

1 24615, 24620, 24621, 24697,
2 24634, 24638, 24639, 24640,
3 24641, 24661, 24662, 24663,
4 24664, 24665, 24666, 24670,
5 24671, 24674, 24689, 24690,
6 24691, 24692, 24693, 24694,
7 24695, 24696, 24700, 24707,
8 24708, 24709, 24715, 24716,
9 24717, 24718, 24724, 24725,
10 24726, 24618, 24619, 24651,
11 24652, 24653, 24654, 24659,
12 24660, 24703, 24704.

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HEARING

15

DATE: Thursday, August 8, 2024

16

TIME: 8:28 a.m.

17

BEFORE: Hearing Examiner Gregory A. Chakalian

18

LOCATION: Energy, Minerals, and Natural Resources

19

Department

20

Pecos Hall, Wendell Chino Building

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1220 Soth Saint Francis Drive

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Santa Fe, NM 87505

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REPORTED BY: James Cogswell

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JOB NO.: 6773970

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A P P E A R A N C E S

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HAILEE THOMPSON

Energy, Minerals, and Natural Resources

Department

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 (by videoconference)
Sheila Apodaca, Law Clerk
David Broussard (by videoconference)
Leah Johnson (by videoconference)
Joseph Dishron (by videoconference)
Cole Hatchel (by videoconference)

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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
Cases 24394 and 24395:		
Exhibit A	Self-Affirmed Statement of Collin Christian	101/103
Exhibit B	Self-Affirmed Statement of Tyler Chesworth	102/103
Exhibit C	Statement of Notice	102/103
NO.	DESCRIPTION	ID/EVD
Cases 24427 and 24430:		
Exhibit A	Compulsory Pooling Application Checklist	107/111
Exhibit B	Filed Application and Docket Notice	107/111
Exhibit C	Self-Affirmed Statement of David Broussard	107/111
Exhibit D	Self-Affirmed Statement of Joseph Dixon	110/111
Exhibit E	Statement of Notice	110/111
Exhibit F	Affidavit of Publication	110/111

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case 24428:		
4	Exhibit A	Compulsory Pooling	
5		Application Checklist	118/118
6	Exhibit B	Filed Application and	
7		Docket Notice	118/118
8	Exhibit C	Self-Affirmed Statement of	
9		David Broussard	118/118
10	Exhibit D	Self-Affirmed Statement of	
11		Joseph Dixon	118/118
12	Exhibit E	Statement of Notice	118/118
13	Exhibit F	Affidavit of Publication	118/118
14			
15	NO.	DESCRIPTION	ID/EVD
16	Case 24429 and 24431:		
17	Exhibit A	Compulsory Pooling	
18		Application Checklist	124/124
19	Exhibit B	Filed Application and	
20		Docket Notice	124/124
21	Exhibit C	Self-Affirmed Statement of	
22		David Broussard	124/124
23	Exhibit D	Self-Affirmed Statement of	
24		Joseph Dixon	124/124
25	Exhibit E	Statement of Notice	124/124

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case 24429 and 24431 (Cont'd):		
4	Exhibit F	Affidavit of Publication	124/124
5			
6	NO.	DESCRIPTION	ID/EVD
7	Cases 24444 and 24447:		
8	Exhibit A	Compulsory Pooling	
9		Application Checklist and	
10		Affected of Don Johnson	126/126
11	Exhibit B	Self-Affirmed Statement of	
12		Ben Metz	126/126
13	Exhibit C	Statement of Notice	126/126
14			
15	NO.	DESCRIPTION	ID/EVD
16	Case 24480:		
17	Exhibit A	Compulsory Pooling	
18		Application Checklist	128/129
19	Exhibit B	Filed Application	128/129
20	Exhibit C	Self-Affirmed Statement of	
21		David Johns	128/129
22	Exhibit D	Self-Affirmed Statement of	
23		Andrew Parker	128/129
24	Exhibit E	Statement of Notice	128/129
25	Exhibit F	Affidavit of Publication	128/129

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

NO.	DESCRIPTION	ID/EVD
Case 24485:		
Exhibit A	Self-Affirmed Statement of Addison Costley	131/132
Exhibit B	Self-Affirmed Statement of Andrew Parker	131/132
Exhibit C	Statement of Notice	131/132
Exhibit D	Affidavit of Publication	131/132
Cases 24613:		
Exhibit A	Compulsory Pooling Application Checklist	134/135
Exhibit B	Filed Application	134/135
Exhibit C	Self-Affirmed Statement of David Johns	134/135
Exhibit D	Self-Affirmed Statement of Blake Herber	134/135
Exhibit E	Statement of Notice	134/135
Exhibit F	Affidavit of Publication	134/135

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Cases 24614:		
4	Exhibit A	Compulsory Pooling	
5		Application Checklist	134/135
6	Exhibit B	Filed Application	134/135
7	Exhibit C	Self-Affirmed Statement of	
8		David Johns	134/135
9	Exhibit D	Self-Affirmed Statement of	
10		Blake Herber	134/135
11	Exhibit E	Statement of Notice	134/135
12	Exhibit F	Affidavit of Publication	134/135
13			
14	NO.	DESCRIPTION	ID/EVD
15	Cases 24615:		
16	Exhibit A	Compulsory Pooling	
17		Application Checklist	134/136
18	Exhibit B	Filed Application	134/136
19	Exhibit C	Self-Affirmed Statement of	
20		David Johns	134/136
21	Exhibit D	Self-Affirmed Statement of	
22		Blake Herber	134/136
23	Exhibit E	Statement of Notice	134/136
24	Exhibit F	Affidavit of Publication	134/136
25			

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Cases 24620, 24621, and 24697:		
4	Exhibit A	Compulsory Pooling	
5		Application Checklist	139/141
6	Exhibit B	Filed Application	139/141
7	Exhibit C	Self-Affirmed Statement of	
8		Hawks Holder	139/141
9	Exhibit D	Self-Affirmed Statement of	
10		Andew Parker	140/141
11	Exhibit E	Statement of Notice	140/141
12	Exhibit F	Affidavit of Publication	140/141
13			
14	NO.	DESCRIPTION	ID/EVD
15	Case 24634:		
16	Exhibit A	Compulsory Pooling	
17		Application Checklist	144/144
18	Exhibit B	Filed Application	144/144
19	Exhibit C	Self-Affirmed Statement of	
20		Ariana Rodrigues	144/144
21	Exhibit D	Self-Affirmed Statement of	
22		Cole Hatchel	144/144
23	Exhibit E	Statement of Notice	144/144
24	Exhibit F	Affidavit of Publication	144/144
25			

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Cases 24638-24641:		
4	Exhibit A	Self-Affirmed Statement of	
5		Matthew Langhoff	147/148
6	Exhibit B	Statement of Notice and	
7		Affidavit of Publication	147/148
8			
9			
10	NO.	DESCRIPTION	ID/EVD
11	Cases 24661-24666:		
12	Exhibit A	Compulsory Pooling	
13		Application Checklist	149/150
14	Exhibit B	Self-Affirmed Statement of	
15		Ben Metz	149/150
16	Exhibit C	Statement of Notice	149/150
17			
18	NO.	DESCRIPTION	ID/EVD
19	Cases 24670 and 24671:		
20	Exhibit A	Self-Affirmed Statement of	
21		Ariana Rodrigues	152/152
22	Exhibit B	Self-Affirmed Statement of	
23		Cole Hatchel	152/152
24	Exhibit C	Statement of Notice	152/152
25			

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Cases 24689-24692:		
4	Exhibit A	Self-Affirmed Statement of	
5		Ryan Curry	155/155
6	Exhibit B	Self-Affirmed Statement of	
7		Christopher Cantin	155/155
8	Exhibit C	Statement of Notice	155/155
9			
10	NO.	DESCRIPTION	ID/EVD
11	Cases 24693-24696:		
12	Exhibit A	Extension Applications	156/157
13	Exhibit B	Original Pooling Orders	156/157
14	Exhibit C	Self-Affirmed Statement of	
15		David Johns	156/157
16	Exhibit D	Statement of Notice	156/157
17	Exhibit E	Affidavit of Publication	156/157
18			
19	NO.	DESCRIPTION	ID/EVD
20	Case 24700:		
21	Exhibit A	Compulsory Pooling	
22		Application Checklist	160/160
23	Exhibit B	Filed Application	160/160
24	Exhibit C	Self-Affirmed Statement of	
25		Lizzy Lawford [ph]	160/160

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

NO.	DESCRIPTION	ID/EVD
Case 24700 (Cont'd):		
Exhibit D	Self-Affirmed Statement of Parker Foy	160/160
Exhibit E	Statement of Notice	160/160
Exhibit F	Affidavit of Publication	160/160
NO.	DESCRIPTION	ID/EVD
Cases 24707 and 24708:		
Exhibit A	Self-Affirmed Statement of Matthew Langhoff	162/163
Exhibit B	Statement of Notice	162/163
NO.	DESCRIPTION	ID/EVD
Case 24709:		
Exhibit A	Self-Affirmed Statement of Corie Mathews	166/168
Exhibit B	Self-Affirmed Statement of Leah Johnson	166/168
Exhibit C	Statement of Notice	166/168

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Cases 24499 and 24500:		
4	Exhibit A	Self-Affirmed Statement of	
5		Mason Maxwell	175/178
6	Exhibit B	Self-Affirmed statement of	
7		Joseph Dishron	175/178
8	Exhibit C	Statement of Notice	175/178
9			
10	NO.	DESCRIPTION	ID/EVD
11	Cases 24715-24718 and 24724-24726:		
12	Exhibit A	Self-Affirmed Statement of	
13		Ryan Curry	181/181
14	Exhibit B	Self-Affirmed Statement of	
15		Chris Cantin	181/181
16	Exhibit C	Statement of Notice	181/181
17			
18	NO.	DESCRIPTION	ID/EVD
19	Cases 24618 and 24619:		
20	Exhibit 1	Compulsory Pooling	
21		Application Checklist	186/187
22	Exhibit 2	Self-Affirmed Statement of	
23		Adriana Salgado	186/187
24	Exhibit 3	Self-Affirmed Statement of	
25		Justin Roeder	186/187

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

NO.	DESCRIPTION	ID/EVD
Cases 24618 and 24619 (Cont'd):		
Exhibit 4	Statement of Notice	186/187
Exhibit 5	Affidavit of Publication	186/187
NO.	DESCRIPTION	ID/EVD
Cases 24651-24654:		
Exhibit 1	Compulsory Pooling	
	Application Checklist	189/192
Exhibit 2	Self-Affirmed Statement of	
	Josh Anderson	189/192
Exhibit 3	Self-Affirmed Statement of	
	Charles Crosby	189/192
Exhibit 4	Statement of Notice	192/192
NO.	DESCRIPTION	ID/EVD
Cases 24659 and 24660:		
Exhibit 1	Compulsory Pooling	
	Application Checklist	194/199
Exhibit 2	Self-Affirmed Statement of	
	Josh Anderson	194/199
Exhibit 3	Self-Affirmed Statement of	
	Charles Crosby	194/199
Exhibit 4	Statement of Notice	194/199

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

NO.	DESCRIPTION	ID/EVD
Cases 24659 and 24660 (Cont'd):		
Exhibit 5	Affidavit of Publication	194/199
NO.	DESCRIPTION	ID/EVD
Cases 24703 and 24704:		
Exhibit 1	Compulsory Pooling	
	Application Checklist	201/205
Exhibit 2	Self-Affirmed Statement of	
	Mitch Robb	201/205
Exhibit 3	Self-Affirmed Statement of	
	Tyler Hill	201/205
Exhibit 4	Statement of Notice	201/205
Exhibit 5	Affidavit of Publication	201/205

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P R O C E E D I N G S

THE HEARING EXAMINER: Let's get on the record. These are the hearings for the Oil Conservation Division. It is 8:28 a.m. on August 8th. I show that our worksheet has approximately 106 cases this morning. Approximately 60 of them are hearing by affidavit, so I'm going to try to move as quickly as possible through the cases. Please keep that in mind when you make your presentations. Thank you.

Good morning to everyone, and I'm sure everyone feels the same way I do. I wish Jim Bruce a speedy recovery.

Okay. I am now calling case number 24178, 24180, 24366.

Parties, enter an appearance.

MS. HARDY: Good morning. Dana Hardy with Hinkle Shanor on behalf of E.G.L. Resources, Inc.

MR. FELDEWERT: Good morning. Michael Feldewert, Santa Fe office of Holland & Hart, on behalf of MRC Permian.

THE HEARING EXAMINER: Ms. Hardy, are these your cases?

MS. HARDY: The first two are mine and the third case is Mr. Feldewert's.

THE HEARING EXAMINER: Okay. Are there

1 objections to your cases?

2 MS. HARDY: We have objected to each
3 other's cases, and the parties are working on an
4 agreement, but I think at this point, because this was
5 set for a final status conference, we should set a
6 contested hearing date.

7 THE HEARING EXAMINER: Okay. Question:
8 What is the issue? Is this a competing application
9 scenario?

10 MS. HARDY: Yes.

11 THE HEARING EXAMINER: Okay. And what
12 is the issue here? What is the basic issue?

13 MS. HARDY: Well, the issue is that MRC
14 has a Cimarron spacing unit they had previously
15 pooled, and E.G.L. has proposed infill wells within
16 that spacing unit.

17 THE HEARING EXAMINER: Perfect. Thank
18 you. So you'd like a hearing. Is there a month that
19 you are asking for?

20 MS. HARDY: I had spoken to
21 Mr. Feldewert about November, potentially. I think
22 that will give the parties time, hopefully, to reach
23 an agreement.

24 THE HEARING EXAMINER: Okay. Why don't
25 you think about a date in November while I go to

1 Mr. Feldewert.

2 MR. FELDEWERT: I don't expect these
3 cases to go to hearing. I don't. Matador is the
4 operator of the east half of Section 16, which is
5 what's at issue here. E.G.L. obviously wanted some
6 infill development. MRC has now complied with that.
7 They filed a pooling application for what they call
8 these U-turn wells that'll continue to develop the
9 east half of Section 16. So I think they're working
10 out a deal. I don't expect it to go to hearings, but,
11 you know, if we're going to set a hearing, I don't
12 disagree it should be in November.

13 THE HEARING EXAMINER: Are there any
14 dates in November that are not good for you?

15 MR. FELDEWERT: Let me check here.

16 THE HEARING EXAMINER: Okay.

17 MR. FELDEWERT: If we could do -- the
18 week of the 4th and the 11th is a problem, although I
19 can maybe do a Monday, Tuesday, the 4th and the 5th,
20 if that's available,

21 THE HEARING EXAMINER: But a better
22 week is which one?

23 MR. FELDEWERT: The week of the 18th,
24 which gets us close to Thanksgiving. I'm not sure we
25 want to get too close to that.

1 THE HEARING EXAMINER: Okay.

2 MR. FELDEWERT: So if we could do the
3 4th or the 5th.

4 THE HEARING EXAMINER: Sheila, what are
5 the dates that we're having the docket in November?

6 MS. APODACA: I believe we have a
7 contested hearing in another matter on the 5th.

8 THE HEARING EXAMINER: We do have one.
9 Okay.

10 MS. APODACA: Yes, we do. Okay. So
11 there's the special hearing on the 5th and then
12 there's a regular docket on the 7th and the 21st.

13 THE HEARING EXAMINER: Okay. Thank
14 you. And then the commission hearing is the 14th?

15 MS. APODACA: The commission hearing is
16 going be that entire week. It's going to be a
17 rulemaking hearing, so the week of the 14th.

18 THE HEARING EXAMINER: The 11th through
19 the 15th is the rulemaking?

20 MS. APODACA: Yes.

21 THE HEARING EXAMINER: All right.
22 Thank you.

23 MS. APODACA: Yeah. I think the 11th
24 is a holiday and then the remainder of that week is
25 going to be a rulemaking hearing.

1 THE HEARING EXAMINER: All right.
2 Thank you.

3 So do the parties prefer the week
4 before or after the rulemaking?

5 MS. HARDY: I think I would prefer
6 November 4th, if that's possible.

7 THE HEARING EXAMINER: Okay. We can do
8 the 6th.

9 MS. HARDY: That would work for me.

10 THE HEARING EXAMINER: Mr. Feldewert?

11 MR. FELDEWERT: That rulemaking hearing
12 before the Commission, I'm involved in that, and we
13 have a hearing on motions on the 6th. Now, I don't
14 know if there's going to be any motions for the
15 Commission to hear on the 6th; it's too early for me
16 to tell. But the Commission has set aside
17 November 6th to have hearings on any issues that arise
18 for their rulemaking that's going to occur the
19 following week.

20 THE HEARING EXAMINER: I see. So it's
21 possible that --

22 MR. FELDEWERT: I might be conflicted.

23 THE HEARING EXAMINER: Got it.

24 So Ms. Hardy, hearing that, it sounds
25 like that week would be difficult since we have a

1 docket on the 7th, we already have hearings on the
2 5th. This motion hearing on the 6th, I don't know
3 what's going to happen with that. The next week is no
4 good. What about the 19th, which is a Tuesday?

5 MS. HARDY: Would it be possible to do
6 the 20th?

7 THE HEARING EXAMINER: Yes.

8 The 20th, Mr. Feldewert?

9 MR. FELDEWERT: Perfect. Thank you.

10 THE HEARING EXAMINER: Okay. Very
11 good. We will issue --

12 Freya, you're listening. Will you
13 issue a prehearing order in these three cases for
14 November 20th?

15 MS. TSCHANTZ: Yes, I will.

16 THE HEARING EXAMINER: All right.

17 Thank you, Freya.

18 MS. HARDY: Thank you.

19 THE HEARING EXAMINER: Okay. Anything
20 else on these cases?

21 MS. HARDY: No, thank you.

22 MR. FELDEWERT: Thank you.

23 THE HEARING EXAMINER: All right.

24 We're in recess.

25 Calling 24396, 24397.

1 Parties, enter an appearance.

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

5 MR. FELDEWERT: Good morning,
6 Mr. Examiner. Michael Feldewert, Santa Fe office of
7 Holland & Hart, on behalf of Fasken Oil and Ranch.

8 THE HEARING EXAMINER: Okay.

9 MS. HARDY: And, Mr. Examiner, Dana
10 Hardy with Hinkle Shanor on behalf of Read & Stevens
11 and Earthstone Operating.

12 THE HEARING EXAMINER: Okay. Thank
13 you.

14 Mr. Feldewert, these are your cases?

15 MR. FELDEWERT: Yes. And if you'll
16 recall, there has been briefing on the issue
17 associated with Fasken's request for an extension of
18 time to drill under the pooling order because they're
19 still waiting on BLM permits. So we've filed our
20 briefs. I don't know if you want to hear from me
21 further.

22 THE HEARING EXAMINER: I will in just a
23 moment.

24 MR. FELDEWERT: Okay.

25 THE HEARING EXAMINER: Ms. Bennett,

1 have you responded?

2 MS. BENNETT: Mr. Examiner, I filed the
3 initial brief and Fasken responded, and then the
4 Division said that we could provide oral replies at
5 the hearing today, but that I wasn't allowed to
6 basically file a written reply.

7 THE HEARING EXAMINER: Okay. And this
8 is the case that started out with -- ultimately, this
9 is an argument about good cause, is it not?

10 MS. BENNETT: Yes.

11 THE HEARING EXAMINER: This is. Okay.
12 And do you agree with that,
13 Mr. Feldewert?

14 MR. FELDEWERT: Certainly the issue
15 that Fasken has raised, and the only issue they've
16 raised in their applications, is whether there's good
17 cause to extend the drilling deadline. That has been
18 noticed and that's what's noticed to be heard.

19 THE HEARING EXAMINER: All right. Very
20 good.

21 And Ms. Hardy, did you file a response?

22 MS. HARDY: We did not.

23 THE HEARING EXAMINER: Okay. Because
24 you're not taking a position?

25 MS. HARDY: Correct. We're just

1 monitoring these cases.

2 THE HEARING EXAMINER: Okay.

3 And Mr. Feldewert, to sum up your
4 argument, obviously, in favor of good cause in this
5 case to extend the orders, what is your argument?

6 MR. FELDEWERT: If I may have leave to
7 share.

8 THE HEARING EXAMINER: By all means.

9 MR. FELDEWERT: I put up their brief
10 that they filed on the screen. I hope you can see it.

11 THE HEARING EXAMINER: Yes.

12 MR. FELDEWERT: Okay. A couple things.
13 When you look at page 2 of their brief, you'll see
14 that they agree that waiting on a BLM drilling permit,
15 particularly when you're dealing in the potash area
16 and dealing with the potash companies, is good cause,
17 and Marathon has invoked it. And so the issue is
18 whether there's a good cause, because of the same
19 reason, to extend the drilling deadline a second time.

20 You'll see in our brief that Marathon
21 talks about how difficult it is to get BLM drilling
22 permits in the potash area, how you're dealing with
23 development areas and drilling islands, et cetera.
24 And they raise questions about what the status is with
25 Fasken's efforts on that. Those are all legitimate

1 inquiries with the good cause. I see that. Okay?

2 The problem with what they're
3 requesting here is, I think, best articulated on
4 page 12 of their brief where they say that in a
5 circumstance where anyone seeks to extend a drilling
6 deadline or a completion deadline, that the Division
7 can consider other development plans, competing
8 applications as part of the contested hearing,
9 including analyzing whether Fasken's plan to develop
10 this acreage will prevent waste and protect
11 correlative rights, and including, as I see with the
12 highlighting, consider competing development plans,
13 competing applications filed by other operators. In
14 other words, doing exactly what the Division did two
15 years ago when they issued this pooling order. Okay?

16 That is an unprecedented position. I
17 don't think it's good policy. Of course it doesn't
18 matter what I think, but I think it's bad policy that
19 once you have a final pooling order that you're going
20 to have working interest owners come in with second
21 thoughts and say, well, we want you to consider a
22 competing development plan or we've somehow concluded
23 that what you've pooled here doesn't comply with the
24 Oil and Gas Act. And I think to consider those
25 matters, which have been addressed already by the

1 Division under a final pooling application, is not a
2 good policy because it's just going to be a revolving
3 door of contested competing development plans.

4 Our application does not address
5 pooling. Our application addresses good cause.
6 That's the only issue: Whether to extend the drilling
7 application deadline. That is a different issue from
8 pooling. And if there is no good cause, then the
9 order terminates automatically and the parties are
10 then free to thereafter file proposed development
11 plans, file applications, come to the Division with
12 competing development cases if they can't reach an
13 agreement.

14 But Marathon's decided no authority to
15 suggest to you that each time you get an application
16 to extend a drilling deadline or each time you get an
17 application to extend a completion deadline, that that
18 somehow opens the door to relitigate the final pooling
19 order. The Division and Commission orders they cite
20 do not address final pooling orders, do not stand for
21 that proposition. There's a Division rule that we
22 cite in our briefs, 19.15.4.12D, that does not support
23 this notion that you see up here on the screen.

24 And finally you have legal doctrines,
25 which we briefed: waiver and res judicata. Okay?

1 And those doctrines exist to prevent parties from
2 litigating or relitigating matters that have been
3 resolved in an adjudicatory hearing. And that's what
4 happened two years ago. Two years ago was the time to
5 contest the pooling of the acreage. Two years ago was
6 the time to submit competing development plans. Two
7 years ago was the time for them to suggest, well, this
8 pooling does not comply with the Oil and Gas Act or
9 that it doesn't protect correlative rights or prevent
10 waste. That was all done two years ago. Okay?

11 There's no authority now to reopen all those issues.

12 The only issue is whether there is good
13 cause to extend the drilling deadline for another
14 period. That's the only issue that's under the
15 applications. That's the only issue that's been
16 noticed for hearing. So we object to what you see, I
17 think best summarized, on page 12 of the brief.

18 THE HEARING EXAMINER: Ms. Bennett.

19 MS. BENNETT: Thank you. I would like
20 to share my screen.

21 THE HEARING EXAMINER: Please.

22 And Marathon Oil has an interest in
23 this unit. Right?

24 MS. BENNETT: It does, yes.

25 THE HEARING EXAMINER: What is their

1 interest?

2 MS. BENNETT: So Marathon -- and I put
3 up this map to orient the Division.

4 THE HEARING EXAMINER: Okay.

5 MS. BENNETT: So Marathon owns an
6 interest in the west half of Section 15, and I'm
7 hovering right over the west half of Section 15 right
8 now. Marathon has a 47.5 percent interest in the west
9 half of Section 15. And Section 15 is part of the
10 acreage that Fasken pooled in 2022. So in 2022 the
11 Fasken pooling orders covered the west half of 15 and
12 22.

13 THE HEARING EXAMINER: Okay.

14 MS. BENNETT: And then, in addition to
15 the interests in Section 15, Marathon also has
16 interests in Section 10 to the north, and Fasken's
17 pooling applications and those orders do not include
18 Section 10.

19 So that's Marathon's interest.
20 Marathon is a pooled working interest owner under the
21 order that Fasken and seeks to extend.

22 THE HEARING EXAMINER: Okay.

23 MS. BENNETT: So I have four points I'd
24 like to address, and I did really condense my remarks
25 based on the Division's schedule today.

1 THE HEARING EXAMINER: Thank you.

2 MS. BENNETT: But first I do want to
3 address a recurring theme in Fasken's brief and
4 reiterate it today that Marathon's position is this
5 wide-reaching, expansive position advocating that any
6 time an operator or a competing working interest owner
7 wants to, it can seek to reopen a Division order.
8 That's not what's at issue here at all. If Fasken had
9 drilled these wells, we wouldn't be here.

10 Marathon is not trying to reopen a
11 final order. Marathon is not trying to advocate a
12 position that for every extension request the Division
13 has to undertake this analysis. It's limited to these
14 specific circumstances that Marathon outlined in its
15 brief.

