24352, Exhibit 24353,  
7           Exhibit 24354, Exhibit 24355, and  
8           Exhibit 24362 were marked for  
9           identification.)

10          EXAMINER CHAKALIAN: Mr. McClure,  
11       before we proceed with any questions, are you going to  
12       want the exhibits C3 to be resubmitted? That would  
13       begin, I think on page 201 with C3B?

14          MR. MCCLURE: Mr. Hearing Examiner, let  
15       me look again at it real fast. I believe they were  
16       fine in this exhibit packet, though. But let me --  
17       let me take another look at them real fast.

18          EXAMINER CHAKALIAN: Okay. It's page  
19       201 is the first graph.

20          MR. MCCLURE: Okay. Thank you, Mr.  
21       Hearing Examiner. Yeah, I think these ones are fine,  
22       I'm able to make out the -- the depths on these ones.

23          EXAMINER CHAKALIAN: And then it would  
24       be, what, it would be page, maybe, 204 would be the  
25       next graph. Is that one okay too?

1 MR. MCCLURE: Yes, sir. It is.

2 EXAMINER CHAKALIAN: 207?

3 MR. MCCLURE: Yes, sir.

4 EXAMINER CHAKALIAN: How about 2 -- I  
5 don't see a page number on this next one, but it says  
6 C4E.

7 MR. MCCLURE: Yeah.

8 MS. BENNETT: Yes. There is a page  
9 number, it's right below the exhibit label, it might  
10 be --

11 EXAMINER CHAKALIAN: I see it now.  
12 It's the hole through it. That's why I can't read it.

13 MS. BENNETT: Oh, okay.

14 EXAMINER CHAKALIAN: Which one is it?

15 MS. BENNETT: 210. Page 210.

16 EXAMINER CHAKALIAN: Mr. McClure, 210?

17 MR. MCCLURE: Yes, Mr. Examiner, this  
18 one is fine as well.

19 EXAMINER CHAKALIAN: Okay. Great. And  
20 I think that's all the graphs. So they're all fine  
21 with you then. Okay. All right.

22 I'm sorry, Ms. Bennett, you were  
23 saying?

24 MS. BENNETT: I would request the  
25 admission of the exhibits behind Tab A, B, C, and D in

Page 60

1 case numbers 24348, 24350 to 24355 and 24362.

2 EXAMINER CHAKALIAN: Thank you. Any  
3 objections?

4 MR. FELDEWERT: No, sir.

5 MS. HARDY: No objection.

6 EXAMINER CHAKALIAN: Okay. Your  
7 exhibits in Tabs A, B, C, and D are all admitted into  
8 evidence.

9 (Exhibit 24348, Exhibit 24350, Exhibit  
10 24351, Exhibit 24352, Exhibit 24353,  
11 Exhibit 24354, Exhibit 24355, and  
12 Exhibit 24362 was received into  
13 evidence.)

14 I'll turn to the parties first.

15 Ms. Hardy, any questions for the  
16 witnesses in these cases?

17 MS. HARDY: I do not have any  
18 questions.

19 EXAMINER CHAKALIAN: Very good.

20 Mr. Feldewert?

21 MR. FELDEWERT: I have no questions.

22 EXAMINER CHAKALIAN: Okay. Thank you.

23 Mr. McClure?

24 MR. MCCLURE: Thank you, Mr. Hearing  
25 Examiner. I probably just ask a few questions of Mr.

1 Johnson, just to confirm that the same --

2 EXAMINER CHAKALIAN: By all means.

3 Thank you, Mr. McClure. Hold on one second. Okay.  
4 we're ready.

5 MR. MCCLURE: Okay. Thank you, Mr.  
6 Hearing Examiner.

7 DIRECT EXAMINATION

8 BY MR. MCCLURE:

9 Q Mr. Johnson, would it be accurate to say  
10 that the first take points for the Parallel wells  
11 displayed on their C-102s is inaccurate?

12 A Correct. Those are the estimated first take  
13 points.

14 Q Mr. Johnson, if I can direct your attention  
15 to page 61 of 304.

16 A Okay.

17 Q Is it accurate to say that the diagram in  
18 the upper-left is the most accurate representation of  
19 this -- of how Franklin plans to develop this area?

20 A That -- that diagram shows more of the  
21 surface hole and how the bottom hole is going to be  
22 developed from more of a 2D view. The diagram to the  
23 bottom right is more of the 3D version of that.

24 EXAMINER CHAKALIAN: So Mr. Johnson,  
25 would you answer the question? Which is more

Page 62

1 accurate?

