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

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:
Case Nos. 24279, 24280. Claim No. 27-24

DATE: Tuesday, July 23, 2024
TIME: 8:30 a.m.
BEFORE: Hearing Examiner Gregory A. Chakalian
LOCATION: Energy, Minerals, and Natural
Resources Department
Pecos Hall, Wendell Chino Building
1220 South Saint Francis Drive
Santa Fe, NM 87505
REPORTED BY: James Cogswell
JOB NO.: 6774017

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A P P E A R A N C E S

ON BEHALF OF THE OIL CONSERVATION DIVISION:

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

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ALSO PRESENT:

Freya Tschantz, Law Clerk, Oil Conservation
Division

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I N D E X

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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
Riley Permian:		
Exhibit A	C-108, OCD Case 24279	27/46
Exhibit B	C-108, OCD Case 24280	27/46
Exhibit C	Affidavit of Notice	19/
Exhibit D	Self-Affirmed Statement of Oliver Seekins	56/56
Exhibit E	Self-Affirmed Statement of Ernest Padilla	73/73
Exhibit F	Self-Affirmed Statement of Thomas Tomastik, Case 24279	78/78
Exhibit G	Self-Affirmed Statement of Thomas Tomastik, Case 24280	78/78
Exhibit H	Self-Affirmed Statement of Reed Davis, Case 24279	90/94
Exhibit I	Self-Affirmed Statement of Reed Davis, Case 24280	90/94
Permian Resources:		
Exhibit A	Self-Affirmed Statement of Chris Cantin	15/15
Exhibit A-5	Rebuttal Exhibit	151/157

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

NO.	DESCRIPTION	ID/EVD
MRC Permian:		
Exhibit A	Self-Affirmed Statement of Andrew Parker	16/17
Matador:		
Exhibit A	Revised Exhibits A-1 through A-6	138/141
VF Petroleum:		
Exhibit A	Self-Affirmed Statement of Dale Lubinski	18/19

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P R O C E E D I N G S

THE HEARING EXAMINER: Okay. It's 8:30. We're going to begin. These are the contested hearings of the Oil Conservation Division. We have two parties here today with us. We have Riley Permian Operating Company, LLC, who has filed two applications. We also have MRC Permian contesting those applications.

Let's get entries of appearance first.

MR. PADILLA: Mr. Examiner, Ernest L. Padilla for Riley Permian.

THE HEARING EXAMINER: Mr. Padilla, is your microphone on?

MR. PADILLA: Yes, it is. Let me turn off my --

THE HEARING EXAMINER: Mr. Padilla, your entry of appearance.

MR. PADILLA: Ernest L. Padilla for Riley Permian in both cases.

MS. HARDY: Good morning, Mr. Examiner. Dana Hardy with Hinkle SHanor on behalf of V-F Petroleum Inc.

THE HEARING EXAMINER: Thank you. What role do you have in today's hearings?

MS. HARDY: V-F is opposing the

1 applications and has presented evidence and testimony
2 in opposition.

3 THE HEARING EXAMINER: Okay. We'll get
4 to the evidence in just a moment. Thank you.

5 MR. RANKIN: Good morning,
6 Mr. Examiner. May it please the Division. Adam
7 Rankin appearing on behalf Colgate Operating, Permian
8 Resources, and MRC Permian in opposition to the case.

9 THE HEARING EXAMINER: So we have four
10 parties. Is that correct?

11 MR. RANKIN: I believe that's correct.

12 MS. HARDY: That's correct.

13 THE HEARING EXAMINER: Okay.

14 And, Mr. Padilla, let's talk about your
15 exhibits before we begin the hearing, then I'll go to
16 the other parties. What did you file?

17 MR. PADILLA: Mr. Examiner, we filed
18 the self-affirmed statements of our three expert
19 witnesses, we filed the prospective C-108s for each of
20 the cases, we filed my affidavit of notice. And that
21 one has a complication because we recently found out
22 that we had not notified Apache. They have a well
23 near the perimeter, one-half mile circle. My clients
24 have talked to Apache, but we have not received a
25 waiver or an indication that they would want to be

1 involved in this case.

2 THE HEARING EXAMINER: When were they
3 notified?

4 MR. PADILLA: About ten days ago. And
5 I -- included in my supplemental filing as a
6 self-affirmed statement that says that we served them
7 by FedEx.

8 THE HEARING EXAMINER: So your
9 self-affirmed statement demonstrates that you served
10 notice on them about ten days ago by FedEx, you said?

11 MR. PADILLA: Yes.

12 THE HEARING EXAMINER: And you're
13 saying that you haven't heard at all from them?

14 MR. PADILLA: Well, my clients have
15 been in communication with them even this morning, and
16 they have received no concern, but at the same time, I
17 don't think that they've had enough time to evaluate
18 whether or not they would be opposed to these
19 applications.

20 THE HEARING EXAMINER: Okay. Is there
21 a rule that would prevent us from moving forward
22 today?

23 MR. PADILLA: Not that I know of.

24 THE HEARING EXAMINER: Well, I'm asking
25 you.

1 MR. PADILLA: No.

2 THE HEARING EXAMINER: Do we have
3 counsel for Apache with us virtually or in the room?
4 Okay.

5 All right. Well then, Mr. Padilla,
6 were they aware of today's hearing?

7 MR. PADILLA: Yes, they were. We gave
8 them a -- matter of fact, my notice letter was updated
9 to tell them that we had a hearing on the 23rd of
10 July.

11 THE HEARING EXAMINER: And please, just
12 in the future, please speak up a little bit so the
13 microphone captures everything you say.

14 MR. PADILLA: Okay.

15 THE HEARING EXAMINER: Because this is
16 being transcribed verbatim, and the transcript will be
17 available in approximately two weeks from today.

18 Okay. So Mr. Padilla, did you file one
19 packet of exhibits or are there multiple packets?

20 MR. PADILLA: I think we filed just
21 one.

22 THE HEARING EXAMINER: But you're not
23 sure?

24 MR. PADILLA: I'm not sure. My
25 assistant did it.

1 THE HEARING EXAMINER: Your assistant.

2 MR. PADILLA: Yes.

3 THE HEARING EXAMINER: Okay. I have
4 here an 11-page document filed on the 17th that says
5 Permian Resources and it's table of contents, you have
6 a general -- this is the self-affirming statement of
7 Chris Cantin, senior geologist for Permian.

8 MR. RANKIN: That would be my witness,
9 Mr. Examiner. A little confusing because there's
10 Riley Permian and then there's Permian Resources.

11 THE HEARING EXAMINER: And I didn't see
12 that this one said -- well, this one doesn't say Riley
13 Permian; it just says Permian on it.

14 MR. RANKIN: Correct. I think because
15 that probably is referring to Permian Resources.
16 Yeah. Chris Cantin is a witness for Permian Resources
17 and Colgate.

18 THE HEARING EXAMINER: All right. So
19 this one says Permian Resources. This is an 11-page
20 document. So Mr. Rankin, you filed this?

21 MR. RANKIN: Yeah.

22 THE HEARING EXAMINER: Okay.

23 I'm going to ask the parties at the end
24 of the hearing to consolidate all of their exhibits
25 into individual single filings, and then Freya is

1 going to remove these multiple documents from the
2 record because this is very confusing. I have at
3 least eight files open in front of me, and I really
4 shouldn't have eight files here. So I understand you
5 filed amended exhibits yesterday, but I'll ask you to
6 consolidate the amended exhibits all into one packet.

7 And the same for you, Mr. Padilla, if
8 there are multiples. But I'm going to go through each
9 file in here because I don't want to be confused for
10 the hearing today. So I have a pre-hearing statement
11 filed by you, about six pages, which is required under
12 the rules.

13 Then I have, Mr. Rankin, your Permian
14 exhibit. This is Tab A for you. It is the statement
15 and exhibits relied upon by Mr. Chris Cantin. Has he
16 been qualified as an expert?

17 MR. RANKIN: He has.

18 THE HEARING EXAMINER: He has. Okay.
19 Thank you.

20 Let's deal with these as we go through
21 them. It'll be easier for me. So are there any
22 objections to Riley Permian's Exhibit A and subparts
23 to be admitted into evidence this morning,
24 Mr. Padilla?

25 MR. PADILLA: I haven't received any

1 objections to admission of Exhibit A.

2 THE HEARING EXAMINER: Have you
3 reviewed the exhibits?

4 MR. PADILLA: Yes, I have.

5 THE HEARING EXAMINER: Okay. So what
6 did you mean by when you said you haven't received
7 any --

8 MR. PADILLA: Oh. I thought you were
9 asking whether I have received to our exhibits --

10 THE HEARING EXAMINER: No.

11 MR. PADILLA: No.

12 THE HEARING EXAMINER: No. I'm dealing
13 with exhibits as a preliminary matter to be admitted
14 into the record before we begin opening statements.

15 MR. PADILLA: I don't have any
16 objections to Permian Resources' or Matador's for that
17 matter.

18 THE HEARING EXAMINER: And when you say
19 "Matador's," whose exhibits are we --

20 MR. PADILLA: MRC.

21 THE HEARING EXAMINER: MRC.

22 MR. PADILLA: MRC.

23 THE HEARING EXAMINER: Okay. So
24 Mr. Padilla, for the record, I'm asking specifically
25 about this exhibit filed on the 16th of July. It is

1 titled Permian Resources Exhibit A, Self-Affirming
2 Statement of Chris Cantin, senior geologist, and
3 Exhibits A-1, 2, 3, and 4. Are there any objections?

4 (Permian Resources Exhibit A was marked
5 for identification.)

6 MR. PADILLA: No objection.

7 THE HEARING EXAMINER: No.

8 Ms. Hardy?

9 MS. HARDY: No objection. Very good.

10 Mr. Rankin, this Exhibit A is admitted
11 into evidence.

12 (Permian Resources Exhibit A was
13 received into evidence.)

14 MR. RANKIN: Thank you.

15 THE HEARING EXAMINER: All right. Next
16 we have MRC Permian consolidated pre-hearing
17 statement. This is a seven-page document. Let me see
18 if there's any exhibits attached to this. There are
19 not. Okay. And this was filed by yourself?

20 MR. RANKIN: By my assistant.

21 THE HEARING EXAMINER: Yes. By your
22 assistant.

23 MR. RANKIN: But, yeah, I instructed
24 the filing.

25 THE HEARING EXAMINER: Thank you.

1 Okay. Then we go to Matador's
2 exhibits. Are these yours, Mr. --

3 MR. PADILLA: No objection.

4 THE HEARING EXAMINER: Wait. Are these
5 yours?

6 MR. PADILLA: No.

7 THE HEARING EXAMINER: They're not.
8 Are they yours, Ms. Hardy?

9 MS. HARDY: No. They are Mr. Rankin's
10 as well. Mr. Rankin represents two parties.

11 THE HEARING EXAMINER: I see.
12 And you filed exhibits on behalf of
13 both parties?

14 MR. RANKIN: We did.

15 THE HEARING EXAMINER: That's why I'm
16 confused. Thank you.

17 MR. RANKIN: Yeah.

18 THE HEARING EXAMINER: Okay. So now
19 this is a 13-page document, and here I have MRC
20 Exhibit A, Self-Affirmed Statement of Andrew Parker.
21 Has he been qualified as an expert before this
22 division?

23 (MRC Permian Exhibit A was marked for
24 identification.)

25 MR. RANKIN: He has, Mr. Examiner.

1 THE HEARING EXAMINER: Thank you. So I
2 have here a Self-Affirmed statement of Andrew Parker,
3 and then I have Exhibits A-1 through A-6. Okay.

4 MR. RANKIN: Correct.

5 THE HEARING EXAMINER: Mr. Padilla, any
6 objections to this exhibit and its subparts being
7 admitted into evidence?

8 MR. PADILLA: No.

9 THE HEARING EXAMINER: Ms. Hardy?

10 MS. HARDY: No objection.

11 THE HEARING EXAMINER: Very good. MRCs
12 Exhibit A is admitted into evidence along with its
13 subparts.

14 (MRC Permian Exhibit A was received
15 into evidence.)

16 MR. RANKIN: Mr. Examiner, this is the
17 one that we filed revised Exhibit 4 because --

18 THE HEARING EXAMINER: Okay. We'll get
19 to it. I have them all here. I just want to go
20 through methodically. Thank you for advising me of
21 that.

22 Okay. Now I have a V-F Petroleum
23 consolidated pre-hearing statement. And who filed
24 this?

25 MS. HARDY: I did, Mr. Examiner.

1 THE HEARING EXAMINER: Okay. Very
2 good. All right. And there's -- it's a six-page
3 document. There's no exhibits.

4 MS. HARDY: No.

5 THE HEARING EXAMINER: Very good. Now
6 I have your hearing exhibits. Are these all of your
7 exhibits in this one 13-page document?

8 (V-F Petroleum Exhibit A was marked for
9 identification.)

10 MS. HARDY: Yes --

11 THE HEARING EXAMINER: Okay. Very
12 good. All right. And there's no amendments to these.

13 MS. HARDY: Correct.

14 THE HEARING EXAMINER: Okay. So then
15 this is complete.

16 MS. HARDY: Yes.

17 THE HEARING EXAMINER: Okay. Then you
18 won't be required to file anything else unless we have
19 some other issue along the way.

20 Mr. Rankin, Mr. Padilla, have you
21 reviewed V-F Petroleum's hearing exhibits?

22 MR. RANKIN: I have, Mr. Examiner.

23 MR. PADILLA: Yes, I have.

24 THE HEARING EXAMINER: Okay. Any
25 objection to these being admitted into evidence?

1 MR. RANKIN: No objection.

2 MR. PADILLA: No objection.

3 THE HEARING EXAMINER: Ms. Hardy, V-F
4 Petroleum hearing exhibits are admitted into evidence.

5 (V-F Petroleum Exhibit A was received
6 into evidence.)

7 MS. HARDY: Thank you.

8 THE HEARING EXAMINER: Thank you.

9 Okay. Two more. We have a
10 self-affirmed statement of Mr. Padilla. What is the
11 purpose of this document?

12 MR. PADILLA: The purpose is to
13 demonstrate that we have the problem with Apache.

14 THE HEARING EXAMINER: Oh. This is
15 only dealing with Apache?

16 MR. PADILLA: Pretty much. But we've
17 also notified -- and that goes in conjunction with our
18 Exhibit C, which is my affidavit of notice, and
19 attached to that are the return receipts, the green
20 cards.

21 (Riley Permian Exhibit C was marked for
22 identification.)

23 THE HEARING EXAMINER: Okay. I
24 understand. I see it now. I'm looking through it, so
25 I do understand. But I also have a self-affirmed

1 statement of Oliver Seekins here.

2 MR. PADILLA: Yes. He's one of our
3 witnesses, and he's been qualified before as a
4 regulatory expert.

5 THE HEARING EXAMINER: So I thought the
6 purpose of this was to deal solely with the issue with
7 Apache, but there's more here than just that?

8 MR. PADILLA: The self-affirmed
9 statement is a separate document, and I'm not sure how
10 it was filed. It was filed under my direction, but
11 it's part of our case.

12 THE HEARING EXAMINER: Right. I
13 understand that. Okay. So this 15-page filing is
14 more than just your self-affirmed statement and the
15 FedEx information.

16 MR. PADILLA: Yes.

17 THE HEARING EXAMINER: Okay, okay. Let
18 me get to the other part of it. Because there's no
19 table of contents, so I really don't know what's
20 involved here. After this hearing is over, when you
21 do file your exhibit packet, please include a table of
22 contents to alert whoever looks at it what's included.

23 MR. PADILLA: I think, if I'm not
24 mistaken, it's contained in the original packet that
25 we submitted.

1 THE HEARING EXAMINER: I haven't seen
2 the original packet yet. I'm just looking at this
3 document.

4 MR. PADILLA: Okay.

5 THE HEARING EXAMINER: And all that's
6 here is this your self-affirmed statement and the
7 self-affirmed statement of Oliver Seekins.

8 MR. PADILLA: Yes.

9 THE HEARING EXAMINER: Is he one of
10 your witnesses?

11 MR. PADILLA: Yes, he is.

12 THE HEARING EXAMINER: Okay. And did
13 you say that he has been qualified as an expert for
14 the Division?

15 MR. PADILLA: Yes.

16 THE HEARING EXAMINER: Okay. And what
17 is the purpose of his affidavit?

18 MR. PADILLA: Just to give the Division
19 an overview of the C-109. He obviously is not going
20 to testify about geology or engineering aspects, but
21 he will testify for the purpose and the reasons why
22 these applications were brought.

23 THE HEARING EXAMINER: Okay. And
24 there's no exhibits that he relies on as part of this
25 self-affirmed statement?

1 MR. PADILLA: Only the C-109s -- or
2 C-108s. I'm sorry.

3 THE HEARING EXAMINER: Right. And the
4 C-108s were filed in another pleading?

5 MR. PADILLA: They're part of the
6 package.

7 THE HEARING EXAMINER: Okay. I haven't
8 gotten to your package yet so I don't know. That's
9 why I'm asking.

10 Okay. And then I also have a
11 self-affirmed statement of Reed Davis.

12 MR. PADILLA: Yes.

13 THE HEARING EXAMINER: Has he been
14 qualified?

15 MR. PADILLA: He's been qualified.

16 THE HEARING EXAMINER: And the purpose
17 of his testimony?

18 MR. PADILLA: To demonstrate -- he's
19 going to go through seismology analysis.

20 THE HEARING EXAMINER: Okay. And have
21 you marked these as exhibits?

22 MR. PADILLA: Yes, we have.

23 THE HEARING EXAMINER: I'm looking for
24 something to show me that these are exhibits, but
25 there's nothing on here that shows that they're

1 exhibits, that's why I'm asking you. These are just
2 statements. They're not marked as exhibits.

3 MR. PADILLA: Oh.

4 THE HEARING EXAMINER: Have you seen
5 them?

6 MR. PADILLA: Oh, yeah. I have seen
7 them. I've seen the filing.

8 THE HEARING EXAMINER: Give me a moment
9 here. So I'm starting from page 1 and I'm looking for
10 anything that shows that they are marked as exhibits.
11 There's nothing on any of these that shows that
12 they're marked as an exhibit. So I'm going to refer
13 to them as best I can during the hearing; however,
14 when you file these properly, please make sure that
15 each one of these are marked as an exhibit with a
16 table of contents.

17 MR. PADILLA: We'll do that.

18 THE HEARING EXAMINER: Okay. Thank
19 you.

20 So now let me get down to where I was.
21 Now, we spoke about Reed Davis. Now I have a
22 self-affirmed statement of Thomas Tomastik?

23 MR. PADILLA: Yes.

24 THE HEARING EXAMINER: And it looks
25 like he is an expert before the Division, previously

1 qualified. And that's what I have here, the three
2 self-affirmed statements of your witnesses, including
3 your own.

4 MR. PADILLA: Yes.

5 THE HEARING EXAMINER: Okay. Have you
6 reviewed these documents, Mr. Rankin?

7 MR. RANKIN: I have, Mr. Examiner.

8 THE HEARING EXAMINER: And Ms. Hardy?

9 MS. HARDY: Yes, I have.

10 THE HEARING EXAMINER: Are there any
11 objections?

12 MR. RANKIN: I'm going to refer to
13 Ms. Hardy first, and then I may speak up after.

14 THE HEARING EXAMINER: Okay.

15 MS. HARDY: Mr. Examiner, I have a
16 number of serious notice concerns. So I don't
17 necessarily object to admission of the exhibits, but
18 there are issues that I think need to be addressed
19 regarding notice and the fact that the exhibits
20 include new C-108s that were not filed with the
21 hearing application. So I think we have a number of
22 really serious notice problems, and I don't know if
23 you'd like for me to talk about those now or at
24 other points.

25 THE HEARING EXAMINER: Now, do all of

1 these self-affirmed statements refer to the
2 exhibits -- the C-108s?

3 MS. HARDY: Yes. The exhibits refer to
4 the new C-108s that were submitted last week with
5 hearing exhibits, and I don't see that those were
6 actually filed in the Division's files. Mr. Padilla
7 served Mr. Rankin and myself with them, but I don't
8 see them in the docket. But they do include new
9 C-108s that are recent and substantially changed from
10 the originals.

11 THE HEARING EXAMINER: Okay. So we're
12 going to deal with the C-108s in just a moment. So
13 then it sounds like you do have objections to these
14 self-affirmed statements, is what I'm hearing.

15 MS. HARDY: I don't object to the
16 self-affirmed statements necessarily, but I think I do
17 object to the actual exhibits, the new C-108s.

18 THE HEARING EXAMINER: Okay. Well --

19 MS. HARDY: To the extent the
20 statements refer to them, then, yes, I would object.

21 THE HEARING EXAMINER: I mean, if I'm
22 going to admit them into evidence, I don't want to do
23 it over an objection. I mean, then I would require a
24 foundation to be laid properly. If there's no
25 objection, then I'll admit them into evidence. So is

1 there an objection to these self-affirmed statements?

2 MS. HARDY: Yes.

3 THE HEARING EXAMINER: Okay. Fine.

4 Mr. Rankin.

5 MR. RANKIN: Mr. Examiner, I agree with
6 Ms. Hardy that there are some serious concerns about
7 the C-108 that was filed as part of the exhibit
8 packet, and I also agree that there are some concerns
9 about the notice, and I'm happy to address them after
10 Ms. Hardy does as well.

11 THE HEARING EXAMINER: After Ms. Hardy
12 what?

13 MR. RANKIN: Addresses them as well.

14 THE HEARING EXAMINER: Okay. Let me
15 first find this pleading.

16 Mr. Padilla, I'm looking for -- let's
17 see what this is. Mr. Padilla, I don't show a --
18 okay. I think I found -- did you file a 133-page
19 document that starts with a pre-hearing statement?

20 MR. PADILLA: Yes.

21 THE HEARING EXAMINER: Okay. Let me
22 get to your exhibits, then. Okay. Well, this says
23 exhibit packet submitted for Riley Permian Operating.
24 Isn't this yours, Mr. Rankin?

25 MR. RANKIN: No, I'm the non-Riley

1 Permian.

2 THE HEARING EXAMINER: You're the
3 non-Riley. Hard to keep track.

4 Okay. So let's see something here.
5 This pre-hearing statement that I have that was filed
6 on the 16th was, it looks like, filed by Mr. Padilla.
7 I'm looking for a signature here somewhere. Statement
8 of the case, procedural matters. Yes. Okay. This is
9 yours.

10 So Mr. Padilla, I have here a 133-page
11 document. I'm looking at the table of contents,
12 Exhibits A and B. Exhibit A is the C-108 for
13 case 24279, it is from pages 1 through 53. And I have
14 Exhibit B, C-108, OCD case 24280, page 54 through 105.
15 So Mr. Padilla, I do have this pleading.

16 (Riley Permian Exhibit A and Exhibit B
17 were marked for identification.)

18 THE HEARING EXAMINER: Is this what's
19 being objected to, Ms. Hardy and Mr. Rankin?

20 MS. HARDY: Yes, it is Mr. Examiner.

21 MR. RANKIN: It is.

22 THE HEARING EXAMINER: Because there
23 are new C-108s?

24 MS. HARDY: These exhibits are new
25 C- 108s. The hearing applications that Riley Permian

1 filed in February attached C-108s, and those were
2 noticed and sent to the interested parties, and they
3 were prepared by a different company. They include
4 information that's omitted from the new C-108s, which
5 were prepared by the consultants who are here to
6 testify today, and the new C-108s include quite a bit
7 of information that was not included in the originals.

8 THE HEARING EXAMINER: And is that why,
9 Mr. Rankin, you filed amended exhibits?

10 MR. RANKIN: No, that's not why,
11 Mr. Examiner.

12 THE HEARING EXAMINER: Okay. All
13 right. Thank you for answering that question simply.

14 Mr. Padilla, can you explain what's
15 going on?

16 MR. PADILLA: Well, the only thing I
17 can say is the C-108s were refined for better
18 presentation. This is typical. It happens. And we
19 realized that the original C-108s that we filed with
20 the application, but those had essentially the same
21 information as to where the injection wells were
22 proposed, and we have two witnesses that are all
23 consulting witnesses who are better informed in terms
24 of presentation and the quality of the evidence. It's
25 no different than Mr. Rankin filed amended pleadings

1 yesterday. I really haven't even seen what he filed
2 because they were filed so late. I'm not objecting to
3 it simply because they go to the merits of whether or
4 not the applications are proper or not or whether or
5 not the contrary evidence is -- it goes to the weight
6 of the evidence.

7 THE HEARING EXAMINER: Okay. Thank
8 you, Mr. Padilla.

9 Ms. Hardy -- and I'll get to you in a
10 moment, Mr. Rankin -- is there a rule -- I mean, I
11 understand that there's a difference in the C-108s,
12 but aren't these exhibits filed timely?

13 MS. HARDY: Mr. Examiner, the issue is
14 that the rules on notice, and specifically the
15 Division's adjudication rule, require an applicant,
16 here Riley, to provide notice of the C-108s, including
17 providing the C-108s to all of the affected parties.
18 Here, the C-108s that were provided to the affected
19 parties in February or March are substantially
20 different from the C-108s that the Division's being
21 asked to approve now.

22 And there are substantive differences.
23 The new C-108s provided last week include new wellbore
24 diagrams, seismic data, other information that was not
25 provided in the originals. The formation picks for

1 the oil and gas bearing zones are different. The
2 injection pressures are different. So there are
3 substantial differences.

4 There's also an issue regarding the
5 well location on the Angel Ranch number 1. That
6 hearing application and the public notice that was
7 provided, including for the hearing today, have an
8 error in the legal description for the location of the
9 well. The notice and the application provide a
10 location from the south line, 1320 from the south line
11 and 1320 from the east line. The hearing exhibits in
12 the new C-108 state the location is 1320 from the
13 north line and 1320 from the east line, so that's
14 about a half-mile difference. And in the past, the
15 Division has required applications to be re-noticed
16 and refiled when there is a substantive error in a
17 legal description that could affect whether parties
18 decide to intervene when they see the notice. So
19 that's another problem that we have here with notice.

20 THE HEARING EXAMINER: So succinctly,
21 there are two main issues from your perspective.
22 Number one is the quality of the information that is
23 changed in the C-108 that was filed last week versus
24 the C-108 that was filed in February. That's your
25 first issue.

1 MS. HARDY: Correct.

2 THE HEARING EXAMINER: And second issue
3 is a notice issue because the well location has
4 changed by a half a mile, and that could affect who
5 intervenes or is a party in this hearing. Those are
6 your two. Is there another objection or is there
7 more?

8 MS. HARDY: Well, the other issue is
9 the notice to Apache, because there is a rule that
10 requires notice, and typically the Division won't
11 proceed without a notice or a waiver.

12 THE HEARING EXAMINER: But you're not
13 representing Apache --

14 MS. HARDY: I am not, but I think you
15 had asked Mr. Padilla if there was a rule that
16 precluded --

17 THE HEARING EXAMINER: I did.

18 MS. HARDY: -- proceeding, and I think
19 that, unfortunately, I mean, I think there is, and
20 it's 19.15.4.12(B) which states that hearing notice
21 must be provided to affected parties at least 20 days
22 prior to the hearing date by certified mail, and this
23 notice was provided to Apache by FedEx, and it's
24 actually seven days ago, and they would've received it
25 on the day that the hearing exhibits were due. So I

1 don't represent Apache, but typically that type of
2 notice problem is an issue for the Division.

3 THE HEARING EXAMINER: All right.
4 Well, let's go to Mr. Padilla before I ask Mr. Rankin
5 for his issues.

6 So Mr. Padilla, there are three issues.
7 Did you hear them?

8 MR. PADILLA: I heard.

9 THE HEARING EXAMINER: Let's start with
10 the most difficult one. The notice issued to Apache.
11 There's a rule that states that they need to be
12 notified 20 days in advance of the hearing.

13 MR. PADILLA: There is. We admitted
14 that this morning.

15 THE HEARING EXAMINER: Right.

16 MR. PADILLA: I said the notice isn't
17 adequate.

18 And you also asked whether we could
19 proceed today. I don't see a rule that says that we
20 can't. I'm involved in another case where notice was
21 not given. We're working that out, and actually the
22 hearing had already occurred by the time my client got
23 notice. I'm not saying that that's appropriate, but
24 the argument that Ms. Hardy's making is that there are
25 other parties that could have appeared maybe. Well,

1 they're not here. The two litigants didn't have any
2 problem being here today. They have interests in the
3 area and they're here. So I don't see that as a major
4 problem. Although I do admit the Apache thing is
5 entirely different, and we're trying to get a waiver
6 of notice, and we haven't received one.

7 Now, going to the other --

8 THE HEARING EXAMINER: Hold on. We're
9 going to go one at a time.

10 Are you telling me that at this moment
11 someone from your client is in touch with Apache
12 trying to get a waiver?

13 MR. PADILLA: Yes.

14 THE HEARING EXAMINER: If we take a
15 recess at some point soon, is there any way to check
16 in with them and see what's going on?

17 MR. PADILLA: I think they contacted
18 them this morning, and they have not yet -- it's still
19 early, so I don't know whether they could get a waiver
20 or not.

21 THE HEARING EXAMINER: Okay. Is there
22 a remedy in this rule 19.15.4 -- you said 11(B)?

23 MS. HARDY: 12(B).

24 THE HEARING EXAMINER: Excuse me.
25 12(B). Is there a remedy in the rule that --

1 MS. HARDY: The rule does not provide a
2 remedy, but typically the Division will continue the
3 case until there's either a waiver of notice or the
4 notice period has run.

5 THE HEARING EXAMINER: I see.
6 Are your witnesses here today?

7 MR. PADILLA: They're here today.

8 THE HEARING EXAMINER: Okay. Let me
9 think about how I'm going to deal with the notice
10 issue with Apache.

11 And the next issue, Mr. Padilla, that
12 she raised? The differences in the C-108s?

13 MR. PADILLA: Well, I don't see that as
14 a major -- Ms. Hardy argues that there's been
15 substantial difference. I called it a refinement, for
16 example, on the seismology. It's way better. We
17 didn't have it to begin with. But the seismology is
18 important because there's a fault there, and we're
19 going to argue about whether or not there's faulting
20 or not and whether it's relevant to this hearing. I
21 know in the past, saltwater disposal wells seismology
22 has always been important in terms of pressures and
23 volumes that are injected on a daily basis and
24 fracture gradients, but I don't see a problem between
25 what we filed originally and what we have now.

1 THE HEARING EXAMINER: Let me interrupt
2 you for a moment. You said you didn't have them
3 originally. Can you expand upon that?

4 MR. PADILLA: Well, we had some notion
5 of seismology. Any time you have saltwater disposal
6 now before the Oil Conservation Division, I would
7 always advise my clients to include something on
8 seismology, and that was included originally. It's
9 not as good as it is now. We have geophysicists here
10 to testify about whether or not there's an impact from
11 the standpoint of seismology as far as injection of
12 the volumes and the pressures that are proposed.

13 THE HEARING EXAMINER: I'm not sure
14 that answers my question. You raised the issue that
15 you didn't have certain data back in February that you
16 had when you filed these a week ago. I'm asking for
17 you to expand upon that.

18 MR. PADILLA: Well, I don't think that
19 there's a substantial difference between what we filed
20 originally to give notice of a proposed injection, and
21 at that time we attached to our application a copy of
22 the C-108. There's no question it's changed. It's
23 better now and provides more information, but I don't
24 think it's a notice issue where you disallow evidence
25 that is better now.

1 THE HEARING EXAMINER: What about the
2 issue that you first said the well was 1300 feet from
3 the south line, now you're saying it's 1300 feet from
4 the north line?

5 MR. PADILLA: Well that probably was a
6 typo in our office, but attached to the application
7 was the C-108 that's absolutely correct as to what
8 location.