16 This is a second extension request.
17 This isn't a first extension request that the Division
18 does grant as a matter of course. This is a second
19 extension request extending Fasken's drilling window
20 now to three years. That's an extraordinary request
21 from Fasken and, as Fasken itself has acknowledged,
22 invokes the Division's discretion, and Fasken bears
23 the burden of demonstrating good cause.

24 So first of all, this is limited to a
25 second extension request. Marathon's position is also

1 limited by the fact that Marathon has a substantial
2 working interest here: 47.5 percent in the west half
3 of Section 15. And it's limited because of the
4 drilling constraints in this area that Marathon
5 outlined in its brief.

6 Here, as I've indicated on this map --
7 and this is BLM's potash area map -- the only drill
8 island in this area that's currently approved is in
9 the southwest quarter of Section 22. I've put this
10 arrow here. So any development in the west half of
11 Sections 22, 15, and 10 have to occur from that drill
12 island, at least as it currently exists. So under
13 Fasken's development plan, drilling Sections 22 and 15
14 could lead to the stranding of Section 10.

15 So these are very narrow circumstances
16 under which Marathon is asking the Division to take
17 careful consideration of Fasken's second extension
18 request. So I do want to just reiterate this is a
19 very limited request under very specific circumstances
20 contrary to Fasken's arguments.

21 Secondly, Fasken argues that Marathon
22 needs to, but can't, reopen the underlying Fasken
23 cases and that this is Marathon's attempt to
24 relitigate the pooling cases. That's not accurate.
25 Fasken itself had to invoke the Division's discretion

1 to seek to amend these orders. Fasken itself opened
2 the door for this. As I mentioned earlier, if Fasken
3 had drilled these wells, we wouldn't be here. Fasken
4 is essentially throwing itself at the Division's mercy
5 and saying, look, our orders would otherwise
6 terminate, but we need you to exercise your discretion
7 and find good cause.

8 So Marathon's point is that it does not
9 have to relitigate the underlying cases and, in fact,
10 is not trying to. What Marathon wants to do is have
11 the -- or what Marathon is asking the Division to, is
12 fully consider the totality of the circumstances
13 presented presently -- not in 2022, but presently.
14 Marathon's position is a forward looking position -- a
15 present and forward looking position. Fasken keeps
16 trying to turn the lens back to 2022. That's Fasken's
17 doing, not Marathon's. Marathon is asking the
18 Division presently, today, under the rubric of
19 Fasken's extension applications, to consider whether
20 good cause exists to grant those extensions.

21 Fasken made the argument again today
22 that the only way that the Division can reopen a case
23 is for notice. Well, first of all, the Division
24 doesn't need to reach that argument because Marathon's
25 not seeking to reopen the underlying cases. But

1 secondly, Fasken's argument just doesn't withstand
2 scrutiny because notice of an extension application is
3 specifically required for working interest owners.
4 And that notice would be meaningless if working
5 interest owners had to sit passively by and listen to
6 the applicant's rationale for why they think an
7 extension request is warranted, and the working
8 interest owners sit there handcuffed, and the Division
9 sits there with blinders on not listening to the
10 circumstances as they presently exist. So the fact
11 that the Division requires notice to working interest
12 owners like Marathon undermines Fasken's argument.

13 Fasken's second argument is that the
14 Division can't consider Marathon or another operator's
15 competing applications as part of the good cause
16 requirement or good cause standard, and that flies in
17 the face of the Oil and Gas Act's ongoing mandate that
18 the Division prevent waste and protect correlative
19 rights. It isn't a mandate that's frozen in time.
20 That's an ongoing mandate, and the Division has the
21 duty to evaluate that now, in the future, and that's
22 the reason why the Division's orders say that the
23 Division retains jurisdiction over the matters to
24 enter additional orders as necessary.

25 My third point is that Fasken's wrong

1 that Marathon didn't cite any authority in support of
2 Marathon's position. In fact, the two Commission
3 orders and the Division order that Marathon cited, the
4 Ascent/Apache/Mewbourne orders, do support Marathon's
5 position here.

6 In those cases, Ascent argued
7 repeatedly, I think in six different briefs and the
8 briefing was over a hundred pages, that Apache and
9 Mewbourne's applications were barred by res judicata,
10 that Apache and Mewbourne were seeking to improperly
11 relitigate the Ascent pooling orders, that Mewbourne
12 should have but couldn't reopen the underlying cases.
13 I think there was a fourth argument that's very
14 similar to the argument that Fasken's making today.
15 And the Commission and the Division rejected those
16 arguments, and the Division, in particular, said the
17 Commission has already rejected those arguments. Res
18 judicata does not bar Apache's competing applications.
19 Res judicata does not bar Mewbourne's competing
20 applications.

21 Fasken's argument is that those cases
22 are distinguishable because, in those cases, Mewbourne
23 and Apache sought de novo review of the underlying
24 Ascent orders, and so those orders were not,
25 quote/unquote, final from Fasken's perspective. And

1 that's true. That is a distinction here, but it's a
2 distinction without a difference because Division
3 orders stay -- they have full vitality unless a stay
4 is requested. So seeking de novo review to the
5 Commission does not stay the effectiveness of a
6 Division order. It's still final. So right there,
7 that undermines any distinction between the
8 Apache/Ascent cases and today's case.

9 But beyond that, Fasken hasn't
10 perfected its order. Those orders are subject to
11 conditions precedent. Fasken still has to get an
12 extension approved by the Division, and Fasken still
13 has to drill the wells. So while it's true that there
14 was not a de novo review taken by Marathon, that
15 doesn't take these orders out of the rubric of the
16 Apache/Ascent/Mewbourne cases. So those cases, I
17 think, do provide the Division with authority to
18 consider the competing applications as part of the
19 good cause requirement.

20 Also -- I meant to say this as my first
21 point under this topic -- Marathon did not brief res
22 judicata and waiver in its briefing before the
23 Division for the simple reason that those issues are
24 not ripe. They weren't ripe at the time this briefing
25 was being undertaken because Marathon had not yet

1 filed a competing application. Marathon has now filed
2 a competing application, it's in the Division's queue,
3 and so these issues of waiver and res judicata can be
4 fully briefed by Fasken in a motion to dismiss, and
5 Marathon can fully brief a response on those, and that
6 could be presented for the Division in a concrete
7 fashion as opposed to the straw man argument that
8 Fasken is presenting to the Division today. And
9 Marathon's confident that it will win on those
10 arguments once they're properly before the Division.

11 So to sum up, Fasken acknowledges that
12 if the Division denies the extension due to the lack
13 of good cause, then Marathon and others can submit
14 competing applications. What Marathon's asking the
15 Division to do today is, for the sake of efficiency,
16 combine those two steps. They can happen in parallel.
17 That's what happened, essentially, in the
18 Apache/Mewbourne/Ascent cases, or that's what the
19 Commission envisioned, and that can happen here. And
20 so for those reasons -- well, Marathon's just asking
21 for the opportunity to be able to present its
22 competing applications and for the Division to be open
23 to considering the totality of the circumstances as
24 part of the good cause rubric.

25 Thank you.

1 THE HEARING EXAMINER: So I think I
2 followed most of what you said. And does that include
3 your reply? Did you basically reply to the response?

4 MS. BENNETT: I did.

5 THE HEARING EXAMINER: You did. Okay.
6 And are you, then, conceding that if the Division
7 finds good cause to extend the orders, then the
8 competing applications will not be considered?

9 MS. BENNETT: Yes.

10 THE HEARING EXAMINER: Okay.

11 MS. BENNETT: I mean, I don't know that
12 that's a concession, but if during the hearing on good
13 cause, and if Marathon were to present competing
14 applications at that hearing and the Division were to
15 find that good cause warranted the extension of
16 Fasken's orders, which it very well may reach that
17 decision, then, yes, that would have the effect of
18 denying Marathon's competing application. That's an
19 outcome that I identified in the brief.

20 THE HEARING EXAMINER: And since the
21 hearing on good cause will be under the administrative
22 due process rubric, and I can only consider relevant
23 evidence, how is the competing application relevant
24 during a good cause hearing?

25 MS. BENNETT: Thank you. The competing

1 application is relevant because the Division has an
2 ongoing obligation to assess whether Fasken's second
3 extension request is in the best interest of the
4 protection of correlative rights and the prevention of
5 waste, and so evidence of the competing applications
6 would show that Fasken's second extension request is
7 not warranted because they would highlight the
8 deficiencies in the development plan that Fasken is
9 seeking to extend.

10 THE HEARING EXAMINER: And, Ms. Hardy,
11 you don't take a position either way?

12 MS. HARDY: No, I do not. Thank you.

13 THE HEARING EXAMINER: Why did you
14 enter on this case?

15 MS. HARDY: Because Earthstone and
16 Read & Stevens have an interest in these spacing
17 units.

18 THE HEARING EXAMINER: Are they pooled
19 interests?

20 MS. HARDY: Yes, I believe they're. So
21 they're subject to whatever determination the
22 Commission makes and the Division makes, so we want to
23 be sure that their interest is protected.

24 THE HEARING EXAMINER: Well, hold on a
25 second. So under the current pooling order, they are

1 pooled interests?

2 MS. HARDY: Yes.

3 THE HEARING EXAMINER: Okay. Have you
4 reviewed this competing application or do you know
5 anything about the competing application?

6 MS. HARDY: I have not. I just learned
7 just now that it had been filed.

8 THE HEARING EXAMINER: I see.

9 And Freya, do we have a case number for
10 this competing application?

11 When was it filed, Ms. Bennett?

12 MS. BENNETT: It was filed on Tuesday.

13 THE HEARING EXAMINER: On Tuesday.

14 MS. TSCHANTZ: On Tuesday? What are
15 the well names? That might be an easier way for me to
16 look it up.

17 MS. BENNETT: The well names are the
18 Queenie West Half and it corresponds to Marathon's
19 East Half wells, which it's already drilled, also
20 called the Queenie wells.

21 MS. TSCHANTZ: Okay.

22 MS. BENNETT: So the Queenie West Half
23 Fed Com, I think, is what the well names are. Or
24 Queenie Fed Com.

25 MS. TSCHANTZ: They do not have a case

1 number yet.

2 THE HEARING EXAMINER: Would you be
3 able to accept and assign a case number in the near
4 future?

5 MS. TSCHANTZ: Yes. I only have a few
6 more new applications to process in the queue, so I
7 can do that today or tomorrow.

8 THE HEARING EXAMINER: Okay. Oh, today
9 or tomorrow. Okay. So not during the hearing, then.
10 Okay.

11 Okay. Mr. Feldewert, ultimately this
12 comes down to the argument that -- the way I
13 understand it, and, Ms. Bennett, correct me if I'm
14 wrong -- that, from what I understand, the Division
15 requires notice when an applicant wants an extension
16 on an order. What is the purpose of that notice if
17 not to be able to challenge at least the good cause
18 aspect of the application for an extension. Whether
19 or not that extends to competing applications is a
20 wider view of that notice argument there. So that's
21 number one.

22 Number two, what I understand is that
23 the Division has an ongoing obligation under the Oil
24 and Gas Act to protect correlative rights and prevent
25 waste, and Ms. Bennett's arguing that leaves the door

1 open for competing applications. And finally that a
2 competing application is relevant to a good cause
3 hearing based on what I've already stated.

4 Ms. Bennett, does that sum up the
5 argument?

6 MS. BENNETT: Yes, it does. And I
7 would just note that -- Mr. Examiner, are you asking
8 if I was replying to Mr. Feldewert's response?

9 THE HEARING EXAMINER: Yes.

10 MS. BENNETT: And obviously if I had
11 the opportunity to file a written reply, it would be
12 more fulsome --

13 THE HEARING EXAMINER: Right.

14 MS. BENNETT: -- but I think I covered
15 the main points.

16 THE HEARING EXAMINER: Okay. And you
17 feel like I've grasped the crux of the argument.

18 MS. HARDY: That's right.

19 THE HEARING EXAMINER: Okay. Thank
20 you.

21 Mr. Feldewert.

22 MR. FELDEWERT: Sure. So first, before
23 they put the map down, because I want to go to their
24 brief, this circumstance was exactly what existed when
25 this Division adjudicated the pooling order, and

1 Marathon fully participated in those proceedings and
2 did not raise this, did not raise a concern, okay, and
3 did not contest the pooling, but they were a party to
4 the case, present at the case, both before and during
5 the hearing. So you'll see in our brief --

6 THE HEARING EXAMINER: So hold on one
7 second.

8 MR. FELDEWERT: Sure.

9 THE HEARING EXAMINER: So Marathon
10 participated. Was it a contested hearing or just a
11 hearing by affidavit in '22?

12 MR. FELDEWERT: It was a hearing by
13 self-affirmed statement, but Marathon had appeared in
14 the case through counsel, both before the adjudicatory
15 hearing, and then secondly they appeared at the
16 adjudicatory hearing and expressed no opposition to
17 the pooling. Okay?

18 THE HEARING EXAMINER: I see. Okay.
19 Thank you. I just wanted to clarify that. Thank you.

20 MR. FELDEWERT: Same circumstance you
21 see up here on the map. Okay?

22 THE HEARING EXAMINER: Okay.

23 MR. FELDEWERT: Secondly, if I may
24 share.

25 THE HEARING EXAMINER: Yes.

1 MS. BENNETT: Sorry. Just give me a
2 second. I'm trying to stop sharing.

3 MR. FELDEWERT: If you look at their
4 brief -- maybe I can break it down this way and use
5 their words. Okay? And I'm in the second sentence on
6 page 12: "The Division can and should fully evaluate
7 whether good cause justifies extending the Bates [ph]
8 orders." Agree. That's what we filed the application
9 to do. Okay? "Including" -- this is where we have a
10 problem -- "analyzing whether Fasken's plan to develop
11 the acreage at issue will prevent waste and protect
12 correlative rights." Okay? That's exactly what the
13 Division did as part of the pooling application.
14 Okay? Adjudicated in an adjudicatory hearing that
15 issue.

16 Now, she says -- and you asked me this:
17 What about this ongoing obligation. There is an
18 ongoing obligation. You have an obligation under the
19 Oil and Gas Act to prevent waste to protect
20 correlative rights, and, in the adjudicatory hearing
21 that resulted in these pooling orders, the Division
22 exercised that right and made its determination.
23 Okay? In an adjudicatory hearing that resulted in a
24 final order, which is a big distinction from all the
25 cases that they cite. You can't have res judicata

1 without a final non-appealable order. The three
2 matters they cited, it was all orders from the same
3 case, and the Division correctly determined there was
4 no res judicata because the orders were unappealed.
5 There had been no final non-appealable order. Okay?

6 Once you have a final non-appealable
7 order, then res judicata applies, and you don't keep
8 relitigating whether the pooling of the acreage
9 prevents waste and protects correlative rights,
10 otherwise there will be a revolving door. Okay? And
11 they're going to try to draw a distinction between
12 this case and every other case, but I guarantee you
13 that if you issue an order in this case that says,
14 yes, once you file an application to extend a drilling
15 deadline, we're going to exercise our authority and go
16 back and look at competing development plans,
17 competing applications filed by other operators, and
18 do the same thing all over again that was adjudicated
19 when these pooling orders were issued. Okay?

20 So that's the problem. It's not the
21 good cause. It is the scope of the hearing. Okay?
22 And our point is, in these types of applications where
23 there's been good cause, where you're filing under the
24 good cause paragraph of the pooling orders, where you
25 have, obviously, a final adjudicated pooling order,

1 you don't go back and have second thoughts and let
2 operators come in and say, well, we want to analyze
3 now again whether it will prevent waste and protect
4 correlative rights, and we want you to consider now
5 some competing development plans that we're going to
6 bring forth. Okay? That's not what that does, and
7 there's legal doctrines that prevent that.

8 You asked me what's the purpose of the
9 notice for the good cause. Okay? The purpose of the
10 notice is to come in and contest whether there's good
11 cause. Okay? And one of the reasons you do that is
12 expressed in the Exxon/XTO case that they cite. Okay?
13 And that is a working interest owner under pooling
14 order needs to know if you're going to extend a
15 drilling deadline for a couple reasons. Okay? Maybe
16 they have concerns about whether there's good cause to
17 extend that deadline and they ought to have an
18 opportunity to adjudicate that. Okay?

19 Secondly, sometimes some operators out
20 there, as soon as they get the pooling order, they do
21 a cash call. They do a cash call. They force you to
22 make an election, force you to pay your share of the
23 costs, and then they sit there and hold your money.
24 Okay? Now, that is not the case here. Fasken has not
25 make any cash call on anybody. Okay? But that would

1 be part of the good cause hearing. You can look at
2 that. She can ask. Have you required Marathon to
3 make a cash call? No. They can inquire as to why
4 they haven't drilled up to this point. Those are all
5 legitimate inquiries. But to expand it to the scope
6 that they included here in their brief, okay, is not
7 proper, it's never been done before, it's not
8 supported by the Division and Commission orders, and
9 it flies in the face of res judicata and waiver.

10 Now, they said at the last hearing they
11 were going to brief res judicata, and they didn't do
12 it. And the reason they didn't do it is because it
13 applies directly to them now. Okay? So they had
14 their chance. I don't know why they didn't brief it,
15 but they didn't after they said they were. And we
16 don't need to sit here and wait for their application
17 to be filed and then come in and decide to adjudicate
18 res judicata. Their motion, by asking you to consider
19 competing development plans or competing applications
20 filed by other operators, raised the issue now, and it
21 should have been briefed. We briefed it. I know why
22 they didn't brief it. Because it applies directly.

23 THE HEARING EXAMINER: Okay. Thank
24 you.

25 MS. BENNETT: Mr. Examiner, may I

1 please respond to that?

2 THE HEARING EXAMINER: Yes.

3 MS. BENNETT: First of all, I want to
4 clarify a few things. Marathon did appear in the 2022
5 hearing. Marathon had been engaged in negotiations
6 with Fasken, which is why Marathon agreed to let
7 Fasken go forward. Marathon had asked Fasken for a
8 continuance, which Fasken did not agree to. So
9 Marathon appeared in that case and preserved its
10 rights to the extent necessary. That's reflected in
11 the transcript.

12 I don't disagree that the Division went
13 through the pooling case in 2022. That's not
14 Marathon's position. Marathon's position is that
15 circumstances have changed. We're not in 2022
16 anymore. Fasken has brought this case back to the
17 Division, has reopened the case of its own accord to
18 seek the Division's discretion.

19 Mr. Feldewert mentioned that res
20 judicata applies as soon as there's a final judgment.
21 That's not accurate. There are three other factors
22 that are involved in the res judicata analysis, and,
23 at the proper time, Marathon will brief why those
24 three factors, or at least two of those factors, are
25 not met here. So it's not as simple as saying res

1 judicata attaches to a final judgment. That's not the
2 analysis under New Mexico state law, including the law
3 that Fasken cited in its briefing.

4 And at the June 27th status conference,
5 Fasken raised res judicata, and I did say that
6 Marathon would brief that. That was in the heat of
7 the moment when I was put on the spot about what I
8 would do. In fact, I said I don't think Marathon
9 needs to reopen these cases. If that's the motion I
10 have to file, that might be what it's captioned, but
11 that's not the relief I'll be seeking. And I also
12 said that the right time to raise these issues is when
13 Marathon files its applications and Fasken can then
14 file a motion to dismiss.

15 Marathon does not need to be put in the
16 box that Fasken has created and neither does the
17 Division. There is an orderly fashion through which
18 this can proceed, and Marathon is invoking that
19 orderly process.

20 And I did just want to point out that
21 the case immediately before these between E.G.L. and
22 MRC demonstrates that pooling orders are not
23 inviolate. In that case, as I understand it from the
24 discussion, E.G.L., a pooled working interest owner,
25 proposed infill wells under an existing order. I

1 mean, there's no dispute that Marathon could propose
2 infill wells under the existing order. This is not a
3 completely unprecedented area as Fasken would have you
4 believe. There are clearly times when the Division
5 can consider competing applications, and this is one
6 of them.

7 Thank you.

8 THE HEARING EXAMINER: Okay. All
9 right.

10 I'm going to take a five-minute break
11 and then I'm going to decide whether or not -- I mean,
12 it sounds like Fasken has already briefed the res
13 judicata issue because they're relying on that to
14 prevent this competing application to be heard. I
15 haven't decided -- I haven't seen a counter argument
16 to the res judicata, so I don't have the benefit of
17 your briefing. I still don't know why you didn't
18 brief it in your motion. I'm not willing to say
19 you've waived it at this point, but I don't
20 understand, since you knew that it was an issue, why
21 it wasn't briefed fully because it is one of the bars
22 that they're raising to your competing application.

23 No more argument on these cases for
24 now. We have a long docket ahead of us. I just need
25 to take a five-minute break, and we'll come back on

1 the record.

2 Let's say it's 9:10 now. I'm going to
3 say we'll come back on the record at 9:20. So it's a
4 ten-minute break.

5 Thank you.

6 (Off the record.)

7 THE HEARING EXAMINER: It's 9:18 a.m.
8 We're back on the record. We're discussing 24396 and
9 97.

10 Ms. Bennett, I'm going to order you to
11 brief the issue of res judicata, and it's going to be
12 due in one week from today, and I'll make a decision
13 on the scope of the hearing after I get your res
14 judicata brief.

15 MS. BENNETT: Thank you.

16 THE HEARING EXAMINER: And
17 Mr. Feldewert has already briefed the issue on res
18 judicata, so I won't need a reply.

19 I'll issue a written order after I
20 receive this document from you.

21 In the meantime, I don't believe,
22 Mr. Feldewert, that we have a hearing scheduled.

23 MR. FELDEWERT: We do not.

24 THE HEARING EXAMINER: We do not.
25 Okay. When do you want to have a hearing?

1 MR. FELDEWERT: Well, I suppose it
2 depends upon the scope. Because if we're going to
3 allow Marathon or any other operator to come in and
4 submit competing development plans, it's going to be a
5 more extensive hearing. But if it's on the good cause
6 issue, it seems to me that we could have a hearing
7 September or whatever time works for the Division.

8 THE HEARING EXAMINER: So soon. You'd
9 like to have one soon.

10 MR. FELDEWERT: Well, you know, it's
11 been pending. I mean we've perfected our request by
12 filing the application, so it's really just a matter
13 of when the Division can get whatever we're going to
14 address scheduled.

15 THE HEARING EXAMINER: Okay.

16 MR. FELDEWERT: You know, if you'd want
17 to do it this way and send an email providing times
18 when the Division has available, we could respond to
19 that.

20 THE HEARING EXAMINER: I'd like to set
21 a date today.

22 MR. FELDEWERT: Okay.

23 THE HEARING EXAMINER: Freya, are you
24 on with us?

25 MS. TSCHANTZ: Yes, I am.

1 THE HEARING EXAMINER: Do we have any
2 dates left in September or are we in October?

3 MS. TSCHANTZ: Let me check right now.

4 THE HEARING EXAMINER: Thank you.

5 And Ms. Bennett, the case number for
6 your application for the competing Marathon
7 application is 24771.

8 MS. BENNETT: Thank you.

9 MS. TSCHANTZ: We have September 3rd
10 available.

11 THE HEARING EXAMINER: Mr. Feldewert?

12 MS. TSCHANTZ: Or the 17th or 18th.

13 THE HEARING EXAMINER: Okay. So the
14 3rd or the 17th. Okay. Thank you.

15 Mr. Feldewert, which do you prefer?

16 MR. FELDEWERT: Thank you. Let me take
17 a look here.

18 THE HEARING EXAMINER: Sure.

19 And, Ms. Hardy, do you care?

20 MS. HARDY: I'm just confirming, but I
21 think either one is fine.

22 THE HEARING EXAMINER: I'll come to you
23 in a moment, Ms. Bennett.

24 MS. HARDY: Either one is fine.

25 THE HEARING EXAMINER: Either is fine.

1 MS. HARDY: Yes.

2 THE HEARING EXAMINER: Will you be
3 presenting any evidence?

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

5 THE HEARING EXAMINER: Okay.

6 MR. FELDEWERT: It looks like I would
7 prefer September 3rd, if we could do that.

8 THE HEARING EXAMINER: Third. Okay.

9 MR. FELDEWERT: Yeah.

10 THE HEARING EXAMINER: Ms. Bennett.

11 MS. BENNETT: I think either works for
12 me, but, as Mr. Feldewert said, if we are going to be
13 presenting our competing application, then I'll need
14 to confirm my witnesses' availability.

15 THE HEARING EXAMINER: Right.

16 MS. BENNETT: So I'd like the
17 opportunity to confer with them and confirm their
18 availability. I mean, not surprisingly, I'd prefer
19 the 17th or the 18th --

20 THE HEARING EXAMINER: Right.

21 MS. BENNETT: -- just to allow a little
22 more breathing room for us.

23 THE HEARING EXAMINER: Freya, this
24 24771 case, with the 30 days and the 20 days, what
25 docket would it normally be on?

1 MS. TSCHANTZ: Yeah. I realized that
2 after I said the date. It would be normally set on
3 September 12th regular docket. So perhaps the 17th
4 would be better.

5 THE HEARING EXAMINER: Okay. Thank
6 you.

7 So Mr. Feldewert, I'm not sure that the
8 3rd works for the Division. I'm going to ask you
9 about the 17th.

10 MR. FELDEWERT: The 17th poses a
11 problem in the afternoon, but I can certainly do the
12 18th.

13 THE HEARING EXAMINER: Okay. So if we
14 started in the morning of the 17th and continued on
15 the 18th, that would work?

16 MR. FELDEWERT: Yes, sir. Yes.

17 THE HEARING EXAMINER: Okay.
18 Ms. Bennett?

19 MS. BENNETT: That sounds good. Again,
20 I need to confirm with my witnesses, but that sounds
21 good to me.

22 THE HEARING EXAMINER: Okay.
23 September. Okay.

24 And, Ms. Hardy, you said that was fine
25 with you. Right?

1 MS. HARDY: Yes. Thank you.

2 THE HEARING EXAMINER: Okay.

3 So Freya, would you issue a prehearing
4 order in these two cases, 24396 and 97. We're not
5 going to join 24771 until after I make a decision
6 about whether or not the scope of the hearing would
7 incorporate that case, the competing case, for
8 September 17 morning, continuing on 18 morning.