2 THE WITNESS: I think they're the same.  
3 The same thing as far as bottom hole goes. And then  
4 the upper-right graph shows where the surface hole  
5 will be, how those would be from the same pad. But I  
6 think both graphs show how the surface hole is going  
7 to be developed and how they don't overlap, but they  
8 do maximize the potential recovery.

9 EXAMINER CHAKALIAN: Mr. McClure, does  
10 that answer your question?

11 MR. MCCLURE: Mr. Hearing Examiner, I  
12 think Mr. Johnson may have misspoke in his answer just  
13 now. Can I -- can I just ask the question again?

14 EXAMINER CHAKALIAN: Yes. Please.

15 BY MR. MCCLURE:

16 Q Mr. Johnson, the diagram in the upper left  
17 of this page, do you see what I'm referring to?

18 A Yes.

19 Q In regards to both the first take point  
20 orientation and the surface hole location, is that the  
21 most accurate diagram on this page?

22 A Yes, it is.

23 MR. MCCLURE: Okay. Thank you, Mr.  
24 Johnson.

25 Mr. Hearing Examiner, I have no further

1 questions for Mr. Johnson, although I do have a couple  
2 of requests for Ms. Bennett in regards to the notice.

3 EXAMINER CHAKALIAN: Okay.

4 May this witness be excused?

5 MS. BENNETT: Yes. Thank you.

6 EXAMINER CHAKALIAN: All right.

7 Thank you, Mr. Johnson.

8 Mr. McClure?

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

11 Ms. Bennett, if I can direct your  
12 attention to page 284. This should be your tracking  
13 spreadsheets.

14 MS. BENNETT: Thank you. I'm there.

15 MR. MCCLURE: Ms. Bennett, how many  
16 sets of notice was conducted for this case?

17 MS. BENNETT: If you'll give me just a  
18 moment, I'll be able to answer that question. Mr.  
19 McClure, we sent out three notice letters. One notice  
20 letter covers cases 24348 and 24351. One notice  
21 letter covers cases 24352, 53, 54, and 55. And one  
22 notice letter covered cases 24350 and 24362. Those  
23 were the notice letters that we sent out to the  
24 working interest owners and also the operators of any  
25 overlap well that the Franklin Mountain Energy 3



1 spacing units proposed to overlap.

2 We also, though, sent a separate letter  
3 to a couple of additional working interest owners and  
4 operators in a well board that we hadn't previously  
5 noted noticed. And so that is the notice letter  
6 that's on page 263. And so that notice letter is  
7 limited to just providing notice to the working  
8 interest owners and operators of a single well that we  
9 had inadvertently left out of our prior mailings.

10 So I think that for your purposes of --  
11 the purposes of the question you were asking in terms  
12 of the hearing for the cases, we sent out three notice  
13 letters, and then for purposes of the single  
14 overlapping spacing unit well that we missed was an  
15 additional letter.

16 MR. MCCLURE: Ms. Bennett, on your  
17 tracking, it appears the nomenclature for your  
18 reference contents are -- is similar to the last four  
19 cases we discussed? Is that correct?

20 MS. BENNETT: That's correct. So I  
21 have up, page 284 which is the start of Exhibit D2,  
22 and you can see on page 284 that it ends in a 48 and a  
23 51 which refers to the case numbers that end in 48 and  
24 51, which I noted were sent as a single notice letter.

25 MR. MCCLURE: Ms. Bennett -- oh, go

1 ahead, Ms. Bennett.

2 MS. BENNETT: I was just going to say  
3 if you turn to page 2 -- or turning to page 288. That  
4 shows 52 to 55 as the final four numbers, which  
5 corresponds to the notice letter we sent for those  
6 four cases. So it's the same labeling nomenclature.

7 MR. MCCLURE: Now, Ms. Bennett, how did  
8 you distinguish out the overlapping notice?

9 MS. BENNETT: So many of the overlaps  
10 working interest owners and operators were the same  
11 parties as are being pooled. And so we don't have a  
12 separate list for them because they were being pooled  
13 or otherwise receiving notice of the hearing, so we  
14 don't have a separate list for the majority of the  
15 overlaps.

16 But I do have a notice list here on  
17 page 295 which identifies the two parties to whom we  
18 had not sent notice about a particular well. But the  
19 rest of the overlapping owners, operators, or working  
20 interest owners, are subsumed in our overarching  
21 notice list. And again, that's because many of them  
22 are working interest owners that are in the unit and  
23 so, for efficiency sake, we only mailed them one  
24 letter rather than mailing them two different letters.