9 THE HEARING EXAMINER: So you're saying
10 that the application contained the C-108 which
11 corrected the location?

12 MR. PADILLA: It had the correct
13 location and it had the C-102 attached to it as part
14 of the application.

15 THE HEARING EXAMINER: Which correctly
16 identified the well as 1300 feet from the north line?

17 MR. PADILLA: Correct.

18 THE HEARING EXAMINER: Ms. Hardy, you
19 heard the response to your objections. What do you
20 have to say?

21 MS. HARDY: Mr. Examiner, the notice to
22 the public that was included in the hearing
23 application and the hearing notice is wrong. I mean,
24 if you look at the docket notice for today it has the
25 wrong legal description.

1 THE HEARING EXAMINER: Can you be
2 specific about what you're talking about?

3 MS. HARDY: Sure. Yeah. Let me pull
4 up the --

5 THE HEARING EXAMINER: Is this a filing
6 that you're referring to?

7 MS. HARDY: I'm referring to the public
8 docket notice that was sent out by the Division.

9 THE HEARING EXAMINER: Oh, this is our
10 notice.

11 MS. HARDY: Right. The public notice
12 of the hearing, which would have --

13 THE HEARING EXAMINER: Let me find it.
14 And can you tell me where on our website you're
15 looking for this, because I don't normally go to this
16 area.

17 MS. HARDY: I have it on my email
18 but --

19 THE HEARING EXAMINER: Freya, can you
20 direct me to where on our website she's referring to?

21 MS. TSCHANTZ: On our website it's
22 under Public Notices.

23 THE HEARING EXAMINER: Let me go there.
24 I'm on the OCD home. Would that be News and
25 Announcements?

1 MS. TSCHANTZ: Up in the top right hand
2 corner-ish.

3 THE HEARING EXAMINER: Public notices.
4 I see it. And then where do I go from here?

5 MS. TSCHANTZ: Scroll down to OCD
6 Hearings.

7 THE HEARING EXAMINER: Yes.

8 MS. TSCHANTZ: And it should come up
9 with today's date.

10 THE HEARING EXAMINER: Okay. Thank
11 you. Got it.

12 MS. TSCHANTZ: There's another step.

13 THE HEARING EXAMINER: I see it.

14 MS. TSCHANTZ: 2024 OCD Dockets.

15 THE HEARING EXAMINER: I see it now.
16 2024 OCD Dockets. And then I have here July 23rd,
17 special docket.

18 Okay. I have the document that you're
19 referring to. Docket number 27-24. Where am I
20 looking in this document?

21 MS. HARDY: So the first case listed --

22 THE HEARING EXAMINER: Yes.

23 MS. HARDY: -- case number 24279.

24 THE HEARING EXAMINER: Yes.

25 MS. HARDY: You see the legal

1 description --

2 THE HEARING EXAMINER: I do.

3 MS. HARDY: -- for the location of the
4 well? It says 1320 feet from the south line.

5 THE HEARING EXAMINER: Oh, FSL?

6 MS. HARDY: Yes.

7 THE HEARING EXAMINER: From the south
8 line?

9 MS. HARDY: Yes. And the correct
10 description according to the C-108s is 1320 from the
11 north line.

12 THE HEARING EXAMINER: Mr. Padilla?

13 MR. PADILLA: Well, I still stand by
14 the general notice as we've got the right section,
15 township, and -- county. Half a mile either way
16 doesn't change a lot. We're talking about here --
17 going to be beyond a mile in terms of the faulting
18 that I've seen from exhibits and that sort of thing.
19 It gives notice of a hearing that any diligent person
20 would find out where the wells are going to be
21 located.

22 THE HEARING EXAMINER: Okay.

23 Ms. Hardy, you heard the response?

24 MS. HARDY: I did, Mr. Examiner, and my
25 experience with the Division in the past has been that

1 when there's an error in a legal description in a
2 public notice, that the case must be re-noticed before
3 it can be heard, and I've had that experience myself.

4 THE HEARING EXAMINER: Let me turn to
5 Mr. Rankin.

6 Mr. Rankin, you've heard the three
7 objections that Ms. Riley [sic] made. You've heard
8 the three responses from Mr. Padilla. Your input?

9 MR. RANKIN: Mr. Examiner, thank you
10 very much. I stand here today representing MRC and
11 Colgate and Permian Resources, who also oppose, but
12 for different reasons, the proposed injection that
13 Riley's seeking here, then what V-F is opposing for.
14 But nevertheless, both my clients have grave concerns
15 about the proposed injection due to concerns around
16 watering out overlying productive zones that they're
17 currently drilling and producing, and also concerns
18 about induced seismicity.

19 And don't really want to kick the can
20 down the road in this case. Our preference is to have
21 these applications be denied on the merits, and,
22 nevertheless, there are serious issues with the notice
23 both in terms of Apache, who is an operator of two
24 wells, as I understand, within the area of review for
25 each of these locations. As an operator, you know,

1 they are owed the opportunity to review the full
2 information relating to the proposed injection. They
3 haven't had a chance to do that. I have spoken to
4 Apache myself and they haven't had a chance to review
5 it, as I understand. I think they're still looking at
6 it.

7 THE HEARING EXAMINER: Mr. Rankin, is
8 there a problem with the notice in case number 24280?

9 MR. RANKIN: I do not believe there was
10 a problem with the notice in that case. Well, as to
11 the location, I believe the issue with the C-108 is
12 the same as Ms. Hardy raises. Now, you know, the
13 C-108 that was filed as an exhibit for each of those
14 cases includes extensive additional information about
15 seismic review, about the purported geologic seals,
16 about the pressure that they're going to operate at.
17 There's some substantial differences between what was
18 filed as an exhibit and what was filed with the
19 hearing application.

20 Now, as to Apache, you know, I think
21 generally it's true that if a notice issue becomes
22 apparent to the Division after the fact, the remedy
23 is -- if a party who demonstrates that they have not
24 received proper notice and who was obligated to get
25 notice under the Division's rules, the remedy is to

1 reopen the case and allow that party to appear,
2 cross-examine the applicant's witnesses, and then put
3 on their own evidence. That would be the remedy, and
4 that would be -- I mean, we would want to appear for
5 that as well because there may be new questions that
6 we have and so forth. So if we were to go forward and
7 Apache were later to object, it would be
8 administratively wasteful to have to come back to
9 hearing, bring everybody back and go through the whole
10 thing again.

11 So that's the risk. And that's why
12 traditionally the Division has not been inclined to go
13 forward with a hearing when there's a notice issue of
14 this nature that they've become aware of. So that's
15 why Ms. Hardy has said that the Division typically
16 will defer.

17 Now, as I mentioned, you know, we have
18 grave concerns about this case. Riley has reviewed
19 only publicly available data and literature in their
20 searches for potential seismic issues or faulting.
21 Our clients have privy to them 3D seismic, which has
22 revealed other concerns, in addition to they've done,
23 I think, a more careful analysis of the structure.
24 But you know, I haven't raised these issues as
25 strongly as Ms. Hardy because I want these cases to be

1 dismissed and rejected on their merits. Now, that
2 said, I think it's a concern to go forward without
3 Apache having the opportunity to appear.

4 THE HEARING EXAMINER: Mr. Padilla,
5 does Apache have interest in Section 11?

6 MR. PADILLA: I believe they do. They
7 have a well right on the periphery of the half-mile
8 circle, is my understanding, and so if they have a
9 well, they have oil and gas interests.

10 THE HEARING EXAMINER: So they have an
11 interest in both Section 11 and in Section 12?

12 MR. PADILLA: I'm not sure about what
13 Apache's holdings are.

14 THE HEARING EXAMINER: I see. Well,
15 when you provided them notice in that letter that you
16 attached as an exhibit, was it your understanding that
17 it was for one case or the other or both cases?

18 MR. PADILLA: I believe it was for both
19 cases.

20 THE HEARING EXAMINER: Okay. All
21 right. I'm going to take a recess. I want to talk to
22 my technical examiner and get some feedback from him.
23 So let's take a ten-minute break. It is 9:14 now.
24 We'll come back on the record at 9:24 a.m.

25 Thank you.

1 (Off the record.)

2 THE HEARING EXAMINER: Okay. We're
3 going to go back on the record. It is 9:20 a.m.

4 I've already consulted with our
5 technical examiner. I've thought about the issues. I
6 think the best course of action is to continue with
7 the hearing today. We're going to leave the
8 evidentiary record open. We're going to allow Apache
9 and whoever else, once we re-notice this, to file any
10 objection if they want to, and we will come back if we
11 have to, but I feel like having the witnesses here
12 today, I think this can be cured without canceling the
13 hearing today.

14 So with that being said, let's go back
15 to the exhibits. I was working on accepting exhibits
16 into the record, and I have Mr. Padilla's exhibits
17 that were filed on the 17th. These were affidavits.
18 They have been objected to by Ms. Hardy, and I believe
19 Mr. Ranking too, so Mr. Padilla, you'll have to
20 provide foundation for these to come in. They have
21 not been accepted into evidence at this point.

22 And then I have the original filing.
23 Let me find it. This was part of your pre-hearing
24 statement. This was the 133-page document.

25 First I'll go to you Ms. Hardy, we have

1 Exhibit A, which is the C-108 that was provided on the
2 16th of July. Are there any objections to the C-108
3 in case 24279?

4 MS. HARDY: Other than my notice issue
5 that I've raised, no.

6 THE HEARING EXAMINER: Okay. Thank
7 you.

8 And Mr. Rankin?

9 MR. RANKIN: Same for me, Mr. Examiner.

10 THE HEARING EXAMINER: I've already
11 dealt with the objections, so we'll move on.

12 And then Ms. Hardy, we have Exhibit B,
13 which is the C-108 in case 24280. Are there any
14 objections?

15 MS. HARDY: No, subject to my notice
16 concerns.

17 THE HEARING EXAMINER: I understand.
18 Mr. Rankin?

19 MR. RANKIN: Same, Mr. Examiner.

20 THE HEARING EXAMINER: I understand.
21 Thank you.

22 Okay. So Mr. Padilla, your Exhibits A
23 and B are admitted into evidence in your pleading
24 filed on July 16th. So you have all your exhibits
25 admitted except for the four affidavits. They have

1 not been exhibit admitted into evidence.

2 (Riley Permian Exhibit A and Exhibit B
3 were received into evidence.)

4 THE HEARING EXAMINER: Is your
5 microphone on, sir?

6 MR. PADILLA: No. Let me understand
7 what the deficiency is. Are you saying I have to lay
8 a foundation for the self-affirming statements?

9 THE HEARING EXAMINER: There's an
10 objection to them coming in under a stipulation. So
11 they're not stipulated to. So when you present your
12 witnesses, at that time you will have to lay a
13 foundation for each exhibit. I mean there's only four
14 of them here; one of them is from you. And we will
15 deal with them and see what objections there are at
16 that time. But at this time they're not admitted by
17 stipulation.

18 MR. PADILLA: Okay. Then I'll call the
19 first witness and lay a foundation.

20 THE HEARING EXAMINER: Okay. We're not
21 ready for that yet, but we will in a minute.

22 Ms. Hardy, do you have exhibits that
23 were filed?

24 MS. HARDY: I do. And I believe you
25 already admitted them.

1 THE HEARING EXAMINER: Very good. I
2 forgot. Thank you very much.

3 MS. HARDY: Thank you.

4 THE HEARING EXAMINER: And Mr. Rankin,
5 did we deal with your exhibits?

6 MR. RANKIN: We did, Mr. Examiner.

7 THE HEARING EXAMINER: Excellent.

8 MR. RANKIN: Other than I think the
9 revised exhibits that we filed. But there's one other
10 thing I want to mention. There's an Exhibit C that
11 Mr. Padilla has filed, and that's his affidavit of
12 notice, which is at PDF page 108 in my copy. I just
13 want to point that out because there is an Exhibit C
14 and it's his notice of affidavit.

15 THE HEARING EXAMINER: Okay. Thank
16 you. Let's get back to that in just a moment. I want
17 to get to your revised exhibits. Okay. So these were
18 filed yesterday. I thought they were for rebuttal.

19 MR. RANKIN: There was a rebuttal
20 exhibit that was filed late yesterday by Permian
21 Resources and Colgate.

22 THE HEARING EXAMINER: Okay.

23 MR. RANKIN: That was what was filed
24 most recently. We did file revised exhibits on Monday
25 for Matador, and that was to address the location of

1 the SWD number 1 well proposed by Riley because of the
2 misunderstanding around the location, whether it was
3 from the south line or the north line. So upon
4 review, we determined that the correct location was
5 from the north line based on the plats and other
6 information in the exhibit that Mr. Padilla filed, so
7 we amended our exhibits to reflect that correct
8 location.

9 THE HEARING EXAMINER: Okay. Let me
10 get to the proper exhibits so that we can get them
11 admitted. That's not it. I have a notice of revised
12 exhibits. Does that contain everything you were just
13 talking about?

14 MR. RANKIN: It does, Mr. Examiner,
15 knowing that you had asked for it, we did it as a
16 complete resubmission.

17 THE HEARING EXAMINER: And this is a
18 15-page document. And that's a complete resubmission?

19 MR. RANKIN: Yes.

20 THE HEARING EXAMINER: Okay. So the
21 filing from yesterday has all of your exhibits,
22 including the rebuttal exhibit, and it revises your
23 original exhibits.

24 MR. RANKIN: It does not include the
25 rebuttal exhibit because the rebuttal exhibit is from

1 a different client. That's from Permian
2 Resources/Colgate.

3 THE HEARING EXAMINER: I don't see that
4 filed is what I'm trying to say.

5 MR. RANKIN: It just got filed this
6 morning. I see an email from my assistant.

7 THE HEARING EXAMINER: Okay. I
8 understand.

9 Freya, do you have that in your queue
10 because it's not in the case?

11 MS. TSCHANTZ: Nothing right now.

12 THE HEARING EXAMINER: All right. In
13 the meantime, Mr. Padilla, have you seen the notice of
14 revised exhibits that was filed yesterday?

15 MR. PADILLA: No.

16 THE HEARING EXAMINER: Was it sent?
17 Did you receive it?

18 MR. PADILLA: I may have received it,
19 but I didn't review.

20 THE HEARING EXAMINER: Okay. All
21 right. Well are there any objections to admitting
22 this into evidence?

23 MR. PADILLA: Well, I'm going to object
24 because due process. I mean this is last minute, and
25 if there was a filing this morning for sure I haven't

1 seen that.

2 THE HEARING EXAMINER: Okay. So
3 there's an objection. That's fine.

4 And Ms. Hardy, do you have an
5 objection?

6 MS. HARDY: I do not.

7 THE HEARING EXAMINER: I didn't think
8 so.

9 Okay. So Mr. Rankin, these are not
10 admitted into evidence. You'll have to provide some
11 foundation for them coming in.

12 MR. RANKIN: Will do.

13 THE HEARING EXAMINER: Okay. Thank
14 you. I figured you would.

15 And then the other document still
16 hasn't been released into the imaging system, so I
17 haven't seen it yet.

18 MR. RANKIN: Understood. It's a
19 rebuttal exhibit so we can address that either at the
20 time or as soon as it gets released.

21 THE HEARING EXAMINER: All right.

22 So Mr. Padilla, you know where you
23 stand with your exhibits. Would you like to make a
24 brief opening statement?

25 MR. PADILLA: Not really. I think the

1 evidence is going to --

2 THE HEARING EXAMINER: Thank you.

3 MR. PADILLA: -- tell us what the
4 issues are.

5 THE HEARING EXAMINER: Okay. Do you
6 want to call your first witness?

7 MR. PADILLA: Yes. We'll call
8 Mr. Seekins.

9 THE HEARING EXAMINER: Let's do this.
10 You have all of your witnesses here. How many do you
11 have? Four?

12 MR. PADILLA: Three.

13 THE HEARING EXAMINER: I see four
14 people behind you.

15 MR. PADILLA: One is a person who has
16 been communicating with Apache, and he's not listed as
17 a witness, but he's administrator for Riley Permian.

18 THE HEARING EXAMINER: Okay. Let's get
19 the three witnesses that are going to testify today.
20 Would you please all stand up and come over here to
21 where Mr. Padilla is and state and spell your names
22 one at a time for the record and we'll swear you all
23 in at the same time.

24 MR. DAVIS: Yes. My name is Reed
25 Davis, R-E-E-D D-A-V-I-S.

1 THE HEARING EXAMINER: Thank you.

2 MR. TOMASTIK: Thomas Tomastik,
3 T-O-M-A-S-T-I-K.

4 THE HEARING EXAMINER: Thank you.

5 MR. SEEKINS: Oliver Seekins,
6 S-E-E-K-I-N-S.

7 THE HEARING EXAMINER: And it's my
8 understanding that all of you have been qualified as
9 experts before the Division in the past.

10 MR. TOMASTIK: Yes.

11 MR. SEEKINS: Yes.

12 THE HEARING EXAMINER: Okay. Thank
13 you. Who are you calling first, Mr. Padilla?

14 MR. PADILLA: Mr. Seekins.

15 THE HEARING EXAMINER: Would you please
16 take the witness stand, and would you please turn on
17 your microphone?

18 Mr. Padilla?

19 WHEREUPON,

20 OLIVER SEEKINS,
21 called as a witness and having been first duly sworn
22 to tell the truth, the whole truth, and nothing but
23 the truth, was examined and testified as follows:

24 //

25 //

1 DIRECT EXAMINATION

2 BY MR. PADILLA:

3 Q Mr. Seekins, please state your name.

4 A Oliver Seekins.

5 Q And who do you work for?

6 A I work for ALL Consulting.

7 Q And are you consulting on behalf of the
8 applicant in this case?

9 A Yes, I am.

10 Q And you've been qualified as a regulatory
11 expert before the Oil Conservation Division in the
12 past?

13 A Yes. For class II injection wells.

14 Q Have you participated in preparing the C-108
15 that is Exhibit A in this case?

16 A Yes. I was the project manager over it and
17 participated in preparing it.

18 Q Okay. And tell us a little bit of what a
19 project manager does.

20 A In this case, I went through the initial
21 C-108 filing and then suggested some revisions and
22 points of clarity to Riley Permian. And then, once we
23 received approval, I led our team to make those
24 revisions and make sure we were addressing the
25 regulatory requirements of the C-108.

1 Q And did you do that for case 24280 as well?

2 A Yes, I did.

3 Q In preparation for this hearing, can you
4 generally describe what you did in terms of the C-108
5 and preparing the C-108, the latest version of that?

6 A Yes. So like I stated, we reviewed the
7 initial filing and saw revisions that we thought were
8 in the best interest of the applicant. Some of the
9 major ones there were revising the proposed injection
10 pressure down to the .2 PSI per foot. We clarified
11 the AOR maps to include the half-mile and 2-mile rings
12 to show that we had identified all the leases and
13 wells within the appropriate AOR.

14 I requested that Mr. Davis review the
15 available seismic data and prepare his professional
16 opinion on if it would contribute to induced
17 seismicity, and then I tasked Mr. Tomastik with
18 looking at confinement and a potential hydrologic
19 connection to the USDW, as well as I worked with
20 Mr. Tomastik to make sure that the wellbore diagram
21 met the regulatory requirements, specifically to
22 revise the factor setting depth to be within 100 feet
23 of the top of the --

24 Q Were your recommendations designed to
25 improve the applications?

1 A Yes. They were designed to meet either the
2 regulatory requirements or the best practices as we
3 understand them.

4 Q Would you say there was a substantial
5 difference, as Ms. Hardy has argued, in terms of
6 whether or not the nature of the applications had
7 changed drastically?

8 A I'm not completely confident in the legal
9 definition of a substantial change; however, we have
10 the same pool code, the same location of the wells. I
11 believe that the heart of the application was the
12 same.

13 Q Did you prepare a self-affirmed statement
14 designed to give your direct testimony in this case?

15 A Yes, I did.

16 Q And you wrote that yourself?

17 A Yes, I did.

18 Q Have you done that in the past at other
19 hearings before the Oil Conservation Division?

20 A Yes. For several other cases.

21 MR. PADILLA: Mr. Examiner, we tender
22 Mr. Seekins' self-affirmed statement into evidence.

23 THE HEARING EXAMINER: Ms. Hardy?

24 MS. HARDY: No objection.

25 THE HEARING EXAMINER: Mr. Rankin?

1 MR. RANKIN: No objection.

2 THE HEARING EXAMINER: Mr. Seekins'
3 affidavit is admitted to evidence.

4 Are you going to label it as your
5 Exhibit number 1, number 2? How are you going to
6 label it?

7 MR. PADILLA: Since we have exhibits
8 through C, we'll label it Exhibit D.

9 THE HEARING EXAMINER: I'm sorry?

10 MR. PADILLA: Exhibit D.

11 THE HEARING EXAMINER: D as in David?

12 MR. PADILLA: As in David.

13 THE HEARING EXAMINER: Okay. Exhibit D
14 is admitted into evidence.

15 (Riley Permian Exhibit D was marked for
16 identification and received into
17 evidence.)

18 THE HEARING EXAMINER: Okay. Are there
19 any exhibits that go with the affidavit or does it
20 stand by itself?

21 MR. PADILLA: It refers to the C-108.

22 THE HEARING EXAMINER: Okay.

23 MR. PADILLA: Portions of it.

24 THE HEARING EXAMINER: Okay. Was there
25 anything else from this witness?

1 MR. PADILLA: Nothing else.

2 THE HEARING EXAMINER: Ms. Hardy,
3 cross-examination?

4 MS. HARDY: Yes, Mr. Examiner.

5 CROSS-EXAMINATION

6 BY MS. HARDY:

7 Q Good morning, Mr. Seekins.

8 A Good morning.

9 Q I wanted to show you the original C-108 that
10 was filed with the Division, and I can share my screen
11 here, I believe, hopefully. Let me rotate it so you
12 can see it. And it didn't work. Let me rotate it.

13 (Discussion held off the record.)

14 MR. RANKIN: Dana, I rotated it
15 already. Do you want me to share --

16 MS. HARDY: Yes.

17 Let me stop sharing. Mr. Rankin will
18 share it for me.

19 Thank you, Mr. Rankin.

20 MR. RANKIN: Yeah.

21 MS. HARDY: Sorry about that.

22 It's not showing.

23 MR. RANKIN: Yeah, I know. What page
24 do you want me to go to?

25 MS. HARDY: The injection well data

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1 sheet, page 5 of the PDF.

2 MR. RANKIN: Got it.

3 BY MS. HARDY:

4 Q Mr. Seekins, you've reviewed this original
5 C-108, haven't you?

6 A Yes.

7 Q Okay.

8 THE HEARING EXAMINER: And Ms. Hardy,
9 when you say "original," for the record, what you
10 speaking about?

11 MS. HARDY: The C-108 that was filed as
12 an attachment to Riley's hearing application.

13 THE HEARING EXAMINER: Thank you.

14 MS. HARDY: And I am looking at the
15 hearing application in case 24279.

16 THE HEARING EXAMINER: Perfect. Thank
17 you.

18 MS. HARDY: It was filed on
19 February 14th of 2024.

20 BY MS. HARDY:

21 Q And Mr. Seekins, if you look at paragraph 5
22 there, it asks the applicant to identify the name and
23 depths of any oil and gas zones underlying or
24 overlying the injection interval. Correct?

25 A Yes, it does.

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1 Q Okay. And you have the Cisco formation
2 listed there or -- it is listed there. Correct?

3 A It is listed there by the original filer.

4 Q Okay. Thank you. And Exhibit A, which is
5 the C-108 that you prepared, does not include that
6 same injection well data sheet, does it?

7 A It does not.

8 Q And Mr. Seekins, in paragraph 6 of your
9 affidavit, you state that you reviewed the C-108 filed
10 with the hearing application and did not identify any
11 changes that required amending it or affecting the
12 accuracy of statements. Correct?

13 A I believe I stated that I did not become
14 aware of anything that needed to be revised in the
15 application that was filed as Exhibit A-1, which would
16 be the C-108 that we prepared specifically.

17 Q And if you look at paragraph 6, am I reading
18 this correctly? It says "Exhibit A is a hearing
19 application in case number 24279 that Riley Permian
20 filed with the Division." So that's not correct.

21 A Did you complete the sentence there?

22 Q "The application includes Form C-108,
23 attached as Exhibit A to the application." That's
24 what it says?

25 A Yes. So Exhibit A is the C-108 we prepared.

1 Sorry. I don't have it on my screen, that's why I'm
2 asking for clarity here.

3 Q Okay. And that's a different C-108 from the
4 one that was filed with Riley's original hearing
5 application. Correct?

6 A Yes.

7 Q Okay. And in your self-affirmed statement
8 in paragraph 6, you state "I reviewed the C-108 filed
9 as Exhibit A and did not identify any changes that
10 require amending it or affecting the accuracy of
11 statements in it." So there are you referring to the
12 C-108 that you prepared or the C-108 that was
13 originally filed?

14 A The C-108 that we prepared and submitted as
15 Exhibit A.

16 Q And with respect to the Angel Ranch number 1
17 well, I'm sure you've heard the discussion about this,
18 the footages in the hearing application that were
19 actually filed with the Division are different from
20 those included in the C-108. Correct?

21 A Correct. The C-102 in both applications is
22 the same, and I believe the hearing exhibit that
23 you're talking about did include the typo
24 misidentifying the line.

25 Q And the original C-108 was submitted by

1 Redwood Operating. Correct?

2 A Correct.

3 MS. HARDY: Those are all of my
4 questions. Thank you.

5 THE HEARING EXAMINER: Thank you,
6 Ms. Hardy.

7 Mr Rankin?

8 MR. RANKIN: Thank you, Mr. Examiner.
9 I just want to get a couple things for the record. I
10 know we had a lot of discussion about this, but I
11 think it's important to have a sworn witness testify.

12 CROSS-EXAMINATION

13 BY MR. RANKIN:

14 Q Mr. Seekins, Riley Permian's counsel's
15 self-affirmed statement that was filed with this
16 hearing exhibit packet states that "Apache was
17 required to give notice of both applications that were
18 filed by Riley Permian and for the hearing." Is that
19 correct?

20 A That does not align with my understanding.
21 From my understanding, Apache is only identified as an
22 affected party in hearing number 80 for operating one
23 gas well within the half-mile AOR. They were not
24 identified by our team as meeting the requirements of
25 an affected party in case 79. I believe in Exhibit A

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1 and B, the last page is a table showing the affected
2 parties that we identified and what the reason for
3 that identification was.

4 Q Okay. Mr. Seekins, you see the document I
5 have up on the screen here? Do you recognize this as
6 counsel's self-affirmed statement that was filed with
7 this hearing packet?

8 A Yes, I do.

9 Q And it has the case caption for both cases.
10 Agreed?

11 A Agreed.

12 Q And in paragraph 2 it states that "The
13 above-referenced applications and notice of the
14 hearing on these applications were sent by certified
15 mail to the locatable affected parties on the date set
16 forth in the letter attached hereto." Agreed?

17 A Agreed.

18 Q And in paragraph 4 it says "It was
19 discovered by Riley Permian Operating Company, LLC,
20 that notice to Apache Corporation had a well within
21 the AOR that should have been listed as an affected
22 party." Agreed?

23 A Agreed.

24 Q Okay. And it goes on to say that "Attached
25 as an exhibit to this self-affirmed statement --

1 notice of the applications that was sent in both cases
2 to Apache." Agreed?

3 A Agreed.

4 Q Okay. But you're saying that you believe
5 that Apache is only an affected party in one of the
6 cases?

7 A Yes.

8 Q Okay. And so you're saying that Apache only
9 requires notification in case number 24280?

10 A Correct.

11 Q And that affects the Angel Ranch SWD
12 number 2?

13 A Yes. I just would like to point out that,
14 to align with the naming conventions in our C-108, it
15 was named the Angel Ranch State number 2 as it is on
16 state service.

17 Q Mr. Seekins, Apache previously never
18 received notice of the administrative C-108
19 application that was filed by Redwood back in 2022.
20 Is that correct?

21 A That is my understanding, yes.

22 Q Okay. So the first they would've seen of
23 either of these applications, or the one in which they
24 are an affected party, was whenever they received the
25 FedEx package from Mr. Padilla?

1 A I believe that would be the first time they
2 saw the application; however, I don't know if they
3 caught wind of it during public notice and reviewed
4 the records through OCD imaging or not.

5 Q Okay. Now you prepared two sets of
6 testimony, one for each case. Correct?

7 A Correct.

8 Q Okay. And just again for the record, just
9 to make sure it's clear, you understood that in the
10 cover application that was filed by Riley Permian for
11 the Angel Ranch, is it State SWD number 1 or is it
12 only for the number 2?

13 A It will be State in both cases.

14 Q Okay. Angel Ranch State SWD number 1 well
15 in case 24279, the location is identified as being
16 1320 from the south line. Correct?

17 A Correct.

18 Q And that's an incorrect location. Correct?

19 A Correct.

20 Q All right. And it should be 1320 from the
21 north line. Correct?

22 A Correct.

23 Q Okay. But the location is correctly
24 identified in the C-102 plat that was included in the
25 C-102 for the proposed well?

1 A Yes. And it's the, the same 102 from the
2 original and our advised C-108.

3 Q Okay. Now, that C-102 originally identified
4 Redwood Operating as the operator?

5 A Yes.

6 Q And you refiled it for today's hearing and
7 it still identifies Redwood Operating as the operator.

8 A Yes. In this case, I don't believe the
9 C-108 requires it by rule to be included. It is a
10 best practice, and it was signed and sealed by the
11 surveyors, so we did not believe it was appropriate to
12 edit the document.

13 Q Okay. But is Redwood going to be the
14 operator of this well?

15 A No. From my understanding, as it was
16 explained by the client to me, at the time that these
17 were filed, they had an operating agreement with
18 Redwood. That agreement has since expired, and Riley
19 Permian would be the operator of the wells.

20 Q So is Redwood operating affiliated or
21 associated in any way with Riley Permian at this time
22 to your understanding?

23 A I -- I can't -- I don't have an
24 understanding of that.

25 Q Okay. Any of the witnesses today would know

1 how to answer that question?

2 A I don't think any of the stated witnesses;
3 however, there is a Riley Permian representative
4 present in the room who would have that answer.

5 Q Okay. On the hearing application, going
6 back to the Redwood question, the C-108 that was
7 attached with the hearing application identifies it
8 was filed by and was signed Redwood Operating.
9 Correct?

10 A Correct.

11 Q Okay.

12 A As in what was filed, I believe, like, back
13 in February as opposed to what we did, then yes.

14 Q Yeah. What was filed before hearing today
15 and what was provided to the affected parties as per
16 notice, the C-108 identifies Redwood as the operator.
17 Correct?

18 A Correct.

19 Q Okay. But Riley had you prepare a new C-108
20 form for both SWDs that it's proposing, and those were
21 submitted as exhibits for hearing today. Correct?

22 A Yes.

23 Q But those were not provided to all the
24 affected parties who were required notification under
25 the Division's rules. Correct?

1 A I could not testify to that. I provided
2 legal counsel with a list of affected parties who
3 needed notice, and they took care of the notice
4 themselves.

5 Q Okay. So as you sit here today, you're not
6 aware of whether or not your updated revised C-108 was
7 provided to all the affected parties?

8 A I don't believe it was, but I could not say
9 that with certainty.

10 Q Okay. Now, I want to talk a little bit
11 about -- Ms. Hardy covered some of these questions but
12 I want to make sure. Okay. On the original C-108
13 that was filed by Redwood, Redwood identified on the
14 injection well data sheet that Ms. Hardy referred you
15 to several different overlying zones that are capable
16 of producing, including the Bone Springs and the
17 Wolfcamp in addition to the Cisco. Agreed?

18 A Agreed.

19 Q Now, in your revised C-108 application, you
20 excluded the Bone Spring and Wolfcamp as well as the
21 Cisco in your identification of overlying producing
22 zones. Correct?

23 A I believe that is correct.

24 Q Why did you exclude the Bone Spring and the
25 Wolfcamp from your identification of producing zones?

1 A When we complete a production review in the
2 area, look at the active wells within 2 miles of the
3 proposed SWD, and then, in this case, I request that
4 our chief geologist completes a review and provides
5 back the over and underlying production zones for us.
6 I'm not a expert in petroleum geologist, so I rely on
7 those with that skill set within the firm.