9 And Freya, I can't hear you. If you
10 got that, I don't know.

11 MS. TSCHANTZ: It may have cut out, but
12 yes, I will prepare a prehearing order for those two
13 cases.

14 THE HEARING EXAMINER: Okay. And
15 that's the second prehearing order we've spoken about
16 this morning. Is that right?

17 MS. TSCHANTZ: Correct.

18 THE HEARING EXAMINER: The other one
19 was November.

20 MS. TSCHANTZ: Yes.

21 THE HEARING EXAMINER: Okay. Perfect.
22 Is there anything left on these cases?

23 MR. FELDEWERT: No. Thank you.

24 MS. BENNETT: Thank you.

25 THE HEARING EXAMINER: Thank you.

1 We're in recess on these cases.

2 I'm now calling 24443, 45, 54, and 56.

3 Parties, enter an appearance.

4 MS. BENNETT: Good morning,

5 Mr. Examiner. Deana Bennett on behalf of Franklin

6 Mountain Energy 3.

7 MR. FELDEWERT: Good morning,

8 Mr. Examiner. Michael Feldewert with Santa Fe office

9 of Holland & Hart on behalf of XTO Energy.

10 THE HEARING EXAMINER: Okay. And

11 Ms. Bennett, these are your cases.

12 And Mr. Feldewert, did you object?

13 MR. FELDEWERT: We did, but late

14 yesterday -- and I apologize, I did not have a chance

15 to file a notice, but I was informed that XTO can now

16 withdraw its objection.

17 THE HEARING EXAMINER: Okay.

18 MR. FELDEWERT: So I will be filing

19 that shortly.

20 THE HEARING EXAMINER: Thank you.

21 So Ms. Bennett, when will you be

22 prepared to go to hearing by affidavit?

23 MS. BENNETT: We'd like to go to

24 hearing by affidavit on August 22nd if that docket is

25 available.

1 THE HEARING EXAMINER: August 22nd.
2 Freya?

3 MS. TSCHANTZ: Yes, that's fine.

4 THE HEARING EXAMINER: So Ms. Bennett,
5 we'll hear your cases by affidavit on August 22nd once
6 you move them.

7 MS. BENNETT: Thank you.

8 THE HEARING EXAMINER: These four
9 cases.

10 All right. We're in recess on these
11 cases.

12 Moving now to 24467, 68, 69, and 70.
13 Entries of appearance.

14 MS. BENNETT: Good morning,
15 Mr. Examiner. Deana Bennett on behalf of Franklin
16 Mountain Energy 3.

17 MR. FELDEWERT: Good morning,
18 Mr. Examiner. Michael Feldewert, Santa Fe office of
19 Holland & Hart, on behalf of XTO Energy for all of
20 these four cases, and then for Apache Corporation in
21 case 24468.

22 THE HEARING EXAMINER: Thank you. Did
23 you file objections?

24 MR. FELDEWERT: XTO did, but these
25 cases are related, so yesterday evening I learned that

1 we can now withdraw our objection. XTO can withdraw
2 its objection. Apache did not file an objection to
3 them proceeding.

4 THE HEARING EXAMINER: All right.
5 Perfect. So you'll be filing withdrawals of
6 objections in these four cases?

7 MR. FELDEWERT: Yes, sir.

8 THE HEARING EXAMINER: Okay. Thank
9 you.

10 Ms. Bennett, when will you be prepared
11 to go forward by hearing affidavit?

12 MS. BENNETT: Thank you, Mr. Examiner.
13 We'd be ready on August 22nd.

14 THE HEARING EXAMINER: Freya?

15 MS. TSCHANTZ: Yes, that's fine.

16 THE HEARING EXAMINER: All right.

17 Ms. Bennett, we will hear your cases by affidavit on
18 August 22nd.

19 We're in recess on these cases.

20 Moving now to 24231, 32, 24481, 82, 83,
21 and 84, I believe.

22 MS. BENNETT: Good morning,
23 Mr. Examiner. Deana Bennett on behalf of Marathon Oil
24 Permian LLC.

25 MR. FELDEWERT: Good morning,

1 Mr. Examiner. Michael Feldewert, Santa Fe office of
2 Holland & Hart, for MRC Permian and then also for
3 Fasken Oil and Ranch in case 24232.

4 THE HEARING EXAMINER: Thank you. Did
5 you file objections?

6 MR. FELDEWERT: These were competing
7 applications, but since you have me, I believe that
8 the parties are -- and when I say parties, MRC and
9 Marathon are in discussions about the competing
10 applications. It's my understanding that Marathon is
11 considering shortening their lateral so that we don't
12 overlap in Section 12, and, if that occurs, then both
13 parties would be able to proceed in a uncontested
14 fashion. Okay?

15 Fasken, it's my understanding, is
16 simply waiting on finalizing a joint operating
17 agreement with Marathon for one of their two wells in
18 case 24232.

19 So I would request that, I think if we
20 continue this for another two months to potentially
21 allow the matter to proceed by self-affirmed
22 statements or affidavits, if that makes sense.

23 THE HEARING EXAMINER: It does.

24 Ms. Bennett?

25 MS. BENNETT: Thank you. Yes. I agree

1 with Mr. Feldewert and, in fact, I had filed a motion
2 to continue the Marathon cases after conferring with
3 Marathon and Mr. Feldewert. And that continuance
4 motion was, I believe, held in abeyance by the
5 Division pending today's discussion. And I believe I
6 asked for a mid-November continuance date to allow
7 enough time for the parties to conclude their
8 negotiations.

9 THE HEARING EXAMINER: I did receive
10 the motion. I felt like it was a little too far out
11 for my comfort, and there wasn't enough information in
12 there to base a decision on, so that's why we left it
13 for today. I'd be willing to set these in October.

14 Freya, what are the two October dates?

15 MS. TSCHANTZ: One moment.

16 THE HEARING EXAMINER: Sure.

17 And we could put it on the second one,
18 giving you more time.

19 MS. TSCHANTZ: I believe the October
20 docket -- we have three of them.

21 THE HEARING EXAMINER: Three. We do.

22 MS. TSCHANTZ: We have October 3rd,
23 October 10th, and the 31st.

24 THE HEARING EXAMINER: All right.

25 Thank you, Freya.

1 And the 31st isn't on Halloween or
2 anything like that?

3 MS. MCLEAN: Let's make Halloween a
4 holiday for OCD.

5 THE HEARING EXAMINER: Oh, it's not
6 even a holiday.

7 MS. MCLEAN: I'm for having an OCD
8 Halloween holiday. That's fine.

9 THE HEARING EXAMINER: Wishful
10 thinking. Forget the question, Freya.

11 So Mr. Feldewert, do you prefer the
12 10th or the 31st?

13 MR. FELDEWERT: I would prefer the
14 31st.

15 THE HEARING EXAMINER: You would.
16 Okay.

17 So the parties will continue their
18 cases until the 31st.

19 And Freya, we already have a motion
20 from Ms. Bennett in Marathon cases to continue that we
21 held in abeyance. Would you approve those for the
22 October 31st docket?

23 MS. TSCHANTZ: Yes, I will.

24 THE HEARING EXAMINER: All right.
25 Perfect. Thank you.

1 Anything further on these cases?

2 MS. BENNETT: No, thank you.

3 MR. FELDEWERT: Thank you.

4 THE HEARING EXAMINER: Okay. We're in
5 recess on these cases.

6 Moving now to 24499. It looks like it
7 is consolidated with 24500.

8 Parties, enter an appearance.

9 MS. MCLEAN: Good morning,
10 Mr. Examiner. Jackie McLean from Hinkle Shanor on
11 behalf of Permian Resources.

12 MS. BENNETT: Good morning,
13 Mr. Examiner. Deana Bennett on behalf of Marathon Oil
14 Permian LLC. And Marathon Oil Permian LLC had
15 objected to these cases going by affidavit but has
16 since withdrawn its objection and has filed a
17 withdrawal.

18 MS. MCLEAN: And, Mr. Examiner, these
19 are set as a status conference today, but we -- oh,
20 sorry. You're in it too?

21 MR. FELDEWERT: Yeah, yeah.

22 So excuse me. Michael Feldewert with
23 the Santa Fe office of Holland & Hart appearing on
24 behalf of ConocoPhillips Company in case 24499 only.

25 THE HEARING EXAMINER: Did you file

1 objection, Mr. Feldewert?

2 MR. FELDEWERT: No. And it's my
3 understanding that ConocoPhillips has now been removed
4 as a pooled party, so we are just monitoring to
5 preserve our rights to appeal as needed.

6 THE HEARING EXAMINER: Thank you.

7 And, Ms. McLean, you were saying?

8 MS. MCLEAN: Yes, Mr. Examiner. These
9 are set as a status conference, but we actually filed
10 a motion to continue to present by affidavit for
11 today. So we'd like to present by affidavit, if
12 possible. We had already filed the exhibits before
13 the last docket, so it's been pending for some time.

14 THE HEARING EXAMINER: Right. So you
15 said you filed a motion to continue. Continue what?

16 MS. MCLEAN: The case. So these were
17 on the docket for the last one that wasn't able to be
18 heard because there was no technical examiner, and
19 because the withdrawal was done the day before the
20 hearing, you asked that we just file a motion for
21 continuance to August 8th, but then somehow these
22 still ended up as a status conference.

23 THE HEARING EXAMINER: I understand.
24 Hold on one second.

25 All right. Ms. McLean, we will move

1 these two cases to the end. I'll recall these cases
2 at the end of our docket. Okay?

3 MS. MCLEAN: Okay. Thank you.

4 THE HEARING EXAMINER: We do have many,
5 many hearing by affidavits today.

6 MS. MCLEAN: Yes.

7 THE HEARING EXAMINER: Some of which
8 we're not going to be able to get to, but we can get
9 to these two because you are reminding me that I told
10 you that we would get to them. And the last time they
11 were on our docket we were unable to hear them because
12 we didn't have a technical examiner that day. So
13 we'll recall these cases.

14 MS. MCLEAN: Thank you.

15 THE HEARING EXAMINER: All right.
16 We're in recess on these cases.

17 Calling 24551.

18 Entries of appearance?

19 MS. HARDY: Mr. Examiner, Dana Hardy
20 with Hinkle Shanor entering on behalf of Mewbourne Oil
21 Company.

22 THE HEARING EXAMINER: Okay. And we
23 also have a 51 and a 52. Are these joined? They
24 don't show that way on my --

25 MS. HARDY: They're different wells --

1 different well families, so I think they would not be
2 consolidated.

3 THE HEARING EXAMINER: Okay. They're
4 not. Okay. So 24551, we have your entry of
5 appearance in place of Mr. Bruce's.

6 MS. HARDY: Correct.

7 THE HEARING EXAMINER: Okay. And do we
8 have any others?

9 MS. SHAHEEN: Good morning,
10 Mr. Examiner. Sharon Shaheen on behalf of Permian
11 Resources.

12 THE HEARING EXAMINER: Okay. Did you
13 object, Ms. Shaheen?

14 MS. SHAHEEN: We may have objected in
15 the beginning; I can't recall. But I believe we -- if
16 we had, we've withdrawn that objection because I
17 understand that OXY is not being pooled in this
18 proceeding.

19 THE HEARING EXAMINER: Would you check
20 while I speak with Ms. Hardy?

21 MS. SHAHEEN: Yes.

22 THE HEARING EXAMINER: Ms. Hardy.

23 MS. HARDY: Mr. Examiner, I do believe
24 that Permian Resources has withdrawn its objection
25 that was filed on July 23rd.

1 THE HEARING EXAMINER: Oh.

2 MS. HARDY: So I believe that Mewbourne
3 would like to go forward presenting these by affidavit
4 on the August 22nd docket, if that's possible, so
5 Mr. Bruce can -- we can assemble the exhibits

6 THE HEARING EXAMINER: August 22nd,
7 hearing by affidavit. So you are aware that there was
8 an objection filed and now there's a withdrawal and
9 you know that.

10 MS. HARDY: Correct.

11 THE HEARING EXAMINER: Okay. Fine.

12 And, Ms. Shaheen, you don't have to
13 check anymore. We have confirmation.

14 All right. So, Ms. Hardy, you'll move
15 this case to August 22nd. We'll have a hearing by
16 affidavit at that time.

17 MS. HARDY: Thank you.

18 THE HEARING EXAMINER: We're in recess
19 on that case.

20 I'm calling 24552.

21 MS. HARDY: Dana Hardy on behalf of
22 Mewbourne Oil Company.

23 THE HEARING EXAMINER: I don't see any
24 other parties entered, do you?

25 MS. HARDY: That's correct. There are

1 none.

2 THE HEARING EXAMINER: So why are we
3 having a status conference?

4 MS. HARDY: Well, that's a good
5 question. I don't know if it was set for a status
6 conference because Mr. Bruce was unavailable. I can
7 look at the docket and see the reason it was continued
8 to today, but I believe it may have been to allow time
9 to complete notice and file the exhibits. So it was
10 continued to today for presentation by affidavit but
11 the exhibits were not filed due to Mr. Bruce's
12 unavailability.

13 THE HEARING EXAMINER: That's what I
14 found yesterday. Okay. I don't have access to my
15 database; my computer's not working. So I thank you
16 for that information.

17 So then that's why we changed it to a
18 status conference. And I believe -- was that not the
19 problem with 24551 as well or --

20 MS. HARDY: I don't know if that one
21 was set for a status conference --

22 THE HEARING EXAMINER: Okay.

23 MS. HARDY: -- because of the objection
24 or for --

25 THE HEARING EXAMINER: For a lack of

1 exhibits.

2 MS. HARDY: Right, right.

3 THE HEARING EXAMINER: I found two
4 yesterday that we changed because they had no exhibits
5 filed, I think because Mr. Bruce went to the hospital.

6 So, Ms. Hardy, how do you want to
7 proceed on this case?

8 MS. HARDY: I'd like to continue this
9 case also to August 22nd for presentation by
10 affidavit.

11 THE HEARING EXAMINER: Okay. That's
12 what we will do once we receive your continuance.
13 Thank you.

14 MS. HARDY: Thank you.

15 THE HEARING EXAMINER: We're in recess
16 on that case.

17 24585. Avant?

18 MS. BENNETT: Good morning,
19 Mr. Examiner. Deana Bennett on behalf of Avant
20 Operating in 24585 and 24586.

21 THE HEARING EXAMINER: Thank you.

22 MR. FELDEWERT: Good morning,
23 Mr. Examiner. Michael Feldewert with the Santa Fe
24 office of Holland & Hart appearing for XTO Energy Inc.
25 in both cases.

1 THE HEARING EXAMINER: XTO.

2 MR. FELDEWERT: Yes. I'm also
3 appearing for OXY USA Inc. in both cases, and we did
4 file an objection to the matters proceeding by
5 affidavit.

6 And then, finally, I received a request
7 last night from PBEX and E.G.L. Resources, who were
8 being represented by Jim Bruce. They asked if I could
9 appear for them as well in this matter. So I'm also
10 appearing for them, I guess, temporarily, we'll put
11 it, for those two entities.

12 THE HEARING EXAMINER: So you're not
13 entering an appearance or you are entering an
14 appearance?

15 MR. FELDEWERT: I am entering an
16 appearance.

17 THE HEARING EXAMINER: You are entering
18 an appearance. Okay. For E.G.L.

19 MR. FELDEWERT: And for PBEX --

20 THE HEARING EXAMINER: PBEX.

21 MR. FELDEWERT: -- LLC.

22 THE HEARING EXAMINER: Okay. In both
23 cases.

24 MR. FELDEWERT: Yes, sir.

25 THE HEARING EXAMINER: Okay. Thank

1 you. All right. So you filed an objection on behalf
2 of XTO and OXY, but you don't know if E.G.L. or PBEX
3 filed an objection.

4 MR. FELDEWERT: Let's see, XTO did not
5 file an objection. OXY did.

6 THE HEARING EXAMINER: Okay. Thank
7 you.

8 MR. FELDEWERT: And let me check. And
9 it looks like -- yes. I'm sorry. E.G.L. and PBEX did
10 also file an objection.

11 THE HEARING EXAMINER: Okay. Do you
12 know the basis of the XTO objection?

13 MR. FELDEWERT: Yeah. And if I had
14 looked through my notes further, I would realize that.
15 They have competing wells that they proposed that will
16 be appearing on the docket. I don't know at this
17 point when, because I just learned this last night,
18 but they do have apparently competing applications
19 that will appear on the docket as needed. And I say
20 that because I know that XTO, OXY, PBEX, E.G.L., and
21 Avant are in discussions and that there is at least a
22 decent possibility that they may be able to resolve
23 this.

24 THE HEARING EXAMINER: All right. So
25 are you saying that any one of those four parties has

1 filed a competing application at this time?

2 MR. FELDEWERT: They have not.

3 THE HEARING EXAMINER: They have not.

4 MR. FELDEWERT: They have proposed
5 competing wells.

6 THE HEARING EXAMINER: I see. So we go
7 through that process. Okay.

8 MR. FELDEWERT: Yes.

9 THE HEARING EXAMINER: And,
10 Ms. Bennett, has Avant received any of these proposed
11 competing applications?

12 MS. BENNETT: Not that I'm aware of,
13 but I do know that at the last status conference we
14 had in these cases, I believe OXY indicated that it
15 intended to file competing applications, so Avant is,
16 you know, tangentially aware of that. And I suppose
17 more to the point, though, to the extent that the
18 cases need to be continued, Avant is agreeable to a
19 continuance to October 3rd.

20 THE HEARING EXAMINER: October 3rd.
21 Okay. They're your cases. We don't have any cases
22 competing at this time, so we will -- well, we have
23 three dockets in October the 3rd, the 10th, and the
24 31st. Which one do you want to be on?

25 MS. BENNETT: The October 3rd docket.

1 THE HEARING EXAMINER: October 3rd.
2 Okay. As a status conference.

3 MS. BENNETT: Yes, yes. At that time
4 we'd be able to assess whether the competing
5 applications have been filed, and if they haven't been
6 filed, then I think that's a good indication that
7 either they're not going to be or that we need to move
8 to a contested hearing, or hopefully we can move to an
9 uncontested hearing.

10 THE HEARING EXAMINER: Okay.

11 Mr. Feldewert?

12 MR. FELDEWERT: That makes sense to me.

13 THE HEARING EXAMINER: All right. So
14 we will look for your continuances and we will put
15 them on the October 3rd docket for a status
16 conference.

17 We're in recess on those cases.

18 We're now moving to 24588 consolidated
19 with 24184, 24185, 24589, 24590, 24591, 24592, 24593,
20 and 24678.

21 Enter appearance, please.

22 MR. FELDEWERT: May it please the
23 Examiner. Michael Feldewert with Santa Fe office of
24 Holland & Hart on behalf of MRC Permian.

25 THE HEARING EXAMINER: And MRC Permian,

1 is that the applicant in all of these cases or are
2 there competing applications?

3 MR. FELDEWERT: They are the applicant
4 in cases 24588 through 93 --

5 THE HEARING EXAMINER: Thank you.

6 MR. FELDEWERT: -- which are their
7 Semmelbeck wells.

8 THE HEARING EXAMINER: Thank you.

9 MS. BENNETT: Good morning,
10 Mr. Examiner. Deana Bennett on behalf of Avant
11 Operating, and Avant is the applicant in case number
12 24678.

13 THE HEARING EXAMINER: I see that.
14 Thank you.

15 MS. BENNETT: And just to clarify,
16 E.G.L. -- I think it's E.G.L. -- is the applicant in
17 case 24184 and 24185, represented by Mr. Bruce.

18 THE HEARING EXAMINER: Thank you.
19 Okay.

20 MR. SUAZO: Mr. Examiner, good morning.
21 Miguel Suazo with the Santa Fe office of Beatty &
22 Wozniak appearing on behalf of XTO Energy Inc., solely
23 for purposes of monitoring these applications.

24 THE HEARING EXAMINER: Thank you.

25 MS. HARDY: Mr. Examiner.

1 THE HEARING EXAMINER: Oh, more.

2 MS. HARDY: Dana Hardy with Hinkle
3 Shanor on behalf of COG Operating and Concho Oil &
4 Gas, and we are also monitoring these cases.

5 THE HEARING EXAMINER: Thank you.

6 And Mr. Suazo, you said XTO?

7 MR. SUAZO: XTO Energy.

8 THE HEARING EXAMINER: And you're
9 monitoring.

10 And Ms. Hardy?

11 MS. HARDY: Also monitoring.

12 THE HEARING EXAMINER: Monitoring.

13 Ms. Bennett, it seems as though Avant's
14 case is a competing application to the MRC Permian
15 cases, so you obviously objected to going forward by
16 affidavit. Are you ready for a contested hearing?

17 MS. BENNETT: Avant is ready to move to
18 a contested hearing, and Avant's preference would be a
19 contested hearing in November.

20 THE HEARING EXAMINER: Okay.

21 MS. BENNETT: Avant already has a
22 contested hearing set in October with -- I'm not
23 representing them so I don't have the details on that
24 other than it exists.

25 THE HEARING EXAMINER: All right.

1 Mr. Feldewert, most of these cases are
2 yours. How do you want to proceed?

3 MR. FELDEWERT: So just a little
4 background. Okay? E.G.L. and MRC filed their
5 competing applications initially. Okay? E.G.L. being
6 represented by Jim Bruce, who's not here. So E.G.L.
7 doesn't have counsel here today, but they have been in
8 extensive discussions and are close to an agreement.
9 Okay?

10 Now, in June, I guess is when Avant
11 filed its competing application, which is kind of
12 throwing a monkey wrench in the whole thing, so we're
13 trying to work through these. It seems to me it might
14 be -- you know, I leave it to you. I think it might
15 be difficult to set a contested hearing without
16 E.G.L.'s counsel here, and we might be better off
17 setting this for another quick status conference so
18 that E.G.L.'s counsel's here and they can comment on
19 when they would be able to have a contested hearing
20 date. I mean, I can't speak for them, but it does
21 seem to me this might be a circumstance where maybe
22 another status conference makes sense.

23 THE HEARING EXAMINER: Yeah.

24 Ms. Bennett, I would agree since
25 Mr. Bruce is not here, and his cases are the oldest

1 ones. I had said that today was going to be the final
2 status conference on those cases, but I can't really
3 move forward without his being here.

4 MS. BENNETT: Yes. And I totally agree
5 with that, Mr. Examiner, and I did email the Division
6 suggesting that the Matador and Avant cases all be
7 continued to another docket to allow for Mr. Bruce to
8 return, but was informed that the Division wanted a
9 status update, and so that's why I presented my
10 information. But I completely agree that it's not
11 fair or appropriate to set a contested hearing when
12 Mr. Bruce isn't here.

13 THE HEARING EXAMINER: Right. And I
14 saw your email, and I wanted to hear from MRC and XTO
15 and COG and Avant where negotiations were on their
16 competing applications.

17 So, Ms. Bennett, are you aware of the
18 negotiations going on?

19 MS. BENNETT: I personally am not aware
20 of the negotiations going on.

21 THE HEARING EXAMINER: Okay. All
22 right. Okay.

23 It's August now. Freya, which
24 September docket would be best to move these cases?

25 MS. TSCHANTZ: I believe that we're

1 moving most of Mr. Bruce's cases to September 12th.

2 THE HEARING EXAMINER: Okay. So I'm
3 asking the parties to continue their case to the
4 September 12th docket for a status conference, and at
5 that time, again, it will be the final status
6 conference.

7 Anything further?

8 MS. BENNETT: Nothing. Thank you,
9 Mr. Examiner.

10 MR. FELDEWERT: Thank you, sir.

11 THE HEARING EXAMINER: Okay. Thanks.
12 We're in recess on these cases.

13 I'm now moving to Mewbourne Oil cases.
14 These are Mr. Bruce's cases. 24655, 56, 57, 58.

15 Entries of appearance, please.

16 MS. HARDY: Dana Hardy with Hinkle
17 Shanor on behalf of Mewbourne.

18 THE HEARING EXAMINER: Thank you.

19 Ms. Hardy, how do you want to proceed
20 with these cases?

21 MS. HARDY: These cases, I believe, are
22 similar to the prior cases where they were continued
23 to today for presentation by affidavit, but the
24 exhibits have not been filed, so I would ask them to
25 be continued to August 22nd.

1 THE HEARING EXAMINER: We will do that.
2 MS. HARDY: Thank you.
3 THE HEARING EXAMINER: So please move
4 them by continuance through the portal to the
5 August 22nd docket for hearing by affidavit. Thank
6 you.
7 MS. HARDY: I will do that. Thank you.
8 THE HEARING EXAMINER: Ms. Hardy, will
9 you be representing Mewbourne on August 22nd?
10 MS. HARDY: I think it depends on
11 whether Mr. Bruce is back or not.
12 THE HEARING EXAMINER: I see. Okay.
13 Okay. Thank you.
14 We're in recess on these cases.
15 Now we're going to case 24705 and 706.
16 Parties, enter an appearance.
17 MS. HARDY: Dana Hardy on behalf of
18 Mewbourne Oil Company.
19 THE HEARING EXAMINER: I don't believe
20 there's any other parties.
21 MS. HARDY: There are not.
22 THE HEARING EXAMINER: And I also saw
23 that there were no exhibits for these cases as well.
24 MS. HARDY: Correct. Same situation.
25 THE HEARING EXAMINER: August 22nd?

1 MS. HARDY: Yes. That would be great.

2 THE HEARING EXAMINER: Okay. Hearing
3 by affidavit August 22nd for these two cases.

4 We're in recess on these cases.

5 Moving to 24710 and 11.

6 Parties, enter an appearance.

7 MR. RODRIGUEZ: Good morning. Michael
8 Rodriguez for Civitas Permian Operating LLC.

9 THE HEARING EXAMINER: Thank you.

10 MR. SAVAGE: Good morning, Mr. Hearing
11 Examiner. Darin Savage with Abadie & Schill on behalf
12 of Cimarex Energy.

13 MS. BENNETT: And good morning,
14 Mr. Examiner. Deana of Bennett from Modrall Sperling
15 on behalf of Chevron USA Inc.

