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STATE OF NEW MEXICO OIL CONSERVATION DIVISION

READ & STEVENS, INC., PERMIAN

RESOURCES OPERATING LLC,

Applicants,

and

CIMAREX ENERGY COMPANY

Applicant.

Dock



HEARING

DATE: Tuesday, August 13, 2024

TIME: 8:32 a.m.

BEFORE: Gregory A. Chakalian

LOCATION: Pecos Hall, Wendell Chino Building

1220 South Saint Francis Drive

Santa Fe, NM 87505

REPORTED BY: James Cogswell

JOB NO.: 6774023

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A P P E A R A N C E S

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

ALSO PRESENT:

Gregory A. Chakalian, Hearing Examiner - OCD
Dean McClure, Technical Examiner - OCD (by
videoconference)
Freya Tschantz, Law Clerk - OCD
David Sessions, Technical Support (Abadie &
Schill, P.C.)
Staci Mueller, Witness
Isabella Sikes, Witness
Travis Macha, Witness
Ira Bradford, Witness

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I N D E X

WITNESS(ES):	DX	CX	RDX	RCX
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STACI MUELLER				
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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
Cimarex:		
Exhibit Tab 1	Reference for Case No. 24541	44/46
Exhibit Tab 3	Wolfbone Pool Proposal and Allocation Formula	48/50
Exhibit Tab 6	Self-Affirmed Statement of Notice	52/53
Exhibit F1	Resume Isabella Sikes	66/66
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Permian:		
Exhibit A	Application	53/55
Exhibit B7	Wolfbone Pool Boundaries	57/57
Exhibit C1	Type Log for the Special Wolfbone Pool	59/59
Exhibit C2	Comparison of Proposed Wolfbone Pools	59/60
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P R O C E E D I N G S

THE HEARING EXAMINER: Good morning again. It is 8:32 a.m. on August 13th. We are here for a contested hearing in Case Number 24528, 24541 dealing with Order Number R-23089.

Parties enter in appearance.

MR. RANKIN: Good morning, Mr. Examiner. Adam Rankin appearing on behalf of the applicants Read & Stevens and Permian Resources Operating.

THE HEARING EXAMINER: Thank you.

Your microphone's not on.

MR. SAVAGE: Darin Savage and Bill Zimsky with Abadie & Schill appearing on behalf of Applicant Cimarex Energy Company.

THE HEARING EXAMINER: Thank you.

I'd like to review the scope of today's hearing. I've noticed the exhibits that have been submitted, but I would like to review the scope. So looking at the order itself on page number 3, the order states, paragraph 21, "OCD hereby denies both applications accepted so far as either applicant or both applicants choose to propose a special pool, a Wolfbone Pool, that would account for the lack of frac baffles between the Bone Spring and the Wolfcamp

1 formations in this area. The record is left open. So
2 the record is left open for such a proposal and will
3 prompt a reopening of the hearing record on both
4 applications." 22, "It is not necessary for the
5 parties to repeat the testimony or resubmit the
6 exhibits regarding original proposed plans. They may
7 refer to existing evidence to the extent needed to
8 justify the special pool request."

9 Now, Mr. Savage, your exhibits, to what
10 extent are you resubmitting the same exhibits that you
11 resubmitted originally?

12 MR. SAVAGE: Let me pull up that order.
13 Just a minute here.

14 THE HEARING EXAMINER: Mr. Rankin, I'm
15 going to ask you the same question.

16 MR. SAVAGE: Okay. So -- okay. So,
17 Mr. Examiner, Permian Resources submitted their
18 application first. Okay. In that application -- this
19 is a really difficult -- as I understand it, it's a
20 very rather messy and kind of difficult situation. So
21 they, in their application, they asked -- as part --
22 not only did they propose the Wolfbone Pool, they
23 asked that their applications be approved. They asked
24 that their applications be approved, and they asked
25 that Cimarex's applications be denied. And for us,

1 that looks like something that has to be addressed
2 under the -- at the hearing. And so when we get our
3 application, we also had integrated into the -- we did
4 the Wolfbone proposal where we integrated a narrative
5 into that application that showed why our application
6 should be approved and that theirs should be denied.

7 Now, it says that "the record is left
8 open for such a proposal and will prompt a reopening
9 of the hearing record on both applications." We
10 wondered -- you know, debated and wondered to the
11 extent that term referred to the Wolfbone application
12 plus the original application since there was a
13 request for those applications to be approved or
14 denied. So, you know, we looked at that term, "both
15 applications," and, you know, Mr. Hearing, you're
16 correct in the literal sense that refers to the
17 Wolfbone application. But in the context of this
18 larger contest and given that there was a request to
19 approve applications and deny applications initially
20 at the outset of the submission of these applications,
21 we, you know, did the best we could to try to give OCD
22 all the full scope of this situation and cases as they
23 relate not only to the Wolfbone but also to the
24 original hearing.