8 Q So you yourself did look to see whether or
9 not there were any producing Bone Spring wells
10 overlying within the area of review?

11 A I looked at the -- our GIS department
12 generates a list of all the wells within 2 miles, and
13 I looked at which ones are active in the associated
14 pool codes, and, from my recollection, I do not recall
15 seeing one.

16 Q Okay. Is it your understanding that the
17 Bone Spring is not productive in this area?

18 A If we did not list it in the application,
19 that would be my understanding, yes.

20 Q Okay. Now you mentioned, I think, in your
21 opening with your counsel that one of the adjustments
22 you made to the revised C-108 that was filed as a
23 hearing exhibit is that you adjusted the injection
24 pressures that were originally proposed by Redwood to
25 essentially comply with the Division's guidance that

1 the maximum injection pressure should be no more than
2 .2 pounds per square inch per foot to the uppermost
3 injection perforation. Is that correct?

4 A Yes, it is.

5 Q And the original pressures proposed by
6 Redwood were 4,108 pounds. Is that correct?

7 A That sounds correct.

8 Q Yeah. And that's more than twice what the
9 Division's guidance would allow. Correct?

10 A Yes.

11 Q Okay. And that adjustment was made for each
12 of the proposed wells. Right?

13 A Yes. For both the number 1 and number 2.

14 Q Okay. And just to be clear, Riley is
15 proposing that it will limit the injection pressures
16 for these wells to what you proposed in each of the
17 updated revised C-108s.

18 A Yes. From my conversations with them, my
19 understanding is that they would operate them at that
20 pressure gradient, of course withstanding if they
21 elect to run a separate test approved by the Division
22 to request a higher rate at a later date.

23 Q And each well, as I understand from the
24 documents, will have a proposed maximum injection rate
25 of 20,000 barrels of water per day. Correct?

1 A Yes. I believe that's correct.

2 Q And these wells will be accepting water from
3 operators other than Riley Permian?

4 A From my conversations with Riley right now,
5 their main focus and desire to have these is to take
6 care of their own produced water. I have not heard
7 from them that if capacity was open that they would
8 outright refuse to accept the third parties given that
9 this area has extremely limited injection capacity
10 throughout the region, and, from my understanding,
11 they're willing to work with other operators.
12 However, the purpose for filing these was to open up
13 their own production and disposal capacity in the
14 region.

15 Q So potentially these wells would be
16 available for commercial disposal?

17 A Potentially. I have not been directly told
18 that that would not be an option.

19 Q Okay. Now, do you have an understanding for
20 how water's going to be delivered to these wells?
21 Will it be by pipeline or by truck? What's the method
22 of delivery for water to these wells?

23 A I don't currently have a firm understanding
24 of their plan for that.

25 Q Do you know how approximately how far away

1 the source wells are from these proposed injection
2 wells?

3 A I do not.

4 MR. RANKIN: Okay. No further
5 questions at this time, Mr. Examiner.

6 THE HEARING EXAMINER: Mr. Goetze, do
7 you have any questions for this witness?

8 MR. GOETZE: No, sir. I do not have
9 any questions for this witness. Thank you.

10 THE HEARING EXAMINER: Mr. Padilla, any
11 redirect on the questions that were asked?

12 MR. PADILLA: Mr. Examiner, I don't
13 have any questions. I think the witness testified
14 appropriately. So --

15 THE HEARING EXAMINER: May this witness
16 be excused?

17 MR. PADILLA: He may.

18 THE HEARING EXAMINER: Would you like
19 to call your second witness?

20 MR. PADILLA: Yes.

21 MR. GOETZE: Mr. Examiner?

22 THE HEARING EXAMINER: Yes.

23 MR. GOETZE: May I also interject that
24 Anthony Harris is also appearing on behalf as a
25 technical examiner, so I would ask you offer the

1 opportunity for him to ask questions, if possible,
2 please.

3 THE HEARING EXAMINER: Mr. Harris?

4 MR. HARRIS: Yes. Good morning. No
5 question at this time.

6 THE HEARING EXAMINER: Did you have any
7 questions for this witness?

8 MR. HARRIS: No questions at this time.

9 THE HEARING EXAMINER: All right.
10 Thank you.

11 First let's deal with the exhibit that
12 was -- so the exhibit that was admitted into evidence
13 is marked as Exhibit D, and that's the self-affirmed
14 statement of Mr. Seekins.

15 And let's go back to your affidavit,
16 Mr. Padilla, since it is the first page of this
17 15-page submission.

18 Ms. Hardy, are there any objections to
19 the self-affirmed statement of Ernest Padilla admitted
20 into evidence?

21 MS. HARDY: No objection.

22 THE HEARING EXAMINER: Mr. Rankin?

23 MR. RANKIN: None.

24 THE HEARING EXAMINER: Okay. So
25 Mr. Padilla, that document and its sub-exhibits are

1 admitted into evidence.

2 (Riley Permian Exhibit E was marked for
3 identification and received into
4 evidence.)

5 THE HEARING EXAMINER: That leaves two
6 more self-affirmed statements. Who are you calling
7 next?

8 MR. PADILLA: We'll call Tom Tomastik.

9 THE HEARING EXAMINER: Tomastik?

10 Mr. Tomastik, you're already under
11 oath.

12 Mr. Padilla?

13 THOMAS TOMASTIK

14 being called as a witness, and having first been duly
15 sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. PADILLA:

18 Q Mr. -- I can't say your last name.

19 A Tomastik.

20 Q Okay. Please state your full name.

21 A Thomas E. Tomasik.

22 Q And you're a consulting geologist for Riley
23 in this case?

24 A Yes.

25 Q And you work for ALL Consulting?

1 A Yes. I'm chief geologist and regulatory
2 specialist for ALL Consulting.

3 Q Will you review some of your credentials or
4 the examiner? Give us a little bit about your work
5 experience.

6 A Yes. I have a undergraduate and a master's
7 degree in geology from Ohio University. I spent six
8 years as a consulting geologist in oil and gas
9 exploration in Ohio, doing all aspects of geology,
10 petroleum engineering, producing wells, plugging up
11 wellheads, plugging wells. And then I served for
12 25 1/2 years as lead geologist for the Ohio Department
13 of Natural Resources Division of Oil and Gas in the
14 underground injection control section, regulating
15 class II and class III injection wells in Ohio. Also,
16 during that tenure I performed hundreds of groundwater
17 investigations, both related to oil and gas injection
18 wells and mining operations in the state of Ohio.

19 I retired from the State of Ohio in August
20 2014 and then started as the chief geologist with ALL
21 Consulting a week later in August 2014, and have been
22 with ALL Consulting since.

23 Q What work have you done in southeast New
24 Mexico, specifically Eddy County?

25 A In -- in New Mexico, both in Lea and Eddy

1 County, ALL Consulting has been involved in well over
2 a hundred saltwater class II injection well
3 applications, and I've done all the chief geology
4 evaluations, both of geophysical logs, well
5 completions, confining zones, injection rates, and
6 have provided those technical assessments to ALL for
7 completion of the C-108s for over 100 SWD
8 applications.

9 Q In southeast New Mexico?

10 A Yes.

11 Q Can you briefly tell us what input you had
12 into the C-108 in both of the cases that are involved
13 today?

14 A Yes. As -- as chief geologist, I was
15 requested by Oliver Seekins to, one, perform the no
16 hydrologic connection document. So I undertook the
17 investigation of the groundwater surface water in the
18 area of the proposed Angel Ranch State SWD number 1
19 and the number 2, and then produced that statement as
20 part of the C-108. I also did an evaluation of the
21 proposed upper and lower confining zones in the --
22 above the Cisco and below the Cisco formation and
23 provided those.

24 I also evaluated any of the wells in the
25 area of review to see what wells may have penetrated

1 the proposed injection zone. I also evaluated the
2 closest open hole geophysical logs that penetrated the
3 Cisco formation and determined the -- the top of the
4 injection interval, the bottom of the injection
5 interval, and also correcting any additional geologic
6 formation tops that had not been previously identified
7 on the former C-108.

8 Q So you did a lot more work from a geological
9 standpoint and from the confining layers than was
10 previously done.

11 A Yes.

12 Q Did you write a self-affirmed statement for
13 this case --

14 A Yes, I did.

15 Q -- for both cases?

16 A Yes.

17 Q And are those self-affirmed statements true
18 and correct as far as you know?

19 A Yes.

20 MR. PADILLA: We tender the
21 self-affirmed statements for both the 79 case and the
22 80 case.

23 THE HEARING EXAMINER: And how are you
24 marking it?

25 MR. PADILLA: We'll mark them as

1 Exhibits E and F.

2 THE HEARING EXAMINER: And before I go
3 to Ms. Hardy and Mr. Rankin for their objections, if
4 any, when you say E and F, is that because there's two
5 different cases?

6 MR. PADILLA: Two different cases.

7 THE HEARING EXAMINER: Okay. There was
8 only one exhibit for Mr. Seekins even though there
9 were two cases?

10 MR. PADILLA: Yes. So we move
11 admission of the 80 zero self-affirming statement for
12 Mr. --

13 THE HEARING EXAMINER: I didn't hear
14 you.

15 MR. PADILLA: We'll move admission of
16 the 80 self-affirming statement prepared by
17 Mr. Seekins.

18 THE HEARING EXAMINER: That's for 80.
19 I understand.

20 MR. PADILLA: Right.

21 THE HEARING EXAMINER: Okay. And
22 that's already been admitted as Exhibit D.

23 MR. PADILLA: Yes.

24 THE HEARING EXAMINER: What I was
25 trying to clarify is there is no second affidavit for

1 79.

2 MR. PADILLA: No.

3 THE HEARING EXAMINER: Because the
4 Exhibit D covers both cases?

5 MR. PADILLA: Well, just to be sure,
6 let's mark Exhibit E as the 79 case self-affirming
7 statement, and the two cases for --

8 THE HEARING EXAMINER: Mr. Tomastik as
9 F and G?

10 (Riley Permian Exhibit F and Exhibit G
11 were marked for identification.)

12 MR. PADILLA: Correct.

13 THE HEARING EXAMINER: Okay.

14 Ms. Hardy?

15 MS. HARDY: No objection.

16 THE HEARING EXAMINER: Mr. Rankin.

17 MR. RANKIN: No objection.

18 THE HEARING EXAMINER: Okay.

19 Exhibits E, F, and G are admitted into evidence.

20 (Riley Permian Exhibit F and Exhibit G
21 were received into evidence.)

22 THE HEARING EXAMINER: Although I don't
23 know that I had asked Ms. Hardy and Mr. Rankin
24 specifically about what has now been marked as
25 Exhibit E.

1 So Ms. Hardy, counsel for Riley has
2 offered Exhibit D, which is the affidavit for
3 Mr. Seekins in case number 79. Is there any
4 objection?

5 MS. HARDY: No objection.

6 THE HEARING EXAMINER: Thank you.
7 Mr. Rankin?

8 MR. RANKIN: No.

9 THE HEARING EXAMINER: Okay. The
10 record is clear now.

11 Okay. Please continue.

12 MR. PADILLA: We'll tender Mr. Tomastik
13 for cross-examination.

14 THE HEARING EXAMINER: So no more
15 direct examination.

16 MR. PADILLA: Not at this time.

17 THE HEARING EXAMINER: All right.

18 Ms. Hardy?

19 MS. HARDY: I do not have questions for
20 Mr. Tomastik.

21 THE HEARING EXAMINER: Thank you,
22 Ms. Hardy.

23 Mr. Rankin?

24 //

25 //

1 CROSS-EXAMINATION

2 BY MR. RANKIN:

3 Q Good morning, Mr. Tomastik. How are you?

4 A Good morning.

5 Q The only objection I had to your recital of
6 your expert background is that you only took a week
7 off between the time you retired from Ohio and you
8 undertook your consulting job, which I think is not
9 enough time.

10 Mr. Tomasik, in your self-affirmed statement
11 for both of these cases, you state in paragraph 6 that
12 you undertook a hydrologic evaluation related to the
13 proposed SWD wells, and that is included as
14 attachment 7 to Exhibits A and B. Correct?

15 A Yes.

16 Q Which is the C-108 you guys revised.
17 Correct?

18 A Yes.

19 Q Now, you also testified just now that you
20 undertook an evaluation of the upper and lower
21 confining zones within the Cisco. Did you do that in
22 consultation with Mr. Davis, who also did the same
23 evaluation?

24 A Yes.

25 Q Okay. And was your evaluation on the

1 confining zones more focused on the potential impacts
2 to underground sources of drinking water that may be
3 impacted by the proposed injection?

4 A Both the potential for the impact to the
5 underground sources of drinking water, but also to the
6 confinement of the injection fluid within the proposed
7 injection formation in the Cisco. So we're looking at
8 not allowing migration of injection fluid out of the
9 injection zone to ensure that it's within -- does not
10 penetrate into the confining layer.

11 Q Okay. The reason I'm trying to ask and
12 differentiate is because Mr. Davis gives an overview
13 that -- his testimony addresses the geologic overview
14 and that addresses the confining zones and so forth,
15 and so I wanted to understand who I should direct my
16 questions to about the geologic seals. And in your
17 statement, you do touch on the geologic barriers, but
18 I understood it to be in reference mostly to the
19 potential impacts of the underground sources of
20 drinking water. But you're saying that you looked at
21 it more generally as well?

22 A I -- I do a very specific evaluation of the
23 open hole geophysical logs to determine upper and
24 lower confinement, both to the protection of the USDW,
25 but also to ensure the prevention of migration of

1 injection fluid upward and out of the injection
2 interval or downward and out of the injection
3 interval.

4 Q And in doing that review, Mr. Tomastik, you
5 reviewed publicly available data logs that were
6 published on the OCD website, public literature
7 relating to any faulting or other potential geologic
8 conduits. Is that correct?

9 A Yes.

10 Q And so your review was limited to publicly
11 available information?

12 A That's correct.

13 Q Okay. And based on your review of public
14 information, you didn't identify any concerns about
15 potential geologic conduits out of the target Cisco
16 formation?

17 A No, I did not.

18 MR. RANKIN: Okay. Mr. Examiner, I'll
19 reserve the rest of my questions on the geologic
20 barriers for Mr. Davis, who provides more detail in
21 his testimony and his exhibits that he refers to.
22 I'll reserve my questions on the rest of that for
23 Mr. Davis.

24 THE HEARING EXAMINER: Noted. Thank
25 you.

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Mr. Goetze.

CROSS-EXAMINATION

BY MR. GOETZE:

Q Good morning, Mr. Tomastik.

A Good morning, Phil.

Q Nice to see you. I do have one question regarding the application for the Angel Ranch number 1. In your assessment of the AOR wells, you've identified the Eddy GZ State Com number 1. I believe it was a mild producer that was a shallow completion back in the Grayburg. When the well was constructed, the 5 1/2 production casing had a top of cement measured by a temperature survey of being 8580 feet. The application for the Angel 1 puts the top of the injection interval at 8590. Getting back to the Eddy GZ well completion, from the 8580 top of cement, it is essentially open annular space up to the shoe of the 778. So it's being proposed by Riley that that 10 feet of cement which overlaps the injection interval in the annular space of this Eddy GZ well is sufficient enough to avoid any type of vertical migration?

A I believe that was on the original Redwood application, and in my further evaluation of -- of the closed/open hole geophysical logs that had been

1 drilled into the Morrow formation and actually
2 penetrated through the Cisco formation, that was the
3 revision that I did to the injection interval. So I
4 believe now we're -- if I could see the document, I
5 believe we're over a hundred feet below the top of the
6 cement in that plugged well.

7 Q Okay. So what is the injection interval
8 proposed? I'm getting a little bit of a conflict.

9 A I -- I would --

10 Q Yeah --

11 A -- see the 108, I could -- I could let you
12 know.

13 Q In the ALL diagram it says 8590 to 9190, is
14 what is in your wellbore diagram.

15 A This was -- this was on Angel Ranch
16 number 1. Correct?

17 Q Correct. This is 15 of 133, and then we go
18 down further into the AORs, we have page 20 of 133 and
19 that's our tagging which has a wellbore diagram for
20 the Eddy GZ State Com number 1.

21 A Yeah. Let me double check this.

22 THE HEARING EXAMINER: And
23 Mr. Tomastik, when you're testifying in answer to this
24 question, would you state which exhibit you are
25 looking at?

1 THE WITNESS: Yes.

2 MR. GOETZE: And for reference, this
3 is what I believe --

4 THE WITNESS: Exhibit A-15. Correct?

5 MR. GOETZE: Yeah.

6 THE WITNESS: Okay.

7 MR. GOETZE: Well, A-14.

8 THE WITNESS: A-14.

9 MR. GOETZE: A-15. Correct. Yeah.

10 THE WITNESS: Yeah. Okay.

11 BY MR. GOETZE:

12 Q And the other wellbore diagram that I
13 referenced is your A-10, which is the completion --
14 well completion proposed.

15 A Okay. So we're looking at the State Com
16 number 1? Is that correct?

17 Q Yes. Eddy GZ State Com number 1.

18 A Yeah. So I have the top of cement at
19 8580 -- behind the 5 1/2. And then I'm trying to see.
20 Looks like we've got cement above that in the plug
21 inside the 5 1/2. Cast iron bridge plug at 8685.

22 Q Well, I've got a lot of -- seals within the
23 5 1/2.

24 A Right.

25 Q What I see is the next seal that's

1 documented is the purse at 2290 to 2299 where it's
2 been squeezed --

3 A Yeah.

4 Q So that means I have open annulus through
5 both the remainder of your Cisco and then going into
6 Bone Springs and sealing off the injection interval
7 with only 10 feet of cement on the top side of that
8 5 1/2 annular seal that stops it at 8580. At least
9 in -- in the paper record.

10 A Right.

11 THE HEARING EXAMINER: So Mr. Goetze,
12 what is the question to this witness at this point?

13 MR. GOETZE: Well, what the question
14 is, is that we're feeling this -- we feel confident
15 that that 10 feet of cement is a sufficient seal to
16 prevent vertical migration of fluid up the annular
17 space of the 5 1/2 into the shallow formation, which
18 has been a question raised by some of the folks at the
19 hearing.

20 THE HEARING EXAMINER: All right.
21 Thank you Mr. Goetze.

22 Mr. Tomastik?

23 THE WITNESS: Based on our evaluation
24 of this, we felt that that was -- that would be an
25 adequate seal to be able to isolate the injection

1 fluid. Obviously, based on the well completion, once
2 the well is actually drilled and completed, it's
3 possible the top of the Cisco may even be a little bit
4 deeper so that further evaluation could be looked at
5 at that point to see, or whether we needed to
6 potentially lower some perforations within the
7 injection interval to prevent any potential migration
8 out of zone.

9 MR. GOETZE: Okay. That's the only
10 question I have for this witness. Thank you.

11 THE HEARING EXAMINER: Thank you,
12 Mr. Goetze.

13 I seem to have lost the other technical
14 examiner. There we go.

15 MR. GOETZE: Mr. Harris?

16 THE HEARING EXAMINER: Yes.

17 Mr. Harris?

18 MR. HARRIS: Yes. Good morning. No
19 questions.

20 THE HEARING EXAMINER: Thank you, sir.

21 Mr. Padilla, any redirect?

22 MR. PADILLA: I have a couple of
23 questions, Mr. Examiner.

24 //

25 //

1 REDIRECT EXAMINATION

2 BY MR. PADILLA:

3 Q Mr. Tomastik, you were asked about and you
4 testified about the layers above and below and the
5 seal that those layers provide.

6 A Yes.

7 Q Can you elaborate for the examiner the
8 thickness of those layers overlaying the injection
9 zone?

10 A Yes. With -- that's included within
11 the -- the C-108s for both the Angel Ranch State
12 number -- SWD number 1 and number 2. Obviously,
13 based -- again, that's on the evaluation of the open
14 hole geophysical log and basically looking at
15 low-porosity, low-resistivity zones where -- which
16 indicates basically confinement, that fluid cannot
17 migrate.

18 The upper confining zone on the -- on
19 page -- Exhibit A-48 has approximately -- about
20 68 feet of upper confinement from the top of the Cisco
21 into the Wolfcamp, and that's predominantly a Wolfcamp
22 shale, which in most class II UIC programs, shales are
23 typically considered a good confining layer. And then
24 lower confinement is approximately 24 feet, which is
25 at the lower part of the Cisco formation, which is

1 directly above the top of the Strawn, and again with
2 shale layers and low porosity and low resistivity
3 readings.

4 Q What's the composition of those layers?

5 A Predominantly -- the upper confinement is
6 predominantly a shale in the lower Wolfcamp, and the
7 lower confinement is -- is kind of a shale and a
8 little bit of some carbonate within the lower part of
9 the Cisco formation.

10 MR. PADILLA: That's all I have,
11 Mr. Examiner.

12 THE HEARING EXAMINER: Ms. Hardy, any
13 recross on that question?

14 MR. PADILLA: No, thank you.

15 THE HEARING EXAMINER: Mr. Rankin, any
16 cross on that question?

17 MR. RANKIN: Mr. Examiner, I'm going to
18 reserve my questions on the geologic seal for
19 Mr. Davis's testimony because that's his area that he
20 identified in his statement.

21 THE HEARING EXAMINER: Thank you.

22 Do either of our technical examiners
23 have a recross on that one question?

24 MR. GOETZE: Mr. Examiner, I do not.
25 This would be Phillip Goetze.

1 THE HEARING EXAMINER: Thank you.

2 Sorry, Mr. Harris, you were muted, but
3 I suspect you said you don't, so we'll move on.

4 This witness may be excused.

5 Would you like to call your final
6 witness?

7 MR. PADILLA: Yes. We'll call
8 Mr. Davis at this point.

9 THE HEARING EXAMINER: And are you
10 marking his affidavit as Exhibit H?

11 MR. PADILLA: H and I because I believe
12 he has two.

13 (Riley Permian Exhibit H and Exhibit I
14 were marked for identification.)

15 THE HEARING EXAMINER: Okay. Thank
16 you.

17 THE HEARING EXAMINER: All right.
18 Mr. Davis, you're under oath.

19 REED DAVIS
20 being called as a witness, and having first been duly
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. PADILLA:

24 Q Please state your full name.

25 A Reed Davis.

1 Q Mr. Davis, what is your function in this
2 case?

3 A I did the seismologic review for the two
4 C-108 applications.

5 Q MR. PADILLA: And you work for ALL
6 Consulting?

7 A That is correct.

8 Q And how long have you worked there?

9 A I've been there for just over seven years
10 now.

11 Q And explain what your extent of working in
12 southeast New Mexico has been.

13 A Sure. I've worked alongside our SWD team,
14 including Mr. Tomastik and Seekins on well over a
15 hundred C-108 applications in Lea and Eddy Counties.
16 For the vast majority of those I've performed seismic
17 reviews. In some cases I've performed fault slip
18 potential modeling if there are reasons for concern
19 with nearby faults or historic seismicity.

20 Q Did you do any modeling in this case?

21 A No, not in this case.

22 Q Give us what your educational background is.

23 A Sure. I --

24 Q I understand you're geophysicist and a
25 geologist. Is that right?

1 A I am a geophysicist by degree. I have a
2 bachelor's degree from the University of Tulsa
3 geophysics and seismology. My geophysics degree
4 encompassed most of the geology classes that would go
5 towards a geology degree, but not all. And I have
6 learned through work experience much of the geology
7 that is involved.

8 Q What has been your role in this case?

9 A I performed the seismic analysis for the
10 Angel Ranch State number 1 and 2 proposed locations.
11 I reviewed publicly available data for nearby historic
12 and recent seismic events and known faulting.

13 Q When you say seismic events, you're looking
14 for faults or what are you doing?

15 A Earthquakes.

16 Q Did you find any faults?

17 A There is one publicly mapped fault. I
18 believe it was sourced from the Bureau of Economic
19 Geology at the University of Texas, and it is noted
20 nearby as a basement-rooted fault.

21 Q And is that included in your self-affirmed
22 statement?

23 A I believe so, yes.

24 MR. PADILLA: Okay. We move the
25 admissions of Exhibits H and I.

1 THE HEARING EXAMINER: Mr. Padilla, for
2 the record, I don't remember you asking him if he
3 prepared the affidavit himself and if it is a true and
4 correct copy. So would you do that?

5 MR. PADILLA: I will do that. I
6 realized I hadn't done that.

7 BY MR. PADILLA:

8 Q Did you prepare the self-affirmed statements
9 that are before the Division here?

10 A I did.

11 Q And are they, as far as you know, true and
12 correct --

13 A Yes.

14 Q -- recitations of what you studied and
15 prepared for this case?

16 A Yes, they are.

17 THE HEARING EXAMINER: Ms. Hardy?

18 MS. HARDY: I have no objection.

19 THE HEARING EXAMINER: Thank you.

20 Mr. Rankin?

21 MR. RANKIN: No objection.

22 THE HEARING EXAMINER: Thank you, sir.

23 Okay. Mr. Padilla, Exhibits H and I
24 are admitted into evidence, and I believe that then
25 completes all of your exhibits that you have

1 submitted. Does it not?

2 (Riley Permian Exhibit H and Exhibit I
3 were received into evidence.)

4 MR. PADILLA: Yes, it does.

5 THE HEARING EXAMINER: Okay. Are you
6 offering this witness for cross-examination at this
7 time?

8 MR. PADILLA: Yes.

9 THE HEARING EXAMINER: Ms. Hardy?

10 MS. HARDY: Thank you, Mr. Examiner.

11 CROSS-EXAMINATION

12 BY MS. HARDY:

13 Q Good morning, Mr. Davis.

14 A Good morning.

15 Q You stated earlier that you only relied on
16 publicly available data. Is that correct?

17 A That is correct.

18 MS. HARDY: That's my only question.
19 Thank you.

20 THE HEARING EXAMINER: Mr. Rankin?

21 MR. RANKIN: Thank you, Mr. Examiner.

22 CROSS-EXAMINATION

23 BY MR. RANKIN:

24 Q Mr. Davis, I'm going to start off with your
25 statements. You prepared two statements, one for each

1 case. Right?

2 A Correct.

3 Q They're largely the same with some minor
4 differences in terms of the depths and other details,
5 but otherwise the paragraphs align and the
6 presentation is similar. Right?

7 A Yes.

8 Q Okay. In paragraph 8 of both of your
9 statements, you indicate that you prepared a geologic
10 study of the area for each of these proposed --
11 correct?

12 A Yes. I did a precursory geological
13 overview.

14 Q Cursory?

15 A Yes.

16 Q Okay. And you identified in your statement
17 that there is an upper confining layer and a lower
18 confining layer that will prevent migration of the
19 injected fluids, and you testified in that same
20 paragraph that the upper zone confining zone consists
21 of low-porosity carbonate rocks. Agreed?

22 A Yes.

23 Q Mr. Tomastik testified that the upper zone
24 may be shale, and in Exhibit A and B it also
25 identifies carbonate rocks as the upper seal -- I'm

1 sorry, as shale in the upper seal. Which is correct?
2 Is it a carbonate or is it a shale, and how do you
3 know?

4 A In this case, I would defer to our chief
5 geologist, Mr. Tomastik, that he is correct, it is a
6 shale.

7 Q It's a shale.

8 A I do rely upon his review of the open hole
9 geophysical logs in the area for evaluating the upper
10 and lower confinement. In this case I concurred and
11 included them in my seismic letter.

12 Q Okay. And how would you discern whether
13 it's a shale or a carbonate?

14 A There are indications on the geophysical
15 logs, such as the gamma-ray picks that are commonly
16 associated with shales, and then there are -- there's
17 also the mountain stratigraphy of the area based on
18 what other wells have encountered nearby drilling
19 through the same formations.

20 Q So if you see a elevation in the gamma-ray
21 log, you might assume it's got a little more shale as
22 a result.

23 A That would be a typical assumption, yes.

24 Q Yeah. Okay. Now, on the upper and lower
25 barriers, you state that, for the first well, SWD

1 number 1, there's 67 feet of low-porosity -- and we'll
2 call them shale rocks, and then 24 feet of
3 low-porosity, low-permeability carbonate rocks for the
4 lower barrier. What's the empirical evidence to
5 support those statements that you have reviewed?

6 A That would be Mr. Tomastik's picks on the
7 open hole geophysical logs. I believe in this case
8 there are resistivity log specifically.

9 Q So in your testimony, though, you state that
10 you prepared Exhibits A-43 through A-51. Correct?

11 A That is correct.

12 Q And if I go to those pages for the first set
13 of exhibits, that's essentially your seismic letter
14 where you review your evaluation of potential induced
15 seismicity, faulting, and the confining zones, and
16 then also it goes on to include the log information.
17 I'm going to go ahead and share my screen because I'm
18 going to refer to this now.

19 A Okay.

20 Q Okay. So this log is part of the material
21 that you refer to in your statement as something that
22 you prepared. Correct?

23 A This is something Mr. Tomastik and I prepare
24 together in general on the C-108 applications, yes.

25 Q So this log is the empirical evidence you

1 provide here for confirmation that there's an upper
2 confining zone?

3 A Correct.

4 Q Okay. Now, looking at this log, is it a
5 raster log, raster image of a public data file?

6 A That is correct. It is from the NMOCD
7 website.

8 Q Okay. And it's a zoom-in of the zone that
9 you identify as containing the confining rock. Yeah?

10 A Correct.

11 Q Okay. Now, there's no headers or scales, so
12 I don't know what this is saying. Okay? I can't
13 tell. And I didn't go pull the file myself. But on
14 the left track, this dark shaded area, is that the
15 gamma-ray?

16 A Yes. The -- yes.

17 Q Okay. And tell me about that gamma-ray. Is
18 that showing that it's -- explain how that identifies
19 the lithology of the confining zone.

20 A I cannot speak to lithology. I would defer
21 to Mr. Tomastik in that case. My understanding is
22 that the gamma-ray picks indicate this is likely a
23 shale, which are known to be low-porosity,
24 low-permeability rocks that make for acceptable
25 confining layers in the case of an injection fault.

1 Q Is there a porosity curve on this log as
2 well?

3 A There is not.

4 Q Okay. So I can't tell from looking at this
5 log what the porosity is for this zone. Right?

6 A Right. You could estimate it based off of
7 the resistivity curve. Generally speaking, lower
8 resistivity values indicate a lack of natural brine,
9 which can be indicative of a lack of pore space
10 available in said rock. Mr. Tomastik could evaluate
11 further for you there if you have more specific
12 questions about the lithology of the confinement.

13 Q For each of these applications, there's an
14 attachment 5 that addresses the reservoir
15 characterization. Did Mr. Tomastik prepare this or
16 did you prepare this for each case?

17 A This was prepared by me with information
18 from Mr. Tomastik. I -- I put the document together,
19 but it was not necessarily my evaluation.

20 Q So in this statement here that you prepared
21 where you identify the upper and lower confinement,
22 you include a statement about there being low
23 porosity, low permeability, but the low porosity is
24 based off an estimate on the resistivity curve.
25 Correct?

1 A Correct.

2 Q Okay. And then the permeability question is
3 based on your understanding that there is some shale
4 in that confining zone?

5 A I would defer that question to Mr. Tomastik.

6 Q Okay. Your statement is that there are -- I
7 mean -- okay. So in your statement though, you state
8 and testify that there's a barrier, and I guess I
9 thought that this was your area that you would testify
10 to. But you're telling me that you, in consultation
11 with Mr. Tomastik, Mr. Tomastik was really the one
12 that did this assessment based on the logs. Correct?

13 A Yes. He did the initial assessment.

14 Q Okay. Do you know, Mr. Davis, whether in
15 consultation with Mr. Tomastik -- let me look at this
16 log again. Is there a caliper track on this log? Do
17 you know?

18 A I'm unsure. I believe there is.

19 Q Which trace do you understand might be the
20 caliper?

21 A The short dashed line on the left side

22 Q This one that I'm -- do you see my cursor?

23 A Yes. I believe so.

24 Q Okay. So this dashed line that's nearly
25 vertical through the confining zone?

1 A The -- there is an additional dashed line
2 that is smaller -- I guess dotted would be more
3 appropriate.

4 Q Yeah. Okay. So this smaller dotted line in
5 the background here that is nearly vertical except
6 shows a little bit of a peak towards the top of the
7 confining interval?