16 THE HEARING EXAMINER: Chevron. Did
17 Chevron file a objection?

18 MS. BENNETT: Yes, we did.

19 THE HEARING EXAMINER: Oh, you did.

20 And Mr. Savage, did you file an
21 objection?

22 MR. SAVAGE: Did not.

23 THE HEARING EXAMINER: You're
24 monitoring?

25 MR. SAVAGE: Just monitoring. Thank

1 you.

2 THE HEARING EXAMINER: So,
3 Mr. Rodriguez, these are your cases, are they not?

4 MR. RODRIGUEZ: They are.

5 THE HEARING EXAMINER: Okay. What's
6 happening with negotiations between your party and the
7 others?

8 MR. RODRIGUEZ: So my understanding is
9 that negotiations have been moving forward, especially
10 after Civitas has filed its applications in these
11 cases. But this is a high-priority project for
12 Civitas. It's something that they -- we intend to
13 drill next year, and Civitas prefers to have these
14 cases set for hearing soon as possible so it has
15 clarity on how this acreage will be developed for the
16 bore.

17 THE HEARING EXAMINER: So,
18 Ms. Bennett -- and then I'll come to you,
19 Mr. Savage -- do you know anything about the
20 negotiations in this case?

21 MS. BENNETT: I don't. I'm encouraged
22 by Mr. Rodriguez's report, but the last I heard from
23 Chevron was that they intended to send out competing
24 proposals and that they intend to do so in the near
25 term. And I'm not signaling anything to Mr. Rodriguez

1 about the status of the discussions because I'm not
2 privy to those, but based on my understanding, I was
3 ready to ask the Division for -- well, the earliest --
4 just doing some quick math -- that I think the Chevron
5 applications would be ripe would be October 31st.
6 That's assuming they send the proposal letters out in
7 the near term. So I was thinking that a status
8 conference on October 31st might be an appropriate
9 next step.

10 THE HEARING EXAMINER: Uh-huh.

11 Mr. Savage?

12 MR. SAVAGE: I was just aware that
13 Chevron did the objection and that was about it.

14 THE HEARING EXAMINER: Okay. So you
15 don't take a position on when you come back.

16 MR. SAVAGE: We do not. We are
17 neutral.

18 THE HEARING EXAMINER: Okay. Very
19 good.

20 MS. BENNETT: Mr. Examiner, can I
21 provide one more comment?

22 THE HEARING EXAMINER: Yes.

23 MS. BENNETT: These cases that Civitas
24 contest were originally filed by Tap Rock maybe two
25 years ago or something, and Chevron had filed

1 competing applications, the Zion [ph] applications,
2 and then both parties dismissed their applications.
3 And so this is a high priority for Chevron too. This
4 isn't something that's just coming out of the blue for
5 the first time. There's a history of this -- each
6 party wanting to develop this acreage.

7 So I just wanted to put that into
8 context that Chevron just isn't deciding as of today
9 to send out competing proposals. This has been on
10 their horizon for a couple years. And I won't go into
11 all the details about why both parties dismissed their
12 applications, but they did.

13 THE HEARING EXAMINER: Okay. Thank
14 you.

15 Mr. Rodriguez, when did you file these
16 applications with the Division?

17 MR. RODRIGUEZ: I believe they were
18 filed in June or July.

19 THE HEARING EXAMINER: Did you file
20 them?

21 MR. RODRIGUEZ: Let's see. On
22 July 8th.

23 THE HEARING EXAMINER: July 8th. Okay.
24 Thank you. So they're brand new. Okay. All right.

25 MR. RODRIGUEZ: They are. But,

1 Mr. Examiner, I'd like to just add a little bit
2 more color to what Ms. Bennett had said.

3 THE HEARING EXAMINER: Sure. Okay.

4 MR. RODRIGUEZ: So I actually do want
5 to get into why these were dismissed. These cases,
6 while they were pending on the docket, there was an
7 unleased 40-acre Fed tract that had since been leased
8 by an entity called Pride Energy, and that entity
9 wanted that tract to be included into the competing
10 applications. So the parties agreed to dismiss those
11 applications. And so the applications that Civitas
12 had recently filed are essentially admitted
13 applications that include that.

14 There really isn't much more to figure
15 out as far as, you know, what these applications
16 should look like. I think that it would be more
17 appropriate to set these as a contested hearing sooner
18 than a status conference, being as the parties have
19 had several years to actually discuss how the parties
20 intend to develop this acreage or exchange trade
21 negotiations. So Civitas's preference would be to set
22 this for a contested hearing with hopes of resolving
23 these matters before that date would arrive.

24 THE HEARING EXAMINER: Okay. I
25 understand. Thank you, Mr. Rodriguez.

1 The parties will continue their cases
2 to the October 31st docket for a status conference.
3 That will give time for Chevron to file a competing
4 application, if necessary. And then we will set a
5 contested hearing at that status conference on
6 October 31st.

7 So, Mr. Rodriguez, please remind me
8 that we will set a contested hearing on October 31st,
9 and that can be for November, if necessary. So you
10 might think of some dates in November if negotiations
11 don't prove fruitful.

12 Anything further from the parties?

13 MS. BENNETT: No. Thank you, sir.

14 MR. RODRIGUEZ: No, thank you.

15 MR. SUAZO: No, thank you.

16 THE HEARING EXAMINER: We're in recess.
17 Moving to 24722, Avant Operating.

18 MS. BENNETT: Good morning,
19 Mr. Examiner. Deana Bennett on behalf of Avant
20 Operating

21 MR. FELDEWERT: Good morning,
22 Mr. Examiner. Michael Feldewert with the Santa Fe
23 office of Holland & Hart appearing on behalf of E.G.L.
24 Resources, and we did file an objection to the matter
25 proceeding by affidavit.

1 THE HEARING EXAMINER: Why?

2 MR. FELDEWERT: E.G.L. has posed
3 competing wells. Their Silver Slug [ph] wells.

4 THE HEARING EXAMINER: So you're saying
5 that we have a application?

6 MR. FELDEWERT: Don't have an
7 application. It had been proposed.

8 THE HEARING EXAMINER: Proposed.

9 MR. FELDEWERT: Yes, sir.

10 THE HEARING EXAMINER: I understand.
11 And what is the timeframe? Is it 30 days after the
12 proposal that you can file an application?

13 MR. FELDEWERT: Yes. Unless there's
14 extraordinary circumstances. Yeah. That's the
15 general policy.

16 THE HEARING EXAMINER: It's policy.
17 Thank you. Okay.

18 Okay. So there's an objection.

19 Ms. Bennett, how do you want to
20 proceed?

21 MS. BENNETT: Thank you. I just now
22 learned of the competing proposals. I was prepared to
23 and was wanting to ask the Division for a contested
24 hearing the week of October 21st. So I'd be
25 interested in hearing from E.G.L. when the proposal

1 letters will be ripe for filing an application and
2 when the application would be ripe so that we could
3 use that date as an anchor.

4 THE HEARING EXAMINER: Mr. Feldewert?

5 MR. FELDEWERT: My understanding in
6 speaking to the client -- I haven't seen the letters,
7 but I think we would be in a position to be able to
8 file for an October regular hearing docket so that
9 notice is provided, and then move to whatever date
10 you think would be appropriate.

11 THE HEARING EXAMINER: Okay.

12 Ms. Bennett?

13 MS. BENNETT: Thank yes. Yes. I did
14 check with Avant, and they are available the week of
15 October 21st. So if that week is available for the
16 Division, and if E.G.L.'s applications are filed for
17 the October 10th docket, then that would work, it
18 seems to me.

19 THE HEARING EXAMINER: I didn't hear
20 from Mr. Feldewert which of the dockets in October --
21 we have three dockets: 3, 10, and 31 -- that the
22 proposal or application will be ready for. So I'm not
23 willing to set a contested hearing today. I am
24 willing to set one at the next status conference we
25 have once we have E.G.L.'s competing application on

1 the docket. So I think we just need to wait until we
2 put it on a docket in October. And then, Ms. Bennett,
3 you can remind me that I said that I would set a
4 contested hearing at that time, but it's too soon at
5 this point.

6 MS. BENNETT: Mr. Hearing Examiner,
7 could we set a status conference for the first docket
8 in September, and by then we would know if E.G.L. has
9 submitted its applications and when those will be set
10 for, and that could then provide the guidance that we
11 need to set the contested hearing rather than waiting
12 until the October docket.

13 THE HEARING EXAMINER: So you're in a
14 hurry, then.

15 MS. HARDY: I'm not necessarily in a
16 hurry. I just don't necessarily see the need to wait
17 until October 31st, potentially.

18 THE HEARING EXAMINER: Okay. We have
19 two dockets in September. I forgot the dates. I
20 wrote them down. Let me see what they are again.

21 MR. FELDEWERT: There might be only
22 one. I think there's only one in September.

23 MS. BENNETT: There's only one. Yeah.

24 THE HEARING EXAMINER: Oh, because of
25 the trial that the Commission is having.

1 MS. BENNETT: I think it's
2 September 12th.

3 THE HEARING EXAMINER: September 12th.
4 Okay. So why don't you move your case to the
5 September 12th docket for a status conference, and we
6 can see what E.G.L. is doing with their competing
7 application.

8 MS. BENNETT: Thank you.

9 THE HEARING EXAMINER: Uh-huh.
10 Okay. We're in recess on that case.

11 Calling 24732. It looks like it is
12 consolidated with 24574, 75, 24712, 13, 14, 24733, 34,
13 and 35.

14 Parties, enter an appearance.

15 MS. SHAHEEN: Sharon Shaheen on behalf
16 of Flat Creek Resources.

17 MR. RODRIGUEZ: Good morning. Michael
18 Rodriguez for Civitas Permian Operating LLC.

19 MR. SAVAGE: Mr. Hearing Examiner,
20 Darin Savage of Abadie & Schill appearing on behalf of
21 Cimarex Energy.

22 MS. BENNETT: Good morning,
23 Mr. Examiner. This is Deana Bennett on behalf of
24 Marathon Oil Permian LLC. And we're not listed on the
25 docket worksheet, but Marathon does have competing

1 cases that compete with the Flat Creek cases, and I
2 can give you those case numbers, if that's helpful.

3 THE HEARING EXAMINER: Yes, please.

4 MS. BENNETT: Those are case numbers
5 24574 and 24575.

6 THE HEARING EXAMINER: 24574 and 79?

7 MS. BENNETT: 75. Excuse me.

8 THE HEARING EXAMINER: 74 and 75.

9 MS. BENNETT: Yes.

10 THE HEARING EXAMINER: So, Freya, will
11 you join to these -- well they --

12 MS. BENNETT: Oh, I see they're on
13 there.

14 THE HEARING EXAMINER: They are here.
15 I did call them.

16 MS. BENNETT: Yeah. You did.

17 THE HEARING EXAMINER: Yeah. I already
18 called those.

19 MS. BENNETT: But my name just doesn't
20 appear on the docket worksheet. So Dean Bennett on
21 behalf of Marathon Oil Permian.

22 THE HEARING EXAMINER: Thank you.

23 So are on the docket today are Flat
24 Creek cases represented by Sharon Shaheen.

25 Ms. Shaheen, who filed objections in

1 your cases?

2 MS. SHAHEEN: That is a good question.
3 These have been pending for a little while, and
4 Marathon has competing applications. It's a little
5 complicated in that Flat Creek has proposed Bone
6 Spring wells in certain depths of the Bone Spring.
7 Civitas has comparable cases in the other depths in
8 the Bone Spring, so those are not competing. Both
9 those sets of applications are for lay-down wells, and
10 they overlap with proposed stand-up wells by Marathon.
11 So I'm sure that Marathon filed objections, and I
12 apologize that I didn't take a look to see who
13 actually filed objections. I believe that Cimarex
14 recently filed an objection to the Civitas cases.

15 THE HEARING EXAMINER: Okay. Thank
16 you, Ms. Shaheen. So what do you want to do with your
17 cases before I go to the other parties?

18 MS. SHAHEEN: Well, these cases are
19 currently set for a contested hearing date on
20 September 5th.

21 THE HEARING EXAMINER: Okay.

22 MS. SHAHEEN: The parties have been
23 conferring. Cimarex is a little bit of a new player
24 here. I understand that they may have been conferring
25 with Civitas. Flat Creek has been conferring with

1 Marathon, but it's taking some time, and Flat Creek
2 would ask that the contested hearing date be vacated
3 and that we set a date for a status conference in
4 September.

5 THE HEARING EXAMINER: Okay. I'm going
6 to --

7 MR. RANKIN: One other thing is that we
8 filed an application proposing wells in the Wolfcamp
9 on Friday. That application is still pending in the
10 queue, so it doesn't have a case number yet.

11 THE HEARING EXAMINER: And are you
12 suggesting that that case be consolidated with these
13 cases?

14 MS. SHAHEEN: Yes. Because it is
15 overlapping Marathon's proposed Wolfcamp application.

16 THE HEARING EXAMINER: I see.

17 MS. SHAHEEN: -- I don't know.

18 THE HEARING EXAMINER: Okay. All
19 right. Thank you, Ms. Shaheen.

20 Mr. Rodriguez?

21 MR. RODRIGUEZ: I agree with
22 Ms. Shaheen. I believe that this is a pretty
23 convoluted matter, and I believe Cimarex has recently
24 reached out -- or they originally filed an objection
25 in, I believe, all three of our cases but has since

1 withdrawn that, and they may or may not also be
2 considering filing competing pooling applications. So
3 I think a contested hearing at this point might be
4 premature, and Civitas would also prefer that the
5 contestant hearing be vacated and a status conference
6 take place instead.

7 THE HEARING EXAMINER: I see. So which
8 cases are yours, Mr. Rodriguez?

9 MR. RODRIGUEZ: Civitas filed case
10 numbers 24712 and 24714 in the lower depth of the Bone
11 Spring, which sits below Flat Creek's cases. Those
12 cases are 24734 and 24735. And Civitas filed case
13 number 24713 -- oh, I'm sorry. I have it backward.
14 I'm just going to give you the case numbers. 24713 is
15 the Bone Spring case and 24712 and 24714 are the
16 Wolfcamp cases.

17 THE HEARING EXAMINER: Okay. All
18 right. Thank you, Mr. Rodriguez.

19 Mr. Savage?

20 MR. SAVAGE: Yes. So Cimarex was in
21 negotiation with the parties, or are in negotiation,
22 and when we initiated the negotiation we did file the
23 objections. And negotiations have been going very
24 well, apparently, from what I hear, so we withdrew the
25 objections. But Cimarex would like time to see the

1 negotiations come to fruition and be finalized, so we
2 are also in consensus that it would be good to push it
3 back to 9/5 -- the status conference.

4 THE HEARING EXAMINER: Thank you,
5 Mr. Savage.

6 Ms. Bennett?

7 MS. BENNETT: Thank you. Marathon
8 agrees.

9 THE HEARING EXAMINER: Ms. Shaheen, did
10 you ask for the September 5th contested hearing?

11 MS. SHAHEEN: I believe I did.

12 THE HEARING EXAMINER: Well, I wouldn't
13 have said it otherwise. So why are you now in favor
14 of vacating that date?

15 MS. SHAHEEN: Well, the negotiations
16 with Marathon are progressing, and the parties are
17 very hopeful that they'll get to a resolution, which
18 would save the Division from having to hear these
19 convoluted applications, and we think it would be
20 helpful to have a little more time to continue to
21 negotiate a resolution.

22 THE HEARING EXAMINER: Okay.
23 Ms. Shaheen, since you requested the contested
24 hearing, then you can file a motion to vacate it, and
25 you can get the position of the other parties, which

1 I've now heard no one's opposed to that, and then I
2 will vacate that status of the contested hearing on
3 September 5th, and we will come back on September 12th
4 to hear these cases and see what's happening. So all
5 the parties, please move your cases to the
6 September 12 docket for a status conference, and we'll
7 decide how to proceed at that time.

8 MS. SHAHEEN: Thank you very much.

9 THE HEARING EXAMINER: All right.

10 MS. BENNETT: Thank you.

11 MR. RODRIGUEZ: Thank you.

12 THE HEARING EXAMINER: We're in recess
13 on these cases.

14 So Freya, we won't have a special
15 docket for September 5th. We'll wait for the motion
16 to vacate.

17 MS. TSCHANTZ: Okay. And that new
18 application that's pending, will be set for the
19 September 12th docket also.

20 THE HEARING EXAMINER: Okay. Perfect.
21 Thank you. But we don't have a case number for that
22 one, do we, yet?

23 MS. TSCHANTZ: We do not. It's in the
24 queue, though. Yes, I see it.

25 THE HEARING EXAMINER: Okay. Fine. So

1 when you do process it, you can join it with these
2 other cases then.

3 MS. TSCHANTZ: Yes, I will.

4 THE HEARING EXAMINER: Okay. Thank
5 you.

6 All right. We're in recess on the Flat
7 Creek cases.

8 Now we're moving to hearings by
9 affidavit. We're going to begin with 24394, 24395.

10 Because we have so many of these, I'm
11 asking the parties to present them as a group and to
12 keep the presentation brief.

13 Entries of appearance, please?

14 MS. MCLEAN: Yes. Jackie McLean on
15 behalf of Novo Oil & Gas.

16 THE HEARING EXAMINER: Please proceed.

17 MS. MCLEAN: And we have an entry.

18 MS. BENNETT: Mr. Examiner, Deana
19 Bennett on behalf of Marathon Oil Permian LLC, and we
20 had originally objected to this case, but we withdrew
21 our objection. In any event, Marathon doesn't object
22 to the case going forward by affidavit

23 THE HEARING EXAMINER: But you don't
24 know if you filed an objection?

25 MS. MCLEAN: I don't think you filed

1 one in this case. I think it was in the Outland.

2 MS. BENNETT: Okay. Yeah.

3 THE HEARING EXAMINER: Okay.

4 MS. BENNETT: Thank you.

5 THE HEARING EXAMINER: Thank you. So
6 there's no objection.

7 MS. BENNETT: No objection.

8 THE HEARING EXAMINER: Okay. Thank
9 you.

10 Ms. McLean.

11 MS. MCLEAN: Thank you, Mr. Examiner.

12 In case number 24394 and 24395, Novo seeks an order
13 pooling all uncommitted interests in the Bone Spring
14 formation for a horizontal spacing unit comprised of
15 the west half of Section 4, Township 23 South, Range
16 28 East in Eddy County. And these two separate units,
17 there's one in the west half/west half which will be
18 dedicated to the Goonch Federal Com 111H and 121H
19 wells, and the second unit, the east half/west half,
20 will be dedicated to the Goonch Federal Com 112H and
21 122H wells.

22 The exhibit packets that were
23 submitted --

24 THE HEARING EXAMINER: Go ahead,

25 Ms. McLean.

1 MS. MCLEAN: The exhibit packets that
2 were submitted to the Division for these cases --

3 Do you want to mute them?

4 THE HEARING EXAMINER: Ms. Apodaca, are
5 you able to mute any microphone that's open?

6 MS. MCLEAN: I think they muted.

7 THE HEARING EXAMINER: All right.

8 Thank you.

9 I see the exhibit packet.

10 MS. MCLEAN: Yes. Okay. The exhibit
11 packets. Exhibit A is a self-affirmed statement of
12 Collin Christian, and he has not testified previously
13 before the Division, so we've included a copy of his
14 resume, and would like to have him qualified as an
15 expert in petroleum land matters, and he is available
16 for questions, if necessary.

17 (Cases 24394 and 24395 Exhibit A was
18 marked for identification.)

19 THE HEARING EXAMINER: Let me take a
20 look at his resume. In land matters, you said?

21 MS. MCLEAN: Yes.

22 THE HEARING EXAMINER: Okay.

23 Ms. McLean, based on Mr. Christian's employment
24 history, a year and a half as senior landman at
25 Permian Resources, with ConocoPhillips as senior land

1 negotiator for four and a half years approximately,
2 Mr. Christian is hereby deemed to be an expert in
3 petroleum land matters before this Division.

4 So please proceed.

5 MS. MCLEAN: Thank you, Mr. Examiner.
6 And as you can see from our exhibit index, attached to
7 his self-affirmed statement are the typical land
8 exhibits.

9 We have Exhibit B, the self-affirmed
10 statement of Tyler Chesworth, who has previously
11 testified before, and also attached to his
12 self-affirmed statement are the typical geology
13 exhibits.

14 Finally, Exhibit C, notice testimony
15 which includes a copy of the notice letter that was
16 sent to all the interested parties, certified mail
17 returns, and an affidavit of publication for
18 April 12th, 2024.

19 (Cases 24394 and 24395 Exhibit B and
20 Exhibit C were marked for
21 identification.)

22 And with that I ask that Exhibits A, B,
23 and C and all sub-exhibits be admitted into the record
24 in case number 24394 and 24395, and that the cases be
25 taken under advisement.

1 THE HEARING EXAMINER: Okay. Are there
2 any objections?

3 Not hearing any, your exhibits are
4 admitted in 24394 and 24395.

5 (Cases 24394 and 24395 Exhibit A,
6 Exhibit B, and Exhibit C were received
7 into evidence.)

8 And since there are no questions from
9 the technical examiner sitting next to me, these two
10 cases will be taken under advisement.

11 Thank you.

12 MS. MCLEAN: Thank you, Mr. Examiner.

13 THE HEARING EXAMINER: We're moving now
14 to Devon Energy Production, 24427, 28, 29, 30, and 31.
15 Parties, enter an appearance.

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

19 THE HEARING EXAMINER: Ms. Kessler?

20 Ms. Kessler's not with us today.

21 Mr. Feldewert, are there any other
22 parties that you know of in these five cases?

23 MR. FELDEWERT: No. And I know that
24 EOG has not objected to this matter proceeding.

25 THE HEARING EXAMINER: All right.

1 Thank you. Please proceed.

2 MR. FELDEWERT: Certainly.

3 MS. KESSLER: I apologize,
4 Mr. Chakalian. Here I am. I was trying to unmute my
5 phone and not doing a very good job.

6 THE HEARING EXAMINER: No --

7 MS. KESSLER: Mr. Feldewert is correct.
8 We do not object.

9 THE HEARING EXAMINER: Okay.
10 Wonderful. So there's no objection to the case
11 proceeding by affidavit, and there's no objection to
12 the exhibits being entered into evidence?

13 MS. KESSLER: That's correct.

14 THE HEARING EXAMINER: Okay. Thank
15 you, Ms. Kessler.

16 Mr. Feldewert.

17 MR. FELDEWERT: So, Mr. Examiner, I
18 will move through these as quickly as I can, but
19 they're a little convoluted.

20 THE HEARING EXAMINER: Thank you.

21 MR. FELDEWERT: I grouped them based on
22 the acreage involved. I thought that was the best way
23 to approach it. And I filed prehearing statements
24 that cover a big chunk of what I'm going to lay out
25 here.

1 But the first set of cases would be
2 24427 and 24430. And I grouped them because they both
3 seek to pool a 640-acre horizontal well spacing unit,
4 one in the Bone Spring and one in the Wolfcamp, which
5 underlies northeast quarter of Section 9, north half
6 of Section 10, and the northwest quarter of 11 in
7 21 South, 27 East, down there in Eddy County.

8 24427 involves the Bone Spring. Okay?
9 It also seeks approval of an overlapping horizontal
10 well spacing unit for the three dedicated wells.

11 They're targeting with these wells the
12 Second Bone Spring Sands and the Third Bone Spring
13 Sands. And the reason I raised that is because
14 they're overlapping a 160-acre Bone Spring unit that
15 is dedicated to the Avalon Bone Spring East pool.
16 Since we're targeting the deeper sands, we understand
17 it will be assigned to a different pool since these
18 are not Avalon wells. So you'll see on our compulsory
19 pooling checklist that we put "to be determined" for
20 the pool. Okay.

21 Case 24430 involves the Wolfcamp. Same
22 acreage. But it also seeks approval of a nonstandard
23 spacing unit as needed. And I say "as needed" because
24 it's not clear what pool is going to be assigned. The
25 east half of Section 9 and all of Sections 10 and 11

1 are assigned to the Alacran Hills Wolfcamp gas pool,
2 which is subject to 320-acre spacing. The west half
3 of Section 9, which is also involved here, is assigned
4 to the Wolfcamp Alacran Hills Upper Wolfcamp oil pool,
5 which is 40-acre spacing.

6 Now, Devon's wells for these in the
7 Wolfcamp are going to be targeting the Upper Wolfcamp,
8 and they expect to produce oil. So if the wells are
9 placed in an oil pool, then, you know, we don't need
10 approval of a nonstandard spacing unit. I'm sorry.
11 If it's placed in the oil pool, then they will need
12 approval of a nonstandard spacing unit for effective
13 well spacing. If it's placed in the larger gas pool,
14 even though we think we're going to produce oil, then
15 we would be a standard spacing unit for the gas pool.

16 The exhibits filed in each case are
17 essentially the same because the same acreage is
18 involved. Each contains a checklist, both of which
19 saying the pool is to be determined, and the C-102s
20 also do not contain a pool or pool code for these same
21 reasons.

22 The land statement is from David
23 Broussard, who has submitted a self-affirmed statement
24 in each case. This is his first time testifying. We
25 believe his resume attached to each case as C-1

1 qualifies him to testify as an expert in petroleum
2 land matters, and Mr. Broussard is available by
3 telephone if you've got any questions for him,
4 Mr. Examiner.

5 (Cases 24427 and 24430 Exhibit A,
6 Exhibit B, and Exhibit C were marked
7 for identification.)