25 MR. MCCLURE: Yes, Ms. Bennett, I

1 understand that. In regards to your nomenclature,  
2 though, this tracking feed on page 295 seems to be  
3 missing that. But this -- these are two persons that  
4 were missed in the prior notice for the overlapping.  
5 Is that correct?

6 MS. BENNETT: That's correct.

7 MR. MCCLURE: Okay. Thank you, Ms.  
8 Bennett. I'm going to request that you do submit an  
9 amended exhibit packet here with the prior mentioned  
10 labels, or header, or however you -- you wish to  
11 handle that. My question to you is how would you plan  
12 to distinguish this last set of notices in that label?

13 MS. BENNETT: Thank you. The last set  
14 of notices, and by that, I mean the notice that's on  
15 page 295, is part and parcel of a particular case,  
16 which I don't have that number off the top of my head.  
17 But I will put that case number on the top of this one  
18 to show which case these two noticed parties are  
19 linked to. If that works for you, Mr. McClure?

20 MR. MCCLURE: I'm just thinking  
21 about -- oh, go ahead, Ms. Bennett.

22 MS. BENNETT: I was just going to say  
23 the end result would be that for one case there would  
24 be two different notice tracking tables that you would  
25 need to look at.

1                   MR. MCCLURE: I guess what I'm  
2 wondering, Ms. Bennett, is if we would need to maybe  
3 add an additional word or two in there just to  
4 indicate that it's the -- to cure it or follow up,  
5 something to indicate that this goes with that fourth  
6 notice letter that's in the same -- that's in the same  
7 exhibit packet here.

8                   MS. BENNETT: Certainly.

9                   MR. MCCLURE: Okay. Thank you, Ms.  
10 Bennett. In addition to that, if I can direct your  
11 attention to page 302. Do you have a cleaner copy of  
12 this where we can actually read the -- the  
13 publication, I guess, a little bit easier?

14                   MS. BENNETT: I would say that I have  
15 the original. Whether it's any cleaner or not, I  
16 can't say. I think that this has degraded a bit  
17 because it's a scan of the original, so I would be  
18 happy to provide as clean of a scan as I can of the  
19 original. But I can't guarantee how much cleaner it  
20 will be than this because we get the original from the  
21 newspaper and I don't have any control over that, but  
22 I can clean it up as best I can.

23                   MR. MCCLURE: Do the case numbers match  
24 on this notice with the notice that was sent out on  
25 September 20th?

1 MS. BENNETT: Well, so there were -- we  
2 did two different publication notices. So the case  
3 numbers that you're looking at here on pages 301 and  
4 302 are the case numbers that we're referring to  
5 today, which are cases 24348, 24350 to 24355, and  
6 24362. The case numbers on page 303 are the prior  
7 case numbers.

8 We had originally filed all of these  
9 applications and mailed -- not these applications, but  
10 very similar applications for the Parallel State Com  
11 wells. We had filed those applications and mailed  
12 them to the same notice list and published in  
13 September 2023.

14 But after the Gold -- I'm sorry. After  
15 the Cross and Satellite hearing, there were some  
16 concerns about the sufficiency of the notice for the  
17 overlapping spacing unit portions of our applications.  
18 And so to forestall any further arguments about the  
19 sufficiency of notice, I filed amended applications.  
20 And those applications were amended only to add  
21 additional information about the overlapping spacing  
22 units as well as to include some more detailed  
23 information about footages. And so for those  
24 applications, again only amended to provide additional  
25 information about overlapping spacing units, we

1 remailed and republished and that is the current  
2 publication notice and the current letters that you  
3 have in the materials before you. That was a  
4 long-winded explanation so hopefully that helps.

5 MR. MCCLURE: Thank you, Ms. Bennett.  
6 In regards to the public notice that's on page 302,  
7 this clipping specifically, if we cannot get a clear  
8 image of this scanned, do you believe the newspaper  
9 would be able to provide you with a better clipping of  
10 this?

11 MS. BENNETT: I would do my best. I'll  
12 do my best.

13 MR. MCCLURE: Okay. Ms. Bennett, if  
14 we -- if we could go ahead and attempt to rescan it  
15 and see how clear that comes out, preferably if we  
16 could at least, you know, do a good job of reading it  
17 at least.

18 MS. BENNETT: I understand, and I will  
19 see what I can do. But the case numbers, when I zoom  
20 in, I don't know if you can see this, but you can make  
21 out the case numbers. And they do correspond to the  
22 cases that we're discussing today. But I will  
23 definitely endeavor to get a cleaner copy.