8 A Yes.

9 Q Okay. You think that may be the caliper
10 log?

11 A With the lack of the log header to confirm,
12 that is my understanding.

13 Q Okay. In you opinion, Mr. Davis, in your
14 discussion with Mr. Tomastik, have you determined
15 whether there's any interbedding within this upper
16 confining zone? Is it all shale or is there a mix of
17 other lithologies in that zone?

18 A That is not a discussion I've had with
19 Mr. Tomastik.

20 Q Okay. So you don't yourself have an opinion
21 on whether or not there's any interbedding or any
22 other lithologies that compose that upper confining
23 zone?

24 A I do not.

25 Q Okay. But you testified that it contains

1 carbonate rocks, and now I'm hearing it's shale, and
2 you don't have your own separate opinion about
3 actually what the lithology is. Is that so?

4 A Right. As most geologic layers, it is
5 likely to consist of multiple lithologies. In this
6 specific case, I did rely on Mr. Tomastik's evaluation
7 for inclusion in my letter, and I trust his expert
8 opinion, which is why I was including it with
9 confidence.

10 MR. RANKIN: I guess, Mr. Examiner, I
11 thought that Mr. Davis was testifying on these things,
12 and so I had reserved my questions for him because he
13 is the one that reviewed in detail the nature of the
14 upper and lower confining zones, and is the one that
15 included in his statement the petrophysical log for
16 the confining zones, both upper and lower, and so I'm
17 hearing that actually Mr. Tomastik was the one that
18 did this work, so I may want to call Mr. Tomastik back
19 up to address these questions in more detail. But
20 I'll make that decision at the end of this inquiry.

21 BY MR. RANKIN:

22 Q So Mr. Davis, just so I'm clear, though, for
23 each of these cases you present one log that
24 demonstrates or shows that there's any support for
25 your statement that there's a geologic barrier on the

1 upper and lower ends of your injection interval.

2 Correct?

3 A That's correct.

4 Q Okay. Now, I'm going to move over to the
5 seismic analysis, which is part of the same set of
6 exhibits in both of these cases. Now, you said at the
7 outset that you undertook a public review of
8 information. Will you just give us an overview of
9 what you looked at generally to --

10 A Sure.

11 Q -- to determine whether or not there's
12 faults and their locations?

13 A So regarding fault data specifically, the
14 best available data in this region comes from the
15 University of Texas Bureau of Economic Geology. They
16 have done a rather extensive analysis of the Delaware
17 Basin and the basement-rooted faults associated with
18 it. And then there's also a shallow fault data set
19 that has come out of BEG. In this specific case,
20 there were no -- no shallow faults within the area of
21 review, and there was one deep-rooted basement fault
22 within the area of review.

23 We reviewed seismic data from both the U.S.
24 Geological Survey and New Mexico Technological -- oh,
25 jeez, I'm going to butcher this -- NMTSO is how I

1 refer to them. They run a seismic network, the
2 university does, within New Mexico, and we relied upon
3 their data for our evaluation.

4 Q So from those data sources, you identified
5 the nearest most recent seismic events?

6 A That is correct.

7 Q And you also identified the nearest
8 faulting?

9 A The nearest mapped faulting. Correct.

10 Q Nearest mapped faulting. And then you also
11 identified the nearest -- and you also incorporated, I
12 believe in your exhibit -- let me just pull it up so
13 we can confirm -- the Division's identification of a
14 seismic response area. Correct?

15 A Correct.

16 Q And the seismic response area identified by
17 the Division are those circles in red, orange, and
18 yellow on this exhibit?

19 A Correct.

20 Q And you did the same for both SWDs.
21 Correct? A similar exhibit for both?

22 A Yes. Our GIS department mapped these
23 similarly.

24 Q Okay. And on this map, the mapped public
25 fault that you were referring to is this sort of brown

1 dashed line that kind of trends in a generally
2 north-northeast trajectory?

3 A That is correct.

4 Q Okay. And for this well, it's approximately
5 2 miles to the east-southeast, and I think for the SWD
6 number 2 it's approximately 1 mile away. Is that
7 correct?

8 A I believe those numbers are flipped, but
9 yes.

10 Q Okay.

11 A Generally speaking, it is a mile to 2 miles
12 from the --

13 Q My eyes are getting bad.

14 A I can't see it very well either.

15 Q Okay. So for the SWD number 1 it's
16 approximately 1 mile, and for the SWD number 2 it's
17 approximately 2 miles from this mapped known fault.
18 Correct?

19 A Yes.

20 Q Okay. Now, that's the only fault that you
21 know of in public literature or public data that's
22 been identified within this 5.6-mile radius that
23 you've marked.

24 A Yes.

25 Q Okay. Now, just to confirm so I'm clear,

1 neither Riley nor ALL Consulting has reviewed any 3D
2 seismic for this area?

3 A That is correct.

4 Q Okay. Now, I want to kind of go through
5 your assumptions. You lay out some assumptions in
6 this paper or white paper, and I just want to make
7 sure I understand them. Okay? And I've highlighted,
8 I think, most of the key language here.

9 Number one, you state at the front that this
10 is using only publicly available data, right, to
11 identify the proximity and characteristics of seismic
12 events and known faults. Correct?

13 A Correct.

14 Q And that's the basis of your evaluation.
15 You did not, then, also model any of this using the
16 Stanford model or any other models to determine
17 whether or not there was actually a potential for a
18 fault slip based on the injection.

19 A Correct.

20 Q Okay. So then this leads me to my next set
21 of questions. You give some background about your
22 geologic evaluation and again talk about the confining
23 zones, which I understand now is not your opinion but
24 Mr. Tomastik's opinion. Correct?

25 A I -- I formed my opinion based off

1 Mr. Tomastik's review. So I would say it is my
2 opinion, but it is based off information that was
3 provided to me by our chief geologist.

4 Q Okay. But when I asked you about these
5 details, you weren't able to give me your separate
6 opinion about what the lithology was or what the
7 resistivity was or whether -- so you're relying on
8 Mr. Tomastik's opinion for that. Right?

9 A I am.

10 Q Okay. Then, in the seismic events and fault
11 data, you reviewed the publicly available information
12 that you had used to identify the nearest recorded
13 events and the faults. Right?

14 A Correct.

15 Q That's what this section is. And then on
16 the right you've got a figure that identifies the
17 stratigraphic history here or the stratigraphic
18 orientation of the zones. Right?

19 A It is generalized for the region, yes.

20 Q And just so I'm clear, Riley's proposing to
21 inject into the Cisco here, which is the upper Penn
22 formation. Right?

23 A That's correct.

24 Q Okay. And in your discussion about
25 Precambrian basement faults, you're talking about this

1 deep, deep zone here at the bottom of this generalized
2 stratigraphy.

3 A That is correct.

4 Q Okay. And you're saying that the only known
5 mapped fault that you've identified is this BEG fault,
6 and it's in Precambrian?

7 A Yes.

8 Q Okay. And then, so you go on to say that
9 the seismic potential evaluation -- you say that "Most
10 injection-induced seismicity throughout the U.S.," and
11 I'm going to paraphrase, occurs as a result of
12 injection into overlying formations that are --
13 obviously you say into Precambrian basement rock, into
14 overlying formations that are in hydraulic
15 communication with the Precambrian basement rock, or
16 as a result of injection near critically stressed and
17 optimally oriented faults. Correct?

18 A Correct.

19 Q Okay. So my takeaway from your statement is
20 that, because Riley's not proposing to inject into a
21 vertically offsetting zone, offsetting to the
22 Precambrian, your opinion is that the risk of induced
23 seismicity is low. Correct?

24 A Correct.

25 Q Because you haven't identified any shallow

1 or faulting offsetting in the injection zone.

2 A That's correct.

3 Q Okay. And so because of the vertical
4 distance between the injection and the known fault,
5 you're saying that the risk of induced seismicity is
6 low.

7 A That is one of the reasons, yes.

8 Q Okay. What's the other reason? What are
9 the other reasons?

10 A There is a lack of shallow historic
11 seismicity within the area of review, and, based on
12 Mr. Tomastik's evaluation, there is no indication of
13 any kind of hydrologic connection out that would allow
14 the injected fluid to travel outside of the proposed
15 injection zone.

16 Q Okay. And Mr. Tomastik, as I understood you
17 testified, his review is based solely also on publicly
18 available data. Correct?

19 A Correct.

20 Q Okay. So the vertical distance is one from
21 the known faults, and then lack of shallow seismicity
22 in the area. And when you refer to the area that you
23 reviewed, are you talking about this 5-mile area?

24 A Yes. It is a 100-square-mile area of review
25 around the proposed location.

1 Q So your statement does not include this
2 Dagger Draw area?

3 A It includes the area that is within a
4 hundred square miles of the proposed well.

5 Q Because I don't know the calculations. Is
6 that within this --

7 A That is what the circle represents.

8 Q Okay. So your statement about shallow
9 induced seismicity does not generally refer to or
10 address any of this other action going out here in the
11 Dagger Draw area. Right?

12 A That is correct.

13 Q Okay. And what was the basis for you to
14 limit your statement to this 5.64-mile radius?

15 A My understanding is that is the accepted
16 best practice by NMOCD.

17 Q Okay. Now, based on your discussions, as I
18 understand now, it wasn't your own opinion but based
19 on your understanding from Mr. Tomastik that there's
20 no hydrologic communication with the Precambrian rock.
21 Correct?

22 A Correct.

23 Q Okay. And you made that determination in
24 reliance on Mr. Tomastik's review?

25 A In part, yes.

1 Q What other --

2 A The lack of faulting within the injection
3 interval would be the other key factor.

4 Q And that lack of faulting was determined
5 based solely on there being no published data on it.

6 A Correct.

7 Q Okay. But you haven't looked at any 3D
8 seismic data to make that determination.

9 A I have not.

10 Q Okay. And I don't see in your exhibits any
11 structure maps. You haven't done any structure maps
12 to evaluate offsets or non-connection between the
13 zones. Correct?

14 A I have not.

15 Q Did you do that separately and didn't show
16 it as part of your exhibit?

17 A I did not.

18 Q Okay. So you did not look at 3D seismic and
19 you haven't done any sort of structural analysis to
20 determine whether or not there's substantial offsets
21 between the injection zone and any of the other
22 offsetting vertical formations. Correct?

23 A Correct.

24 Q Okay. So you ruled out that there's no
25 hydrologic connection between the injection zone and

1 the Precambrian or other deeper zones based on
2 publicly available data, but you didn't look at 3D
3 seismic. Is it possible, in your opinion, that 3D
4 seismic might show that the Cisco formation is
5 actually in hydrologic communication with other deeper
6 zones?

7 A With a lack of data, I can't comment one way
8 or the other on that. I don't have any information to
9 base my opinion off of in that case.

10 Q It's certainly possible. Right? If you --

11 A It is within the realm of possibility, yes.

12 Q Sure. Now, the other thing you mentioned in
13 your statement here is that another factor that gives
14 rise to induced seismicity is whether or not the
15 injection will be near critically stressed and
16 optimally oriented faults. Agree?

17 A Agree.

18 Q What do you mean by "optimally oriented
19 faults"?

20 A Optimally oriented would indicate that the
21 fault is aligned with the horizontal stress field --
22 the preferred horizontal stress field within the
23 region, which is to say the direction the rock is
24 being stressed in.

25 Q Have you evaluated what the maximum stress

1 orientation is in this area?

2 A Based on public data, yes.

3 Q And what's your understanding of that
4 direction?

5 A It is approximately due north. It rotates
6 very frequently throughout the Delaware Basin. The
7 nearest public data point I have available indicates
8 it is due north or slightly northwest trending.

9 Q Northwesterly?

10 A Correct.

11 Q What's the public data that's based on?

12 A The source is from Jens Lung Snee. I
13 believe he was at Stanford when he published the
14 information. It is a public data set of stress
15 orientations throughout the United States.

16 Q Is that the Zoback, Snee -- paper?

17 A It is -- it is something that followed on
18 that, yes.

19 Q Okay. So did the orientation of the maximum
20 stress change from the original Zoback paper?

21 A I don't believe so.

22 Q Okay. So I'm just going to go ahead and
23 pull it up because I just want everyone to see it
24 because I think it's important.

25 Is this the original Snee and Zoback paper

1 we were talking about?

2 A This is the original one, yes. And it has
3 been since updated.

4 Q So I'm going to scroll down to this image
5 here. You agree that this Figure 1 shows the regional
6 maximum stress orientations that they've identified?

7 A I would agree.

8 Q And then they even go and do something
9 that's helpful, I think, which is to provide a sort
10 of -- my interpretation is that this Figure 2 shows
11 sort of an average of the maximum stress orientation
12 for each of these boxes that they show?

13 A Yes.

14 Q And just so we're oriented correctly, do you
15 see this gray line that kind of goes in a southwest to
16 northeast direction?

17 A I do.

18 Q Do you agree that that's the BEG fault that
19 you've identified in your exhibit?

20 A It appears to be, yes.

21 Q Do you have any question about that?

22 A I don't.

23 Q Okay. And so the wells that you're
24 identifying here or proposing or just to the west of
25 the tip of that mapped fault?

1 A I believe, yes. That is correct.

2 Q Okay. So the orientation here is somewhat
3 sub-parallel or somewhat oblique to this known fault.
4 Yeah?

5 A The generalized average from the 2018
6 version of the paper would indicate so, yes.

7 Q Yeah. Do you disagree with that?

8 A Can I refer you back to my map within the
9 seismic letter? There's -- we actually mapped the
10 nearest available stress data point on that as well,
11 which is from the updated variant of this research.
12 So you'll see a call-out that says 9.03 miles moving
13 southeast of the subject well location. And in the
14 legend, that is indicated as a stress orientation from
15 Lund Snee and Zoback in 2020. And you'll see the
16 nearest point that is indicated is slightly northwest
17 trending, and other nearby points just northeast of
18 that are due north or very slightly due northeast.
19 'Cause, as I previously stated, the stress orientation
20 does change quite rapidly within this region.

21 Q So somewhere due north to a little bit due
22 northeast. Okay. But certainly not perpendicular to
23 this known fault. Correct?

24 A I would agree.

25 Q Okay. So when you talk about optimally

1 oriented faults, just so I understand, how is this
2 fault oriented with this maximum stress? Is it
3 optimally oriented?

4 A It is not. I would describe optimally
5 oriented as parallel to the stress orientation. This
6 one appears to be somewhere in the range of 30 to
7 40 degrees off of parallel, but that is just an
8 estimate based on glancing at the map. I haven't
9 calculated the orientation difference.

10 Q When I look at the Snee paper, they
11 identified that BEG fault as approaching around
12 30 percent potential fault slip potential.

13 A Once again, this paper has been since
14 updated with more data that was made available to the
15 authors by industry, and I would refer you to the
16 updated variant for more accurate information.

17 Q So you don't think that this BEG fault has
18 as high a potential for failure as this paper
19 reflects?

20 A Without running the model myself with
21 correct localized parameters, I cannot say.

22 Q Okay. So we've kind of discussed optimally
23 oriented faults, and your understanding is that it
24 needs to be perfectly aligned for it to be optimally
25 oriented for it to risk fault slip potential?

1 A I don't believe there is a strict definition
2 of optimally oriented. That is what I would describe
3 as optimally oriented, yes, would be parallel.

4 Q Very good. But if it's sub-parallel or
5 oblique, you're saying that -- does that eliminate the
6 risk of fault slip?

7 A It reduces the risk.

8 Q Reduces. But you don't know by how much
9 because you didn't model it.

10 A Correct.

11 Q Okay. So now one of the assumptions, as I
12 understand from your white paper, moving and shifting
13 topics here, is that fault slip potential tends to be
14 a problem in this area only for basement faults. Do
15 you agree with that paraphrase?

16 A Can I rephrase slightly? I would say the
17 vast majority of induced seismic events are associated
18 with Precambrian basement faults.

19 Q Okay. But you're excluding from your
20 statement or your opinion all the stuff over here in
21 Dagger Draw. Correct?

22 A Correct.

23 Q Okay. Now, in Dagger Draw, were some of
24 these induced seismic events based on shallower
25 events?

1 A I believe there were a couple of shallower
2 events within that region, yes.

3 Q Is it your understanding that those events
4 occurred in stratographically equivalent zones in the
5 upper Penn within the Penn?

6 A I would need to review further to comment
7 one way or the other on that. I don't recall the
8 specific depths of the events.

9 Q Very good. On the BEG fault here, okay, the
10 public information and literature discusses this
11 fault, as I understand, as being limited to the
12 Precambrian. Agree?

13 A Correct.

14 Q Now, is it your understanding that that
15 fault was generated prior to deposition of the
16 Pennsylvanian?

17 A Yes.

18 Q Okay. And so the deposition of the
19 Pennsylvanian would have conformed to the offset as a
20 result of that fault. Agree?

21 A Yes.

22 Q Okay. Are you aware of any literature
23 discussing or addressing whether that Precambrian
24 fault has been reactivated subsequent to the
25 Pennsylvanian deposition?

1 A I'm unaware of any literature that would
2 indicate one way or the other.

3 Q Okay. And that's a possibility though. Do
4 you agree that the fault may have been reactivated at
5 some point?

6 A If the fault had been reactivated, we would
7 expect to see a trend of seismic events along the
8 fault trend as it is mapped, and as I look at this map
9 here, it's not the trend I see.

10 Q I guess my question, though, is -- I mean,
11 that's during known history when we have --

12 A Just the -- it's possible.

13 Q Okay. So prior to any instrumentation or
14 seismic analysis or review, there could have been some
15 reactivation, and when faults are reactivated,
16 subsequent to overlying deposition, isn't it possible
17 that additional fractures could form in those
18 overlying depositional layers?

19 A Yes, it's possible.

20 Q Okay. And without 3D seismic, you wouldn't
21 know whether or not that's occurred. Agree?

22 A With lack of 3D seismic or other pertinent
23 information, yes.

24 Q Okay. And when faults are reactivated
25 or -- let me say this -- when, say, the Pennsylvanian

1 was deposited on that offset as a result of the
2 underlying BEG fault, is it common for fractures to
3 form in the overlying sedimentary rock as a result of
4 that offset of the underlying fault?

5 A I would say that is heavily dependent on the
6 specific lithology and depositional environment that
7 is being discussed in this case. I have not reviewed
8 the information I would need to to comment.

9 Q Okay. So you haven't looked at that and you
10 are not aware and you haven't seen anything in the
11 public literature addressing whether or not there's
12 been sort of fault-propagated folding and fracturing
13 in the overlying depositional layers?

14 A I have not seen any indication that there's
15 fault-propagated fracturing in the public literature.

16 Q Okay. And again, 3D seismic would likely
17 reveal that if that were the case.

18 A It could.

19 Q Okay. And when that does occur, as you
20 understand, do the fractures that propagate either
21 from a fault reactivation or as a result of deposition
22 on offsets folding from the fault, do those fractures
23 that form generally form in alignment with the
24 underlying fault?

25 A They tend to form first in alignment with

1 the optimum horizontal stress because that is the path
2 of least resistance for the rock to fracture.

3 Q Okay. So likely they would be formed in a
4 manner that was in alignment with either the existing
5 or pre-existing maximum stress orientation. Correct?

6 A Correct.

7 Q Okay. And that would make them optimally
8 aligned for reactivation by critical stress. Correct?

9 A Typically we do not speak of fractures as
10 being reactivated. It would be a fault which, in this
11 case, the fractures that would potentially form as a
12 result of reactivation would be ultimately aligned,
13 but I would not expect reactivation along small
14 fracture traces.

15 MR. RANKIN: Okay. But those -- okay.
16 Very good.

17 No further questions, Mr. Examiner.

18 THE HEARING EXAMINER: Thank you,
19 Mr. Rankin.

20 I'll turn to our technical examiners.
21 First Mr. Goetze.

22 MR. GOETZE: Thank you, Mr. Examiner.

23 At this point I think Mr. Rankin has asked all the
24 questions that I was going ask so I have no further
25 questions for this witness. Thank you.

1 THE HEARING EXAMINER: Okay.

2 Mr. Harris?

3 MR. HARRIS: Thank you. No questions.

4 THE HEARING EXAMINER: Thank you.

5 Mr. Padilla, any redirect?

6 MR. PADILLA: Yes. I have a couple of
7 questions.

8 REDIRECT EXAMINATION

9 BY MR. PADILLA:

10 Q Mr. Davis, Mr. Rankin asked you about
11 publicly available data, and he also asked if you've
12 reviewed or done any 3D or had available any 3D
13 seismic information. You testified that you didn't
14 have any 3D seismic information. In this type of
15 case, why would you rely on publicly available data?

16 A Because that is what is available.

17 Q Is that best practices?

18 A That is the best practices that have been
19 established in previous NMOCD seismicity-related
20 discussions.

21 Q He referred you to that Stanford paper.
22 That's public data, isn't it?

23 A That's correct.

24 Q And that's very good data.

25 A Yes. It is a more comprehensive data set

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1 than is generally publicly available for such
2 information. It has been very thoroughly developed
3 with industry input.

4 Q What would it cost you to do 3D seismic?

5 A I would say generally it is done during
6 exploration projects to identify potential faulting,
7 potential -- zones, establish the sedimentary column
8 and stratigraphy. I have not ever seen 3D seismic
9 performed specifically as a result of seismicity
10 concern.

11 Q How deep is the Precambrian basement?

12 A In this region it's approximately 15 to
13 16 thousand feet to the top of the basement.

14 Q I'm sorry. I didn't hear that.

15 A It is approximately 15 to 16 thousand feet
16 to the top of the Precambrian basement.

17 Q And where is the disposal zone in relation
18 to the Precambrian?

19 A It's approximately 6 to 7 thousand feet
20 above the top of the Precambrian basement.

21 Q And what's in between there?

22 A A lot of formations. It's a 6 to 7 thousand
23 feet of varying rock types.

24 Q Is there any connection, as far as you know,
25 between the faulting as shown on this exhibit and the

1 disposal zone?

2 A No. I've seen no indication that there is
3 connection between the two.

4 Q Mr. Rankin also asked you about whether you
5 had done any modeling. What would you do modeling
6 for?

7 A We use Stanford's Fault Slip Potential model
8 generally in cases such as this.

9 Q When would you use that?

10 A I would typically use it if there was a
11 fault within the injection interval that was a
12 potential seismic risk.

13 Q So your testimony is that there is no
14 relation between the faulting -- as I understand is in
15 the Precambrian. Right?

16 A Correct.

17 Q -- and the disposal zone.

18 A Based on the information I've reviewed, I
19 agree.

20 Q Now, Mr. Rankin also asked you about a whole
21 bunch of possibilities, and you answered yes, that
22 anything's possible. Is that fair to say?

23 A Yes. With lack of data, I can't agree or
24 disagree with what is existing in the area.

25 Q I mean, theoretically anything is possible

1 if you bring it up. Right?

2 A I would agree.

3 Q But it's not real.

4 A There is no evidence.

5 Q In this case, there's no evidence of
6 faulting within the 2-mile area radius.

7 A The -- there is no evidence within the
8 injection formation -- of faulting within the
9 injection formation. Correct.

10 Q Now, Mr. Rankin also asked you some
11 questions about -- and you stated that you weren't
12 familiar, that it was more Mr. Tomastik that developed
13 the geology or developed conclusions.

14 A Yes.

15 Q In developing this case, did you work
16 together?

17 A Yes, we did.

18 Q But he was the primary mover in some aspects
19 of the case.

20 A Correct.

21 Q Of the analysis.

22 A Correct. Things that are focused on
23 geology, he is the primary source of information and
24 decider.

25 Q And so your reliance on some of his

1 information is probably very proper. Right?

2 A I would say so, yes.

3 Q So when we're talking about seismic events
4 here, you haven't seen any, have you, other than this
5 one shown on this exhibit.

6 A There are, I believe, three shown within the
7 area of review on the exhibit. Yes.

8 Q But they're deep?

9 A They are deep and they are relatively
10 small-magnitude events.

11 Q And your testimony is that there's no
12 connection between those faults and the disposal zone.

13 A Correct.

14 Q So that means that any faulting would not be
15 a conduit for migration of disposal zones out of the
16 confined area.

17 A Yes. The lack of faulting within the
18 disposal zone would indicate there is no conduit via
19 fault out of the zone.

20 Q Would proposed injection pressures and rates
21 of disposal have any effect on any of the seismology
22 information that you have presented?

23 A Not at the rates and pressures that are
24 being proposed, no.

25 Q They're below any kind of pressure gradient

1 or fracture gradient?

2 A Yes, to my knowledge.

3 Q I believe Mr. Rankin also asked you about
4 the composition of the confining materials, and you
5 agreed with what Mr. Tomastik testified to.

6 A Yes. I'm reliant on his analysis for the
7 evaluation of confinement.

8 Q From your own geologic background, do you
9 see any fracturing or other reason why the confining
10 layers would not remain --

11 A I've seen no --

12 Q -- the way they are now?

13 A I've seen no data that indicates the
14 confining layers may be compromised or different than
15 what is being presented.

16 Q So when I looked at this exhibit -- it's off
17 now, but when I looked at this exhibit -- about how
18 many miles are you from the proposed injection wells
19 to the center of the circle that you have here?

20 A It's, I believe, just under 10 miles. Nine
21 and some change.

22 Q It's pretty far away, isn't it?

23 A I would agree.

24 Q And in between there you have confining
25 layers pretty much all the way through. Is that fair?

1 A I have not evaluated all the way out to
2 where the events originated, but within the area of
3 review they appear to be continuous, yes.

4 Q In fact, you don't have to go out that far.
5 Right?

6 A Typically, no. On a seismic review, the
7 hundred square mile is accepted as best practice by
8 both NMOCD and other regulatory agencies.

9 MR. PADILLA: Mr. Examiner, I believe
10 that's all I have.

11 THE HEARING EXAMINER: Ms. Hardy,
12 recross?

13 MS. HARDY: I do have a couple of
14 questions.

15 RECROSS-EXAMINATION

16 BY MS. HARDY:

17 Q Mr. Davis I want to share or Mr. Rankin --

18 MR. RANKIN: You want me to do it?

19 MS. HARDY: I'd ask Mr. Ranken to
20 share the raster log, which is Riley Exhibit A-48.

21 MR. RANKIN: The lower or the upper --

22 MS. HARDY: The upper. Yes. Thank
23 you.

24 BY MS. HARDY:

25 Q And Mr. Davis, if I understood you

1 correctly, you indicated that you worked with
2 Mr. Tomastik on determining the upper and lower
3 confining zones. Is that correct?

4 A That is correct.

5 Q Okay. And this raster log is a document
6 that you have provided along with Mr. Tomastik to show
7 upper and lower confining layers. Is that correct?

8 A Correct.

9 Q And this log does not include resistivity,
10 does it?

11 A I believe this is a resistivity log.

12 THE HEARING EXAMINER: Can you speak
13 louder?

14 THE WITNESS: Yes. I believe this is
15 a -- I don't recall without the log header, but I
16 believe this is a resistivity log.

17 BY MS. HARDY:

18 Q I thought you said earlier that it was a
19 porosity -- it does not have porosity. Is that
20 correct?

21 A That's correct.

22 Q Okay. But it's your testimony it does have
23 resistivity.

24 A Yes.

25 Q But there is no heading, so we don't know

1 that right now.

2 A There is associated with the raster log, but
3 it is not in the presented image, no.

4 Q Okay. And where is the resistivity shown on
5 this log?

6 A It is in the rightmost column. There are
7 two lines. The solid line is what we refer to during
8 the resistivity analysis.

9 MS. HARDY: And if Mr. Rankin can
10 scroll down to the next page.

11 BY MS. HARDY:

12 Q Is it your testimony that that's the case
13 with this page as well?

14 A That is -- yes.

15 MS. HARDY: Thank you. That's all my
16 questions.

17 THE HEARING EXAMINER: Mr. Rankin,
18 recross?

19 MR. RANKIN: Thank you, Mr. Examiner.
20 Just a couple of questions.

21 RECROSS-EXAMINATION

22 BY MR. RANKIN:

23 Q Mr. Davis, these applications were
24 originally filed for a hearing back in February. Is
25 that right?

1 A I believe so.

2 Q And are you aware that both MRC
3 Permian/Matador and Colgate and Permian Resources both
4 filed entries of appearance and objected to this case
5 at that time?

6 A I'm aware.

7 Q And are you aware whether or not those
8 companies have had discussions either with ALL
9 Consulting or with Riley Permian about their concerns?

10 A I am unaware of any discussions that have
11 occurred.

12 Q Okay. So you weren't aware of the nature of
13 those companies' concerns until the exhibits were
14 filed?

15 A Correct.

16 Q Okay. Mr. Padilla asked you questions about
17 the 3D seismic. Now, 3D seismic is something that is
18 commercially available? Agreed?

19 A Yes.

20 Q And Riley could have gone out and obtained
21 3D seismic itself for this area? Agreed?

22 A It is -- I'm unsure what is public or what
23 is available for purchase in the area. Is a
24 possibility.

25 Q If there were 3D seismic available for

1 license, they could go out and purchase it if they
2 wanted to. Correct?

3 A Yes.

4 Q Okay.

5 A It's possible.

6 MR. RANKIN: Nothing further,
7 Mr. Examiner.

8 THE HEARING EXAMINER: I'll turn to the
9 technical examiners. Did those answers on redirect or
10 recross raise any questions for either technical
11 examiner?

12 MR. GOETZE: Mr. Examiner, this is
13 Phillip Goetze. No it has not raised any additional
14 questions I may have. Thank you.

15 MR. HARRIS: Thank you. No further
16 questions.

17 THE HEARING EXAMINER: All right. May
18 this witness be excused?

19 MR. PADILLA: Yes.

20 THE HEARING EXAMINER: All right.
21 Does that concludes your case in chief?

22 MR. PADILLA: Yes, it does.

23 THE HEARING EXAMINER: All right.

24 Ms. Hardy, did you have a case in
25 chief?

1 MS. HARDY: Yes, I do, Mr. Examiner,
2 but I believe Mr. Rankin was planning to present his
3 witnesses first.

4 THE HEARING EXAMINER: Okay. Well the
5 question I'm looking for an answer from you is do you
6 have a case in chief?

7 MS. HARDY: Yes. I have a witness.

8 THE HEARING EXAMINER: Okay. Do you
9 have witnesses?

10 MS. HARDY: I do, yes.

11 THE HEARING EXAMINER: You do have
12 witnesses.

13 MS. HARDY: Yes.

14 THE HEARING EXAMINER: Okay.

15 And, Mr. Rankin, do you have a case in
16 chief?

17 MR. RANKIN: I do, Mr. Examiner.

18 THE HEARING EXAMINER: All right.
19 Let's talk about -- how many witnesses do you have,
20 Mr. Rankin?

21 MR. RANKIN: I have one for each
22 client. I have one for Permian Resources/Colgate and
23 I have one for Matador/MRC Permian.

24 THE HEARING EXAMINER: Perfect.

25 And Ms. Hardy?

1 MS. HARDY: I have one witness as well.

2 THE HEARING EXAMINER: Very good.

3 Let's talk a little bit about procedure
4 before we start with your case, Mr. Rankin. It's
5 11:15 now. How long do you anticipate your witnesses
6 testifying?

7 MR. RANKIN: Mr. Examiner, I guess one
8 question I have just in terms of procedure is -- our
9 direct is very short. Obviously, they just need to
10 adopt their testimony. We could go right into
11 rebuttal since Riley's testimony has been presented.
12 So my recommendation in terms of timing and sequencing
13 and making things more efficient would be to have each
14 of our objector witnesses present and adopt their
15 direct testimony and then go right into rebuttal and
16 stand for questioning at one time on both their direct
17 and rebuttal testimony. That way I think we can more
18 speedily work through what remains.