8 THE HEARING EXAMINER: Let me review
9 his CV.

10 Mr. Broussard, are you with us?

11 MR. BROUSSARD: Yes, I am.

12 THE HEARING EXAMINER: Okay. Would you
13 raise your right hand?

14 WHEREUPON,

15 DAVID BROUSSARD,
16 called as a witness and having been first duly sworn
17 to tell the truth, the whole truth, and nothing but
18 the truth, was examined and testified as follows:

19 THE HEARING EXAMINER: I'm looking at
20 your professional experience because the education
21 doesn't necessarily qualify you as an expert in
22 landman issues, but I'm trying to understand your
23 experience here and how it applies to petroleum
24 landman. So would you lay it out for me?

25 THE WITNESS: Yeah. So with regards to

1 my education, I have an undergraduate degree from the
2 University of Oklahoma, an -- an energy management
3 degree, which is a standard pathway to being in
4 petroleum land management. And then I also have a
5 master's in science from Oklahoma City University in
6 energy legal studies.

7 And then I've been employed by Devon
8 Energy for ten years working various assets as a
9 subsurface mineral landman.

10 THE HEARING EXAMINER: When it comes to
11 your experience, can you be a little bit more specific
12 about what your duties are and what you've
13 accomplished as a landman?

14 THE WITNESS: Yes. I'm -- I'm
15 responsible for a large portion of Lea County and Eddy
16 County, New Mexico, being the primary mineral landman
17 for Devon. I manage our rig lines. I -- you know,
18 do -- prepare wells to be drilled, just like these --
19 wells in -- in these cases. I negotiate oil and gas
20 lease rights and joint operating agreements and such.

21 THE HEARING EXAMINER: All right.
22 Thank you. Mr. Broussard, from here on in you are
23 considered an expert in landman issues before this
24 Division.

25 MR. FELDEWERT: Certainly. So thank

1 you.

2 I'm looking at the Bone Spring case,
3 which is 24427. You'll see, then, that we provide the
4 usual land exhibits there which include the C-102s,
5 tract map --

6 THE HEARING EXAMINER: I can see them
7 by the index.

8 MR. FELDEWERT: Okay. All right. So
9 that's fine. Then the only thing I want to point out
10 is that case 244 -- 1, which is the Wolfcamp case, has
11 an additional land exhibit and statement in the
12 self-affirmed statement to address the request for a
13 nonstandard spacing unit in the Wolfcamp oil pool, if
14 needed, okay, and explains why that is appropriate and
15 will prevent waste and allow effective well spacing.

16 THE HEARING EXAMINER: So
17 Mr. Feldewert, are you saying that you are relying on
18 a different witness for that statement?

19 MR. FELDEWERT: No.

20 THE HEARING EXAMINER: No.

21 MR. FELDEWERT: Mr. Broussard.

22 THE HEARING EXAMINER: Okay.

23 MR. FELDEWERT: The same witness, but
24 there's just an additional exhibit --

25 THE HEARING EXAMINER: I understand.

1 MR. FELDEWERT: -- and additional
2 statements in his self-affirmed statement.

3 Then Exhibit D is the self-affirmed
4 statement of the geologist, Joseph Dixon, who's
5 previously testified. He provides the usual set of
6 exhibits. The one thing you may note is I provided a
7 larger copy of the cross section as Exhibit D-3
8 because when I got it I thought it might be hard to
9 read, so I gave you a bigger copy. So there's
10 actually two versions of D-3, a smaller one and a
11 larger one.

12 (Cases 24427 and 24430 Exhibit D was
13 marked for identification.)

14 THE HEARING EXAMINER: In each packet?

15 MR. FELDEWERT: In each packet. Yes,
16 sir.

17 THE HEARING EXAMINER: Thank you.

18 MR. FELDEWERT: So with that we also
19 have the statements of notice and the affidavit of
20 publication.

21 (Cases 24427 and 24430 Exhibit E and
22 Exhibit F were marked for
23 identification.)

24 So I would ask that the exhibits in
25 these two cases be admitted and that these two cases

1 be taken under advisement.

2 THE HEARING EXAMINER: Any objections?

3 The exhibits in cases 24427 and 24430
4 are admitted into evidence.

5 (Cases 24427 and 24430 Exhibits A
6 through F were received into evidence.)
7 And we do have technical.

8 So is it for Mr. Broussard, are your
9 questions or the other witness, Mr. Dixon?

10 MS. THOMPSON: My questions are
11 pertaining to the pools specifically and the proximity
12 tract.

13 THE HEARING EXAMINER: So which witness
14 gave you those exhibits?

15 MS. THOMPSON: These are going to be, I
16 think, for --

17 THE HEARING EXAMINER: Mr. Broussard?

18 MS. THOMPSON: -- Mr. Feldewert.

19 THE HEARING EXAMINER: He's not a
20 witness.

21 MS. THOMPSON: Or not witness. Yeah.

22 THE HEARING EXAMINER: So I have a
23 tract map here admitted through Mr. Broussard. I have
24 these maps here admitted through Mr. Dixon, who's not
25 under oath yet. Which of these witnesses do you want

1 to question? Do you want to take a minute?

2 MS. THOMPSON: Yeah. Give me a minute.

3 THE HEARING EXAMINER: Okay.

4 We're going to take a five-minute
5 recess while we gather our questions. It's 10:21.
6 We'll come back on the record at 10:26. Thank you.

7 (Off the record.)

8 THE HEARING EXAMINER: Back on the
9 record. It's 10:28 a.m. on August the 8th, and it
10 seems the technical examiner has a bit of guidance for
11 you, Mr. Feldewert.

12 MR. FELDEWERT: Okay.

13 MS. THOMPSON: Okay. I want start with
14 case 24427.

15 MR. FELDEWERT: That's the Bone Spring?

16 MS. THOMPSON: That's the Bone Springs
17 case. So in regards to the correct pool code to be
18 using, it's going to be the Avalon Bone Springs East
19 pool code 3713.

20 MR. FELDEWERT: Let me ask a question
21 about that. So since they're targeting the Second
22 Bone Spring Sands and the Third Bone Spring Sands,
23 which are below the Avalon, it's still going to be the
24 Avalon pool?

25 MS. THOMPSON: That is correct. Yeah.

1 MR. FELDEWERT: Okay. Thank you.

2 THE HEARING EXAMINER: Is that
3 something that you want him to revise the application,
4 the C-102?

5 MS. THOMPSON: Yes.

6 THE HEARING EXAMINER: Okay.

7 MS. THOMPSON: So that means you will
8 have to add it to your checklist and revise the C-102s
9 as well.

10 MR. FELDEWERT: Okay.

11 MS. THOMPSON: Moving to case number
12 24430, the correct pool code is Alacran Hills Wolfcamp
13 gas, 70070.

14 MR. FELDEWERT: Even though the company
15 expects oil?

16 MS. THOMPSON: Correct.

17 MR. FELDEWERT: Okay. All right.

18 MS. THOMPSON: Now, this is kind of
19 where I have a question for you.

20 MR. FELDEWERT: Yeah.

21 MS. THOMPSON: In that application --
22 let me pull it up real fast -- you stated, I think, on
23 the checklist something about an NSP for that case.

24 MR. FELDEWERT: Yeah. So let me
25 clarify. If it was going to be placed in an oil pool,

1 then they were wanting a nonstandard spacing unit for
2 effective well spacing. If it's going to be in the
3 gas pool, then we no longer need the request for a
4 nonstandard spacing unit.

5 MS. THOMPSON: Okay. So it's the gas
6 pool so --

7 MR. FELDEWERT: Okay.

8 THE HEARING EXAMINER: So,
9 Mr. Feldewert, just to be clear, you're going to be
10 resubmitting your exhibits to correct the C-102 and
11 the checklist in both cases?

12 MR. FELDEWERT: Yes. Instead of "to be
13 determined," I will put in the pools you identified
14 here today.

15 THE HEARING EXAMINER: But you're also
16 going to be omitting the request for the nonstandard
17 spacing. Right?

18 MR. FELDEWERT: You need me to file a
19 notice that that's being dismissed? It's in my --

20 THE HEARING EXAMINER: Yes.

21 MR. FELDEWERT: I put it in my
22 prehearing statement that if it's assigned to a gas
23 pool then we don't need --

24 THE HEARING EXAMINER: But it left it
25 open as if --

1 MR. FELDEWERT: Okay, okay.

2 THE HEARING EXAMINER: Let's just be
3 clear that it's going to be in a gas pool so you don't
4 need that nonstandard spacing.

5 MR. FELDEWERT: And how would you like
6 me to identify or file that?

7 THE HEARING EXAMINER: Well, if you
8 would just file revised exhibit packets in both cases
9 and with a cover letter. I think the cover letter
10 will clarify what you're doing and why.

11 MR. FELDEWERT: Okay.

12 THE HEARING EXAMINER: And then Freya
13 will remove the original exhibit packet once we get
14 the revised packet.

15 MR. FELDEWERT: Okay.

16 THE HEARING EXAMINER: So we're going
17 to be leaving the record open in these two cases until
18 we receive the revised packet and then we'll take
19 these two cases under advisement.

20 How long would you like for us to leave
21 the record open?

22 MR. FELDEWERT: If you could give me
23 till Tuesday of next week. Is that fine?

24 THE HEARING EXAMINER: Perfect. Let me
25 just get a date here so it's on the record.

1 MR. FELDEWERT: Okay.

2 THE HEARING EXAMINER: So we have the
3 13th of August close of business record open.

4 Thank you.

5 Do you want to proceed with your next
6 cases?

7 MR. FELDEWERT: Yeah. Give me one
8 minute.

9 THE HEARING EXAMINER: Uh-huh.

10 MR. FELDEWERT: The next case would be
11 24428. That is a standalone matter because it seeks
12 to approve and pool a standard 400-acre overlapping
13 spacing unit in an interval -- in limited interval of
14 the Bone Spring formation underlying the south half of
15 south half of Section 9, south half of south half
16 of 10, and the south half of southwest quarter of
17 Section 11 for their 224H well.

18 They are targeting with that well,
19 you'll see from the exhibits, the Second Bone Spring
20 Sands, and the pooled interval is essentially from the
21 top of the Bone Spring formation to the correlative
22 stratographic point which is below the Second Bone
23 Spring Sands and above the Third Bone Spring Sand
24 intervals. And as the landman notes in his
25 self-affirmed statement, it's due to an ownership

1 depth severance in the Bone Spring formation.

2 The pool at the time that this was
3 filed remains unknown. Okay? So again I put "to be
4 determined" in both the checklist and in the C-102s.
5 And the reason for that is that the southeast quarter
6 of Section 9 is assigned to the Magruder Bone Spring
7 gas pool. The remainder of the pool acreage is
8 assigned to the Avalon Bone Spring East pool, which is
9 an oil pool. I am contemplating that, based on your
10 statement today, that perhaps you may be putting it
11 into the Avalon pool even though we're targeting the
12 Second Bone Spring Sands, but it was not clear at the
13 time we filed the application.

14 The exhibits are very similar to what
15 you see in the last case. Mr. David Broussard is
16 again the land witness, but since he's already been
17 qualified, I think you can dispense with his
18 Exhibit C-1, but the remainder of the exhibits include
19 all the usual information and confirms that notice was
20 provided to all the effected parties for the
21 overlapping spacing unit.

22 Again the geologist is Joseph Dixon,
23 who's previously testified. He provides a type log --
24 that's an additional exhibit -- a type log that shows
25 the pool stratographic interval that they're targeting

1 in this case and when they seek to pool, and then he
2 provides your location map, your structure map, and
3 your cross section. And again I provided a second
4 larger copy of the cross section as Exhibit D-4 for
5 easier review. And the remaining exhibits are the
6 notice information.

7 (Case 24428 Exhibits A through F were
8 marked for identification.)

9 So we would ask that these exhibits be
10 admitted and that the case be taken under advisement.

11 THE HEARING EXAMINER: Are there any
12 objections to the exhibits in this case?

13 Not hearing any, the exhibits are
14 admitted in this case.

15 (Case 24428 Exhibits A through F were
16 received into evidence.)

17 MR. PADILLA: Mr. Examiner, this is
18 Ernest L. Padilla.

19 THE HEARING EXAMINER: Mr. Padilla?

20 MR. PADILLA: I failed to enter an
21 appearance in the two cases, 430 and 431. For the
22 record, we have withdrawn any objection to these
23 proceedings.

24 THE HEARING EXAMINER: Okay. Thank
25 you, Mr. Padilla.

1 MS. THOMPSON: I'm checking the pool
2 for you right now.

3 MR. FELDEWERT: Certainly. Thank you.

4 MS. THOMPSON: So that would be the
5 Marauder Bone Springs gas, 80857.

6 MR. FELDEWERT: You know we're
7 expecting oil.

8 MS. THOMPSON: Yes. However, I think
9 it's going to go through both pools, so it's going to
10 be also on the Avalon Bone Springs East.

11 MR. FELDEWERT: So one's a gas pool,
12 one's an oil pool. We're okay with the 40-acre
13 spacing, then?

14 MS. THOMPSON: Let me double check.
15 It would be 160-acre spacing is what
16 I'm being told.

17 MR. FELDEWERT: The spacing unit's
18 going to look like that.

19 MS. THOMPSON: Yeah. Give me one
20 second.

21 MR. FELDEWERT: So I don't think we can
22 do that.

23 THE HEARING EXAMINER: Mr. Feldewert.

24 MR. FELDEWERT: Yeah.

25 THE HEARING EXAMINER: Are your other

1 cases as complicated as this one is?

2 MR. FELDEWERT: Yes. The pools make it
3 difficult, as you can see.

4 THE HEARING EXAMINER: I see that.

5 MR. FELDEWERT: And we don't really
6 access to --

7 MS. THOMPSON: I see that.

8 MS. THOMPSON: Yeah.

9 THE HEARING EXAMINER: Why don't we do
10 this?

11 MS. THOMPSON: What we could do is I
12 could reach out to you after hearing --

13 MR. FELDEWERT: Okay.

14 MS. THOMPSON: -- about correcting
15 these pool codes, but on pretty much the rest of these
16 cases that are related, we're going to have the same
17 issue.

18 MR. FELDEWERT: I think the next --
19 well, you tell me. Let me look at my notes. The next
20 case may be very similar to the -- well, I know we got
21 oil pools or gas pool. Right?

22 So my concern is that we can't take the
23 gas spacing and marry it with the oil spacing because
24 you're going to have a spacing unit that's going to
25 look like a hatchet. Okay? That's the issue. So my

1 assumption would be that it would either all be in the
2 oil pool or that you would have, I guess, a
3 nonstandard spacing unit in the gas pool. But it all
4 depends upon what the Division determines they really
5 want these wells to be in.

6 MS. THOMPSON: Right. So I mean, our
7 current procedures are to have it in quarter sections.

8 MR. FELDEWERT: In the oil pool?

9 THE HEARING EXAMINER: Let's take a
10 break for a minute.

11 (Discussion held off the record.)

12 THE HEARING EXAMINER: Mr. Feldewert,
13 I'm advised that the Division can figure this out
14 later, that we don't need to correct each of these
15 applications. The Division will figure it out and
16 then reach out to you, if need be.

17 So do we need him to revise any
18 exhibits in this case or no?

19 MS. THOMPSON: No revised exhibits at
20 the moment.

21 THE HEARING EXAMINER: Okay. And do
22 you have any other questions on this case?

23 MS. THOMPSON: No.

24 THE HEARING EXAMINER: Okay. So then,
25 Mr. Feldewert, this case will be taken under

1 advisement.

2 MR. FELDEWERT: Thank you.

3 THE HEARING EXAMINER: Okay. So your
4 next case, 24429.

5 MR. FELDEWERT: Yes.

6 THE HEARING EXAMINER: Are you
7 presenting it with others or by itself?

8 MR. FELDEWERT: So the next case group
9 24429 and 24431.

10 THE HEARING EXAMINER: Okay. And 31.
11 Okay. Go ahead.

12 MR. FELDEWERT: Give me one minute.

13 These two cases seek to pool an
14 800-acre unit comprised of the south half of 9, the
15 south half of 10, and the southwest quarter of 11.
16 24429 seeks to pool an interval of the Bone Spring
17 formation which is below the depth severance line that
18 was involved in the last case. So it's roughly the
19 Third Bone Spring Sands to the base of the Bone Spring
20 formation. And then 24431 involves the Wolfcamp
21 formation.

22 The Bone Spring case will actually
23 overlap an existing spacing unit in the Bone Spring
24 formation that's assigned to the Avalon Bone Spring
25 East pool, but the pool for this 800-acre Bone Spring

1 well case again is not entirely clear because the
2 southeast quarter of 9 is assigned to that Magruder
3 Bone Spring gas pool, the same one we saw in the last
4 case, and then the remainder of the acreage is
5 assigned to that Avalon Bone Spring East pool. So
6 that's why we're targeting the Third Bone Spring
7 Sands. We expect the oil, but it's unclear whether we
8 would be assigned to that oil pool or a gas pool or a
9 different pool since it's a lower interval.

10 The pool for the Wolfcamp wells is also
11 unknown because the west half of 9 is assigned to the
12 Wolfcamp Alacran Hills Upper Wolfcamp pool, which is
13 an oil pool, and the remainder of the acreage is
14 assigned to the Alacran Hills Wolfcamp gas pool, which
15 of course is subject to 320-acre spacing. Again, the
16 company expects to produce oil.

17 So you'll see that the exhibits are
18 essentially very similar. We have "to be determined"
19 both in the checklist and in the C-102s.

20 Mr. Broussard again is the land person who's provided
21 the exhibits, where he's pooling working interest
22 owners, overriding royalty interest owners, and record
23 title owners, and he confirms that notice was provided
24 for the overlapping spacing unit in the Bone Spring
25 case. Mr. Dixon, Joseph Dixon, is again the

1 geologist. He's provided, again, a type log showing
2 the pooled interval in the Bone Spring for this
3 matter. And then the remaining usual exhibits with
4 the location map, structure map, and cross section.

5 (Cases 24429 and 24431 Exhibits A
6 through F were marked for
7 identification.)

8 So with that I would ask the exhibits
9 be admitted and these two cases be taken under
10 advisement.

11 THE HEARING EXAMINER: Are there any
12 objections?

13 Not hearing any, the exhibits in these
14 two cases, 24429 and 24431, are admitted into
15 evidence.

16 (Cases 24429 and 24431 Exhibits A
17 through F were received into evidence.)
18 Are there any questions?

19 MS. THOMPSON: No questions.

20 MR. FELDEWERT: Okay.

21 THE HEARING EXAMINER: These two cases
22 will be taken under advisement.

23 Mr. Feldewert, that leaves 24430. Or
24 does it not? No. We already dealt with it

25 MR. FELDEWERT: It does not. We took

1 care of that first. So we should be finished.

2 THE HEARING EXAMINER: We're good.
3 Thank you.

4 MR. FELDEWERT: Thank you for your
5 patience.

6 THE HEARING EXAMINER: Thank you.
7 Calling 24444 and 24447.

8 MS. PENA: Good morning, Mr. Hearing
9 Examiner. Yarithza Pena with Modrall Sperling on
10 behalf of Franklin Mountain Energy 3 LLC.

11 THE HEARING EXAMINER: Okay. Please
12 proceed.

13 MS. PENA: Thank you. In case 2444
14 [sic], Franklin seeks an order pooling uncommitted
15 interests in a Bone Spring standard spacing unit in
16 the east half/west half of Sections 27 and 34,
17 Township 18 South, Range 35 East in Lea County, and
18 we'll be dedicating that to the North State 602H well.

19 And in 24447, it seeks an order pooling
20 all uncommitted interests in the west half/west half
21 of Sections 27 and 34, and seeks to dedicate it to the
22 Norte State 601H well.

23 We timely filed exhibits in these two
24 cases which are similar, or practically the same.
25 Exhibit A contains the checklists, Exhibit A-1

1 contains the applications, Exhibits A-2 through A-7
2 contain the affidavit of Landman Don Johnson, who has
3 previously testified before the Division, and the
4 standard land exhibits. Exhibits in Tab B contain the
5 affidavit of Ben Metz, the geologist for Franklin, who
6 has also testified before the Division. And exhibits
7 in Tab C contain the notice exhibits with declaration
8 of Ms. Deana Bennett and the standard notice exhibits
9 and affidavit of publication.

10 (Cases 24444 and 24447 Exhibit A,
11 Exhibit B, and Exhibit C were marked
12 for identification.)

13 I would ask that the exhibits for cases
14 2444 [sic] and 24447 be admitted into the record and
15 that the cases be taken under advisement.

16 THE HEARING EXAMINER: There any
17 objections?

18 Not hearing any, your exhibits are
19 admitted in these two cases.

20 (Cases 24444 and 24447 Exhibit A,
21 Exhibit B, and Exhibit C were received
22 into evidence.)

23 MS. THOMPSON: No questions.

24 THE HEARING EXAMINER: And they will be
25 taken under advisement.

1 Thank you.

2 MS. PENA: Thank you.

3 THE HEARING EXAMINER: I'm calling
4 24480.

5 MR. FELDEWERT: Good morning,
6 Mr. Examiner. Michael Feldewert with the Santa Fe
7 office of Holland & Hart appearing on behalf of the
8 applicant.

9 THE HEARING EXAMINER: Thank you.
10 Please proceed.

11 MR. FELDEWERT: Mr. Examiner, the
12 applicant sees to pool the Wolfcamp and the Bone
13 Spring formations under a 40-acre tract comprised of
14 the southwest quarter of the northeast quarter of
15 Section 14, 17 South, 37 East in Lea County.

16 The reason we're pooling both the Bone
17 Spring and the Wolfcamp in this application is because
18 they're attempting recompletions of the Monika 14
19 State number 1 well, which is a directional well. So
20 they're going to move from the Strawn formation, up
21 over the Wolfcamp, and then as needed up to the Bone
22 Spring. That's why we filed our application seeking
23 to pool a 40-acre tract in each formation. Once the
24 company moves up hole, you'll see that they will plug
25 back to the Strawn formation.

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1 The exhibits that were filed for this
2 matter note that the applicant has already obtained
3 administrative approval of the nonstandard location in
4 the Wolfcamp formation and also of the nonstandard
5 location in the Bone Spring formation. That's already
6 been done.

7 If you look at the exhibits, you will
8 see that the company has provided a self-affirmed
9 statement of David Johns, who has previously
10 testified. We then provided C-102s, one for the
11 Wolfcamp and one for the Bone Spring, identifying the
12 spacing unit location formation. You'll see that they
13 seek to pool a group of unleased mineral interest
14 owners, and then they provided a sample of the well
15 proposal letters and the AFEs both for the Wolfcamp
16 and the Bone Spring.

17 Exhibit D is the self-affirmed
18 statement of Andrew Parker, who's the geologist. He's
19 provided the location map, the structure map, and then
20 the structural cross section both for the Wolfcamp and
21 then for the Bone Spring. We then as have as
22 Exhibits E and F the statement of notice and the
23 affidavit of publication.

24 (Cases 24480 Exhibits A through F were
25 marked for identification.)

1 So with that we ask that the exhibits
2 be admitted and this matter be taken under advisement.

3 THE HEARING EXAMINER: Are there any
4 objections?

5 Not hearing any, your exhibits are
6 admitted into evidence.

7 (Cases 24480 Exhibits A through F were
8 received into evidence.)

9 Are there any questions?

10 MS. THOMPSON: No questions.

11 THE HEARING EXAMINER: And the case is
12 taken under advisement.

13 Thank you.

14 MR. FELDEWERT: Thank you.

15 THE HEARING EXAMINER: Moving now to
16 24485.

17 MR. FELDEWERT: May it please the
18 examiner. Michael Feldewert with the Santa Fe office.
19 Holland & Hart appearing on behalf of the applicant.

20 THE HEARING EXAMINER: And do we have
21 another entry of appearance?

22 MR. SUAZO: Yes, Mr. Examiner. Miguel
23 Suazo with the Santa Fe office of Beatty & Wozniak
24 appearing on behalf of XTO Energy.

25 THE HEARING EXAMINER: Are there any

1 objections?

2 MR. SUAZO: We've withdrawn our
3 objections to the application proceeding by affidavit
4 in this case.

5 THE HEARING EXAMINER: Thank you.
6 Please proceed, Mr. Feldewert.

7 MR. FELDEWERT: Mr. Examiner, these
8 exhibits were actually filed for the June 6th docket.
9 They seek to pool a 480-acre spacing unit in the Upper
10 Pennsylvanian shale underlying the east half of the
11 west half of Sections 24, 25, and 36 in 15 South,
12 36 East down in Lea County for their proposed Gaines
13 Baty well. They expect to produce oil from this Upper
14 Pennsylvanian Shale interval, which is below the
15 Wolfcamp.

16 The Division's district office has
17 indicated that the depth of this well will place it in
18 the Dean Permo Upper Penn pool, which was an oil pool
19 created by Commission Order R892, which is subject to
20 80-acre spacing. And that particular order allows you
21 to orient the 80-acre spacing unit either as a
22 stand-up or a lay-down.

23 You'll see that with the exhibits that
24 we filed we have the self-affirmed statement of the
25 landperson, Addison Costley, who has provided a C-102

1 for the well, a tract map, the group of interest
2 owners that they seek to pool, their well proposal
3 letter, and their chronology of contacts. And then we
4 have the usual geology exhibits from Andrew Parker for
5 this particular spacing unit. And both of these
6 witnesses have previously testified. And then the
7 remaining exhibits are our statement of notice and our
8 affidavit of publication. So --

9 (Case 24485 Exhibits A through D were
10 marked for identification.)

11 THE HEARING EXAMINER: Mr. Feldewert,
12 when you say "previously testified," do you mean
13 they've been accepted as experts in their fields?

14 MR. FELDEWERT: Correct.

15 THE HEARING EXAMINER: Okay.

16 MR. FELDEWERT: Thank you.

17 So with that, we ask that the exhibits
18 be admitted into evidence and that the matter be taken
19 under advisement.

20 THE HEARING EXAMINER: Thank you.

21 Any objections to the exhibits,
22 Mr. Suazo?

23 MS. SUAZO: No, Mr. Examiner.

24 THE HEARING EXAMINER: The exhibits are
25 admitted into evidence and the case is taken under

1 advisement.