24 MR. MCCLURE: Yes. Thank you, Ms.  
25 Bennett.

1 I have no further question or requests  
2 for these eight cases, Mr. Hearing Examiner.

3 EXAMINER CHAKALIAN: Thank you, Mr.  
4 McClure.

5 Let's turn back to the parties. Were  
6 there any -- do you have any questions based on what  
7 you heard Mr. McClure asking?

8 MS. HARDY: I do not.

9 EXAMINER CHAKALIAN: Okay.

10 MR. FELDEWERT: I do not.

11 EXAMINER CHAKALIAN: Okay.

12 And Ms. Bennett, do you have any  
13 redirect questions?

14 MS. BENNETT: I do not. Thank you.

15 EXAMINER CHAKALIAN: Very good.

16 All right. Then does that conclude the  
17 presentation of evidence today in these cases?

18 MS. BENNETT: It does. Thank you.

19 EXAMINER CHAKALIAN: Very good. So  
20 we're leaving the record open in this case for a  
21 supplemental exhibit packet.

22 Can you, for the record, review what  
23 you're going to be supplementing in these cases?

24 MS. BENNETT: Yes. Thank you. I'm  
25 going to be supplementing Exhibit D2 to add labels or

1 some form of identification to relate the exhibit to  
2 the relevant cases. I am also going to add a specific  
3 statement on the notice sheet that went to the two  
4 parties, MRC Permian, and TH McKelving [ph], about the  
5 overlapping spacing unit. And then I'm going to  
6 provide a cleaner publication notice. And I believe  
7 Mr. McClure asked only for page 301 as page 300 seemed  
8 more legible. But I will do my best. It's the same  
9 affidavit of publication, so I might be just  
10 submitting the entire affidavit again.

11 EXAMINER CHAKALIAN: Mr. McClure, just  
12 page 301?

13 MR. MCCLURE: Page 302 is the one that  
14 I need clearer.

15 MS. BENNETT: Thank you.

16 EXAMINER CHAKALIAN: Thank you. 302.

17 MS. BENNETT: Thank you.

18 EXAMINER CHAKALIAN: Okay.

19 MS. BENNETT: And might I clarify one  
20 thing?

21 EXAMINER CHAKALIAN: Yes.

22 MS. BENNETT: In terms of our Certified  
23 Pro Mailing nomenclature, that usually isn't an issue  
24 because usually we're submitting separate exhibit  
25 packets for each case. For contested cases, though,



1 we are -- I think all of us are in the habit of  
2 submitting a combined exhibit packet.

3 So I do just want to let Mr. McClure  
4 and yourself know that this shouldn't be an issue in  
5 the future, hopefully, because each mailing list will  
6 be tied to a specific case in those specific exhibits.  
7 So I'm -- well, it won't be a problem in the future, I  
8 guess, is what I'm trying to say, but I will  
9 definitely correct it for these cases. And I  
10 appreciate the feedback.

11 EXAMINER CHAKALIAN: Thank you. I  
12 think if you do need to -- as long as you put  
13 something in as a header that references the case  
14 numbers, I think that would be okay, as well.

15 MS. BENNETT: Thank you.

16 EXAMINER CHAKALIAN: Okay.

17 Mr. McClure, anything else before we go  
18 off the record?

19 MR. MCCLURE: Nothing here, Mr. Hearing  
20 Examiner.

21 EXAMINER CHAKALIAN: Okay.

22 Anything else, Ms. Bennett, before we  
23 go off the record?

24 MS. BENNETT: No. Thank you very much  
25 for your time today. I really appreciate it and so

1 does Franklin Mountain Energy 3.

2 EXAMINER CHAKALIAN: By all means.

3 Ms. Hardy?

4 MS. HARDY: Nothing for me. Thank you.

5 EXAMINER CHAKALIAN: Mr. Feldewert?

6 MR. FELDEWERT: No, sir.

7 EXAMINER CHAKALIAN: Okay. Very good.

8 Well, good luck with the settlement agreement and we  
9 look forward to taking these cases under advisement  
10 when we are advised that the cases are dismissed that  
11 compete with these cases. Thank you for everyone's  
12 time today and we're off the record.

13 (Whereupon, at 9:57 a.m., the  
14 proceeding was concluded.)

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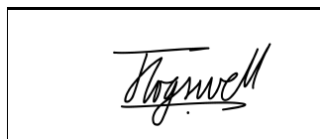
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CERTIFICATE

I, JAMES COGSWELL the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



JAMES COGSWELL  
Notary Public in and for the  
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, NANCY PETERMANN, 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.



NANCY PETERMANN

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