19 THE HEARING EXAMINER: I agree. So how
20 long do you think it'll take to present your two
21 witnesses?

22 MR. RANKIN: I don't think it will take
23 too long, Mr. Examiner. I think probably -- I mean,
24 for me, notwithstanding any cross-examination
25 questions, I think it might take me about half an

1 hour, roughly, for each witness.

2 THE HEARING EXAMINER: And Ms. Hardy?

3 MS. HARDY: I would say 15 to
4 20 minutes max for me.

5 THE HEARING EXAMINER: Okay. Well, we
6 haven't taken a break this morning, so I'm inclined to
7 take a five-minute break at this time, and then we'll
8 come back on the record for Mr. Rankin's case in chief
9 and rebuttal case.

10 And Mr. Rankin, when you say
11 "rebuttal," can you be more descriptive about what
12 part of your case is rebuttal?

13 MR. RANKIN: Mr. Examiner, for Matador
14 or MRC, we have not supplied any additional exhibits
15 to discuss our rebuttal; however, our witness will be
16 addressing specifically some of the testimony and
17 exhibits that were presented by Riley that we did not
18 previously anticipate. So he'll be just addressing
19 some of the comments and statements made in the direct
20 testimony by Riley's witnesses.

21 Permian Resources and Colgate did
22 provide, late last night, a proposed rebuttal exhibit.
23 That is in response to statements about the fact that
24 this zone may not be critically stressed at this
25 point. There's an offsetting injection well that is

1 close by that's also injecting into the Cisco, and we
2 want to make clear that that well's been injecting for
3 a period of time already, and we believe that we're
4 already seeing problems with some of the injection as
5 a result and offsetting production.

6 THE HEARING EXAMINER: Okay. As I
7 remember, Mr. Padilla objected to your late filed and
8 amended exhibits because he hadn't had a chance to see
9 them yet.

10 MR. RANKIN: Yeah. Mr. Examiner, as
11 stated in the cover pleading for those revised
12 exhibits which Matador filed, the reason for the
13 refileing was because we updated the location of the
14 SWD number 1 well to comport because there was
15 confusion around the location based on whether it's
16 from the south line or north line. So upon review of
17 the exhibits, which we had a chance to review once
18 they were filed, we determined that the correct
19 location was from the north line and made that
20 correction.

21 THE HEARING EXAMINER: I understand why
22 you amended them. I was just restating that there is
23 an objection to them and so that, since you're calling
24 your witnesses, you might want to provide foundation
25 so we can get them admitted during your direct case.

1 So let's take a five-minute break.
2 It's 11:19 now. We'll come back on the record at
3 11:24. Thank you.

4 (Off the record.)

5 THE HEARING EXAMINER: It is 11:27 a.m.
6 We are back on the record. We are going to get two
7 witnesses sworn in. One is appearing on behalf of
8 Matador, the other on behalf of Colgate.

9 Would you both state and spell your
10 names? Let's start with Matador, Mr. Parker.

11 MR. PARKER: My name's Andrew Parker.
12 It's P-A-R-K-E-R.

13 THE HEARING EXAMINER: Okay. Thank
14 you.

15 And Mr. Cantin?

16 MR. RANKIN: Mr. Cantin, you're muted.
17 Say it again.

18 Yeah. You're still muted. I guess it
19 looks like you're trying to figure that out. Yeah?

20 THE HEARING EXAMINER: Well, okay.
21 Mr. Cantin, while you're figuring this out, let's
22 start with Mr. Parker.

23 Mr. Parker, would you raise your right
24 hand, please?

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ANDREW PARKER

being called as a witness, and having first been duly sworn, testified as follows:

THE HEARING EXAMINER: Okay. So Mr. Rankin, why don't you start with Mr. Parker since he's sworn in, and when we see that Mr. Cantin is unmuted, then we'll be able to get him sworn in.

MR. RANKIN: Okay, Mr. Examiner. We'll do that.

THE HEARING EXAMINER: And are there any exhibits that you're admitting through Mr. Parker?

MR. RANKIN: There are, Mr. Examiner.

THE HEARING EXAMINER: How are they marked?

MR. RANKIN: I think they've already been admitted, but they were marked as Matador Exhibits A and A-1 through A-6.

(Matador Exhibit A was marked for identification.)

THE HEARING EXAMINER: Okay. And they're already admitted. Thank you.

MR. RANKIN: Yeah. I'm sorry. I correct myself. The revised exhibits have not been admitted because of Mr. Padilla's objection. So I guess maybe, Mr. Examiner, I will take a moment to lay

1 the foundation for the justification for the revised
2 exhibits.

3 THE HEARING EXAMINER: Yes, please,
4 DIRECT EXAMINATION

5 BY MR. RANKIN:

6 Q Mr. Parker, initially, say your name and by
7 whom you're employed and in what capacity.

8 A Andrew Parker, I'm employed by Matador
9 Resources as a senior vice president of geoscience.

10 Q And you previously testified before the
11 Division?

12 A Yes.

13 Q And you've had your credentials as an expert
14 in petroleum geology accepted as a matter of record?

15 A I have.

16 Q And you're familiar with the applications
17 filed in these cases by Riley Permian?

18 A Yes.

19 Q And you've conducted a study of the geology
20 in the area?

21 A Yes.

22 Q And you've prepared written testimony and
23 exhibits that are marked as Matador Exhibits A and A-1
24 through A-6?

25 A Yes.

1 Q And those exhibits and the testimony were
2 prepared by you or compiled under your direction and
3 supervision?

4 A Yes.

5 Q Any corrections or changes to the testimony
6 or exhibits that were filed? The revised exhibits and
7 testimony that were filed?

8 A No. Not -- not to the revised exhibits.

9 Q Now, Mr. Parker, will you explain why it is
10 that you filed revised exhibits on Monday?

11 A Yeah. The initial well location that we
12 received for the Angel -- I believe it was the Angel
13 Ranch number 1 had the footage callouts in the
14 southern part of the section, so we had to advise to
15 move the well to the north.

16 Q And those are the changes you made based on
17 that understanding that the location was incorrect?

18 A Yes.

19 MR. RANKIN: Mr. Examiner, at this time
20 I would move the admission of exhibits -- the Matador
21 revised Exhibits A and A-1 through A-6.

22 THE HEARING EXAMINER: Mr. Padilla?

23 MR. PADILLA: No objection.

24 MR. CANTIN: Can you hear me now?

25 MR. RANKIN: Yes.

1 THE HEARING EXAMINER: Yes, Mr. Cantin,
2 but you'll have to wait until we get to you.

3 MR. CANTIN: Yep. Sorry about that.

4 THE HEARING EXAMINER: Sure.

5 Mr. Padilla, I'm sorry?

6 MR. PADILLA: No objection.

7 THE HEARING EXAMINER: Ms. Hardy?

8 MS. HARDY: No objection.

9 THE HEARING EXAMINER: Okay.

10 Mr. Rankin, Exhibits A, A-1 through A-6, revised,
11 submitted on the 22nd of July are admitted into
12 evidence.

13 (Matador Exhibit A was received into
14 evidence.)

15 MR. RANKIN: Thank you, Mr. Examiner.

16 If I may, Mr. Examiner, my preference
17 would be to do Mr. Cantin first. Given the sequencing
18 and the topics of the testimony, I would prefer to
19 have Mr. Cantin testify first now that he's able to
20 speak, and we need to get him sworn in, I would prefer
21 to have him go first if that's okay with you.

22 THE HEARING EXAMINER: Mr. Cantin,
23 state and spell your name for the record.

24 MR. CANTIN: Yes, sir. My name is
25 Chris Cantin. That's C-H-R-I-S C-A-N-T-I-N.

1 THE HEARING EXAMINER: Raise your right
2 hand please.

3 CHRIS CANTIN
4 being called as a witness, and having first been duly
5 sworn, testified as follows:

6 THE HEARING EXAMINER: And Mr. Rankin,
7 do we have any exhibits to admit under this witness?

8 MR. RANKIN: We do not, Mr. Examiner.
9 His exhibits were already admitted and not objected
10 to.

11 THE HEARING EXAMINER: Thank you. And
12 how were they marked?

13 MR. RANKIN: They're marked as -- I'll
14 double check to make sure that I'm right -- Permian
15 Resources Exhibits A and A-1 through A-4.

16 THE HEARING EXAMINER: And when you say
17 Permian, do you mean Colgate/Permian?

18 MR. RANKIN: Mr. Examiner, Permian is
19 the parent company. Permian Resources is the parent
20 company. Colgate is the affiliate and subsidiary. So
21 as a matter of practice, I refer to them both
22 collectively as Permian Resources.

23 THE HEARING EXAMINER: Matador and
24 Colgate are both subsidiaries of Permian?

25 MR. RANKIN: Permian Resources and

1 Colgate are related.

2 THE HEARING EXAMINER: Okay.

3 MR. RANKIN: And then Matador is the
4 parent company essentially for MRC Permian. So
5 they're different entities, different groups,
6 different clients.

7 THE HEARING EXAMINER: Okay. And you
8 said that the Colgate -- I'm going to call it Colgate.

9 MR. RANKIN: That's fine.

10 THE HEARING EXAMINER: -- that the
11 Colgate exhibits have already been admitted.

12 MR. RANKIN: They have, Mr. Examiner.

13 THE HEARING EXAMINER: And how are they
14 marked?

15 MR. RANKIN: They're marked as Permian
16 Resources Exhibit A and A-1 through A-4.

17 THE HEARING EXAMINER: I understand.
18 Okay. All right. Please proceed.

19 MR. RANKIN: Thank you.

20 DIRECT EXAMINATION

21 BY MR. RANKIN:

22 Q Mr. Cantin, state your name and by whom
23 you're employed and in what capacity.

24 A My name is Chris Cantin; I work for Permian
25 Resources, previously Colgate Energy, and I am a

1 senior geologist. I've been here -- between Colgate
2 and Permian, I've been here for right around going on
3 nine years.

4 Q And you previously testified before the
5 Division and have had your credentials as an expert in
6 petroleum geology accepted as a matter of record?

7 A Yes, sir.

8 Q And you're familiar with the applications
9 filed by Riley Permian in these cases?

10 A Yes, sir, I am.

11 Q And you've done a study of the geology in
12 the area?

13 A Yes, sir.

14 Q And you've prepared written testimony with
15 exhibits that are marked as Permian Resources A and
16 A-1 through A-4?

17 A Yes, sir.

18 Q And those exhibits in your testimony were
19 prepared by you or compiled under your direction and
20 supervision?

21 A Yes, sir.

22 Q Any corrections or changes to the testimony
23 that has been filed at this time?

24 A No, sir. Not to testimony.

25 Q Mr. Cantin, do you adopt the testimony and

1 the self-affirmed statement marked as Exhibit A as
2 your own sworn testimony today?

3 A I do.

4 MR. RANKIN: Mr. Examiner, at this time
5 I would re-tender Mr. Cantin as an expert in petroleum
6 geology.

7 THE HEARING EXAMINER: Okay. So
8 there's no rebuttal?

9 MR. RANKIN: We do have rebuttal, and
10 I'm happy to do that right now with this exhibit, if
11 you'd like me to.

12 THE HEARING EXAMINER: I would do that.

13 MR. RANKIN: I'll do that.

14 BY MR. RANKIN:

15 Q Mr. Cantin, did you have a chance to review
16 Riley Permian's application, testimony, and exhibits
17 that were filed in these cases?

18 A Yes, sir. Both of them.

19 Q And based on your review, did you prepare an
20 exhibit and additional rebuttal testimony to respond
21 to the statements and opinions in Riley Permian's
22 exhibits?

23 A Yes, sir, I did.

24 Q So actually, I'm going to take this off for
25 right now. I'm going to walk you through some of this

1 rebuttal, Mr. Cantin, and we can address these issues
2 as they come up.

3 Now, I'm going to start with the case
4 number 24279, the Angel Ranch SWD number 1. In the
5 cover application, it identified a location for that
6 well as being 1320 from the south line. Did you have
7 any confusion over the location of that well?

8 A Initially I did because in the initial
9 application it did say from south line. A little more
10 digging, I did see a plat that had Redwood Operating
11 on it that had it from north line, and I went ahead
12 and put those on my exhibits. But yes, there was
13 some -- definitely some initial confusion that I ended
14 up having run by you to get, you know, a full
15 confirmation on which location it was.

16 Q Okay. Now, I'm going to commence sharing my
17 screen if I can get myself oriented real quick.

18 Do you see my screen now before you,
19 Mr. Cantin?

20 A Yes, I do.

21 Q Do you see that this is the application that
22 was filed for the SWD number 1 that Riley's proposing?

23 A Yes, sir.

24 Q I'm going to scroll down to the data sheet,
25 and you see -- when I get there, I'll indicate. Do

1 you see here under item number 3 the proposed maximum
2 injection pressure is identified as being
3 4,108 pounds?

4 A I do, yes.

5 Q And in the related case, there was a
6 similarly high injection pressure that was proposed
7 initially for the SWD number 2. Correct?

8 A Yes, sir.

9 Q And what concerns did you have if Riley were
10 to inject at a pressure that high?

11 A Pressure that high -- you know, in -- in
12 some of my exhibits I showed some structure maps with
13 some -- faulting and into the BEG faults as well. You
14 know, with a injection pressure that high, you know,
15 in -- in an area that is, you know, covered by, you
16 know, potential faults in the area, you know,
17 injecting at a pressure that high, you know, puts you
18 at higher risk of, you know, making its way into what
19 we consider our primary target where we are currently
20 developing -- Bone Spring through the observed
21 faulting any associated fracturing through -- up -- up
22 into that zone.

23 Q Now, you heard testimony today that they're
24 revising their injection pressures and they're going
25 to propose injection pressures in line with the

1 Division's guidance, and so it'll be substantially
2 reduced. But even if Riley injects at the OCD's
3 guidance for maximum surface injection pressures, is
4 it still your opinion that the injected volumes more
5 likely than not will be in communication with Permian
6 Resources' targeted development in the Third Bone
7 Spring?

8 A Yes. I think for -- for each of those wells
9 you'd be around 1700 to 1600 PSI given the guidance,
10 and, yes, I believe that my concerns are still valid
11 or still -- it's still a concern to me at those
12 pressures that the fluid could still travel up through
13 the -- what -- what would they consider their upper
14 confining zone and into the Bone Spring.

15 Q Now, real quick, I just want to address this
16 to get this out of the way. In your direct testimony,
17 you identify that Permian Resources and Colgate have
18 actual development and production in offsetting Third
19 Bone Spring target within the area of review. Is that
20 correct?

21 A Yes, sir. I have an activity map on A-2
22 that identifies that production.

23 Q So this was in your direct testimony, but
24 just in response to today's testimony from Riley, I
25 mean, there's no question that you've got offsetting

1 production. When you look at this map, you're
2 currently drilling and you've got offsetting
3 production within the area of review, including
4 immediately to the south, identified by these red
5 sticks immediately to the south of the SWD number 1
6 well. Correct?

7 A Yes. Yes, that is correct.

8 Q Okay. And so getting back to what you just
9 said about the concern, your concern is that, even at
10 the targeted injection pressures and volumes, you
11 believe it's more likely than not that injection
12 volumes will reach the overlying Third Bone Spring.
13 Right?

14 A That is correct.

15 Q And your concern is based on, as I
16 understand, if you would just -- the lack of
17 sufficient upper confinement within the Cisco
18 formation? Agree?

19 A I agree, yes.

20 Q Okay. So I want to go to Riley's exhibit
21 here, and I want to just have you talk to -- I'm going
22 to use this one first, which is the upper confining
23 zone for the SWD number 1, and I want you to just tell
24 me whether or not your concerns are the same for both
25 this log, as a basis for the confining zone for this

1 log, and also for the SWD number 2, which has also a
2 single well log. If you would just explain for us
3 what your concerns are based on what's presented here.

4 A Yeah. What -- what I see here in their
5 confining zone is definitely shale, maybe some
6 interbedded carbon in there, but definitely a more
7 interbedded shale. I mean, to -- to me this does look
8 like a porosity log, and I've, of course, done my own
9 study, and it does look like a porosity log for this
10 well. The well for the other log looks similar, but I
11 do show that in my -- my exhibits. What -- what I do
12 see here is, at the base of their confining zone, is
13 the upper -- is the base of their confining zone is
14 the top of the Cisco, and then the top of their
15 confining zone is the red line above, I believe.

16 Q And based on your review of this, I mean,
17 you haven't seen any other empirical evidence
18 demonstrating that there's any sort of confining
19 interval that extends aerially across the injection
20 area, have you?

21 A It -- it's kind of hard to tell with just
22 one well. I believe there's other public data nearby
23 that I have used in my exhibits to -- to show, but I
24 think what I see here is a gamma-ray log along with,
25 you know, a density porosity, neutron porosity, a

1 caliper, and looks like a PE curve.

2 Q So let's look at your cross section, because
3 I think you include some additional data.

4 A Yes, sir.

5 Q And at this time, I think actually I'm going
6 to go ahead and use what you prepared as a rebuttal
7 exhibit because it's more inclusive. And Mr. Cantin,
8 if you would, this has been marked as Permian
9 Resources rebuttal Exhibit A-5. If you would just
10 review for the examiners what this rebuttal exhibit
11 shows, explain to them what's new on this exhibit
12 that's rebuttal, that wasn't on the original, and then
13 walk through what this shows and why you're concerned
14 about the lack of a sufficient geologic seal overlying
15 the injection interval.

16 (Permian Resources Exhibit A-5 was
17 marked for identification.)

18 THE HEARING EXAMINER: Mr. Rankin,
19 before the witness discusses this rebuttal exhibit,
20 which has not been admitted into evidence yet, did you
21 want to --

22 MR. RANKIN: I thought I might have him
23 discuss it and then move for admission. I'm happy to
24 do it in the opposite order.

25 THE HEARING EXAMINER: Let's do it in

1 the opposite order.

2 MR. RANKIN: Okay.

3 BY MR. RANKIN:

4 Q So Mr. Cantin, you prepared this exhibit
5 marked as Permian Resources Rebuttal Exhibit A-5.
6 Correct?

7 A That is correct.

8 Q And this exhibit shows three things. It
9 shows a cross section that you prepared of five
10 different well logs across the area that's mapped to
11 the right with the corresponding colored stars. Is
12 that correct?

13 A That is correct.

14 Q And it also shows your interpretation of two
15 additional faults that were not included in Riley
16 Permian's testimony and exhibits. Is that correct?
17 Those are marked as brown dashed lines.

18 A Yes, sir.

19 Q And it also includes the BEG fault that is
20 included in Mr. Davis's testimony. That's the black
21 dashed line. Correct?

22 A Yes. That is public BEG mapped fault.

23 Q Now, in addition, there's a blue star on the
24 far right of your cross section marked on the map as
25 well as A prime. That includes, so I understand,

1 that's an offsetting existing SWD that that's been
2 injecting for some time?

3 A That is -- that is correct. I believe it
4 was converted in 2002.

5 Q Okay. And to the south immediately are four
6 wells that Permian Resources/Colgate has drilled and
7 is currently producing. Correct?

8 A Yes.

9 Q And the information below at the bottom
10 right of that exhibit is the production data that you
11 have publicly available from those wells. Right?

12 A Yes. That is monthly data that is reported
13 to the OCD.

14 Q So I'll have you just discuss each of these
15 elements, but I just want to make sure that you
16 prepared all this and it's based on public data and/or
17 information that you prepared based on company
18 information. Correct?

19 A Yes.

20 MR. RANKIN: At this time,

21 Mr. Examiner --

22 BY MR. RANKIN:

23 Q And then, Mr. Cantin, this is in response to
24 Riley Permian's testimony that, number one, there are
25 no offsetting faults that are shallower than the

1 Precambrian, number two, that there is no concern
2 about these offsetting faults being critically
3 stressed, and, number three, that there a competent
4 seal or barrier containing the injection volumes
5 within the Cisco formation?

6 A That is correct.

7 MR. RANKIN: Okay. Mr. Examiner, at
8 this time I would move the admission of this exhibit
9 as a rebuttal exhibit.

10 THE HEARING EXAMINER: Mr. Padilla?

11 MR. PADILLA: I don't have an
12 objection.

13 THE HEARING EXAMINER: Can you turn
14 your microphone on and say it again?

15 MR. PADILLA: I don't have an objection
16 to this exhibit. So I just want to understand from
17 Mr. Cantin when were these exhibits --

18 THE HEARING EXAMINER: Do you want to
19 voir dire the witness?

20 MR. PADILLA: Yes.

21 THE HEARING EXAMINER: Okay. Go ahead.

22 VOIR DIRE

23 BY MR. PADILLA:

24 Q Mr. Cantin, when were these exhibits
25 prepared?

1 A I prepared these -- I believe I finished
2 up them yesterday.

3 Q And what was the new information that you
4 included in this cross section?

5 A I added the active -- the -- the log for the
6 active Cisco SWD, which is that State HU Com number 1,
7 to show its proximity to the -- our Red Eagle
8 development that was all co-developed together in the
9 Third Bone Spring. Also, the addition of the caliper
10 log on the far left of the -- on the far left column
11 where I had the gamma and I've highlighted there in
12 blue and kind of the red color, and then the red line
13 being the -- the caliper log.

14 Q In your original A-A Prime map, did you have
15 those faults located on that map?

16 A Yes, sir. Yes, sir. They -- those faults
17 are stemming from my Exhibit 3, and I just moved them
18 forward to Exhibit 4 and 5 to show where they were
19 relative to the -- the wells in the cross section and
20 the proposed SWDs.

21 MR. PADILLA: I don't have any
22 objection, Mr. Examiner.

23 THE HEARING EXAMINER: Okay.

24 So Mr. Rankin, I want to make sure that
25 I understand which exhibits you are seeking to admit

1 as rebuttal exhibits. So let me find what you filed.

2 Okay. I have here a three-page
3 document that was filed, well, it says this morning,
4 but I suspect it was yesterday, and it has two graphs
5 on it. One is labeled as Angel Ranch, et cetera, and
6 the other is Permian Resources rebuttal Exhibit A-5.
7 So are they both rebuttal exhibits?

8 MR. RANKIN: I think it's just one
9 slide, Mr. Examiner.

10 THE HEARING EXAMINER: The one on the
11 right?

12 MR. RANKIN: The one that's showing on
13 the screen.

14 THE HEARING EXAMINER: The one on the
15 right?

16 MR. RANKIN: It's one slide. It's one
17 document.

18 THE HEARING EXAMINER: It's the one on
19 the right.

20 MR. RANKIN: Yeah. So it's marked as
21 rebuttal Exhibit A-5. The whole thing is marked as
22 rebuttal Exhibit A-5.

23 THE HEARING EXAMINER: Even though
24 those words appear over just a cross section locator
25 map.

1 MR. RANKIN: Yeah.

2 THE HEARING EXAMINER: Okay.

3 MR. RANKIN: No. The intent was to
4 have the whole thing as one rebuttal slide. Yes.

5 THE HEARING EXAMINER: Okay. So both
6 slides are rebuttal Exhibit A-5 and there's no
7 objection from Mr. Padilla.

8 That's correct. Right, Mr. Padilla?

9 MR. PADILLA: That's correct.

10 THE HEARING EXAMINER: And no objection
11 to either of these slides.

12 MR. PADILLA: No.

13 THE HEARING EXAMINER: Very good.

14 And Ms. Hardy?

15 MS. HARDY: No objection.

16 THE HEARING EXAMINER: They're admitted
17 into evidence.

18 (Permian Resources Exhibit A-5 was
19 received into evidence.)

20 MR. RANKIN: Thank you, Mr. Examiner.
21 At this time I would, I would return to my questioning
22 of Mr. Cantin.

23 THE HEARING EXAMINER: Yes, please.

24 //

25 //

1 DIRECT EXAMINATION (CONT'D)

2 BY MR. RANKIN:

3 Q Mr. Cantin, if you would, we discussed a
4 little bit about you reviewed the sole well log
5 proffered by Riley in support of their contention that
6 there's an upper confining seal. If you would just
7 review your response, I'm happy to zoom in on anything
8 to facilitate your discussion. But if you would just
9 respond to their contention that, in their view,
10 there's a reliable sufficient geologic barrier
11 overlying the Cisco and the injection interval here.

12 A Yeah. I have multiple screens here. I'm
13 zooming in on this right screen, so I'm looking over
14 to the right. I'm looking at this screen. I'm
15 zooming in myself. But, yeah. Kind of going back a
16 little bit, looking at -- in each of the Riley cases
17 they used the -- the single kind zoom-in of a raster.
18 In my opinion, using a wider range of available data
19 is probably a more effective way of showing a true
20 competent barrier and the consistency of it, which I
21 believe in my cross section, I -- I do that. So if --
22 if you -- if you would like me, Adam, I can just go
23 ahead and review, kind of walk through the cross
24 section?

25 Q Yeah. Let's do that.

1 THE HEARING EXAMINER: And Mr. Cantin,
2 I'm going to interrupt you for a moment. In five
3 minutes we're going to be breaking for lunch, so keep
4 that in mind.

5 THE WITNESS: Yes, sir.

6 THE HEARING EXAMINER: Okay. Go ahead.

7 THE WITNESS: I -- I can get through
8 just this next bit.

9 THE HEARING EXAMINER: Go right ahead.

10 THE WITNESS: So looking at the cross
11 section, like Mr. Rankin said, the -- the stars
12 correspond with -- with the map on that A-A Prime
13 cross section. Again, not just using, you know, one
14 or zoom in, just showing the whole picture, on each
15 log there's -- one, two -- three tracks. The far left
16 track in red, you see the caliper, and then the next
17 log in that same track is the gamma, and I have a deep
18 resistivity log in the second track labeled LLB [ph]
19 at the top, and then I have the neutron density and a
20 density porosity curve in the -- in the far right
21 track. I have a PE in one of those; I believe that is
22 in Spanish Dagger. And the Candy Gram State also in
23 that third track.

24 But yeah. So gamma -- yeah. So we
25 went through kind of all of those. But again, you

1 know, showing a single log is just seeing a single
2 point, whereas, you know, when you -- when you show a
3 log -- a multi-well cross section, you -- you can see
4 kind of a bigger picture.

5 I don't have it marked here, but the
6 zone that they're calling their confining zone, if you
7 look at the blue -- the blue dashed box there, on top
8 of that is the top of Cisco. I have that labeled in
9 the far right. About 50 to 60 feet above that on the
10 gamma track you can see what they're calling their
11 upper confinement zone. And -- and as a whole you can
12 find that -- you know, pick a top on that and you --
13 you can see it throughout all the logs, but the -- the
14 individual beds in between are not contiguous and
15 they're more heterogeneic.

16 But what I really want to show that
17 isn't shown in the logs that were picked by Riley is,
18 if you look at the caliper log and then -- which is in
19 red, the -- the caliper log measures the -- the
20 diameter of the hole and is a good indication of
21 brittle rock or fracturing. You can see in the
22 Spanish Dagger State, which I believe they used for
23 the Angel Ranch number 1, it -- it's fairly flat
24 through there, showing potentially, you know, no
25 faulting or fracturing. But if you move through the

1 other logs on the State HU and the Candy Gram, you see
2 what in log interpretation you may consider a cave-in,
3 which is a indicator of brittle rock fracturing. And
4 then again, in the HU State you see these really sharp
5 increases in caliper, which can also be an indication
6 of fracturing in the area. You not only see that in
7 the confining zone, but you see it also in the -- the
8 rock above it and within the Cisco itself.

9 And -- and to my knowledge, you know,
10 more often than not, the faults that I have shown in
11 the inset map on the right, you know, can have
12 associated fractures with them, and I think the
13 caliper log is doing a good job of showing, you know,
14 potential fractures in this area that could be a
15 conduit that would allow the injection water to be
16 moved through this into the Bone Spring, which is my
17 biggest concern here.

18 BY MR. RANKIN:

19 Q Just to be clear, on his same cross section,
20 the injection interval zone that's proposed by Riley
21 Permian is the box with the blue dashed line at the
22 bottom. Correct?

23 A That's right, yes.

24 Q And then above in the zone, it starts with
25 the purple outline at the base and up to the red

1 outline, that's the target Third Bone Spring that
2 Colgate and Permian Resources is currently targeting
3 in this track and offsetting immediately to the south
4 and east?

5 A Yes. The -- the red arrows are particularly
6 what our targets are in this area.

7 THE HEARING EXAMINER: Mr. Rankin, does
8 that give us a good spot to come back to?

9 MR. RANKIN: That does. I think so,
10 Mr. Examiner. Yeah.

11 THE HEARING EXAMINER: Okay. So it is
12 now 11:57 a.m. We will come back on the record at
13 1:15 p.m. today, and we will continue with the
14 rebuttal case presented by Mr. Cantin at that time.

15 Thank you.

16 (Off the record.)

17 THE HEARING EXAMINER: It is 1:16 p.m.,
18 and we are back on the record in this contested
19 hearing, and Mr. Rankin was presenting rebuttal to --
20 looks like we have some interference.

21 THE WITNESS: I can year you.

22 THE HEARING EXAMINER: No. That was
23 Mr. Rankin's computer. It was the volume. Maybe your
24 microphone's on? Okay. So we're good? Are we good
25 now?

1 MR. RANKIN: Yeah.

2 THE HEARING EXAMINER: So Mr. Rankin
3 was presenting the rebuttal testimony of Mr. Cantin,
4 and we're going to continue.

5 BY MR. RANKIN:

6 Q Mr. Cantin, can you hear me okay?

7 A I can hear you.

8 Q Great. We left off, you were discussing the
9 cross section here in the logs, and maybe just to
10 refresh everybody, if you would just give a quick
11 summary of your testimony on your concern about the
12 continuity of the purported geologic seal overlying
13 the Cisco injection interval.

14 A Sure. You want me to use Exhibit 4 or
15 Exhibit 5? This one fine?

16 Q Yeah. Oh, I'm sorry. Let me go to this
17 one.

18 A So again, the blue interval is the SWD
19 interval, not the full one, but it's the top portion
20 of it. Directly above that is what they are
21 considering their -- their upper confinement zone.
22 They use the Spanish Dagger State number 1, which is
23 on the green star.

24 You can -- you can see, like I was saying
25 before, you know, the -- the -- different logs mean

1 different things. The calipers are typically used to
2 see washouts in zones and measures the -- the diameter
3 of the zone. And then you can see here in the Spanish
4 Dagger State that it -- it looks, you know, pretty
5 continuous. There's not much movement there. But
6 if -- if you move to the other logs that I have, you
7 know, looking on a more regional scale across the
8 area, you see that those -- the -- the caliper, which
9 is the red lines, move a lot more. The Spanish
10 Dagger, if I were to be choosing a log to -- to look
11 the best, I'd definitely cherry pick this one out --
12 out of the group.

13 All these logs are, you know, made available to
14 the public. But the -- the big difference that you
15 see in this log compared to the others is the big
16 washouts in the calipers. These large spikes in the
17 calipers, which in, you know, my experience are
18 indications of fractures, which, you know, corroborate
19 with the deeper faulting and fracture networks that we
20 are worried about and we think create this as being a
21 more high-risk area with holding injection water just
22 within the proposed zone and then potentially watering
23 out our Third Bone Spring target.

24 Q Now, on that point, Mr. Cantin, in your
25 direct testimony you had testified about the

1 interpreted faulting that you're seeing. You heard
2 Mr. Davis and Mr. Tomastik testify that they reviewed
3 publicly available data, that they did not conduct a
4 cross -- a structure analysis, and they have not seen
5 or identified any publicly available data in the
6 literature identifying any additional faulting above
7 the Precambrian. You testified on your direct that
8 there is. And if you would just explain what this top
9 right map shows and confirm the basis for your
10 interpretation for these additional faults that are
11 shown in brown.

12 A Yeah. If -- if you would like, I can spin
13 on this, but you know, I've created them from the
14 structure maps, so on my Exhibit 3 -- or exhibit with
15 the structure maps, I might be able to explain it a
16 little bit better, if that's okay.