2 (Cases 24485 Exhibits A through D were
3 received into evidence.)

4 We now move to 24595.

5 MR. FELDEWERT: Mr. Examiner, Michael
6 Feldewert of the Santa Fe office of Holland & Hart,
7 here on behalf of MRC Permian. I think you can
8 consolidate this with 24596.

9 THE HEARING EXAMINER: Okay. And I'm
10 calling 24596. Thank you.

11 MR. FELDEWERT: You may recall that
12 these cases were presented at the last docket on
13 July 25th. The exhibits were accepted and put into
14 the record. And the only reason it was called here
15 today is to allow the ten-day period under the notice
16 of publication to run. That has occurred, and so we
17 ask that these matters be taken under advisement.

18 THE HEARING EXAMINER: One moment.

19 Okay. Thank you, Mr. Feldewert. These
20 two cases will be taken under advisement. Thank you.

21 Moving on now to 24613, 14, and 15.

22 Parties, enter an appearance.

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

1 applicant here.

2 THE HEARING EXAMINER: Okay. Please
3 proceed.

4 MR. FELDEWERT: In these consolidated
5 cases, the company sees orders pooling uncommitted
6 interests in the Bone Spring and the Wolfcamp
7 formations underlying the west half of Sections 20,
8 29, and 32 in 24 South, 36 East in Lea County.

9 24613 seeks to pool a standard 960-acre
10 horizontal well spacing unit in the Bone Spring
11 formation.

12 The remaining two cases seek to pool
13 480-acre horizontal well spacing units in Wolfcamp
14 formation, one dealing with the west half of the west
15 half of these sections and the other dealing with the
16 east half of the west half of these sections.

17 The exhibits are basically the same in
18 all three cases because the affected owners change due
19 to the acreage involved, but not substantially. Case
20 24615 does not include overriding royalty interest
21 owners, so you'll see that the notice list in that
22 particular case is shorter than the others.

23 The exhibits that have been filed
24 involve the self-affirmed statement of David Johns,
25 who has previously testified. He's provided the

1 C-102s, the tract maps, the working interest owners,
2 the well proposal letter, and the chronology of
3 contacts. And then you have the self-affirmed
4 statement of Blake Herber, who's a geologist, who
5 provides the location map, the structure map, and the
6 cross section. The remaining exhibits deal with the
7 notice for these particular cases.

8 (Cases 24613-24615 Exhibits A through F
9 were marked for identification.)

10 So with that I would move the admission
11 of the exhibits in each of these three cases and ask
12 that they be taken under advisement.

13 THE HEARING EXAMINER: Thank you.

14 Are there any objections to the revised
15 exhibit packet filed in both -- well, I don't know if
16 there is amended exhibit. Did you file amended
17 exhibit in both cases or just this 24613?

18 MR. FELDEWERT: My memory escapes --

19 THE HEARING EXAMINER: Okay. Then I'll
20 just do them one at a time.

21 MR. FELDEWERT: Okay. Sure.

22 THE HEARING EXAMINER: In 24613, we
23 have an amended exhibit packet which corrected
24 Exhibit C-3. Are there any objections?

25 Not hearing any, these exhibits are

1 admitted to evidence.

2 (Cases 24613 Exhibits A through F
3 received into evidence.)

4 And Freya, would you please remove the
5 other older exhibit packet from 24613?

6 MS. TSCHANTZ: Yes, I will.

7 THE HEARING EXAMINER: All right.

8 Thank you.

9 And are there any questions on this
10 case?

11 MS. THOMPSON: No questions.

12 THE HEARING EXAMINER: 24613 is taken
13 under advisement.

14 And then we move on to 14. Let's take
15 a look and see if there's amended exhibits in this
16 case.

17 Yes. This case also has an amended
18 exhibit packet which again corrects Exhibit C-3. Are
19 there any objections?

20 Not hearing any, these exhibits are
21 admitted into evidence.

22 (Cases 24614 Exhibits A through F
23 received into evidence.)

24 MS. THOMPSON: No questions.

25 THE HEARING EXAMINER: And this case

1 will be taken under advisement.

2 And then finally we go to 24615.

3 And, Freya, please take out the
4 duplicate in that case as well.

5 MS. TSCHANTZ: Yes.

6 THE HEARING EXAMINER: Thank you. And
7 I have a feeling it'll be the same in 24615.

8 Yes. There is an amended exhibit
9 packet filed on the 30th. Are there any objections to
10 this amended exhibit packet?

11 Not hearing any, this amended exhibit
12 packet is admitted into evidence.

13 (Cases 24615 Exhibits A through F
14 received into evidence.)

15 MS. THOMPSON: No questions.

16 THE HEARING EXAMINER: And the case is
17 taken under advisement.

18 Thank you, Mr. Feldewert.

19 MR. FELDEWERT: Thank you.

20 THE HEARING EXAMINER: Okay. Calling
21 now 24620 and 21.

22 MR. RANKIN: Good morning,
23 Mr. Examiner. May it please the Division. Adam
24 Rankin appearing on behalf of the applicant in these
25 two cases. Also, Mr. Examiner, there's a third case

1 that involves the same acreage, and it's case number
2 24697. It's number 86 on the docket.

3 THE HEARING EXAMINER: Thank you. Let
4 me get to it.

5 MR. RANKIN: And I think it would make
6 sense to do those --

7 THE HEARING EXAMINER: Okay. Let me
8 call that case. 24697. And you said it's number
9 80-what?

10 MR. RANKIN: Eighty-six on the docket.

11 THE HEARING EXAMINER: Eighty-six. I
12 see it. Thank you. So you're going to present all
13 three together?

14 MR. RANKIN: I would ask that we'd be
15 permitted to do so.

16 THE HEARING EXAMINER: Definitely.
17 Are there any other parties entering an
18 appearance?

19 MR. SAVAGE: Yes. Good morning,
20 Mr. Hearing Examiner. Darin Savage with Abadie &
21 Schill appearing on behalf of Devon Energy Production
22 Company. And I have to apologize, there apparently
23 there was a glitch in the Matrix and Cimarex did not
24 make an entry of appearance. It's just Devon. I
25 think that was caused by the filing on our end.

1 THE HEARING EXAMINER: So are you
2 entering an appearance for Cimarex as well?

3 MR. SAVAGE: No, no. Just Devon.

4 THE HEARING EXAMINER: Just Devin

5 MR. SAVAGE: Cimarex did not make an
6 appearance. It was a --

7 THE HEARING EXAMINER: So that's just
8 incorrect.

9 MR. SAVAGE: It was a glitch. I think
10 Cimarex's account was open at the time it was being
11 filed.

12 THE HEARING EXAMINER: I understand.
13 Are there any objections to proceeding
14 by affidavit?

15 MR. SAVAGE: No objection. We're just
16 monitoring and preserving rights.

17 THE HEARING EXAMINER: Thank you.

18 Mr. Rankin?

19 MR. RANKIN: Thank you, Mr. Examiner.
20 If I may proceed. In these three cases, Mr. Examiner,
21 involving the north half of Sections 21 and 22 in
22 Township 21 South, Range 27, Matador seeks to pool
23 three different spacing units, two of which are in the
24 Bone Spring formation.

25 The first case, 24620, involves the

1 north half/north half of those two sections. The
2 second case, 24621, involves the Bone Spring in the
3 south half of the north half of those two sections.
4 And then the third case, 24697, Matador seeks to pool
5 a 640-acre horizontal spacing unit in the Wolfcamp
6 formation which is comprised of the north half of
7 those two sections.

8 The exhibit packets that we've filed in
9 these three cases include the standard contents, the
10 application that was filed in each case, a landman
11 statement identifying the tracts of land that they're
12 seeking to pool, the C-102s for the proposed initial
13 wells, the parties that they're seeking to pool in
14 efforts to reach voluntary agreement with each of
15 those parties, as well as a copy of the well proposal
16 letter and cost estimates -- fees for each of the
17 initial proposed wells in efforts to make a voluntary
18 agreement.

19 (Cases 24620, 24621, and 24697

20 Exhibit A, Exhibit B, and Exhibit C
21 were marked for identification.)

22 THE HEARING EXAMINER: Mr. Rankin,
23 Mr. Holder and Mr. Parker both accepted as experts in
24 their fields?

25 MR. RANKIN: They both have been

1 previously.

2 THE HEARING EXAMINER: Thank you.

3 MR. RANKIN: The next exhibit in the
4 packet, Mr. Examiner, is the geologist's testimony for
5 each of these cases. He identifies the acreage as
6 being suitable for a horizontal development and
7 confirms that each of the tracts will -- to the oil
8 produced from each of the wells. Also, included in
9 the exhibit packet, Mr. Examiner, are the notice
10 information that we prepared reflecting that we
11 provided notice to each of the parties that Matador is
12 seeking the pool by self-affirmed statement, along
13 with the certified mail tracking information for each
14 of those notices. And finally, the final exhibit is a
15 affidavit of publication reflecting that we gave those
16 to each of those parties by name in the newspaper.

17 (Cases 24620, 24621, and 24697
18 Exhibit D, Exhibit E, and Exhibit F
19 were marked for identification.)

20 With that, Mr. Examiner, unless there
21 any objections, we would move the admission of each of
22 these Exhibits A through F in each of the three cases
23 ask that they be taken under advisement.

24 THE HEARING EXAMINER: And each of the
25 three cases you utilize the same expert witnesses?

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1 MR. RANKIN: Correct.

2 THE HEARING EXAMINER: Okay. Thank
3 you.

4 Are there any objections?

5 MR. SAVAGE: No objections.

6 THE HEARING EXAMINER: Thank you.

7 The exhibits in 24621, 20, and 24697
8 are admitted into evidence, and, as there are no
9 technical questions, all three cases will be taken
10 under advisement.

11 (Cases 24620, 24621, and 24697
12 Exhibits A through F were received into
13 evidence.)

14 MR. RANKIN: Thank you.

15 THE HEARING EXAMINER: Moving now to
16 Mewbourne's case 24634.

17 MR. RANKIN: Good morning,
18 Mr. Examiner, may it please the Division. Adam Rankin
19 appearing on behalf of Mewbourne, the applicant in
20 this case. And that's it.

21 MS. HATLEY: Good morning,
22 Mr. Examiner. Keri Hatley appearing on behalf of COG
23 Operating LLC.

24 THE HEARING EXAMINER: Thank you. And
25 have you withdrawn or did you never have an objection?

1 MS. HATLEY: Never had an objection.
2 We're monitoring only.

3 THE HEARING EXAMINER: Okay. So have
4 you had a chance to review the exhibits?

5 MS. HATLEY: We have.

6 THE HEARING EXAMINER: Okay. Good.
7 And are there any objections to the exhibits?

8 MS. HATLEY: None.

9 THE HEARING EXAMINER: Wonderful.

10 Mr. Rankin?

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

12 In this case, Mewbourne is seeking to create a
13 nonstandard spacing unit and to pool all uncommitted
14 working interests in that nonstandard spacing unit.

15 We filed an application, which is
16 marked as Exhibit A, identifying the requested relief,
17 the acreage, and the proposed initial wells to be
18 dedicated to this nonstandard spacing unit.

19 In the exhibit packet that we filed
20 last week, we have Exhibits B, C, and D, which are the
21 compulsory pooling checklist as well as the self-
22 affirmed statement of Ms. Ariana Rodrigues, the
23 landman with Mewbourne. She has previously testified
24 before the Division has had her credentials accepted
25 as a matter of record. Attached to her self-affirmed

1 statement are Exhibits C-1 through C-5 which are the
2 standard exhibits for such an application, including
3 the C-102 for the proposed initial well, a land tract
4 map identifying each of the tracts and the uncommitted
5 interest owners associated with each and their
6 interests, a sample well proposal letter with
7 estimated costs, chronology of contacts indicating our
8 effort to reach agreement with each of the parties,
9 and then a diagram of the spacing unit proposed for
10 nonstandard with the offsets indicated.

11 Exhibit D is the self-affirmed
12 statement of Mewbourne's geologist, Mr. Cole Hatchel.
13 Mr. Hatchel is a geologist with the company. He's
14 previously testified and has had his credentials
15 accepted as a matter of record. Attached to his
16 statement is an overview of his geology analysis and
17 review reflecting that he's confirmed that the acreage
18 proposed for this nonstandard spacing unit in the
19 formation is appropriate for horizontal development,
20 along with the cross sections and so forth to confirm.

21 Exhibit E and F are the notice exhibits
22 reflecting that we provided notice to each of the
23 parties subject to pooling as well as the offset
24 operators within the tracts surrounding the proposed
25 nonstandard spacing unit, and a affidavit of

1 publication reflecting that we have also given
2 constructive notice by publication of each of those
3 parties as well.

4 (Case 24634 Exhibits A through F were
5 marked for identification.)

6 At this time, Mr. Examiner, I move the
7 admission of Exhibits A through F and ask that this
8 case be taken under advisement.

9 THE HEARING EXAMINER: Thank you. I'm
10 looking at your revised exhibit list submitted on
11 August 2nd. It looks like there's a revised
12 Exhibit D.

13 And are there any objections to this
14 exhibit packet?

15 Not hearing any, these Exhibits A
16 through F are admitted into evidence.

17 (Case 24634 Exhibits A through F were
18 received into evidence.)

19 MS. THOMPSON: I have questions.

20 THE HEARING EXAMINER: Okay. For which
21 witness?

22 MS. THOMPSON: For Mr. Rankin.

23 THE HEARING EXAMINER: Mr. Rankin. Go
24 ahead.

25 MR. RANKIN: Okay.

1 MS. THOMPSON: So I didn't see a pool
2 code on here; however, per the checklist and the
3 C-102s attached, the correct pool will be --

4 MR. RANKIN: I will double check that
5 and -- I see that, yeah, it's not on the checklist.
6 Let me just make sure.

7 THE HEARING EXAMINER: Mr. Rankin, I
8 think the technical examiner has the information for
9 you.

10 MS. THOMPSON: Yeah. I have it for
11 you. So the correct pool code -- when you're ready.

12 MR. RANKIN: I'm ready.

13 MS. THOMPSON: -- is the Forty Niner
14 Ridge Bone Springs pool code number 24720.

15 MR. RANKIN: I will file an amended set
16 of exhibits with the checklist identifying the correct
17 pool code.

18 MS. THOMPSON: And you also place the
19 pool code on the C-102s.

20 MR. RANKIN: Yeah.

21 MS. THOMPSON: And then, as well on the
22 C-102s there are some of them that are missing the
23 first and last take points for the wells. If you can
24 get those added in as well.

25 MR. RANKIN: Okay. We'll do that.

1 MS. THOMPSON: As well as the dedicated
2 acreage on the C-102s and the OGRID number for the
3 operator.

4 MR. RANKIN: Will do.

5 THE HEARING EXAMINER: Mr. Rankin, how
6 long do you want the record to be kept open?

7 MR. RANKIN: May I have one week to
8 make sure we can accomplish all that?

9 THE HEARING EXAMINER: One week. So
10 the 15th. So we will keep this hearing record open
11 until August 15th to cure those omissions, and at that
12 time, once we receive your second amended exhibit
13 packet, we will remove the other exhibit packets to
14 avoid confusion, then we'll take the case under
15 advisement.

16 MR. RANKIN: Thank you.

17 THE HEARING EXAMINER: Thank you.

18 Calling E.G.L. Resources, 24638, 39,
19 40, and 41.

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

22 THE HEARING EXAMINER: Please proceed.

23 MS. HARDY: Thank you. In these cases,
24 E.G.L. seeks an extension of time to commence drilling
25 operations under four pool orders. They're due to

1 delays in issuance of federal drilling permits.

2 The exhibit packets for each case
3 include the self-affirmed statement of Matthew
4 Langhoff, who has testified previously and been
5 recognized as an expert in petroleum land matters. He
6 provides the application and notice of hearing and a
7 copy of the orders that we are seeking to extend.
8 Exhibit B includes my notice affidavit along with the
9 chart of notice, the notice letters, and the timely
10 affidavit of publication.

11 (Cases 24638-24641 Exhibit A and
12 Exhibit B were marked for
13 identification.)

14 THE HEARING EXAMINER: Ms. Hardy, are
15 these the first extension requests?

16 MS. HARDY: They are, yes.

17 THE HEARING EXAMINER: Thank you.

18 MS. HARDY: And with that I would ask
19 that the exhibits be admitted into the record and that
20 these cases be taken under advisement.

21 THE HEARING EXAMINER: Ms. Hardy, what
22 is the good cause?

23 MS. HARDY: It is delays in issuance of
24 federal drilling permits.

25 THE HEARING EXAMINER: Understood.

1 Are there any objections to the
2 exhibits in these cases?

3 Not hearing any, the exhibits in all
4 four cases are admitted into evidence.

5 (Cases 24638-24641 Exhibit A and
6 Exhibit B were received into evidence.)

7 MS. THOMPSON: No questions.

8 THE HEARING EXAMINER: And all four
9 cases are taken under advisement.

10 Thank you.

11 MS. HARDY: Thank you.

12 THE HEARING EXAMINER: Calling Franklin
13 Mountain Energy 3, case numbers 24661, 62, 63, 64, 65,
14 and 66.

15 Entries of appearance?

16 MS. PENA: Good morning. Yarithza Pena
17 with Modrall Sperling on behalf of Franklin Mountain
18 Energy 3 LLC.

19 THE HEARING EXAMINER: Please proceed.

20 MS. PENA: Thank you. In lieu of the
21 brief case summaries, all six of these cases are
22 companion cases and encompass all of Section 32 in
23 Township 18 South, Range 35 East, and all of Section 5
24 in Township 19 South, Range 35 East in Lea County.
25 There are four Bone Spring applications and two

1 Wolfcamp applications in the west half, and each case
2 seeks to dedicate the unit to the Foxtail State Com
3 wells. Case 24662 also seeks approval of an
4 overlapping spacing unit.

5 We timely filed all exhibit packets
6 last week in these six cases. In each exhibit packet
7 we included the standard set of exhibits. Exhibit A
8 containing the compulsory pooling checklist, A-1
9 contains the applications, A-2 through A-7 contain the
10 affidavit of Don Johnson, the lineman for Franklin,
11 who has previously testified before the Division, and
12 his standard land exhibits.

13 Exhibits in Tab B contain the affidavit
14 of Ben Metz, the geologist for Franklin, who has also
15 testified before the Division, with his standard
16 geology exhibits for each formation.

17 Exhibits in Tab C contain the standard
18 notice exhibits including the declaration of Ms. Deana
19 Bennett and the affidavit of publication for each
20 case.

21 (Cases 24661-24666 Exhibit A,
22 Exhibit B, and Exhibit C were marked
23 for identification.)

24 With that I would ask that the exhibits
25 for all six cases, 24661 through 24666, be admitted

1 into the record and that the cases be taken under
2 advisement.

3 THE HEARING EXAMINER: Are there any
4 objections?

5 I do see an entry of appearance on
6 24666. It looks like maybe Holland & Hart?

7 MR. FELDEWERT: Mr. Examiner, I checked
8 that last night. That's not correct. We did not
9 appear in that case. I think that particular
10 reference should be for the next case, 24670.

11 THE HEARING EXAMINER: Thank you.
12 Are there any objections?

13 Not hearing any, the exhibits in 24661
14 through 2666 are admitted into evidence and, as there
15 are no questions from the technical examiner, all the
16 cases are taken under advisement.

17 Thank you.

18 (Cases 24661-24666 Exhibit A,
19 Exhibit B, and Exhibit C were received
20 into evidence.)

21 MS. PENA: Thank you.

22 THE HEARING EXAMINER: Calling
23 Mewbourne Oil case 24670 and 71.

24 MS. MCLEAN: Jackie McLean on behalf of
25 Mewbourne.

1 MR. FELDEWERT: Good morning,
2 Mr. Examiner. Michael Feldewert with the Santa Fe
3 office of Holland & Hart on behalf of MRC Permian in
4 both cases.

5 THE HEARING EXAMINER: Thank you. Are
6 there any objections?

7 MR. FELDEWERT: No, sir.

8 THE HEARING EXAMINER: Thank you.

9 Ms. McLean?

10 MS. MCLEAN: Thank you.

11 In case numbers 24670 and 24671,
12 Mewbourne seeks to pool the west half/west half of
13 Section 16 and the west half/northwest quarter of
14 Section 21, Township 19 South, Range 33 East, as well
15 as the east half/west half of Section 16 and the east
16 half/northwest quarter of Section 21, Township 19
17 South, Range 33 East in Lea County. And these units
18 will be dedicated to the Bushman 2116 Fed Com number
19 521H and 523H wells.

20 The exhibit packets that were submitted
21 to the Division include the compulsory pooling
22 checklist and the sworn statements of our land
23 professional Ariana Rodrigues and geologist Cole
24 Hatchel. Both witnesses have previously testified
25 before the Division. We've submitted the standard

1 land and geology exhibits as well as the notice
2 exhibits which include a timely notice of publication.
3 And unless there are questions, I ask that the
4 exhibits be admitted into the record in case numbers
5 24670 and 24671 and that these cases be taken under
6 advisement.

7 (Case 24670 and 24671 Exhibit A,
8 Exhibit B, and Exhibit C were marked
9 for identification.)

10 THE HEARING EXAMINER: Are there any
11 objections?

12 Not hearing any, exhibits in 24670 and
13 71 are admitted into evidence, and, as there are no
14 questions from the technical examiner, these two cases
15 are taken under advisement.

16 Thank you.

17 (Case 24670 and 24671 Exhibit A,
18 Exhibit B, and Exhibit C were received
19 into evidence.)

20 MS. MCLEAN: Thank you.

21 THE HEARING EXAMINER: Moving now to
22 Permian Resource cases 24674. I guess we'll do them
23 separately.

24 MR. RANKIN: Mr. Examiner, good
25 morning. May it please the Division. Adam Rankin

1 appearing on behalf of the applicant, Permian
2 Resources, in this case.

3 THE HEARING EXAMINER: Please proceed.

4 MR. RANKIN: Mr. Examiner, this is a
5 case that was continued for purposes of perfecting
6 notice by publication. The hearing exhibits and
7 testimony were all admitted and accepted by the
8 Division at the last hearing; however, the notice of
9 publication was published late, requiring us to
10 continue the hearing to this date to allow for the
11 notice period to run to perfect notice.

12 So at this time, Mr. Examiner, unless
13 there are no other parties who have appeared or object
14 to the case, we asked that the case be taken under
15 advisement.

16 THE HEARING EXAMINER: What was the
17 date of publication?

18 MR. RANKIN: I believe it was -- one
19 moment. I have it here. Sorry. It was published on
20 July 18th, 2024.

21 THE HEARING EXAMINER: Thank you. This
22 case will be taken under advisement.

23 Thank you, Mr. Rankin.

24 MR. RANKIN: Thank you.

25 THE HEARING EXAMINER: Calling next set

1 of Permian Resource cases 24689, 90, 91, and 92.

2 MS. HARDY: Mr. Examiner, Dana Hardy
3 with Hinkle Shanor on behalf of Permian Resources
4 Operating.

5 THE HEARING EXAMINER: Ms. Hardy,
6 please proceed.

7 MS. HARDY: Thank you.

8 In these four cases, Permian Resources
9 seeks to pool uncommitted interests in the Wolfcamp
10 formation, and each spacing unit is 240 acres. It'll
11 be dedicated to one well. These are the Kangaroo 12
12 Fed Com wells, and the acreage involves Section 11 and
13 the northwest quarter, actually, and southwest quarter
14 of Section 12, Township 20 South, Range 28 East in
15 Eddy County.

16 Our exhibit packets include the
17 self-affirmed statements of Landman Ryan Curry and
18 geologist Christopher Cantin, each of whom has
19 testified previously and been recognized as an expert
20 in their respective fields. Mr. Curry provides the
21 standard land exhibits, and those include the C-102s,
22 the plat of tracts and ownership interest, the well
23 proposal, and chronology of contacts. Mr. Cantin
24 provides the standard geology exhibits, including the
25 location map, cross section map, sub -- structure

1 maps, stratigraphic cross section, and gun barrel
2 development plan. Exhibit C is my notice affidavit
3 which includes the notice letter, a chart depicting
4 when notice was sent, as well as a timely affidavit of
5 publication which was published on July 6th.

6 (Cases 24689-24692 Exhibit A,
7 Exhibit B, and Exhibit C marked for
8 identification.)

9 So with that I would ask that the
10 exhibits be admitted and that the cases be taken under
11 advisement.

12 THE HEARING EXAMINER: Are there any
13 objections?

14 Not hearing any, the exhibits in case
15 numbers 24689, 90, 91, 92 are admitted into evidence,
16 and, as there are no questions from the technical
17 examiner, these four cases will be taken under
18 advisement. Thank you.

19 (Cases 24689-24692 Exhibit A,
20 Exhibit B, and Exhibit C received into
21 evidence.)

22 MS. HARDY: Thank you.

23 THE HEARING EXAMINER: Thank you.

24 I'm calling Matador Production or
25 MRC -- I'm never sure which they are -- 24693, 94, 95,

1 and 96.

2 MR. RANKIN: Mr. Examiner, good
3 morning. Adam Rankin appearing on behalf of the
4 applicant in these four cases.

5 THE HEARING EXAMINER: Thank you.
6 Please proceed.

7 MR. RANKIN: Mr. Examiner, in these
8 cases, Matador is requesting an extension of time for
9 one year. It's a second extension request. The
10 extension is being requested again on account of the
11 fact that BLM has not yet issued APDs in these cases.
12 The lands at issue here were subject to some
13 litigation over BLM's permitting procedures. Our
14 understanding is that those permitting procedures have
15 been resolved and that BLM is putting in place a
16 process to resolve and approve APDs at this point, so
17 we're simply waiting on, again, BLM to approve these
18 APDs. Once they are approved, Matador intends to go
19 forward to drill and complete these wells in a timely
20 manner.

21 (Cases 24693-24696 Exhibits A through E
22 were marked for identification.)

23 So with that, Mr. Examiner, we ask that
24 each of these four cases be granted an extension of
25 time to complete the drilling obligations under the

1 order by one year.

2 THE HEARING EXAMINER: I understand.
3 Let me check the exhibit packet for -- so this is the
4 second request, you said, and in paragraph 7 -- I'm
5 not sure whose affidavit this is. Hold on one minute.
6 Exhibit C. This would be the land manager, David
7 Johns, who is an expert. He states, "Once Matador's
8 previously filed federal APD is approved, Matador
9 intends to promptly drill." And that's the basis of
10 the good cause.

11 MR. RANKIN: Well, the basis of the
12 good cause is the prior paragraph 6 in each of the
13 affidavits that he's filed. Paragraph 6 confirms the
14 status of the litigation that's caused BLM to be
15 unable to approve those APDs.

16 THE HEARING EXAMINER: I see. Okay.
17 Good. Thank you for pointing that out.

18 Are there any objections in these
19 cases?

20 Not hearing any, the Exhibits in 24693,
21 94, 95, and 96 are admitted into evidence, and these
22 cases will be taken under advisement. Thank you.

23 (Cases 24693-24696 Exhibits A through E
24 were received into evidence.)

25 I believe we've heard case number

1 24697.

2 MR. RANKIN: Correct.

3 THE HEARING EXAMINER: So moving on
4 to -- and by the way, we're going to take a lunch
5 break at 11:30 today which will be one hour.

6 So 24700, Ameredev Operating.

7 MR. RANKIN: Mr. Examiner, good
8 morning. May it please the Division. Adam Rankin on
9 behalf of the applicant in the case.

10 THE HEARING EXAMINER: Please proceed.

11 MR. RANKIN: Mr. Examiner, this is an
12 application that was filed by Ameredev seeking to pool
13 all committed mineral interest owners in a standard
14 320-acre horizontal well spacing unit in Bone Spring
15 formation underling the east half/east half of
16 Sections 30 and 31 in Township 25 South, Range 36
17 East, Lea County, New Mexico.

18 In support of the application in
19 today's hearing, we filed an exhibit packet that
20 contains the information required by the Division,
21 Exhibits A through F. Exhibit A is a copy of the
22 compulsory pooling checklist. B is a copy of the
23 application.

24 C is a copy of the self-affirmed
25 statement of Ms. Lizzy Lawford [ph], who is a landman

1 with the company, who has previously testified before
2 the Division. Attached to her self-affirmed statement
3 are Exhibits C-1 through C-5 that include the C-102s
4 for the proposed initial wells, the land tract map
5 identifying each of the tracts and the parties, an
6 ownership breakdown of the parties that are within
7 this base unit and identifying those that are seeking
8 to pool, the sample proposal letter with -- fees and
9 costs, and then also a chronology of contacts
10 indicating reference to each voluntary agreement.

11 Exhibit D is the affidavit of Parker
12 Foy. He's the geologist for the company. He's
13 previously testified and has had his credentials as a
14 petroleum geologist accepted as a matter of record.
15 His statement includes Exhibit D-1 through D-4 which
16 are a locator map, sub -- structure map identifying
17 the target formation, cross section showing the target
18 intervals, and then the stratigraphic cross section as
19 well confirming that there are no impediments to
20 horizontal well drilling and that each well will
21 contribute more or less equally to the production of
22 the well.

23 Exhibits E and F are notice exhibits,
24 including my self-affirmed statement reflecting we
25 provided notice to each to the parties seeking to be

1 pooled by certified mail along with the status of each
2 of those mailings, and then the affidavit of
3 publication reflecting that we have also provided
4 constructive notice to each of those parties by name
5 in a newspaper of general circulation.

6 (Case 24700 Exhibits A through F were
7 marked for identification.)

8 Mr. Examiner, we would move the
9 admission of Exhibits A through F to the record and
10 ask that the case be taken under advisement.

11 THE HEARING EXAMINER: I see the letter
12 was sent out on July 19, and I see the notice was
13 published on July 25. By my calculations, today is
14 the 20th and 10th day, respectively. I don't know how
15 you could cut it any closer than that.

16 MR. RANKIN: I couldn't.

17 THE HEARING EXAMINER: No, you
18 couldn't. No.

19 Okay. That being said, are there any
20 objections?

21 Not hearing any in case number 24700,
22 the exhibit packet is admitted into evidence.

23 (Case 24700 Exhibits A through F were
24 admitted into evidence.)

25 Are there any questions?

1 MS. THOMPSON: No questions.

2 THE HEARING EXAMINER: The case is
3 taken under advisement.

4 Thank you.

5 MR. RANKIN: Thank you.

6 THE HEARING EXAMINER: Calling 24707
7 and 24708, E.G.L. Resources.

8 MS. HARDY: Mr. Examiner, Dana Hardy
9 with Hinkle Shanor on behalf E.G.L. Resources.

10 THE HEARING EXAMINER: Please proceed.

11 MS. HARDY: Thank you.

12 In these two cases, E.G.L. seeks to
13 pool one additional interest owner under two prior
14 pooling orders.

15 Our exhibit packets include the
16 affidavit of Mr. Matthew Langhoff, again who has
17 previously testified and been recognized as an expert.
18 His exhibits include the plat of tracts and ownership
19 interests, recapitulation, pooled parties list, and
20 the well proposal letter. And again, there is only
21 one party that is being pooled in each of these cases,
22 and that party is a very small interest; it's
23 Hutchings Oil. Exhibit B is my notice testimony,
24 which includes the notice letter and timely affidavit
25 of publication along with the return receipts that we

1 did receive a receipt from Hutchings Oil.

2 (Cases 24707 and 24708 Exhibit A and
3 Exhibit B were marked for
4 identification.)

5 So with that, I would ask that
6 Exhibits A and B and the sub-exhibits be admitted into
7 the record, and that these two cases be taken under
8 advisement.

9 THE HEARING EXAMINER: Did you mention
10 what the good cause was for the extension?

11 MS. HARDY: These two aren't
12 extensions. They are pooling one additional interest
13 owner.

14 THE HEARING EXAMINER: 24707 and 24708
15 are not extensions?

16 MS. HARDY: That's correct.

17 THE HEARING EXAMINER: Oh, the
18 amendment is because -- I see now. Okay. Thank you.

19 MS. HARDY: Yes.

20 THE HEARING EXAMINER: I understand.
21 Okay. Are there any objections?

22 Not hearing any, the exhibit packet in
23 case number 24707 and 24708 are admitted into
24 evidence.

25 //

1 (Cases 24707 and 24708 Exhibit A and
2 Exhibit B were admitted into evidence.)

3 Are there any questions?

4 MS. THOMPSON: No questions.

5 THE HEARING EXAMINER: The two cases
6 are taken under advisement.

7 Thank you, Ms. Hardy.

8 MS. HARDY: Thank you.

9 THE HEARING EXAMINER: Moving on to
10 Chevron USA, 24709.

11 MR. SAVAGE: Darin Savage with Abadie &
12 Schill appearing on behalf of applicant Chevron USA
13 Incorporated.

14 THE HEARING EXAMINER: Please proceed.

15 MR. SAVAGE: Case 24709 covers lands in
16 Section 14 and 23 in Township 24 South, Range 31 East,
17 Eddy County, New Mexico. The landman, Ms. Corie
18 Mathews, has testified previously before the Division
19 and their credentials have been accepted of record as
20 an expert in petroleum land matters. The geologist,
21 Leah Johnson, has not testified previously before the
22 Division as an expert witness. Her resume is included
23 in Exhibit B on page 37 for the Division's review.

24 THE HEARING EXAMINER: Hold on a
25 second. Let me get to page 37.

1 So 37 of 80. Leah Johnson. I see it.
2 And you're seeking to admit her as a
3 petroleum geologist?

4 MR. SAVAGE: That's correct. She has
5 two years of professional experience with Chevron
6 focusing on New Mexico. Graduated in 2022 from Texas
7 A&M with a master's in geology. She is available
8 online to answer any questions, and I do ask that the
9 Division recognize her record as an expert witness in
10 geology.

11 THE HEARING EXAMINER: Thank you. I am
12 reviewing the CV.

13 Ms. Johnson, are you with us?

14 MS. HARDY: Yes, I'm here.

15 THE HEARING EXAMINER: Good. Would you
16 raise your right hand?

17 MS. JOHNSON: Yes.

18 WHEREUPON,

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

23 THE HEARING EXAMINER: Okay. Good.

24 You are seeking to be recognized as an
25 expert in petroleum geology before this Division.

1 Tell me about your education that goes to that
2 expertise.

3 THE WITNESS: I got both my undergrad
4 and master's degrees in geology at Texas A&M
5 University, and then I had three internships in
6 petroleum geology before I was full-time with Chevron
7 and worked here as a petroleum geologist in New Mexico
8 for two years.

9 THE HEARING EXAMINER: Okay. And you
10 can put your hand down. What do you do as a petroleum
11 geologist?

12 THE WITNESS: Specifically, I'm on the
13 asset development team, and so I review the target
14 zones and make well plans -- in accordance with
15 guidelines and other regulatory rules.

16 THE HEARING EXAMINER: Okay,
17 Ms. Johnson. From here on in, you recognized as an
18 expert petroleum geology before this Division. Thank
19 you.

20 Mr. Savage?

21 MR. SAVAGE: Thank you.

22 In case number 24709, Chevron seeks an
23 order pooling all uncommitted interests in the Purple
24 Sage Wolfcamp formation designated as a gas pool
25 underlying a standard 640-acre, more or less, spacing

1 unit comprised of the west half of Sections 14 and 23.
2 The unit will be dedicated to the SMD 14-23 Fed Com
3 619H, 620H, and 621H wells. Orientation of the wells
4 and unit is stand-up, south/north, and the location of
5 the wells is nonstandard. Chevron will be applying --
6 for approval of the unorthodox well locations.

7 Ms. Mathews' Exhibit A for the case,
8 includes her landman self-affirmed statement, C-102,
9 an ownership breakdown, well proposal letter with
10 AFEs, and a chronology of contacts. Likewise,
11 Ms. Johnson's Exhibit B for this case includes her
12 self-affirmed geology statement along with the
13 standard suite of five geology exhibits showing the
14 potential development of the unit as described in her
15 statement. Exhibit C provides the self-affirmed
16 statement of notice for mailings and publication
17 notice. Notice was timely mailed. All working
18 interest owners were locatable and noticed; however,
19 service of notice by publication was not timely and it
20 was published by the newspaper two days late. As a
21 result, Chevron requests that time be allowed to cure
22 the publication notice.

23 (Case 24709 Exhibit A, Exhibit B, and
24 Exhibit C were marked for
25 identification.)

1 THE HEARING EXAMINER: Mr. Savage, I'm
2 confused. If everyone received and you have proof
3 that everyone received your timely mailing at least
4 28 days before today, why do you ask for a
5 continuance?

6 MR. SAVAGE: I think we could get by
7 without the publication, but as a precaution, should
8 there be somebody that shows up that was, like, an
9 unknown signee or, you know, somebody down the road
10 that comes out of the wood pile --

11 THE HEARING EXAMINER: I see. Okay.

12 MR. SAVAGE: That's the only reason.
13 And there's also some issues with the overriding
14 royalty interest owners.

15 THE HEARING EXAMINER: Okay.

16 MR. SAVAGE: I think all of them
17 received them except there was a couple in there that
18 it was forwarded or --

19 THE HEARING EXAMINER: Okay. I
20 understand.

21 MR. SAVAGE: So you know, it's a
22 precaution and it doesn't delay the operator.

23 THE HEARING EXAMINER: Okay. I
24 understand. So what we'll do is -- let's get these
25 admitted.

1 Are there any objections?

2 Not hearing any, your exhibits are
3 admitted into evidence in case number 24709.

4 (Case 24709 Exhibit A, Exhibit B, and
5 Exhibit C were admitted into evidence.)

6 Let's go to see if there's any
7 questions.

8 MS. THOMPSON: I have one question.

9 THE HEARING EXAMINER: Go ahead.

10 MS. THOMPSON: On the checklist, I see
11 that for your spacing that you just put a horizontal
12 instead of the actual spacing, so we'd correct that.

13 MR. SAVAGE: So you would want more
14 specific --

15 MS. THOMPSON: Yeah.

16 MR. SAVAGE: -- like the --

17 MS. THOMPSON: Yeah. Like the -- yeah.

18 The other thing I noticed, this is just
19 a more generalized question, is the interesting
20 supervision costs that you have listed on your
21 checklist. I want to know about that. So --

22 MR. SAVAGE: Yes. That is what Chevron
23 determined, and that's what they emailed a notice to
24 the working interest owners for. I don't know the
25 8,047.89. Ms. Matthews, can probably speak to that

1 better than I can, but that's the overheads that we
2 were asked to put in there.

3 MS. THOMPSON: Okay. Yeah. It was
4 just a general question.

5 MR. SAVAGE: Yeah. It's --

6 MS. THOMPSON: I have no other
7 questions.

8 MR. SAVAGE: All right. Thank you.

9 THE HEARING EXAMINER: All right.
10 Mr. Savage, since we are leaving the record open to
11 cure the notice, it looks like you'll be submitting an
12 amended exhibit packet with the updated checklist?

13 MR. SAVAGE: Okay.

14 THE HEARING EXAMINER: All right. How
15 long do you need to do that?

16 MR. SAVAGE: The next week is pretty
17 busy. Can I have two weeks to do that and put it in
18 before the hearing?

19 THE HEARING EXAMINER: Well, we're not
20 going to come back to another hearing, are we?

21 MR. SAVAGE: Well, I would make an
22 appearance.

23 THE HEARING EXAMINER: So instead of
24 just letting the time run, you feel like you need to
25 come back on this case?

1 MR. SAVAGE: Well, it depends. I asked
2 for a continuance, but if we don't need a continuance,
3 we just let the time -- I mean, I think we need to
4 resolve this in some manner with closure, so I would
5 think it would be on the docket and then you would
6 call it and then I would --

7 THE HEARING EXAMINER: If that's what
8 you are asking for, then that's what I'll consider.
9 That's what you're asking for?

10 MR. SAVAGE: Sure. I think that would
11 be appropriate.

12 THE HEARING EXAMINER: Okay. So what
13 docket? The next docket? August 22nd?

14 MR. SAVAGE: Yes. August 22nd.

15 THE HEARING EXAMINER: All right. So
16 then you will file a continuance, then, to --

17 MR. SAVAGE: I will file a continuance.

18 THE HEARING EXAMINER: Okay. So the
19 hearing record will remain open. We'll come back on
20 the record on August 22nd to let the time run out for
21 the published notice, and in the meantime you will
22 file a corrected checklist.

23 MR. SAVAGE: That's correct.

24 THE HEARING EXAMINER: An amended
25 hearing packet with a cover letter explaining why

1 you're filing it, so that we can take out the old
2 packet. Okay.

3 Is there anything more in this case,
4 Mr. Savage?

5 MR. SAVAGE: No. Thank you. I
6 appreciate it.

7 THE HEARING EXAMINER: All right.
8 We're off the record in this case.

9 And by the way, it's 11:32, so this is
10 a good time to take our lunch break. And it turns out
11 our lunch break's going to be a little longer than I
12 thought. Turns out that we're having a fire drill at
13 one o'clock here, so let's come back on the record at
14 1:30 today.

15 Thank you.

16 (Off the record.)

17 THE HEARING EXAMINER: We're back on
18 the record. It's 1:30 on August 8th, and we are going
19 to hear two cases out of order this afternoon.

20 I'm calling or recalling 24499 and
21 24500. We already have entries of appearances in
22 these cases. I don't see Mr. Feldewert here. I do
23 see Ms. Bennett, and I do see Ms. McLean.

24 So Ms. McLean --

25 MS. MCLEAN: And I see Mr. Feldewert on

1 the --

2 THE HEARING EXAMINER: Oh, is he
3 virtual? Excellent.

4 MS. MCLEAN: It looks like he's
5 virtual, so --

6 THE HEARING EXAMINER: Excellent.
7 Okay.

8 Mr. Feldewert, are you with us?

9 MR. FELDEWERT: Yes, sir.

10 THE HEARING EXAMINER: All right.
11 Excellent. So they're going to present these two
12 cases by affidavit. Any objection?

13 MR. FELDEWERT: And which two cases?
14 I'm sorry --

15 THE HEARING EXAMINER: That's okay.
16 Permian Resource cases 24499 and 500. They were
17 lines 20 and 21.

18 MS. MCLEAN: And these are actually
19 Earthstone Operating.

20 THE HEARING EXAMINER: Not Permian
21 Resources?

22 MS. MCLEAN: No.

23 MS. HARDY: Well Earthstone's a
24 subsidiary of Permian --

25 MS. MCLEAN: Right.

1 THE HEARING EXAMINER: That's why it
2 says Permian, because the OGRID number is under
3 Permian, not Earthstone?

4 MS. HARDY: Yes.

5 THE HEARING EXAMINER: Okay.

6 Mr. Feldewert, is that --

7 MR. FELDEWERT: This is the matter that
8 we initially called this morning and now we're
9 circling back to it?

10 THE HEARING EXAMINER: Yes, that's
11 correct.

12 MR. FELDEWERT: Okay. Yes. I have no
13 objection to it proceeding.

14 THE HEARING EXAMINER: Thank you, sir.
15 Appreciate it.

16 And Ms. Bennett?

17 MS. BENNETT: No objection. Thank you.

18 THE HEARING EXAMINER: Okay. Good.

19 Okay. Proceed.

20 MS. MCLEAN: Thank you. In case number
21 24499, Earthstone seeks an order pooling uncommitted
22 interests in the Bone Spring formation underlying a
23 240-acre standard horizontal spacing unit comprised of
24 the west half/east half of Section 14 and the west
25 half/northeast quarter of Section 23, Township 21

1 South, Range 34 East in Lea County, and seeks to
2 dedicate this unit to the Outland 1423 State Com 123H
3 and 133H wells.

4 Then in case 24500, Earthstone is
5 seeking an order pooling uncommitted interests again
6 in the Bone Spring formation, underlining a 240-acre
7 standard horizontal spacing unit comprised of the east
8 half/east half of Section 14 and the east
9 half/northeast quarter of Section 23, Township 21
10 South, Range 34 East in Lea County. And they'll
11 dedicate that unit to the Outland 1423 State Com 124H
12 and 134H wells.

13 We submitted an amended exhibit packet
14 on July 23rd to the Division for these cases, and
15 included in that packet are Exhibit A, the
16 self-affirmed statement of Mason Maxwell, who has
17 previously testified as an expert in petroleum land
18 matters. And with his affidavit are the standard land
19 exhibits. Exhibit B, self-affirmed statement of
20 Joseph Dishron. He has also previously testified
21 before as an expert in petroleum geology matters. And
22 we've included the standard geology exhibits which can
23 be found behind Exhibit B. Finally, notice testimony
24 which includes a copy of the notice letter and an
25 affidavit of publication for May 21, 2024.

1 (Cases 24499 and 24500 Exhibit A,
2 Exhibit B, and Exhibit C were marked
3 for identification.)

4 And I ask that Exhibits A, B and C be
5 admitted into the record in these cases and that the
6 cases be taken under advisement.

7 THE HEARING EXAMINER: Thank you. Let
8 me review.

9 Ms. McLean, the self-affirmed statement
10 of Mr. Maxwell says that he has been accepted as an
11 expert in his field, but the self-affirmed statement
12 of Mr. Dishron does not say that. It says that he's
13 previously testified before the Division, but not as
14 an expert.

15 MS. MCLEAN: Then he must have just
16 left off that part, but he has previously testified as
17 an expert in petroleum geology matters.

18 THE HEARING EXAMINER: Okay. Is he
19 with us?

20 MS. MCLEAN: He should be available.

21 THE HEARING EXAMINER: Mr. Dishron, are
22 you there?

23 MS. MCLEAN: I see him on the --

24 MR. DISHRON: Yes, I'm here. Can you
25 hear me?

1 THE HEARING EXAMINER: Will you turn on
2 your camera, please?

3 MR. DISHRON: I do not have one.

4 THE HEARING EXAMINER: Oh, okay. Well,
5 then I'm just going to have to rely on you to do what
6 I ask you. Would you raise your right hand, please?

7 MR. DISHRON: Yes.

8 WHEREUPON,

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

13 THE HEARING EXAMINER: Mr. Dishron,
14 when were you accepted as an -- well, first of all,
15 have you been accepted as an expert before this
16 Division?

17 MR. DISHRON: Yes, sir.

18 THE HEARING EXAMINER: When?

19 MR. DISHRON: It should have been about
20 the 2022 timeframe with ConocoPhillips at the time.

21 THE HEARING EXAMINER: I see. Okay.
22 And in what field of expertise?

23 MR. DISHRON: Petroleum geoscience.

24 THE HEARING EXAMINER: Geoscience.

25 Okay. Thank you.

1 Okay. Ms. McLean --

2 MR. DISHRON: Yes.

3 THE HEARING EXAMINER: Thank you,
4 Mr. Dishron. Okay.

5 MR. DISHRON: Yes. Thank you.

6 THE HEARING EXAMINER: So are there any
7 objections to receiving the amended exhibits as filed
8 in this case on the 23rd of July into evidence?

9 MR. FELDEWERT: Mr. Examiner, just one
10 question, if I may.

11 THE HEARING EXAMINER: Please.

12 MR. FELDEWERT: I think I'm looking at
13 the right one, but perhaps Mr. McLean could help me.
14 I believe the amended exhibits have removed
15 ConocoPhillips from being pooled. Right?

16 MS. MCLEAN: That's correct.
17 ConocoPhillips is not being pooled in these exhibits.

18 MR. FELDEWERT: Okay. All right.
19 Great. Thank you.

20 I have no objection.

21 THE HEARING EXAMINER: Okay. Thank
22 you, sir.

23 MS. BENNETT: No objection. Thank you.

24 THE HEARING EXAMINER: Okay. Very
25 good.

1 Ms. McLean, your amended exhibit packet
2 filed on the 23rd of July is received into evidence.

3 (Cases 24499 and 24500 Exhibit A,
4 Exhibit B, and Exhibit C were received
5 into evidence.)

6 And, Freya, would you please remove
7 the exhibit packet which I got caught up in on the
8 18th of July?

9 MS. TSCHANTZ: Yes, I will.

10 THE HEARING EXAMINER: All right.

11 Thank you.

12 Are there any questions?

13 MS. THOMPSON: No questions.

14 THE HEARING EXAMINER: No questions.

15 Ms. McLean, these two cases will be
16 taken under advisement. So thank you.

17 MS. MCLEAN: Thank you.

18 THE HEARING EXAMINER: And thank you,
19 Ms. Bennett.

20 MS. BENNETT: Thank you.

21 THE HEARING EXAMINER: Okay. So back
22 to our regular scheduled docket. I'm going to begin
23 with case number 91, that is 24715, 16, 17, and 18.

24 MS. MCLEAN: Yes. And actually, if you
25 would prefer, we can take these with 24724, 25, and

1 26.

2 THE HEARING EXAMINER: Very good. And
3 let me call those cases.

4 24724, 25, and 26.

5 Enter appearance please.

6 MS. MCLEAN: Jackie McLean on behalf of
7 Permian Resources.

8 THE HEARING EXAMINER: Thank you.
9 Please proceed.

10 MS. MCLEAN: Thank you. In case
11 numbers 24715, 24716, 24717, and 24718, Permian
12 Resources is seeking to pool uncommitted interests in
13 the Wolfcamp formation into an overlapping spacing
14 unit comprised of Sections 13 and 14, Township 20
15 South, Range 28 East in Eddy County. And there will
16 be four wells in these spacing units. The
17 Outback 13-14 Fed Com 201H, 202H, 203H, and 204H. And
18 the 201H and 202H wells overlap partially with the
19 spacing unit for the Government T Com number 001 well.
20 And the 203H and 204H overlap with the spacing unit
21 for the Government R Com number 001 well.

22 Then the other cases, 24724, 24725, and
23 24726, these are applications for Third Bone Spring
24 spacing units, and Permian is seeking to pool only the
25 Third Bone Spring interval of the Bone Spring

1 formation due to its depth severance. These cases are
2 the spacing units.

3 The south half/north half of Section 13
4 and 14, Township 20 South, Range 28 East in Eddy
5 County will be dedicated to the Outback 13-14 Fed
6 Com 132 well, and this spacing unit will also
7 partially overlap with the spacing unit for the
8 Government AC 13 Federal number 005H well.

9 Then in case numbers 24725 and 24726,
10 which is the south half/south half of Sections 13 and
11 14, this will be dedicated to the Outback 13-14 Fed
12 Com 134H well, and that is not an overlapping spacing
13 unit.

14 So for all these cases there's a Bone
15 Spring and a Wolfcamp application. We submitted
16 basically the same exhibits for all seven of these
17 cases, and they include the compulsory pooling
18 checklist, Exhibit A, the self-affirmed statement of
19 Ryan Curry, who has previously testified before as an
20 expert in petroleum land matters. And you can see
21 from the exhibit index that we've attached the
22 standard land exhibits.

23 Exhibit B, the self-affirmed statement
24 of Chris Cantin, who has also previously testified
25 before the Division as an expert in petroleum geology

1 matters, and attached to his self-affirmed statement
2 are the standard geology exhibits.

3 And then finally we have the notice
4 testimony, Exhibit C, which includes a copy of the
5 notice letter as well as an affidavit of publication
6 for July 18th, 2024.

7 (Cases 24715-24718 and 24724-24726
8 Exhibit A, Exhibit B, and Exhibit C
9 were marked for identification.)

10 So I ask that the Exhibits A, B, and C
11 and all sub-exhibits be admitted into the record in
12 case numbers 24724, 24725, 24726, 24715, 16, 17, and
13 18 -- be taken under advisement.