17 So the -- the two faults that you -- that
18 are my interpreted faults are created from these
19 structure maps where you see the tightening of these
20 contours. So you have the Mississippian --
21 interpreted Mississippian fault right here along with
22 the BEG fault that Riley mentions in theirs, that same
23 BEG fault on the Cisco with an interpreted fault
24 within the Cisco. And again, we do own 3D seismic
25 throughout this whole area, and I can confirm that

1 these faults are also seen on -- on seismic as well.
2 I interpret them through the structure because we are
3 not showing our seismic, but they are confirmed
4 through our licensed 3D seismic. And as you get to
5 the base of the Third Bone Spring or top of Wolfcamp,
6 those -- those contours become more uniform across the
7 section.

8 Q Okay. Let's see. I think that addresses
9 the questions here. So I'll move back to your
10 rebuttal. Now, just to confirm, so basically you're
11 saying that you disagree with Riley's witnesses that
12 there are actually faults here and you can see them.
13 They're not in the public data, but you can see them
14 on the 3D seismic, and you've also interpreted them
15 separately through your own structural analysis. Is
16 that right?

17 A Yes, yes.

18 Q Okay. All right. So let's go back to your
19 rebuttal slide, and then I'd like for you to discuss
20 more about what's on the bottom right here and how
21 that relates to your concerns. In particular, Chris,
22 I want you to discuss, you know, the concerns you have
23 about cumulative injection in the zone and what that
24 could do to increase stress along these existing
25 faults you've identified.

1 A For sure. I'm going to be looking at my
2 slides over here but -- so we have identified the --
3 the well in blue -- the blue star as an injector into
4 the Cisco. We have drilled very recently in this --
5 development four-well package within the Third Bone
6 Spring stands, identified the targets within the cross
7 section. What we noticed was we were fairly on par
8 with what we expected in the wells further away from
9 the SWD. I have the average of those three wells in
10 oil production, on monthly production, in orange, and
11 then in blue what you see is a higher water cut.

12 So our -- you know, our -- our thoughts here are,
13 you know, this is a correlation. It's not necessarily
14 the causation, but there's definitely a strong
15 correlation between, you know, having an injection
16 well near what we consider to be our primary target in
17 this area, you know. And with -- with the
18 identification of -- the likely identification of
19 fractures within the upper confinement zone, and you
20 can see in the -- the blue star on the -- on the logs
21 another movement within the caliper indicating that
22 there could be a fault -- or a fracture there. You
23 know, putting pressure on the formation right below
24 that, I'm not going to say reactivates fractures, but
25 the fractures could act as a conduit, you know,

1 through the zone into our primary zone, which is kind
2 of that basal middle Third Bone Springs stand.

3 Q So just so I'm clear, I want to make sure I
4 understand what these two charts show. The one on the
5 left shows the average oil production for the three
6 most southerly wells on the maps above. Is that
7 right?

8 A Yes, sir. Yes, sir.

9 Q Okay. And then you've got the oil
10 production for the sole most northly well, and that
11 shows that the oil pressure for that most northerly
12 well is reduced relative to the southerly wells.
13 Yeah?

14 A Yes.

15 Q And then the chart to the right shows the
16 water-to-oil ratio. That's WOR. Correct?

17 A Yes. Water-oil ratio. Correct.

18 Q Okay. And it shows that the most northerly
19 well, the 131H, has a higher water cut relative to the
20 other wells in that same zone?

21 A Yes, sir. I believe that we're seeing an
22 average of right at 3, maybe a little -- little sub 3
23 in the orange wells, whereas we're seeing kind of
24 ramping up to a little bit above 8 in the -- the
25 northern well. Correct.

1 Q Okay. And that's the, well that's closest
2 to the injector immediately offsetting.

3 A Yes.

4 Q Okay. All right.

5 A Yes. It's -- it's within 850 feet of it.

6 Q Okay. And your opinion is that this
7 injection -- when did that well start injecting?

8 A It was converted in 2002.

9 Q So it started injecting at that time?

10 A Yes.

11 Q Okay. And so if you would just explain how
12 the injection of this well raises concerns for you
13 about what Riley's proposing in immediately
14 offsetting.

15 A Well, we -- we -- if you go to -- you know,
16 if you see the activity map I had in a previous
17 exhibit, you know, we do have locations booked for
18 this area, and our concern is that, over time, you --
19 you're going to be watering out, you know, the --
20 the -- our Third Bone Spring zone similar to what we
21 believe, as a correlation, to what happened to our
22 131H.

23 We are very active in this area. You know,
24 we've, again, drilled the -- you know, we drilled this
25 Red Eagle pad. We're currently drilling Section 9 and

1 8 as shown in Exhibit A-2, and we do plan on moving to
2 where the Angel Ranch SWD is and our Alpine [ph] DSU,
3 and then moving on -- continuing on to move to the
4 west where the Angel Ranch SWD is. We believe that as
5 these wells are drilled, they will likely have an
6 effect on the production of, you know, two to four
7 wells, and have a -- you know, and -- and impede on
8 the rights of not only us but the -- owners and the
9 state. So --

10 Q Now, is it your opinion that the state
11 generally in this area in particular could use some
12 additional saltwater disposal capacity?

13 A I -- I have no problem with saltwater
14 disposals because they are needed, especially as
15 development gets -- you know, as areas become more
16 active. But, you know, I believe that, this being a
17 very high-risk area and becoming more an active area
18 for a oil zone that is, you know, directly above this
19 proposed, you know, saltwater disposal zone, I -- I
20 just -- I -- I believe there's other areas that aren't
21 as seismic driven that proposals should be made, but I
22 just think there's just too much of a high risk to --
23 to be proposing and drilling SWD wells.

24 Q And just so I'm clear, what's the vertical
25 offset between the injection interval and your Third

1 Bone Spring target approximately?

2 A It -- it varies a lot, but I would say that
3 the average is, to the top of the Wolfcamp about 450,
4 and then another 50 feet to our Wolfcamp. So it's
5 right around 450 to 500 feet, I would say.

6 Q Okay. Now, in your opinion, will approving
7 these injection wells cause the Third Bone Spring more
8 likely than not to be watered out during the life of
9 injection?

10 A Yes, sir. I do believe that.

11 Q And in your opinion, will approving these
12 injection wells more likely than not result in waste
13 and impair Permian Resources and Colgate's correlative
14 rights?

15 A I do.

16 Q And do you ask the Division to deny Riley's
17 two saltwater disposal applications in these cases?

18 A Yes, sir.

19 MR. RANKIN: At this time,
20 Mr. Examiner, I have no further questions and make my
21 witness available for cross.

22 THE HEARING EXAMINER: Okay. Now, do
23 you want to present the testimony of your other
24 witness and present them as a panel or do you want to
25 do them individually? Let me say that again.

1 MR. RANKIN: Yeah.

2 THE HEARING EXAMINER: Do you want to
3 present your two witnesses as a panel or do you want
4 to do them individually?

5 MR. RANKIN: I think my sense would be
6 to do them individually.

7 THE HEARING EXAMINER: Fine.

8 MR. RANKIN: They're separate companies
9 and they -- yeah.

10 THE HEARING EXAMINER: Fine.

11 So Mr. Padilla, cross-examination.

12 MR. PADILLA: Yes. I have some
13 questions, Mr. Examiner.

14 CROSS-EXAMINATION

15 BY MR. PADILLA:

16 Q Mr. Cantin, looking at this exhibit, and
17 it's Exhibit A-4, it's the one up on the board, and I
18 don't know whether that's the rebuttal exhibit.

19 MR. PADILLA: I don't have the rebuttal
20 exhibit, but is that the rebuttal exhibit that was
21 admitted?

22 MR. RANKIN: It's -- 5.

23 MR. PADILLA: Okay.

24 BY MR. PADILLA:

25 Q You testified about a number of concerns,

1 but is it your testimony that this 450 feet that is
2 shown between the top of the Wolfcamp and the top of
3 the Cisco is capable of migrating or is a source of
4 migration to the Third Bone Spring?

5 A Yes, sir.

6 Q And what is the composition of the Wolfcamp?

7 A Well, from what they are calling their seal,
8 it is -- the 50-foot is 70 foot above the injection
9 interval. It is mostly interbedded shales with
10 some -- looks like some small carbonate stringers.

11 Q Is that productive of oil and gas? The
12 Wolfcamp?

13 A Not -- not to my knowledge in this area.

14 Q And neither is the Cisco. Correct?

15 A I -- I believe the Cisco is in -- in some
16 portions of this area, but I've -- I've not done the
17 research to prove that it is here in this -- these --
18 this area.

19 Q Are the five wells on your cross section, do
20 they produce from the Cisco?

21 A No, sir.

22 Q Have they ever produced from the Cisco?

23 A They have not.

24 Q You've talked about potential fracture of, I
25 take it the Wolfcamp or of the confining layer?

1 A Yes. And -- and potential fracturing above
2 and below that which is seen on the rebuttal slide,
3 which you had mentioned that you do not have.

4 Q So between the Wolfcamp and the top of the
5 Cisco, is that where the confining layer testified to
6 by Riley is located?

7 A It -- it is within there, yes. It is that
8 bottom -- the lower portion above the top of the
9 Cisco, which is the blue box, the very top of that
10 blue box, and about 50 to -- I think it said 57 to
11 69 feet above that is their confining zone.

12 Q And you testified about this disposal well.
13 How do you know that well is affecting your
14 production?

15 A I said with Mr. Rankin that there's a
16 correlation to the higher water cuts that we're seeing
17 in that well. Not necessarily the causation, but it's
18 definitely a question that we would -- would like to
19 raise, with the other three wells being substantially
20 lower in water and higher in hydrocarbons production.

21 Q Have you drilled any of the Third Bone
22 Spring wells on, say, Section 11 or --

23 A No. We --

24 Q Well, let me ask this first.

25 A Yeah.

1 Q Where do you own leases for development out
2 of Third Bone Spring?

3 A We have leases in -- what's in yellow. That
4 line in blue is what we consider our -- our drilling
5 units, but where we have leaseholds is in yellow.

6 Q Have you --

7 A And these are -- go ahead.

8 Q I'm sorry. Go ahead.

9 A No. Please go ahead.

10 Q Have you drilled any wells -- Third Bone
11 Spring -- in the area?

12 A Myself, yes. I -- I drilled the Red Eagles
13 and I developed the wells directly to the east of
14 that, and then all the wells on our -- within our DSUs
15 to the south of it as well you can see in the -- the,
16 the southeast corner of my map there.

17 Q I'm sure you fracked these wells. Correct?

18 A We -- we have, yes.

19 Q Does your frack reach the Cisco?

20 A There isn't a way of me -- us knowing that
21 without doing micro-seismic in -- in the area, and we
22 did not do micro-seismic for these wells.

23 Q Have you done any seismic for any of the
24 wells that you have drilled before or after?

25 A Seismic? You mean micro-seismic?

1 Q Yes.

2 A Not -- not in this direct area.

3 Q So is it fair to say that you don't have any
4 seismic support for your contention?

5 A Not micro-seismic, but we have full 3D
6 seismic coverage in this area.

7 Q When did you do that?

8 A We -- we have had 3D seismic in this area, I
9 believe, since 2018. And -- yeah.

10 Q What does that tell you about fracture
11 gradient in the Cisco?

12 A It doesn't say -- I mean drilling Third Bone
13 Spring wells do not tell me what the fracture gradient
14 is in the underlying zones.

15 Q So you don't have any seismic for the
16 underlying zones. Right?

17 A We -- we have seismic available in the
18 underlying -- we -- we do have seismic available in
19 this entire area.

20 Q But you're saying it doesn't reach down into
21 the Cisco or doesn't reach into the Wolfcamp?

22 A I'm sorry. I must have misunderstood your
23 question. I thought you were talking about
24 fracturing and completing a well. We -- we do have
25 seismic in the area, and we do show that there's a

1 fault coming through the Cisco. And like I show on my
2 rebuttal slide, the caliper logs I wouldn't say
3 confirm, but they indicate that there is fracturing
4 going up into the Wolfcamp, which is the -- part of
5 that is the upper confining zone that Riley talks
6 about.

7 Q You show on this exhibit I'm looking at
8 interpreted faults. Can you explain what that is?

9 A So --

10 Q What's an interpreted fault?

11 A So I'm -- I, as a geologist, am interpreting
12 that fault based on structure mapping on the
13 Mississippi, which is the fault that -- which is
14 deeper than the Cisco. It's a -- a deep-seated fault
15 and I -- I'm basing the fault -- the brown line on the
16 west based on the structure map, and then the brown
17 line on the east I'm basing it off of the structure of
18 the Cisco, and I can confirm those and I have
19 confirmed those faults as being shown in 3D seismic as
20 well.

21 Q How far below is the Mississippi and Cisco?

22 A The log does not go that deep. I would say
23 that it is -- we're at 80 -- or 9,000 feet. I would
24 say it's another 700 to a thousand feet below.

25 Q So the faults that you show in this

1 exhibit -- I'm looking at the old Exhibit 4-A, those
2 faults, the interpreted faults, are way below the
3 Cisco.

4 A The -- the one on the west is. The one
5 on -- the brown dashed line on the east runs up
6 through the Cisco, which is y'all's -- which is
7 Riley's SWD proposed interval.

8 Q But that's an interpreted fault. Correct?

9 A An interpreted fault that has been also
10 seen -- that is also seen in our 3D seismic that we
11 have in this area that is confidential to us.

12 Q What's confidential?

13 A Well, the -- the seismic is licensed to
14 Permian Resources.

15 Q And you don't think it's important enough to
16 bring it out for this hearing?

17 A I mean that we -- we -- that's definitely
18 something we -- we could show, but we -- I believe
19 that in my structure mapping we can see those same
20 faults that I have confirmed through seismic that
21 we -- that they are real and present in this area.

22 Q How do we know that you just didn't draw
23 this interpreted fault in there for the sake of
24 argument?

25 A On -- in Exhibit 3 where I show my structure

1 maps, I've interpreted those faults based on what I'm
2 seeing in my opinion on the Mississippi and the top of
3 the Cisco structure.

4 Q And you're basing --

5 A Based on the -- I'm basing that off the
6 structure map where we have very, very good well
7 control.

8 Q But you're basing --

9 A And I -- and I confirmed that with our --
10 with -- with our seismic.

11 Q So you are basing your interpretation that
12 this fault exists strictly on a structure map.

13 A And confirmation that they do exist through
14 our 3D seismic. Correct.

15 Q Now, going back to the injection well that's
16 located right there in the middle of this exhibit,
17 you're saying, as I understand your testimony, that
18 that well is disposing into the Cisco, and you're
19 going further and saying that that water is migrating
20 to the Third Bone?

21 A If you're talking about the -- the well on
22 the rebuttal slide, correct. The SWD on the rebuttal
23 slide? Yes. Yes, yes. The blue star.

24 Q And it's not your Third Bone that's watering
25 out?

1 A I'm sorry. Can you repeat the question?

2 Q I said and it's not your Third Bone that's
3 watering out.

4 A At the Red Eagle 131, we feel like there is
5 a direct correlation, not -- there's not a provable
6 causation, but there is a correlation between the
7 higher water cut in the Red Eagle 131 in comparison to
8 the other three wells that we had drilled due south,
9 that the -- the blue star, which is the active Cisco
10 SWD could be the reason the 131 is showing so much
11 higher of a water-oil ratio as shown in the oil
12 production and WOR graphs below.

13 Q Have you done a water analysis to show and
14 prove that this water from the disposal well is
15 migrating to the Third Bone?

16 A I have not.

17 Q What kind of water is going into the
18 disposal well?

19 A We -- we don't know exactly what water is
20 going in there. I can only assume that it is, you
21 know, water, you know, locally in the area, drilled.
22 You know, I -- I can only assume, but I don't know for
23 sure.

24 Q So essentially you're guessing, aren't you?

25 A I'm -- I'm saying there is a correlation to

1 the proximity of the SWD to the well that is
2 dramatically different from the other three wells on
3 the pad.

4 Q But you haven't done a water analysis to
5 prove that, in fact, this disposal water is migrating
6 to the Third Bone Spring.

7 A We have not. Again, it -- it's a
8 correlation, not a causation.

9 Q So you've testified that containment does
10 exist. Correct?

11 A I -- I believe I've been testifying that the
12 containment is -- there are, what I see in the logs,
13 fractures within -- identifying fractures within what
14 they are calling their upper confinement zone,
15 that -- that is likely acting as a conduit that would
16 potentially water out our Third Bone Spring zone,
17 which is our primary target in this area. So I do not
18 believe that their upper confinement zone is an intact
19 seal that -- that will prevent injection water for the
20 life of the injection well from going up into our
21 primary zone.

22 Q Isn't the water analysis from your water
23 cut, as you call it, into the Third Bone Spring,
24 wouldn't that be very persuasive for your contentions
25 in this case?

1 A It -- it definitely could. If -- if there
2 are -- if this SWD well is injecting water from wells
3 in the same formation, it may not bring back anything.

4 Q So is there transmissive faulting through
5 the Cisco as shown by your exhibit?

6 A Transmissive faulting meaning --

7 Q The water migrates through there.

8 A We -- we do see a fault, which I have on the
9 east brown line, confirmed by seismic, that there is
10 faulting that runs through this area within -- through
11 the Cisco, to your question.

12 Q But it's my understanding from your
13 testimony that faulting is below the Cisco. Right?

14 A The -- the faulting on the west is -- is
15 within the Mississippian, which is below the Cisco.
16 The faulting in the brown that I have on the right,
17 the -- the east, is -- is a Cisco fault that I've
18 interpreted. So -- so within the -- the proposed SWD
19 interval.

20 Q What's the location of -- well, I see the
21 two Angel Ranch wells there. How far away is the
22 nearest one to that right hand or east fault?

23 A I'm -- I'm sorry. The -- the nearest one
24 what? I'm sorry.

25 Q Let's see. The Angel Ranch number 1 is the

1 closest as I see it.

2 A Okay. I see what you're saying. Yes, sir.
3 Yes, sir. It is --

4 Q How far away is that well from the brown
5 fault that you show in that exhibit?

6 A From the Mississippian fault that I've
7 interpreted, I -- I do not have a measuring tool that
8 I can use, but it looks to be within --

9 Q At least a mile --

10 A -- a thousand feet, and the -- but then the
11 other one, it's within a mile.

12 Q You've testified about potential faults, I
13 think, in one of the questions that Mr. Rankin asked
14 you, and essentially you're talking about, as I see
15 this exhibit, the one on the left that's in the
16 Mississippian and the one on the right you say goes
17 through the Cisco?

18 A That is correct.

19 Q And what is the composition of the fault?
20 Is that a slip fault? What kind of a fault is it,
21 other than what you call an interpreted fault?

22 A Well, from the structure maps and what it
23 looks like in seismic, it looks like there is a -- a
24 throw on the -- the down throw side would be on the
25 east side of these faults.

1 Q But you don't know whether the east side of
2 that fault is higher or lower than the west side.
3 Right?

4 A The -- the down throw side would be on the
5 east side. So the lower side would be on the east
6 side of the fault.

7 Q And you're saying that that is going to --
8 if they put water in the disposal well, it'll reach
9 into the Third Bone Spring through that fault?

10 A Through -- through fracture -- through
11 fracture networks caused by -- you know, created by
12 these -- these faults that I believe we are directly
13 seeing in the logs through the caliper.

14 Q But it's still a matter of conjecture, isn't
15 it?

16 A Excuse me? I'm sorry.

17 Q It's still a matter of conjecture on your
18 part.

19 A I mean, my -- my interpretation would --
20 would say that, with my knowledge of the area and --
21 and seeing these faults that -- that it's -- these
22 spikes in the caliper are -- would -- would be
23 fractures with my interpretation.

24 Q Do you know what the injection pressures for
25 that disposal well located there now -- what they are?

1 A I -- I do not. I could -- I could look it
2 up, but, again, I'm just -- I'm throwing the -- I'm --
3 I'm using the injection well as a correlation to a
4 higher water cut -- higher water-oil ratio in the 131H
5 almost double compared to the three wells to the
6 south, just to raise a question and our concern about
7 doing the same thing with our locations in the DSUs to
8 the north of Red Eagle and where the Angel Ranch SWD
9 number 1 is, and then where the Angel Ranch SWD number
10 2 is to the west.

11 Q But you are not here testifying that that
12 disposal well has caused fractures or any of that sort
13 of thing. Correct?

14 A I -- I do not believe that -- I believe that
15 the fractures already exist. I -- I do not believe
16 that the fractures were caused by the SWD well. I
17 don't believe that they're reduced. I believe that the
18 fractures were there before the -- that the fractures
19 were there, you know, way before the -- the saltwater
20 disposal well was active.

21 Q And you're saying that water is migrating
22 through the confinement zone as testified by Riley and
23 through the Wolfcamp and into the Third Bone.

24 A Yes, sir. I'm -- I'm saying that that is
25 my -- our -- our concern, and I believe that we are

1 seeing that within my interpretation of the logs.
2 That the fractures within the -- the lower Wolfcamp
3 will act as a conduit to water out our potential
4 primary zone in this area and reduce the production of
5 hydrocarbons.

6 Q Does the second Bone Spring produce oil?

7 A Yes, sir.

8 Q How about the First Bone?

9 A That is not our -- that's not our primary
10 zone.

11 Q Well, what do you know about the First Bone?
12 Isn't it fairly wet?

13 A It -- it's -- yes. It's -- it is also
14 fairly wet, correct, yes, in this -- in this area,
15 which is why us and not many -- not many operators are
16 testing it, but it is -- I mean, it's a potential zone
17 further to the north there where people are. But
18 again, Second Bone and Third Bone Spring are our
19 primary targets here. Yeah.

20 Q Is there any migration from the First Bone
21 to the Second and Third Bone Spring of water?

22 A I've not done a -- I've not done a
23 evaluation on the First Bone Spring here, but we were
24 actively drilling the Third Bone and Second Bones.

25 MR. PADILLA: I don't think I have any

1 more, Mr. Examiner.

2 THE HEARING EXAMINER: Thank you.

3 Ms. Hardy?

4 MS. HARDY: I don't have any questions.

5 Thank you.

6 THE HEARING EXAMINER: Thank you.

7 Mr. Goetze? Mr. Goetze, any questions
8 for this witness?

9 I am assuming, Mr. Goetze, that you
10 said you don't have any questions because we couldn't
11 hear you.

12 Mr. Harris? I'm assuming Mr. Harris
13 has no questions because he hasn't responded at all.

14 Mr. Rankin, do you have any redirect on
15 the specific questions that Mr. Padilla asked?

16 MR. RANKIN: Just a couple,
17 Mr. Examiner.

18 REDIRECT EXAMINATION

19 BY MR. RANKIN:

20 Q Mr. Cantin, Mr. Padilla asks you whether
21 your opinions about potential watering out of the
22 Third Bone Spring based on the location of your
23 interpreted faults is a matter of conjecture on your
24 part, but I want to make clear and understand, make
25 sure the record's clear, that you interpreted the

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1 location of those faults based off the structure as
2 you testified in your Exhibit A-3. Correct?

3 We maybe lost your sound too. Are you
4 speaking, Mr. Cantin?

5 MR. RANKIN: We may have lost all of
6 the sound.

7 We can't hear you Mr. Cantin, but
8 you're not on mute.

9 It's not the sound system because my
10 voice is coming through.

11 MS. TSCHANTZ: They can log off and
12 then log back on.

13 THE HEARING EXAMINER: Thank you.

14 We're going to take a two-minute reset
15 while we reboot.

16 (Off the record.)

17 THE HEARING EXAMINER: Okay. We're
18 back on the record. It is 2:03. We had a little
19 technical problem. Mr. Rankin is redirecting his
20 witness, Mr. Cantin, based on the cross-examination
21 questions that Mr. Padilla just asked.

22 Mr. Rankin.

23 BY MR. RANKIN:

24 Q Mr. Cantin, Mr. Padilla asked you whether it
25 was just conjecture on your part to identify these

1 fracture faults in brown on your Exhibit A-3, but it's
2 not conjecture when you use your expertise as a
3 petroleum geologist to interpret a fault based on the
4 structure and then to confirm that with 3D seismic
5 that shows the same faulting that you have interpreted
6 off the structure. Do you agree?

7 A A hundred percent, yes.

8 Q Okay. And then Mr. Padilla asked you
9 whether the First Bone Spring could be the cause of
10 the water spiking in the 131H well, but if that were
11 the case and water were migrating from the First Bone
12 Spring into the Third Bone Spring, wouldn't you expect
13 to see a similar water-oil ratio for all these wells
14 if water were transmitted through this faulting
15 structure from the First Bone Spring?

16 A Yes, sir. Especially because those features
17 go through all four wells. Correct.

18 Q And then, in your structure map, you don't
19 show any of that faulting extending into the Third
20 Bone Spring, so those don't likely even exist here.
21 Correct?

22 A Yes. So it's a lot more uniform in the
23 structure once you get to the Wolfcamp.

24 MR. RANKIN: No further questions,

25 THE HEARING EXAMINER: Mr. Padilla, any

1 cross-examination on that specific question?

2 MR. PADILLA: No. I think we can beat
3 the horse to death here.

4 THE HEARING EXAMINER: Okay. Thank
5 you, Mr. Padilla, for recognizing that.

6 Mr. Rankin, your next witness.

7 MR. RANKIN: Thank you, Mr. Examiner.
8 I will now call Mr. Andrew Parker.

9 ANDREW PARKER

10 being called as a witness, and having been previously
11 duly sworn, testified as follows:

12 DIRECT EXAMINATION (CONT'D)

13 BY MR. RANKIN:

14 Q Mr. Parker, good afternoon. I think we have
15 sworn you in, and so, just as a reminder, you remain
16 under sworn testimony. The last piece of your initial
17 matter is to confirm that you today adopt the
18 testimony and the self-affirmed statement marked as
19 Matador Exhibit A as your own sworn testimony today?

20 A Yes, I do.

21 MR. RANKIN: Now, with that,
22 Mr. Examiner, I would move the admission into evidence
23 of Matador Exhibits A and A-1 through A-6 into the
24 record.

25 THE HEARING EXAMINER: Okay. Did you

1 want to ask your witness if there are any corrections
2 to his exhibits?

3 BY MR. RANKIN:

4 Q Mr. Parker, upon review of your testimony,
5 and again I'm speaking to the testimony that was filed
6 originally in this case and you have filed no
7 additional supplemental testimony, but do you have any
8 corrections or modifications on your testimony that
9 was filed?

10 A No --

11 MR. RANKIN: Thank you.

12 THE HEARING EXAMINER: Okay. Thank
13 you, Mr. Rankin.

14 Mr. Padilla, any objection to these
15 exhibits?

16 MR. PADILLA: No. No, no objection.

17 THE HEARING EXAMINER: Thank you.

18 Ms. Hardy?

19 MS. HARDY: No objection.

20 THE HEARING EXAMINER: Mr. Rankin, the
21 exhibits are so admitted.

22 MR. RANKIN: Thank you, Mr. Examiner.
23 And as we did with the previous situation, we'll go
24 right into rebuttal.

25 //

1 BY MR. RANKIN:

2 Q Mr. Parker, have you had a chance to review
3 Riley's applications and exhibits and the testimony
4 that they filed in advance of today's hearing?

5 A I have.

6 Q Now, as to this Angel Ranch State SWD
7 number 1 well in case 24279, did you also have some
8 confusion over the location of that well, where it was
9 located?

10 A I did. We initially thought it was in
11 the -- in the southeast quarter section and upon
12 further review we moved it to the north, you know,
13 once we saw Riley's, you know, full set of exhibits
14 and wanted to make sure corresponded to --

15 Q And I incorrectly stated that we didn't have
16 revised exhibits, but you did file revised exhibits,
17 and that's the reason why you did, is because you
18 needed to correct the location based on your
19 understanding. Correct?

20 A Correct.

21 THE HEARING EXAMINER: Mr. Parker, if
22 you're going to sit that far from the microphone,
23 please speak louder.

24 THE WITNESS: Okay. Can do.

25 THE HEARING EXAMINER: Thank you.

1 Thank you, sir.

2 BY MR. RANKIN:

3 Q Now, you heard Mr. Cantin testify about his
4 concerns and his analysis about the purported geologic
5 barrier between the injection zone proposed and the
6 overlying Third Bone Spring?

7 A I did.

8 Q Do you agree with Mr. Cantin's testimony and
9 his concerns that the proposed geologic seal is not
10 sufficient and is not likely to contain the injection
11 that Riley's proposing?

12 A I agree.

13 Q Do you have an opinion about whether it's
14 more likely than not that the injected volumes will
15 reach the Third Bone Spring?

16 A It -- it's my opinion that they're more
17 likely to reach it. I agree with Chris's testimony
18 that it's, you know, I think very likely, you know,
19 more than just a coincidence or correlation that their
20 northernmost well has such a higher water cut. I
21 mean, with -- with the mapping of the faults in the
22 area and the proximity of that well to the injector
23 well, I think that's, you know, using Occam's razor,
24 that's the most likely source of the higher water cut
25 in their northernmost Red Eagle well.

1 Q Do you have anything more or different to
2 add to his rebuttal testimony, addressing specifically
3 the contention from Riley's witnesses that there is
4 sufficient containment to hold the injection within
5 the Cisco?

6 A I -- I have more to add to the argument,
7 with -- you know, with my slides, you know, if you
8 want to address the fault mapping --

9 Q So on your direct testimony, you identified
10 the same two interpreted faults as Mr. Cantin.
11 Correct?

12 A Yes.

13 Q Do you have any different interpretation or
14 additional testimony that would rebut Riley's position
15 on these two faults?

16 A I mean, I -- I would just add that, you
17 know, we -- we both came to very similar maps
18 independently on, you know, different workflows and
19 different data sets where we're making the same
20 interpretations of the data. So it's quite -- you
21 know, it's -- it's very obvious, you know, where these
22 faults are in relation to this area.

23 Q For confirmation, Mr. Parker, as Mr. Cantin
24 did, did you conduct a structure analysis to identify
25 this faulting and then did you confirm your

1 interpretations with the 3D seismic that Matador owns?

2 A Yes. We have licensed 3D seismic data
3 across this area that we -- we've, you know, mapped
4 extensively for, you know, a number of horizons and
5 fault -- you know -- these faults throughout the area,
6 and so that -- that's my Exhibits A -- or I'm sorry,
7 B-2 and B-3 are a couple examples of that.

8 Q And these faults that you've identified and
9 you've interpreted, do they extend into the Cisco?

10 A So my Exhibit B-2 is the structure map from
11 the seismic, so that is the seismic -- I don't know if
12 you want to pull that up and share it or not, but you
13 can --

14 Q Is it this one I -- oh, I'm sorry. I
15 thought I was sharing it this whole time.

16 A Yeah -- on your screen.

17 Q All right. One second.

18 Do you see the exhibits now, Mr. Parker?

19 A Yeah. I do. So this is, again, a depth
20 surface from our licensed 3D in the area, and what I'm
21 showing -- so this is the top of the Mississippian
22 line. Where those contours are -- are getting very
23 tight, running directly between the two Angel Ranch
24 wells, that is a -- that -- that is a very, very clear
25 fault on -- on the seismic. And then parallel to that

1 to the southeast, it's a little less obvious at the
2 Miss line level, but that fault we know, you know,
3 picks up in -- in its magnitude of throw as you go
4 further south, but it also extends to the north.

5 At the Mississippian level, there is very
6 clearly, you know, several hundred feet of -- of
7 vertical offset. So that vertical offset is cutting
8 through the Mississippian stratigraphy. But then the
9 next slide, B-3, is a similar depth structure map of
10 the top of Cisco from the same 3D, and you can see
11 that -- you still see for that -- for that northwest
12 fault, you can still see the tightening of those
13 contours. It's not -- on the seismic it's not as
14 definitive that you're getting, you know, hundreds of
15 feet of throw, but you do get what we call fault
16 propagated folding that drapes over the hinge of that
17 fault, and that style of structure is extensively
18 documented, you know, throughout the Permian basin,
19 particularly the northern Delaware, we see it in the
20 Sacramento Mountains all the way to the Central Basin
21 platform.