14 THE HEARING EXAMINER: Are there any
15 objections?

16 Not hearing any, the exhibits in all
17 seven cases are admitted into evidence.

18 (Cases 24715-24718 and 24724-24726
19 Exhibit A, Exhibit B, and Exhibit C
20 were received into evidence.)

21 Are there any questions?

22 MS. THOMPSON: No questions.

23 THE HEARING EXAMINER: All seven cases
24 are taken under advisement.

25 MS. MCLEAN: Thank you.

1 THE HEARING EXAMINER: Thank you.

2 Now we're left with Mewbourne Oil
3 Company cases. I'm going to call them as a group.
4 24618, 24619, 24651, 52, 53, and 54.

5 Entries of -- well, let me turn the
6 page. 24659, 60, 24703, and 24704.

7 You don't have to present them in any
8 particular grouping. I'm just calling them because
9 they were all Jim Bruce's cases. We know that he is
10 not here with us. I believe you've entered an
11 appearance.

12 MS. HARDY: That's correct.

13 THE HEARING EXAMINER: When did you
14 enter an appearance?

15 MS. THOMPSON: Yesterday.

16 MS. HARDY: Yesterday.

17 THE HEARING EXAMINER: Yesterday. In
18 all of these cases.

19 MS. HARDY: In all of these cases.
20 Correct.

21 THE HEARING EXAMINER: Okay. Great.
22 And you communicated that to me through email that you
23 were going to do that.

24 MS. HARDY: Correct.

25 THE HEARING EXAMINER: And at first I

1 didn't think that we would have the bandwidth to
2 review them technically, but they have been reviewed
3 technically, so you present them any way you want to.

4 MS. HARDY: Okay. Thank you very much.

5 So I --

6 MR. FELDEWERT: Hold on, Dana. If I
7 may. Mr. Examiner, I am involved in a set of these
8 cases. I don't know if you want to wait until they're
9 presented as a group, but it would be 24659 through
10 60.

11 THE HEARING EXAMINER: I do see --

12 MR. FELDEWERT: Milkshake --

13 THE HEARING EXAMINER: I do see that.
14 Did Matador file an objection at one point?

15 MR. FELDEWERT: No, they did not.

16 THE HEARING EXAMINER: Okay. So
17 there's still no objection.

18 MR. FELDEWERT: We do not object to
19 them proceeding.

20 THE HEARING EXAMINER: Okay. Great. I
21 don't think that would restrict Ms. Hardy in how she's
22 going to present them.

23 I also see Montgomery and Andrews
24 representing Permian Resources?

25 MS. HARDY: That's correct,

1 Mr. Examiner, and I spoke with Ms. Shaheen earlier and
2 she advised me to let you know that she does not
3 object to us proceeding by affidavit. She had a
4 conflict this afternoon.

5 THE HEARING EXAMINER: Okay. Very
6 good. All right. Please present them any way you
7 want to.

8 MS. HARDY: Thank you, Mr. Examiner. I
9 will start by presenting cases 24618 and 24619.

10 THE HEARING EXAMINER: Okay.

11 MS. HARDY: They're the North Wilson
12 Deep unit cases.

13 In case 24618, Mewbourne applies for an
14 order pooling uncommitted interests in the Bone Spring
15 formation underlying a 320-acre horizontal spacing
16 unit comprised of the west half of the east half of
17 Section 18 and the west half/east half of Section 7,
18 Township 21 South, Range 35 East.

19 And in case number 24619, Mewbourne
20 seeks an order to pool uncommitted interests also in
21 the Bone Spring underlying a 320-acre standard
22 horizontal unit comprised of the east half of the east
23 half of Section 18 and the east half/east half of
24 Section 7.

25 So collectively these two applications

1 pool the east half of those two sections.

2 THE HEARING EXAMINER: Now, Ms. Hardy,
3 just for your information, I noticed that Mr. Bruce
4 filed two sets of exhibits. So with your permission,
5 we will remove -- let me see. On page number 2 it
6 says that in these two cases it's a revised
7 Exhibit 2-E in the exhibit packet.

8 MS. HARDY: Correct. And it looks to
9 me like there were -- Mr. Bruce did file his exhibits
10 in two parts. So what I see is -- and I'm looking at
11 24619 -- there were exhibits filed on July 17th that
12 include the notice exhibits.

13 THE HEARING EXAMINER: Okay. I'm in 18
14 right now, and what I see in 18 is a table of
15 contents, exhibit list part one, pooling checklist,
16 landman affidavit, and geology affidavit. And then
17 let me look at the yellow document. Maybe that's part
18 two. Yes. That's part two, Exhibits 4, 5, and 6.
19 You know, the affidavit of mailing and publication.
20 Okay. Very good.

21 So yes, you're right. Both of these
22 exhibit packets complete the set.

23 MS. HARDY: Yes. Thank you.

24 And in both exhibit packets we have
25 provided the self-affirmed statements of land

1 professional Adriana Salgado and geologist Justin
2 Roeder. Both witnesses have testified previously and
3 been recognized as experts in their respective fields.
4 Ms. Salgado's exhibits include the C-102s, the plat of
5 tracts, ownership interest, and pooled parties, along
6 with the well proposal and chronology of contacts.
7 Mr. Roeder's exhibits include a location map,
8 structure map, and stratigraphic cross section.

9 Exhibit 4 is Mr. Bruce's notice
10 affidavit and the associated attachments, including
11 the certified mail receipts. And Exhibit 5 is the
12 timely affidavit of publication.

13 (Cases 24618 and 24619 Exhibits 1
14 through 5 were marked for
15 identification.)

16 With that, unless there are questions,
17 I request the exhibits be admitted and that the cases
18 be taken under advisement.

19 THE HEARING EXAMINER: In case 24618,
20 I'm looking for what page the actual notice letter --
21 do you know what page it is? Because I can't find it.

22 MS. HARDY: Let me see here.

23 THE HEARING EXAMINER: I think I found
24 it. I think it's dated July 3rd. It's Exhibit 4-A.

25 MS. HARDY: That's correct, yes.

1 THE HEARING EXAMINER: Okay. Very
2 good. All right.

3 Are there any objections in these two
4 cases?

5 Not hearing any, I turn to the
6 technical examiner.

7 MS. THOMPSON: No questions.

8 THE HEARING EXAMINER: Okay. The
9 exhibits in both cases are admitted into evidence and
10 both cases will be taken under advisement.

11 (Cases 24618 and 24619 Exhibits 1
12 through 5 were received into evidence.)

13 I'm just going to look, before we move
14 on at the second case, to make sure the exhibit
15 packets are properly filed. So I'm going to look at
16 19 now.

17 Okay. Once again I see a yellow and
18 green. Yellow is the -- I think Freya must have gone
19 in and taken out the duplicate. She sent it to you.
20 Okay. Because I had asked her to remove duplication
21 and she has done it --

22 MS. HARDY: Okay. Yes.

23 THE HEARING EXAMINER: -- that's why
24 I'm seeing part two in yellow and and part one in
25 green as amended.

1 Okay. We are in in recess on these two
2 cases.

3 Ms. Hardy, your next cases.

4 MS. HARDY: Thank you. Yes. Next I
5 will present case number 24651 through 24654, which
6 are the Sandbox 12 cases.

7 THE HEARING EXAMINER: Uh-huh.

8 MS. HARDY: And in those four cases,
9 Mewbourne seeks to pool record title owners of federal
10 leases. So we're not seeking to pool working interest
11 owners or overriding royalty interest. Each
12 application involves a standard horizontal spacing
13 unit and they comprise the north half/north half of
14 Section 12, the north half/north half of Section 11,
15 Township 18 South, Range 30 East. So then next we
16 have the south half/north half, north half/south half,
17 and south half/south half. So collectively, the
18 applications pool the Bone Spring in the entirety of
19 those two sections.

20 The exhibit packets include the
21 compulsory pooling checklist and the affidavits of
22 land professional Josh Anderson and geologist Charles
23 Crosby. Both of those witnesses have testified
24 previously as experts and were recognized in their
25 respective fields. Mr. Anderson's exhibits include

1 the C-102s, the plat of tracts, ownership interest,
2 and pooled parties along with the proposed
3 communization letter that was sent to the record title
4 owners and the chronology of contacts.

5 (Cases 24651-24654 Exhibit 1,
6 Exhibit 2, and Exhibit 3 were marked
7 for identification.)

8 THE HEARING EXAMINER: On what date was
9 the letter sent?

10 MS. HARDY: Let me get that. We're
11 looking for the letter that was sent to the record
12 title owners or the --

13 THE HEARING EXAMINER: I am. The
14 record title owners, yes.

15 MS. HARDY: Oh geez. It's just taking
16 me a minute to track that down. The owners are
17 identified -- let's see. If you look, actually, it
18 looks like it's page 19.

19 THE HEARING EXAMINER: Of which packet?

20 MS. HARDY: Of -- and I'm looking at
21 case 24651, and it's the yellow packet.

22 THE HEARING EXAMINER: Yellow. Hold on
23 one second. Let me see which one is the yellow one
24 here. I'm in the green one. Give me a minute.

25 So you said page 19? I'm here now.

1 MS. HARDY: Yes.

2 THE HEARING EXAMINER: The date
3 November 29?

4 MS. HARDY: Exactly.

5 THE HEARING EXAMINER: I see. What is
6 the difference between a case dealing with record
7 title owners versus working interest owners?

8 MS. HARDY: Sure. So record title
9 owners are listed by the BLM in this case as having an
10 ownership interest in the lease, but they don't own an
11 interest in the working interest or the operating
12 rights. So they're merely listed as record title
13 owners on the federal lease. They've farmed out or
14 otherwise conveyed the working interest to other
15 parties.

16 And so the BLM requires operators to
17 have a communitization agreement for their leases if
18 they're developing more than one, and when a record
19 title owner does not sign, the BLM will accept a
20 pooling order. So that's the reason for pooling
21 record title owners, but they're not cost bearing
22 interests, so they aren't liable for well costs.

23 THE HEARING EXAMINER: And that's
24 what's happening here.

25 MS. HARDY: Correct.

1 THE HEARING EXAMINER: They didn't
2 sign.

3 MS. HARDY: Correct.

4 THE HEARING EXAMINER: So you're
5 looking to the state to use its police power to pool
6 them.

7 MS. HARDY: Right.

8 THE HEARING EXAMINER: Okay.

9 MS. HARDY: They may not be locatable.
10 I mean, it just depends. Sometimes they're difficult
11 to track down. Sometimes they just don't want to sign
12 a document.

13 THE HEARING EXAMINER: And the notice
14 requirements in this case, are they any different
15 from -- they're still 20 days and 10 days for
16 publishing?

17 MS. HARDY: Still the same.

18 THE HEARING EXAMINER: Same? Still the
19 same. Okay.

20 MS. HARDY: Correct.

21 THE HEARING EXAMINER: Please proceed.

22 MS. HARDY: So with that -- well I
23 don't know if I got through the notice exhibits.
24 Mr. Bruce's affidavit is Exhibit 4, and he provides
25 the certified mail receipts and the timely notice of

1 publication.

2 (Cases 24651-24654 Exhibit 4 was marked
3 for identification.)

4 So unless there are questions, I would
5 ask that the exhibits be accepted into the record and
6 that these cases be taken under advisement.

7 THE HEARING EXAMINER: Okay. And did
8 you say that both experts had been received before
9 this Division in their fields?

10 MS. HARDY: Yes. Correct.

11 THE HEARING EXAMINER: Okay. I wasn't
12 sure I heard that.

13 MS. HARDY: Yes.

14 THE HEARING EXAMINER: Are there any
15 objections in these four cases?

16 Not hearing any, your exhibits in cases
17 24651, 52, 53, and 54 are received into evidence.

18 (Cases 24651-24654 Exhibits 1 through 4
19 were received into evidence.)

20 And I turn to the technical examiner --

21 MS. THOMPSON: No questions.

22 THE HEARING EXAMINER: -- who has no
23 questions.

24 These cases are taken under advisement.

25 And that leaves us with four cases at

1 the end of our docket.

2 MS. HARDY: Thank you. And Ms. McLean
3 is going to present those.

4 THE HEARING EXAMINER: Yes. So I'll be
5 presenting first 24659 and 24660.

6 THE HEARING EXAMINER: Thank you.

7 MS. MCLEAN: And in these cases,
8 Mewbourne is seeking to pool the south half of
9 Sections 9 and 10, Township 18 South, Range 30 East,
10 and seeks to dedicate the north half/south half
11 spacing unit to the Milkshake 9 10 Fed Com well number
12 526H and the south half/south half spacing unit to the
13 Milkshake 9 10 Fed Com well number 528H.

14 The exhibit packets that were submitted
15 by Mr. Bruce include the compulsory pooling checklist
16 and the sworn statements of land professional Josh
17 Anderson and geologist Charles Crosby, and both
18 witnesses have previously testified before the
19 Division as experts in land and geology.

20 Mr. Anderson's exhibits include C-102s, a plat of
21 tract ownership interests, pooled parties list, well
22 proposal letter, and chronology of contacts. And
23 Mr. Crosby's include a structure map and stratigraphic
24 cross section. Exhibit 4, which I believe is in the
25 second part of the exhibits, include the notice

1 affidavit and attachments, including certified mail
2 receipts, and Exhibit 5 includes a timely notice of
3 publication.

4 (Cases 24659 and 24660 Exhibits 1
5 through 5 were marked for
6 identification.)

7 So with that I ask that the exhibits be
8 admitted into the record in case numbers 24659 and
9 24660 and that these cases be taken under advisement.

10 THE HEARING EXAMINER: Thank you. I'm
11 reading the letter that Mr. Bruce dated July 30th,
12 notice of filing revised exhibit packages in these two
13 cases. The revised exhibit package contains the
14 following changes to Exhibit 1: The pooling checklist
15 correcting the property description in one case;
16 supplemental Exhibit 4-A, the mailed notice exhibit,
17 containing additional green cards received; revised
18 Exhibit 4-B, the certified pooling checklist
19 reflecting the additional green cards received;
20 finally, replacement Exhibit 5, the affidavit of
21 publication.

22 And I know that it was Mr. Feldewert's
23 concern that his party -- Matador is it? Was it
24 Matador?

25 MR. FELDEWERT: Yes.

1 THE HEARING EXAMINER: Yes -- was not
2 on the list.

3 Do these revised exhibits show that,
4 Ms. McLean?

5 MS. MCLEAN: Yes. Give me one second
6 here.

7 THE HEARING EXAMINER: Thank you.

8 MS. MCLEAN: That would be in the first
9 packet.

10 THE HEARING EXAMINER: Okay. Let me
11 get to it. Let me get to it. Which exhibit would it
12 be? Two what?

13 MS. MCLEAN: I'm looking to see which
14 exhibit he includes it as. It should be 2-B.

15 THE HEARING EXAMINER: Right. That's
16 what I think also, but let me get there.

17 MS. MCLEAN: And he shows here --

18 THE HEARING EXAMINER: Are you on a
19 particular page that you can direct me to?

20 MS. MCLEAN: Yes. So I'm on -- I
21 believe 2-B starts on page 13 of the PDF.

22 THE HEARING EXAMINER: I'm there, I'm
23 there.

24 MS. MCLEAN: And so I'm looking to see
25 how he distinguishes that. It looks like perhaps an

1 asterisk identifies someone who is going to be pooled
2 on Mr. Bruce's exhibits because -- or maybe not. It's
3 hard when you have someone else --

4 THE HEARING EXAMINER: Of course it is.

5 MS. MCLEAN: We all do them
6 differently.

7 THE HEARING EXAMINER: Look on page 16.

8 MS. MCLEAN: Okay.

9 MS. HARDY: There it is.

10 MS. MCLEAN: It's above the bottom?

11 THE HEARING EXAMINER: Mr. Feldewert,
12 it looks like your client, MRC Delaware Resources. Is
13 that right?

14 MR. FELDEWERT: Yes, sir.

15 THE HEARING EXAMINER: It says here
16 north half of the south half of Section 9 they have a
17 49.28 percent interest.

18 MR. FELDEWERT: And we understand. I
19 believe that's -- we don't have any reason to dispute
20 that, as I understand it.

21 THE HEARING EXAMINER: Fine, fine. And
22 then it looks like it's the same amount of interest in
23 the northwest quarter of the southwest quarter of
24 Section 10, and that's on page 17 of this exhibit?

25 MS. MCLEAN: Yes.

1 THE HEARING EXAMINER: Okay. And
2 Ms. McLean, you were saying that if there isn't an
3 asterisk by the name, they're not seeking to be forced
4 pooled?

5 MS. MCLEAN: Well I don't think that's
6 correct, actually.

7 THE HEARING EXAMINER: Oh, okay. Okay.

8 MS. MCLEAN: Is that correct?

9 MS. HARDY: I believe the pooled
10 parties are listed with an asterisk.

11 THE HEARING EXAMINER: Oh, the pooled
12 parties are listed an asterisk.

13 MS. MCLEAN: I think. Yeah, I think
14 so.

15 THE HEARING EXAMINER: Because I see
16 here --

17 MS. MCLEAN: But then MRC would be
18 pooled. They are pooled. Yeah.

19 THE HEARING EXAMINER: Right. Because
20 I see on page 16 in the north half of the south half
21 of Section 9, et cetera, I see MRC with an asterisk
22 next to it for 30 percent leasehold interest. I know
23 you're taking over someone else's case --

24 MS. MCLEAN: Yes.

25 THE HEARING EXAMINER: -- and I know

1 this is --

2 MS. MCLEAN: Because it looks -- total
3 interest being pooled -- so this is on page 16.

4 THE HEARING EXAMINER: Sixteen.

5 MS. MCLEAN: After the initial list of
6 owners --

7 THE HEARING EXAMINER: Yes.

8 MS. MCLEAN: -- it says total interest
9 being pooled 38.08.

10 THE HEARING EXAMINER: Thirty-eight,
11 yes.

12 MS. MCLEAN: And so Mewbourne has
13 61.9 percent, which would leave the rest of the people
14 that have the asterisks next to their names as the
15 parties that are being pooled.

16 THE HEARING EXAMINER: Okay. Very
17 good.

18 So Mr. Feldewert, are you looking at
19 page 16?

20 MR. FELDEWERT: Yes.

21 THE HEARING EXAMINER: Okay. Good. Is
22 this still what you expected?

23 MR. FELDEWERT: Yes. I think that the
24 parties are close to an agreement. That's why we are
25 still in the case. So this does not surprise me.

1 THE HEARING EXAMINER: Okay. Very
2 good. So no objections.

3 MR. FELDEWERT: No objections.

4 THE HEARING EXAMINER: Very good.
5 That's what I want to hear. Thank you very much. I
6 just wanted to see the numbers on these exhibits.

7 So, Ms. McLean, I don't remember if I
8 received your exhibits into evidence, but in 24659 and
9 60, the exhibits are admitted into evidence.

10 (Cases 24659 and 24660 Exhibits 1
11 through 5 were admitted into evidence.)

12 Are there any questions from the
13 technical examiner?

14 MS. THOMPSON: No questions.

15 THE HEARING EXAMINER: I didn't think
16 so.

17 These cases will be taken under
18 advisement.

19 And we're down to our last two cases.

20 MS. MCLEAN: Yay. And Jackie McLean on
21 behalf of Mewbourne in 24703 and 24704.

22 THE HEARING EXAMINER: Please --

23 MS. MCLEAN: In case number 24703,
24 Mewbourne is applying for an order pooling uncommitted
25 interest in the Bone Spring formation underlying the

1 west half/west half of Section 33, Township 23 South,
2 Range 28 East, and Lot 4, southwest quarter/northwest
3 quarter and the west half/southwest quarter of
4 Section 4, Township 24 South, Range 28 East in Eddy
5 County, and this unit will be dedicated to the
6 Foreigner 33/4 Fed Com well number 521H.

7 Then, in case number 24704, Mewbourne
8 applies for an order pooling uncommitted interest in
9 the Bone Spring formation underlying a horizontal
10 spacing unit comprised of the east half/west half of
11 Section 33, Township 23 South, Range 28 East, and
12 Lot 3, southeast quarter/northwest quarter and east
13 half/southwest quarter of Section 4, Township 24
14 South, Range 28 East in Eddy County, and this unit
15 will be dedicated to Foreigner 33/4 Fed Com well
16 number 524H.

17 The exhibit packets include the sworn
18 statements of land professional Mitch Robb and
19 geologist Tyler Hill. And Cole Hatchel is actually on
20 the line covering for Mr. Hill if there are any
21 geology questions. And both have previously testified
22 as experts. In addition to the standard land and
23 geology exhibits, we have Exhibit 4, which is the
24 notice exhibits including certified mail receipts.

25 And Exhibit 5 is a notice of

1 publication, and this shows that it was timely
2 published, but Mr. Bruce did not get back an actual
3 affidavit of publication; they just sent the notice to
4 show. And with the week before deadline, it is
5 getting a little more under the gun to get those back
6 from the publishers. So we can supplement with the
7 actual notice of publication, but we still ask that
8 this case be taken under advisement because I don't
9 think we, you know, necessarily need to wait for that
10 or come back for that notice.

11 (Cases 24703 and 24704 Exhibits 1
12 through 5 were marked for
13 identification.)

14 THE HEARING EXAMINER: So, Ms. McLean,
15 the letter sent out by Mr. Bruce was on July 15th, so
16 that was, you know, more than 20 days before today.

17 MS. MCLEAN: Correct.

18 THE HEARING EXAMINER: So that's
19 Exhibit 4-A. And then we have, it looks like, one
20 certified mail receipt but no return receipt, it looks
21 like.

22 MS. MCLEAN: And which case are you
23 looking at?

24 THE HEARING EXAMINER: Oh. Well I'm in
25 the first case, which is 24703, and I'm on page 27,

1 which is where the letter is. Or 26.

2 MS. MCLEAN: Okay. Yes. Exhibit 4-A,
3 the letter.

4 THE HEARING EXAMINER: Yes.

5 MS. MCLEAN: Yes. There's one -- let
6 me see here. I think that this one -- hold on. I
7 just want to double check. So this one, there's only
8 one person that they're seeking to pool, which is
9 assigned to Joe H. Beeman, and that's who the white
10 slip is for, and likely it wasn't returned.

11 THE HEARING EXAMINER: You mean the
12 green card.

13 MS. MCLEAN: The green card, correct.

14 THE HEARING EXAMINER: Okay. Very
15 good. So then we rely on the notice.

16 MS. MCLEAN: Correct.

17 THE HEARING EXAMINER: Okay.

18 MS. MCLEAN: And so that shows that it
19 was timely published on July -- what day was it?

20 THE HEARING EXAMINER: Twenty-seventh.

21 MS. MCLEAN: -- 27th.

22 THE HEARING EXAMINER: So would that be
23 ten days? July 27th. Let me just look.

24 MS. MCLEAN: Wait. Did it --

25 THE HEARING EXAMINER: Well, it's ten

1 business days. So it was published on a Saturday. I
2 don't think we count Saturday.

3 MS. THOMPSON: No --

4 THE HEARING EXAMINER: Right. So I
5 think we need to recall this case on a subsequent
6 docket, Ms. McLean.

7 MS. MCLEAN: Is it ten? Yeah. I think
8 you're correct.

9 THE HEARING EXAMINER: And that way you
10 can file an amended packet that has the affidavit of
11 publication, and then we'll just recall it just for
12 the purposes of curing this published notice since we
13 don't know if this person got their certified mail or
14 not.

15 MS. MCLEAN: I guess we'll figure out
16 how to get that --

17 MS. HARDY: Yes.

18 MS. MCLEAN: We can ask for that. I'll
19 make a note.

20 THE HEARING EXAMINER: You mean from
21 the newspaper?

22 MS. MCLEAN: Yes.

23 THE HEARING EXAMINER: Yeah. I thought
24 that's what you meant. Okay.

25 So when you file the amended packet,

1 would you include a cover letter to explain what's
2 happening? Because in this case we actually, in the
3 unlikely scenario where we have -- we only have one
4 exhibit packet. This is one of the very few of
5 Mr. Bruce's case that have literally one.

6 MS. MCLEAN: Yes.

7 THE HEARING EXAMINER: So that won't be
8 the case in the future, but we will take this one out
9 when we get your new one.

10 MS. MCLEAN: Okay. That sounds --

11 THE HEARING EXAMINER: And would you
12 continue this case to the August 22nd docket? All
13 right. Perfect.

14 And are you saying this is the same
15 issue for the other case too?

16 MS. MCLEAN: Yes.

17 THE HEARING EXAMINER: You are saying
18 that.

19 MS. MCLEAN: Yes. That's correct.

20 THE HEARING EXAMINER: So both cases.
21 Okay. Let me admit the exhibits in
22 both cases.

23 Are there any objections?

24 No. Then the exhibits are admitted in
25 both cases.

1 (Cases 24703 and 24705 Exhibits 1
2 through 5 were admitted into evidence.)
3 The record will remain open. We will
4 not take this under advisement. The party will
5 continue these two cases to the August 22nd docket to
6 cure the missing affidavit of publication and the time
7 for the publication to run.

8 24704. Let me just look at that case
9 to see if there's anything else I see in that exhibit
10 packet.

11 There's only one exhibit packet. It's
12 very similar to this case where everything's on one
13 affidavit of publication. Let's see how many letters
14 were sent.

15 MS. MCLEAN: This one had two.

16 THE HEARING EXAMINER: Yes, you're
17 right. Yes, you're right. And the letter was sent
18 timely. There's no way to know that they got it. So
19 the notice was, of course -- same issue here.

20 Published on the 27th. Not timely for today's
21 hearing, but it will be for the August 22nd hearing.

22 So are there any other issues?

23 MS. MCLEAN: Not unless --

24 MS. HARDY: No. Thank you very much.

25 THE HEARING EXAMINER: You're welcome.

1 I'm glad that we could handle as many of Mr. Bruce's
2 cases.


3 We're off the record.

4 (Whereupon, at 2:07 p.m., the
5 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 22, 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 22, 2024



MARY ANN BURKE

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