22 So that fault -- to Mr. Padilla's question
23 earlier that he asked Chris, originally this area,
24 during the late Pennsylvanian into the early Permian,
25 this area was under compression. That fault, when it

1 originated, was reversed. So the strike -- the strike
2 of the fault is, you know, southwest to northeast. It
3 is verging -- you know, from -- from deeper to
4 shallower it is verging from the northwest to the
5 southeast. So it is -- it was originally a reverse
6 fault.

7 And then you can see in the Pennsylvanian
8 into the early Wolfcamp, you can see those sediments
9 drape over the fault, and it's well documented through
10 the Permian basin that those fault do continue to move
11 throughout the early Wolfcamp and they create again
12 what we call fault-propagated folds that drape over
13 these fault hinges, and those fault-propagated folds
14 are actually even more prone to have -- to having very
15 extensive fractures swarms that run parallel to those
16 faults. And so those faults -- or those fracture
17 swarms, I think I would say, are unequivocally cutting
18 all the way through at least Wolfcamp strata.

19 Q So in your opinion, then, you believe that
20 based on this faulting and the fault propagated
21 folding that you've identified based on the structure,
22 and as well as your 3D interpretation, that the
23 purported seal confining the injection zone, both on
24 the upper layer and the lower layer, in your view,
25 would not contain the injection volumes within the

1 Cisco?

2 A Yeah. Yeah. I agree with that a hundred
3 percent. But I would -- you know, again, to add to --
4 to Mr. Cantin's testimony, you know, the -- the
5 quantification of any of those rocks really being, you
6 know, more ductal or more brittle, I don't think that
7 that -- I don't think that that offsets or -- or
8 trumps the potential for this fracturing and the
9 vertical communication through those rocks.

10 Riley, you know, makes comments about these
11 rocks being low porosity, which, you know, we can
12 argue about that, but -- but that -- that's nothing to
13 quantify the brittleness of these rocks. And we
14 believe them to be, you know, mostly the brittle in
15 nature, and so they're going to be fractured. And
16 then based on the present-day stress, they're highly
17 likely to be prone to -- prone to being able to slip
18 or at least be in --

19 Q On that point, Mr. Parker, let's move into
20 the next rebuttal testimony on this point. You heard
21 Mr. Davis testify and you reviewed his white papers
22 assessing the potential for induced seismicity in both
23 applications. I'm going to ask you, as I review this
24 with you, if you would just provide your response or
25 comments on the assumptions that Mr. Davis relies on

1 in his opinion.

2 Number one, you heard Mr. Davis testify that
3 they looked only at publicly available data, having
4 done so without conducting a structure map to identify
5 potential structural issues. Do you believe that if
6 they had 3D seismic or inquired from Matador about 3D
7 seismic, that this additional faulting and fracturing
8 might become apparent to them?

9 A Yeah. The faults -- these faults that we
10 have mapped are -- are extremely obvious. The -- and
11 if you -- the Mississippian line, for one, is a very
12 strong reflector. There's other reflectors that are
13 above the Mississippian line that are also very
14 strong. They're very continuous. They're very easy
15 for the most basic geophysical interpreter to look at
16 and see the folding and/or offset through those
17 reflectors.

18 I've had, you know -- well, they're --
19 especially the fault that runs immediately between the
20 two Angel Ranch wells, if Riley had the same seismic
21 data that we have, I think that they would
22 unequivocally see that same fault. And I think that
23 that's also further shown by the fact that -- that our
24 Matador group, myself, and Mr. Cantin from Permian,
25 both reached the same interpretation and the same --

1 you know, the same conclusion from -- from our
2 internal data sets. It's -- it's that obvious.

3 Q Now --

4 A -- the other, I think, thing to add to that
5 is going back to the BEG paper. That was -- the
6 primary author on that is Lilly Warren [ph]. She
7 worked with other colleagues at the BEG. She goes
8 into a lot of detail about the dataset that goes into
9 that mapping, where they have -- where BEG had access
10 to 3D seismic data, they have higher resolution of
11 their fault placement.

12 They -- they did not have access to 3D
13 seismic in this area, and that's not to say that they
14 couldn't necessarily get it, but for this area they
15 were relying on very, very deep well penetrations that
16 in this area are very few and far between. So the
17 accuracy of that fault placement and then the
18 resolution of additional faults in this area is not
19 available for them to come to those conclusions.

20 Because these -- these faults are acting as
21 relay ramp systems where the big fault that they see
22 from well control comes to the north and it tips out
23 and ends. And then the fault -- the next fault over
24 that we mapped that runs through the Angel Ranch wells
25 sidesteps that and cuts over. And you wouldn't see

1 that with the well control that the bureau had
2 available to them to map this out. But with the 3D
3 seismic data, it was unequivocal that these two
4 parallel fault systems are running through this area.

5 Q And BEG wouldn't have seen that because they
6 didn't have the well control to identify the
7 additional offsets to the west? Is that what you're
8 saying?

9 A Yeah. You're talking about having a handful
10 of deep penetrations that are several miles apart, you
11 know, spread out over hundreds of square miles. So
12 when you have that few data sets and you're trying to
13 map dip through a horizon, you're -- you're only able
14 to map a big fault like that where -- where you have a
15 good dip constraint and where your contours have to
16 offset by several hundred feet on that -- on that big
17 regional scale. And they were very limited in the
18 data, but -- they had other context to help with that
19 big regional fault, but they would never be able to
20 see the higher resolution of faulting that we have
21 available through the 3D seismic here in this area.

22 Q So just to conclude on this point before we
23 move over to the induced seismicity, it's your opinion
24 that, more likely than not, injection volumes into the
25 Cisco formation in this location are likely to not be

1 contained due to the faulting and the associated
2 fracturing in the overlying formations that you've
3 identified?

4 A Yes.

5 Q Okay. Now, on the seismic stuff, you know,
6 I'd like for you, if you would, Mr. Parker, and I'm
7 happy to prompt you where necessary, but if you would
8 just give us a general overview of your concerns or
9 response to the assumptions that Mr. Davis made here.
10 I mean, again, acknowledging that he was limited to,
11 you know, relying only on public data in his analysis.

12 So if you would give us your thoughts on
13 some of his assumptions that he touched on. In
14 particular, he gave us a few that I would like for you
15 to discuss. The orientation of the faulting, number
16 one, relative to the maximum stress direction, and
17 then whether or not there's a concern about critically
18 pressuring these particular faults you've identified
19 that may result in an induced seismic event.

20 Q So under the first part of that paragraph
21 there, the communication with the Precambrian, that's
22 a -- that's a relatively outdated point about
23 proximity to Precambrian sediments or Precambrian
24 basement, you know, being an important factor in this.
25 You know, we know that these faults offset much

1 younger stratigraphy above the Precambrian, which --
2 which I think we demonstrated with our other slides.

3 And then to the next point about critically
4 stressed and optimally created faults, I -- I think
5 that -- I think that my follow-up slides are probably
6 the best to demonstrate that, as well as what you were
7 showing earlier in -- in the Zoback and Lund Snee
8 reports.

9 So here's -- I have similar seismic events
10 to Riley's exhibits, and I have the same -- the same
11 proposed radii from the NMOCD. So these radii around
12 the epicenters are for earthquakes that are three and
13 a half or greater. So getting out to the yellow,
14 that's a 10-mile radius around those epicenters. You
15 can see the two -- the two red mapped faults that we
16 have from our seismic data. The -- the BEG fault in
17 Mr. Cantin's slides show that southeastern fault going
18 further to the north, which I -- I do agree with.

19 But more importantly on these slides, these
20 are -- on the bottom, these are called moment tensors
21 or -- or focal mechanism beach-balls. What -- what
22 they show is -- from a couple of examples of these
23 larger-magnitude earthquakes out in this area, they
24 show two potential planes of failure, one potential
25 plane running from about north, 45 to 50 degrees east,

1 down to the southwest, and then the other plane is
2 perpendicular to that.

3 We know from the regional context and the
4 mapped faults that the weak plane is the one that
5 strikes northeast to southwest. And then both of
6 these beach-balls are demonstrating that when those
7 earthquakes moved out to the west, they -- they were
8 relatively oblique in their motion, but they were more
9 or less -- a left lateral strike slip.

10 So that's present day left for lateral
11 strike slip motion occurring or reactivating on older
12 reverse faults. It used to be in compression, and now
13 we know from the modern data that the present day
14 stress here is either, you know, roughly
15 north/south -- the Riley with this earlier suggested
16 that it might be a little bit more east. We believe
17 that regionally it's a little bit more -- I'm sorry,
18 he said west. We believe regionally that it's more
19 either north/south or northwest -- northeast to
20 southwest. And when you push those faults this way,
21 that strike slip motion on these fault orientations is
22 going to result in this left lateral motion, which is
23 demonstrated by these moment tensor data -- and these
24 moment tensors are derived from -- from the USGS.

25 Q So your comment here, I think, was

1 specifically addressing the testimony that the induced
2 seismicity is more of a concern for the deeper
3 faulting, but you're saying, as I understand, that
4 that's not the case, that there's concern equally for
5 the shallower induced seismicity? Is that right?

6 A Yeah. I mean, so we're showing a similar
7 orientation of the plane of failure. Our area,
8 compared to the area to the west where this new
9 seismicity is occurring, is in a very similar stress
10 regime. The fault orientation to those events to the
11 west is roughly parallel to this, which I -- I can
12 demonstrate later on the same BEG paper that -- that
13 Riley pulled their fault from.

14 The other point, to your point about, you
15 know, deep versus shallow, the -- the events out to
16 the west are occurring in a field called Dagger Draw.
17 It's pretty commonly accepted across the industry that
18 that induced ethnicity out there is related to years
19 of both production and injection. The stratigraphy or
20 the formation that the production and injection is
21 occurring in out there at Dagger Draw is upper
22 Pennsylvanian, just like what we're -- you know, what
23 Riley's proposing to do here at Angel Draw.

24 Q So because of those analogous circumstances
25 and the similar orientation of the fault planes,

1 that's the basis for your contention or opinion that
2 these particular faults that you've interpreted that
3 extend up above the Precambrian into the underlying
4 Mississippian and above are susceptible and prone to
5 failure?

6 A Yes. We believe that because of the
7 orientation of the fault, the orientation of the
8 modern day stress, that anything that's done out here,
9 you know, to increase the core pressure in any -- any
10 sediments that are near or in hydrologic communication
11 with this fault, is going to be highly prone to
12 failure.

13 Q Mr. Parker, do you also agree that this area
14 identified by Riley for SWD drilling is in need of
15 additional disposal capacity?

16 A Absolutely. We -- we recognize that the
17 need for water takeaway is high. It's very important
18 in all of our asset areas. But you know, it's
19 Matador's -- it's Matador's belief that you should
20 take all data into account and, you know, be
21 responsible about where you pick your SWD locations.
22 Matador has drilled, you know, several Siluro.Devonian
23 SWDS all over the basin. Internally, we are very
24 critical within our group about where we place those.
25 We don't -- you know, we -- we model the slip

1 potential on faults throughout our 3D volumes, and we
2 do not put SWDs this close to faults that are prone to
3 slipping.

4 Q In your opinion, will approving these
5 injection wells cause the Third Bone Spring more
6 likely than not to be watered out during the life of
7 the proposed injection of these two wells?

8 A Yes.

9 Q And in your opinion, will approving this
10 injection in both cases more likely than not result in
11 waste and impair Matador's correlative rights?

12 A Yes.

13 Q And do you believe that injection into these
14 two saltwater disposal wells more likely than not will
15 increase unreasonably the risk of an induced seismic
16 event as a result of the injection?

17 A Yes.

18 Q And do you ask the Division to deny these
19 two applications?

20 A Yes.

21 MR. RANKIN: At this time,
22 Mr. Examiner, I have no further questions and make
23 Mr. Parker available for cross

24 THE HEARING EXAMINER: Mr. Padilla?

25 MR. PADILLA: Yes, I have a few

1 questions, Mr. Examiner.

2 CROSS-EXAMINATION

3 BY MR. PADILLA:

4 Q Mr. Parker, did Riley contact you about
5 whether you had any seismic information that they
6 might use?

7 A We -- we talked to Riley once in the last
8 six months or so, but to -- to my recollection, they
9 did not ask us about -- about seismic data. But this
10 is -- our -- our seismic data is -- it's publicly
11 available through -- there's -- there's multiple
12 shoots over this area that are from different vendors
13 that, you know, if you approach those vendors, you can
14 license the data.

15 This is not something that's proprietary to
16 Matador. You know, Mr. Cantin at Permian Resources
17 acquired seismic through their own means, and we've
18 license data, I believe in this case through
19 Fairfield [ph]. There's other shoots out here, and we
20 actually have a couple of vintage shoots over this
21 area that both show the same faulting patterns.

22 But the -- the data is available to Riley to
23 go and license, you know, through their own means and,
24 you know, we can -- we can set them up with those
25 contacts if you would approach to license that data.

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1 Q Let me direct your attention to this
2 Exhibit A-5. I don't quite understand that exhibit.
3 The orange circles on the left side represent what?

4 A Well, you see my key on -- on the right hand
5 side. The -- the very -- the small dots are USGS, you
6 know, epicenters of -- of seismic events. I'm showing
7 events that are greater than a magnitude 3.5 because,
8 in the event of a magnitude 3.5, per the NMOCD, any
9 injector wells that fall within the darkest red 3-mile
10 radius would be a hundred percent shut in. Any SWDs
11 that fall within an orange radius of 6-miles would be
12 shut in, I believe, at 50 percent capacity. And any
13 SWDs that fall within the 10-mile radius could be shut
14 in at 25 percent capacity -- or 25 percent reduction
15 in their volume, I guess is how I should say it. I
16 believe -- I believe that's where the guidance for
17 those -- for those circles comes from.

18 And so we're concerned about any SWDs, you
19 know, that we have volumes going to because if you
20 have to shut in, you know, a certain amount of water
21 injection, then you're also going to have to shut in
22 associated oil injection -- or oil production. Excuse
23 me.

24 Q Now the epicenters of these incidents are
25 about 10 miles away from the two proposed wells.

1 Correct?

2 A Yes, sir. They are right at 9 to 10 miles
3 away.

4 Q Now, let's look at the Angel Ranch number 2.
5 That doesn't seem to be in any -- I mean it seems to
6 be in the clear, isn't it?

7 A No. It falls within -- it's just outside
8 one 10-mile radius and it's just within -- it's within
9 the 10-mile radius of the magnitude 3.9 event.

10 Q So are you saying that anything inside the
11 yellow circle should not be allowed for saltwater
12 disposal?

13 A We're just -- we're just showing that those
14 are already in a highlighted area NMOCD refers to as
15 the seismic response area. So they're already within
16 an area of highlighted risk. This -- those -- those
17 radii are -- are reflecting the seismic nature of
18 those events out to the west. It's independent of the
19 seismic risk that we think is associated with these
20 faults in this area.

21 If one of these wells was to create a
22 magnitude 3.5 earthquake, which it could by injecting
23 near this particular fault, then it would have its own
24 SRA radii around it. It would then have the potential
25 to impact even more SWDs that fall within its 3-, 6-,

1 and 10-mile radii.

2 Q I'm not sure that you answered my question.
3 My question was, if you're inside the yellow circle,
4 as I understand your testimony, SWD wells should not
5 be allowed because of the seismic events that you
6 highlighted here.

7 A I -- I can't speak to whether or not they're
8 allowed to be drilled within that area. That would
9 fall on the NMOCD. We're just showing that they're
10 already within an area that's -- that's seismically
11 sensitive within those radii. I would -- I would
12 defer to -- to Mr. Goetze or the commissioner on those
13 rules. But these are the radii around those events
14 that the NMOCD has put out.

15 Q When you use the term "prone to failure,"
16 you mean fracturing. Is that what you're saying?

17 A No. I mean that if it's a fault and it's
18 prone to failure, it means that it could -- it could
19 and/or is likely to slip and create an earthquake.

20 Q And --

21 A Create a seismic event.

22 Q Let's just say that the applications are
23 approved. How long would it take for that failure to
24 occur?

25 A Well, the Dagger Draw field has been

1 producing for a few decades, and it has had -- it has
2 had any degree of seismicity along that general
3 trend -- I mean, I -- I have to go back and do a -- a
4 detailed search through, you know, the USGS catalogs,
5 but seismicity has been occurring out there for -- for
6 many, many years. So the potential from production
7 and injection to a seismic event could be -- could be
8 months to, you know, a couple of decades. But, you
9 know, geologically within a very short amount of time.

10 Q The Dagger Draw has been in production for a
11 long time. Do you agree with that?

12 A It's -- I don't know that -- I don't know
13 the decade that it was discovered, but I would guess
14 that it's been 40 years or more.

15 Q And the Dagger Draw produced a lot of oil
16 and a lot of water. Correct?

17 A Yes, sir.

18 Q And there's a process of injecting the water
19 back into the formation in the Dagger Draw, and that's
20 been occurring for a long time.

21 A I don't know the history of -- of water
22 flooding or injection there, but, yeah, it's been --
23 it's been occurring for a long time too.

24 Q But the water has been injected back
25 downstairs somewhere. I don't know whether it's the

1 Dagger Draw or whatever, but I'm familiar with the
2 type of production at one time in the Dagger Draw and
3 the amount of water that was coming out of there, and
4 it was being reinjected. Now --

5 A Yeah. So the -- the core pressure in Dagger
6 Draw was reduced from -- from oil production, and then
7 it's been increased again from water injection. Now
8 we're talking about injecting water into an interval
9 that has not reduced core pressure from decades of
10 production, then you're more likely to cause a fault
11 to slip by increasing the core pressure. So this
12 area, the Cisco, was already starting above where
13 Dagger Draw would've started, you know, 30 or 40 or
14 how ever many years ago.

15 Q Now, with all that water injection back into
16 the ground, has there been any earthquakes or seismic
17 events of notable occurrence?

18 A At Dagger Draw?

19 Q Yeah. You analogizing the Dagger Draw, and
20 I know a little bit about that a long time ago. If
21 you could produce all that water, you could produce
22 900 barrels of oil per day at the time that I'm
23 talking about, and that was probably 30 years ago, and
24 my question is, do you know of any seismic events of
25 notable event that would prohibit further injection

1 into the Dagger Draw or any formation in conjunction
2 with producing oil from the Dagger Draw?

3 A I'm not -- I'm not sure I'm really following
4 you here because I have those events posted on this
5 map. These are magnitude 3.5, 3.9, and 4.0
6 earthquakes that occurred -- you know, that occurred
7 within Dagger Draw.

8 Q Did they occur as a result of water
9 injection?

10 A That's -- I think that that's the general
11 industry consensus, is that seismicity began to
12 increase at Dagger Draw as more injection occurred at
13 Dagger Draw.

14 Q Yeah. But you can't say for sure whether it
15 was water injection that caused the seismic events.
16 Correct?

17 A I mean the industry -- the -- the standard,
18 you know, industry practice here or academic practice
19 here, if you look at -- you know, if you look at --
20 failure diagrams on seismic events like this, all --
21 you know, all other things -- you know, fault
22 orientation and stress orientation and stress
23 magnitude are all staying the same, the only way to
24 push these -- the only way to push these events to
25 failure is by increasing core pressure. So you've

1 increased core pressure by injecting water, not by
2 producing oil and gas.

3 Q So you still haven't answered my question
4 about the timing of when failure would occur from
5 water injection.

6 A I don't know the history of water flooding
7 for this area. I imagine it's been going on for --
8 for 30 or more years, but the seismicity has also been
9 going on for many years.

10 Q So I asked Mr. Cantin whether it was
11 conjecture on his part as to induced seismicity, and I
12 don't think he ever answered the question. He danced
13 around it, and you seem to be dancing around it too in
14 terms of bringing up the Dagger Draw and making that
15 an example. But in relation to Matador's Third Bone
16 production, you haven't really addressed that.

17 A I -- I don't -- I don't know that I feel
18 like I'm dancing around your question here. I'm
19 trying to tell you what I know of Dagger Draw, is that
20 the seismicity began to ramp up out here after --
21 after injection began to ramp up into the Dagger Draw
22 field. So as -- as more and more water was injected
23 into Dagger Draw, the more frequent these earthquakes
24 became.

25 Dagger Draw has been a -- has been a focal

1 point for, you know, a number of different groups have
2 studied induced seismicity through the Permian Basin.
3 It's -- it's one of the, you know, kind of poster
4 children for oil field activity, you know, causing
5 earthquakes in southeast New Mexico. I don't -- I
6 don't know how to be more definitive about answering
7 that.

8 Q And you don't know how long it would take to
9 reach failure.

10 A I know that --

11 Q I think you mentioned something about the
12 timing in conjunction with the Third Bone Spring
13 production and --

14 A Well, I -- I know that -- I'm sorry. Go
15 ahead.

16 Q But Third Bone Spring wells, how long do
17 they last?

18 A They'll produce for 20, 25, 30 years. But
19 these are -- these are two -- these are two separate
20 points, though. Watering out -- watering out our
21 production in the Third Bone is something that I think
22 will happen overnight. Creating new seismicity is
23 something that could happen, you know, six months or
24 30 years down road. To me that's irrelevant because
25 we don't want to have anything to do with either.

1 They're two -- they're two independent consequences of
2 this activity.

3 Q But you're telling us here today that -- or
4 your statements just now, as I understood them, was
5 that, if these applications are approved and injection
6 is commenced, that you are going to have failure the
7 next day?

8 A I did not say that.

9 Q Well --

10 A No. Failure on this fault could occur --
11 could occur, you know, over a period of days or months
12 or it could -- or it could occur, you know, 30 years
13 from now. But -- but the -- but the potential for
14 vertical communication to the Third Bone is something
15 that I think will happen -- will happen very quickly.
16 And I -- I agree a hundred percent with Mr. Cantin's
17 testimony that that is the likely culprit of their
18 higher water-to-oil in their Red Eagle project.

19 Q But you also heard his testimony that he
20 hadn't done any water analysis to determine whether or
21 not injected water was being produced in their well.

22 A I would add that that's not going to be a
23 definitive test to show that the water that they're
24 producing in Red Eagle is coming directly from -- from
25 the SWD. Even if you put -- even if you put tracers

1 in the SWD and try to identify those tracers in the
2 Red Eagle horizontal well, that -- it still has
3 hundreds of feet of water to push through, and so
4 there's going to be the potential for an
5 unquantifiable delay in seeing that -- that tracer.

6 There's also a high variability in the -- I
7 think in Riley's exhibits, they give a number of water
8 samples that show all kinds of different chemical
9 signatures. To be able to say that there's a distinct
10 chemical signature from the injected water to what's
11 being produced in Red Eagle, you know, that's not
12 going to -- that's -- that's not a definitive test
13 that proves that those two things are in
14 communication. Water chemistry is far more
15 complicated than that.

16 Q Well, if you compare toxicity of water being
17 injected and toxicity of water existing in the
18 formation in the Third Bone Spring, you could likely
19 tell whether there was migration coming in from the
20 injected water. Right?

21 A What do you mean by "toxicity"?

22 Q I mean, pollutants in produced water.

23 A I mean --

24 Q Salinity levels or --

25 A Well, I wouldn't call those pollutants

1 because what Riley wants to do is take -- and I -- I
2 don't want to put words in their mouth. What I
3 believe that they're doing is taking water from their
4 Yeso horizontals that are several miles to the north.
5 So the Yeso is a Leonardian carbonate system that
6 is -- that is the carbonate shelf equivalent to the
7 Third Bone Spring sand. So the -- formation waters
8 that are being produced from the Yeso could be very
9 similar to the formation waters of the Third Bone.

10 So by injecting those in Cisco and producing
11 it out of the Third Bone, the Third Bone waters and
12 the Yeso waters have the potential to have very
13 similar, you know, total dissolved solids, carbonate
14 content, salt content, all of those things. So that's
15 what I'm saying, is that there's not -- just because
16 you don't see a difference in that water chemistry,
17 doesn't mean that you aren't reproducing --

18 Q The saltwater disposal well,

19 A And -- I'm sorry. Go ahead.

20 Q -- is that a commercial well or is that a
21 leased well?

22 A I don't -- I don't understand the question.

23 Q Well, there's a commercial saltwater
24 disposal well or -- let me take that back. There's a
25 saltwater disposal well shown on Mr. Cantin's exhibit,

1 and he's saying that there's water saturation
2 occurring from that well into the Third Bone Spring,
3 as I understand his testimony. So my question to you
4 is, do you know whether that well is a commercial
5 saltwater disposal well or is it just the well taking
6 water from the area?

7 A I don't know -- I don't -- if you're
8 referring to the State HU, I -- I don't know about
9 that particular well, where it's injection water is
10 coming from.

11 Q Okay.

12 A I don't know -- I don't know who operates
13 that well, what they're putting into it, or anything
14 like that.

15 Q These red faults that you are showing on
16 this exhibit and the other exhibits, are those
17 inferred faults?

18 A They were mapped directly from our 3D
19 seismic data.

20 MR. PADILLA: I believe that's all I
21 have, Mr. Examiner.

22 THE HEARING EXAMINER: Thank you.
23 Ms. Hardy?

24 MS. HARDY: No questions. Thank you.

25 THE HEARING EXAMINER: Thank you.

1 Mr. Goetze?

2 MR. GOETZE: Can you hear me?

3 THE HEARING EXAMINER: Yes.

4 MR. GOETZE: Okay. I do not have any
5 questions, but I do believe Mr. Harris has a few.

6 THE HEARING EXAMINER: Okay.

7 Go ahead, Mr. Harris.

8 MR. HARRIS: Yes. Good afternoon.

9 Thank you.

10 CROSS-EXAMINATION

11 BY MR. HARRIS:

12 Q Just a quick question regarding -- you
13 mentioned the resolution of the faults earlier on.
14 I'm just wondering, at the depth of the Cisco and the
15 Mississippian where these faults are being imaged,
16 what is the vertical resolution of your seismic at
17 those depths? So what would the wavelength of your
18 seismic signal be at those depths to image those
19 faults?

20 A Yeah. I -- I don't -- I don't have an exact
21 answer for you on this data set. We have -- we have
22 3D of all over the basin that, you know, is
23 different -- different frequency, different -- it's --
24 it's pretty good data over here, and I would have to
25 go calculate -- I would have to go calculate that

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1 wavelength and velocity to -- to get to that
2 resolution.

3 I -- I will say, on average for a lot of our
4 data in this area, I think that we're able to see
5 offsets and geologic features that are certainly less
6 than a hundred feet, but quite often down to 50 or
7 75 feet. So the offset that we see at the
8 Mississippian level is very clearly, you know, over
9 400 feet of vertical offset. And you see, you know,
10 over a hundred feet to 200 feet, at least, of what
11 looks like folding with some potential offset through
12 the -- through the Pennsylvanian stratigraphy, and our
13 ability to resolve that, I -- I confidently say that
14 we can resolve that within least a hundred feet.

15 MR. HARRIS: Okay. Thank you. No
16 further questions.

17 THE HEARING EXAMINER: Thank you.

18 Mr. Rankin, any redirect?

19 MR. RANKIN: No, I do not.

20 THE HEARING EXAMINER: Thank you.

21 Okay. You may be excused.

22 Ms. Hardy, do you have a witness for
23 your case in chief?

24 MS. HARDY: Yes, I do, Mr. Examiner.

25 V-F witness is Mr. Dale Lubinski. I see him on Teams,

1 if you can turn on his video, please.

2 THE HEARING EXAMINER: All right.

3 Mr. Lubinski?

4 MR. LUBINSKI: Yes.

5 THE HEARING EXAMINER: Very good.

6 Would you state and spell your name for the record?

7 MR. LUBINSKI: Dale Lubinski,

8 L-U-B-I-N-S-K-I.

9 THE HEARING EXAMINER: Would you raise
10 your right hand please?

11 DALE LUBINSKI

12 being called as a witness, and having first been duly
13 sworn, testified as follows:

14 THE HEARING EXAMINER: Ms. Hardy?

15 MS. HARDY: Thank you.

16 DIRECT EXAMINATION

17 BY MS. HARDY:

18 Q Mr. Lubinski, have you prepared a sworn
19 statement and exhibits in these two Riley Permian
20 cases?

21 A Yes, I did.

22 Q Are those documents marked as V-F Exhibit A
23 and sub-exhibits A-1 through A-8?

24 A Yes.

25 Q Do you affirm under oath today that those

1 documents are true and correct?

2 A Yes.

3 MS. HARDY: Mr. Examiner, I believe
4 those were already admitted but, if not, I would move
5 the admission of Exhibits V-F A and A-1 through A-8.

6 THE HEARING EXAMINER: Ms. Hardy,
7 they've been admitted.

8 MS. HARDY: Okay. Thank you.

9 BY MS. HARDY:

10 Q Mr. Lubinski, I have some questions for you
11 about Riley's presentation this morning. Did you hear
12 Mr. Davis's testimony?

13 A Yes.

14 Q And particularly his testimony about the
15 raster log included in Riley's exhibit packet as
16 Exhibit A-48 and 49?

17 A Yes.

18 Q And Riley also provided a raster log as
19 Exhibit B-100 and B-101. Correct?

20 A Yes.

21 Q Okay. I'm going to pull those up here and
22 share my screen. Can you see those?

23 A Yes. Part of it.

24 Q Let me see if I can -- so this is Riley's
25 exhibit here, and I'm looking at page A-48, upper

1 confining zone. And is it your understanding that
2 Mr. Davis testified that this raster log includes
3 resistivity?

4 A Yes. That was his testimony, but actually
5 it's a neutron porosity log showing porosity.

6 Q Okay. So the log doesn't contain
7 resistivity. Is that correct?

8 A No resistivity log on either A-48 or A-49.
9 They're both porosity logs.

10 Q And is that also true of the logs that are
11 shown in Exhibits B-100 and B-101?

12 A Can I see them again here?

13 Q Let's see if I can pull those up.

14 THE HEARING EXAMINER: Mr. Lubinski,
15 can you speak louder?

16 THE WITNESS: All right.

17 BY MS. HARDY:

18 Q Let me just get to the -- so this is the
19 similar attachment for the second well. Correct?

20 A Okay. That is a resistivity log.

21 Q This one is resistivity, but the one for the
22 prior well is not.

23 A No.

24 Q Okay. And is it your understanding that
25 Mr. Davis testified that the log -- and let me go

1 back -- that we were just discussing as Exhibit A-48
2 and 49 shows upper and lower confining zones? Do you
3 remember that testimony?

4 A Yes.

5 Q Let me just get there. Sorry. And do you
6 disagree with that testimony?

7 A To a degree in that they were saying that
8 the shales are low porosity and high resistivity.
9 Shales are very highly porous, and you can see that on
10 their porosity log there. The one curve just right of
11 the depth column, there is a neutron porosity, and
12 it's reading on an average, it looks like, 23 or
13 24 percent, and the density porosity -- the solid line
14 to the right of the other curve, is the density
15 porosity, and it's reading probably about 6 or
16 8 percent. And you look down into the Cisco and it's
17 reading, you know, a lot tighter in the -- those
18 intervals, other than the -- where -- where you have
19 washout.

20 Q Okay. So do you disagree with Mr. Davis
21 that this log shows upper and lower confining layers?

22 A Yeah. I'll disagree that, you know, it does
23 have a lot of porosity to do it and it's probably a
24 fracture.

25 Q Okay. Mr. Lubinski, in your opinion, based

1 on your review and analysis in this case, do you
2 believe it's more likely than not that granting
3 Riley's applications would result in waste and impair
4 V-F's correlative rights?

5 A Yes.

6 Q And do you ask that the applications be
7 denied for that reason?

8 A Yes.

9 MS. HARDY: Thank you. I have no
10 further questions for Mr. Lubinski. He's available
11 for cross.

12 THE HEARING EXAMINER: Is there a
13 Rebuttal case or was that the rebuttal case?

14 MS. HARDY: No. That was the rebuttal
15 case.

16 THE HEARING EXAMINER: Thank you.

17 MS. HARDY: Thank you.

18 THE HEARING EXAMINER: Mr. Padilla.

19 CROSS-EXAMINATION

20 BY MR. PADILLA:

21 Q Mr. Lubinski, you're saying that there's no
22 upper or lower confinement layers? Is that your
23 testimony?

24 A Yes. That the upper confinement layer has
25 high porosity to it, and the lower one also has a

1 porosity to it.

2 Q So you're saying because they have porosity,
3 these layers can't confine anything?

4 A No, not necessarily.

5 Q What does that mean? "Not necessarily."

6 A They have -- we have to take the resistivity
7 and the porosity together to look at it and estimate
8 if they do -- or if they do have a confining or not.

9 Q What did you look at to determine that there
10 was no confinement layers?

11 A -- just looking at the well logs.

12 Q And you drew that just by looking at that
13 well log?

14 A Yes.

15 Q And you didn't verify with any other source
16 data that supports your testimony that the confinement
17 layers are not there?

18 A Could you repeat that again? That the
19 confinement layers are not there? Could you --

20 Q Yes. Did you reach your conclusion based on
21 just the type of log that you're seeing in the Riley
22 exhibit or did you look for any other materials to
23 support your conclusion?

24 A No. Just more or less the log and the --
25 the logs themselves.

1 Q How many wells does V-F Petroleum operate in
2 the area?

3 A A hundred and seventy-three.

4 Q Within the half-mile circle, how many wells?

5 A None.

6 Q None?

7 A No. Within the half-mile circle?

8 Q Yes.

9 A None.

10 Q How about within the 2-mile circle?

11 A No. Just a little over 2 miles we operate,
12 as my maps and so forth show, the State 19-1 and
13 location -- what is it -- in section northeast corner
14 of section 19 and -- 19-28.

15 Q Does that well produce approximately 12 MCF
16 per day?

17 A It's -- yeah. Roughly 400 MCF a month. And
18 that's why we're looking to possibly recomplete in
19 Cisco. And the cross section in the logs that I have
20 in my exhibits there show that, while drilling it on
21 the mud log there, they lost circulation in the top of
22 the Cisco, regained circulation, had a good drilling
23 break, a good gas increase, shows in the oil on the
24 pits.

25 Q When are you going to recomplete in the

1 Cisco?

2 A We don't have a date projected yet. It's
3 still producing a little and making money, and there's
4 no overhead on the flowing gas well, so we're just
5 waiting until we decide to recomplete it.

6 Q Are you holding a state lease with that
7 well?

8 A No. We have horizontal wells in there that
9 hold a lease.

10 Q If you believe that there may be commercial
11 hydrocarbons in the Cisco, why haven't you come
12 upstairs and complete in the Cisco?

13 A Well, we will at some future date.

14 Q But you don't have a date. Correct?

15 A Correct.

16 Q Do you have any plans? Written plans?

17 A Yes. We've worked up from the logs
18 perforation intervals, and we'll be ready to do it
19 when we decide.

20 Q But that could be five years from now or
21 ten years from now according to your testimony?

22 A Not -- likely not that long.

23 Q What evidence do you have that the proposed
24 injection interval in the Cisco would communicate with
25 your well, the 19 State well?

1 A Yes. Both of the proposed SWDs by Riley are
2 structurally hundreds of feet up bit and could
3 possibly -- our structure is probably fairly low
4 relief, in the range of 15 feet or so. And I have an
5 example of the McMillian field, Exhibit A-8, and it
6 shows some very prolific production. Of course it's a
7 structurally higher, larger relief feature, but I gave
8 an example of the -- one of the lowest wells in there
9 was the -- had very significant production.

10 Q How far away is that well that you're
11 talking about?

12 A You mean the McMillian field?

13 Q Yes.

14 A It's in the northwestern part of the same
15 township, 19 south, 27 east, Sections 5, 7, 8, and 18.

16 Q So how far away are those wells?

17 A I'd imagine maybe 8 miles or so. I haven't
18 measure it. Okay. It's more like 6 miles away from
19 analog type --

20 Q But those aren't your wells. Correct?

21 A Correct. But we're only about 2 miles away
22 from the -- those SWDs.

23 Q Do you know of any Cisco production within
24 the one-half-mile circle?

25 A No.

1 Q Within the 2-mile circle?

2 A Yeah. Our well probably is just a little
3 over 2 miles from -- well, from it, but there's a --
4 from the proposed SWD there's no Cisco production
5 within 2 miles.

6 MR. PADILLA: That's all I have,
7 Mr. Examiner.

8 THE HEARING EXAMINER: Thank you,
9 Mr. Padilla.

10 Ms. Hardy?

11 MS. HARDY: I have a couple of
12 redirects. I don't know if --

13 THE HEARING EXAMINER: You know --

14 MS. HARDY: -- the commissioners --

15 THE HEARING EXAMINER: Mr. Rankin, do
16 you have any questions?

17 MR. RANKIN: No.

18 THE HEARING EXAMINER: No?

19 Let me ask our technical examiners
20 first.

21 Mr. Goetze, do you have any questions
22 for this witness?

23 MR. GOETZE: No, sir. I do not have
24 any questions for this witness. Thank you.

25 THE HEARING EXAMINER: Mr. Harris?

1 MR. HARRIS: No questions. Thank you.

2 THE HEARING EXAMINER: Okay.

3 Now, redirect?

4 MS. HARDY: Yes. Just a couple. Thank
5 you.

6 REDIRECT EXAMINATION

7 BY MS. HARDY:

8 Q Mr. Lubinski, the well that's discussed in
9 your affidavit exhibits that V-F operates is the
10 State 19 Com number 1. Is that correct?

11 A Yes.

12 Q And did you analyze the mud log for that
13 well?

14 A Yes, I did.

15 Q And is that provided in your exhibits?

16 A Yes. And you can -- from the mud log you
17 can get the sequence of events there that they lost
18 circulation, ended up regaining it, and had the shows
19 and the good gas increase and oil on the pits, and
20 they were going to try to DST it but weren't able to.

21 Q And in your analysis, does that mud log
22 confirm for you that there are hydrocarbons to be
23 produced from the Cisco formation?

24 A Yes, it does.

25 Q Based on your experience, training, and

1 analysis, do you believe it's more likely than not
2 that Riley's proposed injection would impair
3 production in the State 19 Com number 1 well?

4 A Yes, it probably would, depending on the
5 injection rate and pressure that that is injected to
6 the Cisco.

7 Q And in your opinion, would that impact
8 violate V-F's correlative rights?

9 A Yes.

10 MS. HARDY: Those are all of my
11 questions. Thank you.

12 THE HEARING EXAMINER: Thank you.
13 Any recross?

14 MR. PADILLA: I have one question, I
15 think.

16 THE HEARING EXAMINER: Go ahead.

17 RE-CROSS-EXAMINATION

18 BY MR. PADILLA:

19 Q Mr. Lubinski, when was the well that you're
20 testifying about show promise in the Cisco?

21 A When?

22 Q Yes.

23 A Again, it -- when it was being drilled --

24 Q When was that?

25 A It's 1977.

1 MR. PADILLA: That's all I have,
2 Mr. Examiner.

3 THE HEARING EXAMINER: Any redirect on
4 that point?

5 MS. HARDY: No, thank you.

6 THE HEARING EXAMINER: Okay. Thank
7 you.

8 This witness may be excused.

9 That concludes your case in chief?

10 MS. HARDY: Yes.

11 THE HEARING EXAMINER: And your
12 rebuttal case?

13 MS. HARDY: Yes. Thank you.

14 THE HEARING EXAMINER: Okay. Good.

15 And, Mr. Rankin, we concluded your case
16 in chief and your rebuttal case?

17 MR. RANKIN: Yes.

18 THE HEARING EXAMINER: And,
19 Mr. Padilla, I believe the same.

20 MR. PADILLA: I would like to recall a
21 rebuttal witness.

22 THE HEARING EXAMINER: Okay. Who would
23 you like to recall and why?

24 MR. PADILLA: For a bunch of -- well,
25 we would like to recall Mr. Tomastik.

1 THE HEARING EXAMINER: Who?

2 MR. PADILLA: Mr. --

3 THE HEARING EXAMINER: Okay. Yes, yes.
4 Tomastik.

5 MR. PADILLA: Tomastik.

6 THE HEARING EXAMINER: And the purpose?

7 MR. PADILLA: For the purpose of
8 rebutting some of the testimony that was given in
9 terms of -- I believe it was Mr. Cantin's testimony
10 and maybe some of Mr. Parker's testimony.

11 MR. RANKIN: I guess it would be --

12 THE HEARING EXAMINER: I'm sorry?

13 MR. RANKIN: I apologize.

14 THE HEARING EXAMINER: Okay.

15 And let's discuss why you couldn't
16 anticipate that testimony. So let's be specific.
17 This rebuttal is a very narrow category of evidence.

18 MR. PADILLA: Well, for one thing I
19 still don't have the exhibit, and the first time I've
20 seen it is when it was shown here, and neither has --
21 we haven't seen them, period.

22 THE HEARING EXAMINER: Can you be
23 specific about which exhibits you're talking about?

24 MR. PADILLA: Well, Exhibit A-4.

25 THE HEARING EXAMINER: Okay. A-4.

1 MR. PADILLA: A-4 and I think their new
2 exhibit is A-5.

3 THE HEARING EXAMINER: A-5. Okay.

4 Mr. Rankin, when did you file A-4 and
5 A-5?

6 MR. RANKIN: The original A-4 was filed
7 on, I think it was, Tuesday. I can't remember what
8 day it was. We revised it due to the location issues
9 and -- you're talking about Matador Exhibit A-4?
10 Matador?

11 MR. PADILLA: Yes.

12 MR. RANKIN: Matador? The revised
13 exhibit was filed on Monday, and it was served both
14 times immediately following filing. So they had it
15 immediately after filing it originally and then they
16 had it immediately after filing on Monday.

17 And then A-5, I think you may be
18 referring to the Permian Resources rebuttal exhibit?

19 MR. PADILLA: No. You had it up. I'm
20 not sure --

21 THE HEARING EXAMINER: It's the one
22 with the two slides. Is that correct?

23 MR. PADILLA: Right.

24 THE HEARING EXAMINER: -- A-5, Permian.

25 MR. RANKIN: That's the Permian

1 Resources rebuttal exhibit which we served to all
2 counsel and the hearing examiner Monday night at
3 10:59 p.m. and then again this morning after it was
4 filed, my legal assistant served it on all counsel
5 approximately around 8:30 or 8:40 this morning.

6 THE HEARING EXAMINER: Okay. So
7 Mr. Padilla, let's be specific now. In the Matador
8 Exhibit A-4 --

9 Can you pull that exhibit up for us,
10 the revised Exhibit A-4, just so that we're all
11 looking at it?

12 MR. RANKIN: Yeah.

13 THE HEARING EXAMINER: And then,
14 Mr. Padilla, what I'm going to ask you is what
15 subjects or what content do you feel you were
16 surprised and you feel you have a rebuttal case about
17 in this exhibit?

18 MR. RANKIN: This is the A-4 exhibit.
19 You mean the A-5? The Permian?

20 THE HEARING EXAMINER: Is this
21 Matador's A-4?

22 MR. RANKIN: Revised.

23 THE HEARING EXAMINER: Okay. And this
24 was revised for what purpose? The location?

25 MR. RANKIN: Well, we submitted all --

1 yeah. All location issues. Yeah. We adjusted the
2 location of the SWD number 1 to be from the north
3 line.

4 THE HEARING EXAMINER: Right.

5 Okay. Can you go back up to A-4?

6 Okay. So Mr. Padilla, you mentioned
7 this exhibit. Is this the exhibit you were referring
8 to?

9 MR. PADILLA: No. I think it was --
10 I've lost track of them. I think it was A-4 the --
11 those exhibits.

12 MR. RANKIN: Okay. This is the Permian
13 Resources Exhibit A-4 which was originally filed on
14 Tuesday --

15 THE HEARING EXAMINER: Of last week.

16 MR. RANKIN: -- of last week.

17 THE HEARING EXAMINER: A week ago.

18 MR. RANKIN: A week ago. We did file a
19 rebuttal exhibit, which is A-5.

20 THE HEARING EXAMINER: Before you go to
21 the A-5, can we stay on A-4 for a moment?

22 Mr. Padilla. is this the exhibit that
23 you're talking about?

24 MR. PADILLA: Yes. Only in terms of
25 the cross section and the kind of cross section it is.

1 THE HEARING EXAMINER: I'm trying to
2 hear you, but I'm having difficulty. A little louder?

3 MR. PADILLA: I'm sorry. Only in terms
4 of the kind of cross section it is. It's --

5 THE HEARING EXAMINER: So this exhibit,
6 according to Mr. Rankin, was filed a week ago. Are
7 you saying that you did not get this exhibit?

8 MR. PADILLA: We got it.

9 THE HEARING EXAMINER: Okay. You got
10 it.

11 MR. PADILLA: So I get where you're
12 coming from.

13 THE HEARING EXAMINER: Okay, okay.
14 That's fine. And I'm trying to be fair to you because
15 it's your applications, and I want to give you as much
16 latitude as I legally feel is permissible, but I need
17 to be fair to the other clients as well.

18 So what is the reason for you to have a
19 rebuttal evidence as to this exhibit here?

20 MR. PADILLA: Only to testify
21 concerning what that exhibit shows in terms of the
22 cross section and structurally why it doesn't really
23 paint the real issue in terms of the confining layer.

24 THE HEARING EXAMINER: Okay. And
25 Mr. Rankin and Ms. Hardy, I did give your witness an

1 opportunity to put on rebuttal testimony so -- okay.

2 I understand what you want to deal with
3 here.

4 Now let's go to Exhibit A-5, if you
5 would, Mr. Rankin. And this was something that was
6 filed late last night, early this morning.

7 And what about, what do you want to
8 bring evidence in rebuttal to this exhibit?

9 MR. PADILLA: Basically the same thing
10 in terms of -- although this one does show 450 feet of
11 separation between the Third Bone Spring and the top
12 of the Cisco. So I think this one is fairly
13 well-defined and it tells a story.

14 THE HEARING EXAMINER: So you don't
15 have rebuttal evidence for this exhibit.

16 MR. PADILLA: We don't have, no.

17 THE HEARING EXAMINER: Okay. So you
18 have a witness that you would like to call in rebuttal
19 to the revised Exhibit A-4 which was filed a week ago.

20 MR. PADILLA: Yes.

21 THE HEARING EXAMINER: Okay. And which
22 witness is that?

23 MR. PADILLA: Tomastik.

24 THE HEARING EXAMINER: Tomastik? Okay.

25 And are there any objections from

1 Ms. Hardy or Mr. Rankin?

2 MR. RANKIN: No.

3 THE HEARING EXAMINER: No.

4 MS. HARDY: No.

5 THE HEARING EXAMINER: No.

6 Mr. Tomastik, would you retake the
7 witness stand? And I'll remind you you're still under
8 oath. And please turn on the microphone.

9 Mr. Padilla, go ahead.

10 THOMAS TOMASTIK

11 being called as a witness, and having been previously
12 duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. PADILLA:

15 Q Mr. Tomastik, looking at the exhibit on the
16 monitor, does that show the confining upper and lower
17 layers?

18 A That exhibit would show the top of the Cisco
19 formation, and it's -- it's hung on the top of the
20 Cisco formation, so it is a stratigraphic cross
21 section, not a structural cross section. And it does
22 show multiple logs with different log signatures from
23 the open hole on this. Basically, ALL identified the
24 shale layer in the Wolfcamp directly above the top of
25 the Cisco as the initial confining layer. The actual

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1 Wolfcamp formation, which is 4 to 5 hundred feet
2 thick, would serve as the confining layer -- confining
3 zone above the injection zone.

4 So it's not limited to just a little
5 section. That's the first immediate shale confining
6 unit right above the injection zone. But the Wolfcamp
7 itself, with shales and tight carbonate rocks, would
8 serve as the confining layer for this proposed --
9 these proposed SWD applications.

10 Q You heard Mr. Lubinski's testimony that
11 there were no confining layers. Looking at this
12 exhibit that's on the monitor, does that show
13 confining layers?

14 A Yes.

15 MR. PADILLA: That's all I have.

16 THE HEARING EXAMINER: Thank you.

17 Let's go to cross-examination.

18 Ms. Hardy?

19 MS. HARDY: I don't have any questions.

20 THE HEARING EXAMINER: Mr. Rankin?

21 MR. RANKIN: No questions.

22 THE HEARING EXAMINER: Very good.

23 This witness may be excused.

24 Does that conclude your rebuttal

25 testimony?

1 MR. PADILLA: Yes, sir.

2 THE HEARING EXAMINER: Very good.

3 I believe we are at the end of today's
4 evidentiary record, although we did discuss leaving it
5 open for the reasons that we already discussed. So
6 let's talk about what everyone is under the
7 understanding so that we're all on the same page and
8 how we're going to deal with the notice issues.

9 So Mr. Padilla, they were your notice
10 issues. What is your understanding of how we're going
11 to cure these notice issues?

12 MR. PADILLA: Well, my understanding is
13 that we can reopen this case, or at least Apache can
14 reopen it if they desire.

15 THE HEARING EXAMINER: When? Forever?
16 I mean, how long from today?

17 MR. PADILLA: Well, I think, let's just
18 say if they have ten more days to go in the 20-day
19 period, then I think they would have to file something
20 pretty soon.

21 THE HEARING EXAMINER: I think it was
22 brought up that so far we had seven days. Was it
23 Ms. Hardy or Mr. Rankin who discussed that it was
24 seven days. Who said that? I remember someone saying
25 that.

1 MR. RANKIN: Yeah. There are two
2 different dates that this application was served on
3 Apache. One was 7/15 and one was 7/16, and I'd have
4 to look at the exhibit to see which one was served
5 which day, but they were on subsequent days.

6 THE HEARING EXAMINER: Okay. So by
7 your calculations, when would the 20-day period end?

8 MR. RANKIN: I have to look and see.

9 THE HEARING EXAMINER: And, Ms. Hardy,
10 I'm going to ask you, and, Mr. Padilla, I'm going to
11 ask you the same question, so start counting, please.

12 Your microphone's not on if you want it
13 to be.

14 MR. RANKIN: I'm sorry. I -- I
15 apologize. I was hoping somebody else would answer
16 the question.

17 THE HEARING EXAMINER: I figured you
18 were.

19 MR. RANKIN: So we've conferred and we
20 have calculated -- us not math majors -- and we've
21 come to the date of August 5th, 2024, would be 20 days
22 from when the last notice was served. Now, I may
23 defer to Ms. Hardy to discuss the additional concerns
24 or actions we think need to be taken to perfect
25 notice. But as for the timeframes, 8/5 would be the

1 deadline for the 20 days to run.

2 THE HEARING EXAMINER: Okay. And
3 you're going from the 7/16 date?

4 MR. RANKIN: Yes.

5 THE HEARING EXAMINER: Okay. Good.
6 And you're not counting that date.

7 MR. RANKIN: Correct.

8 THE HEARING EXAMINER: Okay. I thought
9 so. So are you using the Rules of Civil Procedure to
10 count?

11 MR. RANKIN: Correct.

12 THE HEARING EXAMINER: You are. Okay.
13 And I assume, because it's more than 15 days, you're
14 counting weekends as calendar days?

15 MR. RANKIN: Correct.

16 THE HEARING EXAMINER: Just to clarify
17 how you're counting so that I understand as well.

18 Mr. Padilla, the consensus so far, but
19 ultimately it's going to be your issue because it's
20 your notice issue, is August the 5th.

21 MR. PADILLA: I agree with that.

22 THE HEARING EXAMINER: You do agree.
23 Okay. Excellent.

24 So then what I understand is that
25 Apache or anyone else has until August the 5th to file

1 some sort of protest or a motion or something that
2 reopens this evidentiary hearing. Is that correct?

3 MR. PADILLA: That's the way I
4 understand it.

5 THE HEARING EXAMINER: I mean, it's not
6 confined to Apache, is it?

7 MR. PADILLA: Well, I think it is
8 confined to Apache.

9 THE HEARING EXAMINER: It is confined.

10 MR. PADILLA: I don't think that we
11 missed anyone else.

12 THE HEARING EXAMINER: Okay. Okay.
13 All right.

14 Is there any argument against that?

15 MS. HARDY: Well, Mr. Examiner, I think
16 that in case 24280 that that's correct, but we have
17 the problem in case 24279 where the public notice was
18 incorrect as to everyone.

19 THE HEARING EXAMINER: Because of the
20 location.

21 MS. HARDY: Right. Correct.

22 THE HEARING EXAMINER: Yeah. The
23 section was correct. It was the line from the north
24 or the south.

25 MS. HARDY: Correct.

1 THE HEARING EXAMINER: Okay. So then
2 how do we cure that issue? Or is that up to the OCD
3 to cure that issue or is it up to the party to cure
4 that issue?

5 MS. HARDY: Typically OCD would
6 re-notice the case for a hearing date and parties
7 could appear and object at that hearing. That's
8 typically what OCD does.

9 THE HEARING EXAMINER: In other words,
10 you're saying that 79 has to be re-noticed.

11 MS. HARDY: Yes.

12 THE HEARING EXAMINER: And how many
13 days from -- well, let's say that Freya re-notices it
14 tomorrow. Is it also 20 days?

15 MS. HARDY: I believe OCD posts the
16 dockets under it's rules 30 days in advance of the
17 hearing. Is that correct?

18 THE HEARING EXAMINER: I hadn't heard
19 that.

20 Is your microphone on?

21 MR. RANKIN: You said 30 days?

22 MS. HARDY: Twenty?

23 MR. RANKIN: I think it's more like 20.
24 Yeah.

25 THE HEARING EXAMINER: I thought so

1 too.

2 Freya, do you know how far in advance
3 you have to post a hearing?

4 MS. TSCHANTZ: It's 20.

5 THE HEARING EXAMINER: I thought it
6 was.

7 MS. HARDY: Twenty.

8 THE HEARING EXAMINER: Applications
9 have to be filed 30 days in advance of the hearing,
10 but I think our notice has to be 20 days in advance.

11 So if Freya posts the notice tomorrow,
12 when would that period end?

13 MS. HARDY: I come up with August 12th.

14 THE HEARING EXAMINER: August 12th.

15 Mr. Padilla and Mr. Rankin, would you
16 please weigh in?

17 MR. PADILLA: I think that's correct.

18 THE HEARING EXAMINER: Okay.

19 Mr. Rankin, do you agree?

20 MR. RANKIN: Yeah.

21 THE HEARING EXAMINER: If she posts it
22 tomorrow.

23 MR. RANKIN: Yeah.

24 THE HEARING EXAMINER: Okay. So she's
25 only going to be reposting the one case, the one that

1 ends in 79, but it has to have the correct legal
2 description. That's the issue here, isn't it?

3 MS. HARDY: Yes. That's the issue.

4 THE HEARING EXAMINER: Okay. Now,
5 where would she get that legal description from,
6 Mr. Padilla? Do we have it already?

7 MR. PADILLA: I think you have it
8 already, but I'll make sure that it's corrected.

9 THE HEARING EXAMINER: Perfect. So
10 you'll send it to Freya and you'll copy counsel?

11 MR. PADILLA: Yes.

12 THE HEARING EXAMINER: All right. And
13 you'll do that when?

14 MR. PADILLA: I can't do it until
15 tomorrow probably.

16 THE HEARING EXAMINER: All right.
17 Tomorrow morning?

18 MR. PADILLA: Tomorrow morning.

19 THE HEARING EXAMINER: To give her some
20 time to post it?

21 MR. PADILLA: Right.

22 THE HEARING EXAMINER: Okay. Now, are
23 we going to be posting a August 12th --

24 Freya, do we have anything on
25 August 12th in case something happens and we have to

1 have a hearing?

2 MS. TSCHANTZ: August 12th is a Monday.

3 THE HEARING EXAMINER: Okay.

4 MS. TSCHANTZ: Otherwise, no.

5 THE HEARING EXAMINER: Okay. So we're
6 okay for August 12th.

7 MS. TSCHANTZ: Mr. Examiner, if I
8 recounted starting tomorrow --

9 THE HEARING EXAMINER: Yes.

10 MS. TSCHANTZ: -- and commencing the
11 day after. Right?

12 THE HEARING EXAMINER: Right. Of
13 course. The 13th?

14 MS. TSCHANTZ: Then I come up with the
15 13th.

16 THE HEARING EXAMINER: The 13th. Well,
17 that's good. That's a Tuesday. I like that day
18 better anyway.

19 So then, Freya, the August 13th, are we
20 available?

21 MS. TSCHANTZ: We have a special
22 hearing scheduled for that date, so we can just put
23 this case on first.

24 THE HEARING EXAMINER: We can deal with
25 it. Okay.

1 So then we have now two dates. How are
2 those dates going to be dealt with? We have an
3 August 5th and we have an August 13th.

4 Ms. Hardy, how are we going to deal
5 with having two dates? Should we not just have one
6 date?

7 MS. HARDY: Well, I think if the
8 Division re-notices the case for August 13th, parties
9 could enter an appearance and object until that date
10 on the first case.

11 THE HEARING EXAMINER: I'll come to you
12 and Mr. Padilla.

13 MS. HARDY: I mean on the -- yes, on
14 the first case. On the second case, I suppose we
15 still need the August 5th date because that's the date
16 for Apache only. Although -- yes, that's correct.

17 THE HEARING EXAMINER: So we will have
18 two dates. We'll have an August 5th date for case
19 number 80, and that'll just be for Apache, as far as I
20 understand. And we're going to have an August 13th
21 date for case number 79.

22 Mr. Padilla?

23 MR. PADILLA: I don't have any problems
24 on that. I'm in no position to argue one way or the
25 other here, but --

1 THE HEARING EXAMINER: But you are
2 always in a position to argue. You're a lawyer, so
3 argue away. But does that seem reasonable to you?

4 MR. PADILLA: Yes.

5 THE HEARING EXAMINER: Okay. Very
6 good.

7 Mr. Rankin?

8 MR. RANKIN: Fine with me,
9 Mr. Examiner.

10 THE HEARING EXAMINER: Okay.

11 MR. RANKIN: There's one other notice
12 issue.

13 THE HEARING EXAMINER: You have another
14 notice issue?

15 MR. RANKIN: There's one other notice
16 issue.

17 THE HEARING EXAMINER: What is the
18 other notice issue?

19 MR. RANKIN: It's related. The
20 advertisement that was published for today's hearing
21 in the newspaper by the party has the same footage
22 issue, and I think the Division rules require that all
23 injection applications include proof of notification
24 by publication. So I believe Riley will be required
25 to publish the correct footage for at least 24279 in

1 the newspaper.

2 THE HEARING EXAMINER: Okay. Fine. If
3 I'm not mistaken, is that a 10-day? That's a 10-day
4 notice, isn't it?

5 MR. RANKIN: Ten business days. Ten
6 business days.

7 THE HEARING EXAMINER: Business from
8 publication to hearing? All right.

9 So Mr. Padilla, you have a little time
10 for this, but it looks like you need to publish a
11 notice for the August 13th special docket at least
12 10 days before that.

13 MR. PADILLA: Okay.

14 THE HEARING EXAMINER: All right. So
15 we are leaving the administrative record open in both
16 cases. I'm going to summarize.

17 In case number 24280, the
18 administrative record is open until the close of
19 business, Ms. Hardy, on August 5th? Close of
20 business?

21 MS. HARDY: Correct.

22 THE HEARING EXAMINER: Okay. Fine.
23 And that's just for Apache to either object or not
24 object or motion to reopen this case.

25 Do you agree, Mr. Padilla?

1 MR. PADILLA: I agree.

2 THE HEARING EXAMINER: Okay. Fine.

3 In case number ending in 79, we are
4 leaving the administrative record open until
5 August 13th because you are going to republish notice
6 with at least 10 days in advance for the public, and
7 the OCD is going to be publishing a notice for the
8 special hearing in that case as of tomorrow once you
9 provide the correct description of the land. Is that
10 correct?

11 MR. PADILLA: That's correct.

12 THE HEARING EXAMINER: Okay.

13 Now, we haven't spoken about
14 post-hearing submissions, so hopefully these cases
15 will conclude and the hearing record will close at
16 least by the 13th of August. But let's talk about
17 post-hearing submissions. The parties know there's no
18 evidentiary weight in post-hearing submissions;
19 however, sometimes they can be helpful.

20 I'm going to ask Mr. Goetze and
21 Mr. Harris. Would it be beneficial to the technical
22 team to have post-hearing submissions in these cases?

23 MR. GOETZE: Mr. Examiner, at this
24 point, I don't see any requests for additional
25 information, so I would not think there would be a

1 necessity for post-hearing submittals.

2 THE HEARING EXAMINER: And Mr. Goetze,
3 I just want to be very clear. I'm speaking of written
4 closing arguments and proposed findings of fact and
5 conclusions of law submitted by each party.

6 MR. GOETZE: If you wish to go that
7 route, usually we give them, it has been on the order
8 of, two weeks, ten days in that period.

9 THE HEARING EXAMINER: Okay. At this
10 point I wasn't asking for a schedule. I was asking
11 you and Mr. Harris if you would feel it would be
12 helpful in these cases.

13 MR. GOETZE: I think post-hearing
14 arguments or summaries would be good.

15 THE HEARING EXAMINER: Okay. What
16 about proposed findings of fact and conclusions of
17 law? Are you saying that you just want closing
18 arguments and not the other?

19 MR. GOETZE: That's correct. I think
20 at this point, because of the nature of this case, I
21 think it would not be well-serviced if we did that.

22 THE HEARING EXAMINER: Okay.

23 Mr. Harris?

24 MR. HARRIS: Yeah. I concur with
25 Mr. Goetze.

1 THE HEARING EXAMINER: Okay. Then what
2 I understand from Mr. Harris and Mr. Goetze is that we
3 do find post-hearing closing argument to be helpful,
4 but not -- not proposed findings of fact and
5 conclusions of law. Did I get that right?

6 MR. GOETZE: That is correct,
7 Mr. Examiner.

8 THE HEARING EXAMINER: Thank you.

9 Okay. So first of all, we have a
10 verbatim transcript that should be ready about two
11 weeks from today for the parties to base a closing
12 argument on. Now, obviously, if we have to reopen
13 this on the 5th or the 13th, then, of course, that
14 will delay things. So what I will say is this.

15 Mr. Padilla, at the close of the record
16 and once you have the verbatim transcript in hand, how
17 long do you want to produce a closing argument?

18 MR. PADILLA: Two weeks will be fine.

19 THE HEARING EXAMINER: Perfect.

20 Ms. Hardy.

21 MS. HARDY: That's fine, Mr. Examiner.

22 THE HEARING EXAMINER: Mr. Rankin.

23 MR. RANKIN: Agree.

24 THE HEARING EXAMINER: Okay.

25 Wonderful.

1 So if there is nothing that reopens the
2 record and we get the transcript in two weeks, two
3 weeks from today -- I suspect you'll have the verbatim
4 transcript no later than the 6th or 7th of August, so
5 we're now talking about the 20th or 21st of August.
6 That's if everything remains the way it is.
7 Obviously, if we reopen the record, then it will be
8 further down the line, and we'll talk about it then if
9 that's the case.

10 I don't expect anyone to have to come
11 back to this room on the 5th or the 13th. We can deal
12 with it virtually, if necessary. If you want to
13 appear, that's fine, but you don't have to appear.
14 Neither do your witnesses at this point, unless you
15 want them to be here, but that's not mandatory by any
16 means.

17 Mr. Padilla, is there anything else?

18 MR. PADILLA: Not for me.

19 THE HEARING EXAMINER: Ms. Hardy?

20 MS. HARDY: Not for me. Thank you.

21 THE HEARING EXAMINER: Mr. Rankin.

22 MR. RANKIN: Nothing further.

23 THE HEARING EXAMINER: Okay. We are
24 off the record.

25 Thank you.

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(Whereupon, at 3:42 p.m., the proceeding was concluded.)

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CERTIFICATE OF DEPOSITION OFFICER

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.

August 6, 2024



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

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CERTIFICATE OF TRANSCRIBER

I, MARY ANN BURKE, 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.

August 6, 2024



MARY ANN BURKE

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[spring - stratographically]

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[think - today]

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