25 THE HEARING EXAMINER: All right.

1 Let's look at your -- I'm going to have to restart my
2 computer. I don't have access to the database on
3 Wi-Fi. I have to restart my computer, so this is
4 going to take a moment.

5 But, Mr. Savage and Mr. Rankin, as the
6 order's clear to me that we're not going to be
7 resubmitting exhibits that go to the compulsory
8 pooling application, that we're only dealing today
9 with the special pool applications in both cases? And
10 if I have to, I will review the exhibit packets
11 originally submitted and compare them to the exhibit
12 packets submitted for today's hearing and weed out
13 anything that is redundant.

14 I don't know whether or not your
15 applications have changed when -- your exhibits have
16 changed when it comes to the two exhibit packets. I
17 would hope not, but if they have, we're going by the
18 original exhibit packets filed when it comes to the
19 compulsory pooling because the parties don't have a
20 second chance at the apple, in my opinion, based on
21 this order.

22 So with that in mind, Mr. Savage, do
23 the exhibits that you originally submitted in your
24 cases -- and it looks like your original cases, were
25 they Case Number 23448, 323455?

1 MR. SAVAGE: Yes, they were.

2 THE HEARING EXAMINER: Okay. What
3 about Case Number 23594, 323601?

4 MR. SAVAGE: I believe that was
5 additional applications. We had two options in our
6 original: option one, for the Bone Spring, and then
7 option two that included the Wolfcamp. If I may
8 comment.

9 THE HEARING EXAMINER: Okay.

10 MR. SAVAGE: So with the creation of
11 the Wolfbone, that is going to change the nature of
12 both applications. It'll change the nature of the
13 exhibits. So for example, as I understand from
14 Permian Resources, they're doing two units within the
15 Wolfbone. So they -- in their original application --
16 and based on the -- and they would have to propose,
17 you know, those applications based on those two units
18 within the Wolfbone. So those would not be able -- as
19 I understand, would not be able to be approved. Ours
20 also -- you know, we would have -- you know, we
21 covered the vertical extent in our application, but
22 it's the Wolfbone now.

23 It's not two pools. It's one pool that
24 covers Bone Spring and the Wolfbone. So those would
25 have to be reformed. This was really difficult to

1 prepare for this because there was so much reformation
2 and cleanup that we saw that would have to be done.
3 It would take quite a bit of pleadings and
4 documentation to do that. So we did the best we
5 could.

6 THE HEARING EXAMINER: So what you're
7 saying, Mr. Savage, in a simple, concise sentence is
8 that if the Division approves the special pool, then,
9 in fact, that changes aspects of your application?

10 MR. SAVAGE: It does. And to make
11 things --

12 THE HEARING EXAMINER: Hold on.
13 Without saying anything further, am I capturing what
14 you're saying?

15 MR. SAVAGE: You did.

16 THE HEARING EXAMINER: Okay. And I
17 have my technical examiner with me, Mr. McClure, who I
18 will discuss this with. But I want to hear from Mr.
19 Rankin.

20 Mr. Rankin?

21 MR. RANKIN: Mr. Examiner, what would
22 you like me to address first?

23 THE HEARING EXAMINER: The issue that
24 we're dealing with.

25 MR. RANKIN: Yeah. So the question is

1 whether or not the Wolfbone Pool creation changes the
2 nature of our applications at all?

3 THE HEARING EXAMINER: The question
4 that we're dealing with right now is the scope of
5 today's hearing.

6 MR. RANKIN: Okay. All right. Mr.
7 Examiner, I agree that the intent apparently of the
8 Division through the order that was issued was to have
9 the parties limit their application in the hearing
10 today to the elements necessary to create a Wolfbone
11 Pool. And our view is that in the normal course,
12 which this situation shouldn't really stray from, is
13 that a Wolfbone Pool -- the creation of a pool has
14 several basic elements, extent of the interval that
15 you're seeking to create a pool in, to define the
16 geographic area that you're going to cover the special
17 pool, whether it's an oil pool or gas pool, and what
18 special rules apply, whether there's state-wide
19 spacing rules or not. And to me, that's the gist of
20 what is necessary to present today in a special pool
21 hearing.

22 Now, that said, there is one twist, and
23 that's a depth severance in the middle of this pool.
24 Our view is that that's not an uncommon occurrence nor
25 is it an uncommon occurrence for there to be no

1 geologic barrier between the depth severance. So our
2 view is that the Division deals with this every month
3 when folks have depth severance within a pool, and the
4 approach mandated by the statute is to simply
5 segregate the pool by ownership so that you can comply
6 with the mandate of the Oil & Gas Act.

7 So our -- but nevertheless, that's not
8 what Cimarex is proposing in their application.
9 They're proposing a complication that is unprecedented
10 and hasn't yet ever been adopted by the Division,
11 which is to incorporate a formula of allocating
12 production as part of the special pool, albeit a
13 pool-wide allocation. Our view is that they're doing
14 that in order to accommodate their development plan,
15 and because of that, their development plan and their
16 underlying applications aren't necessarily for them
17 integrated into this proposed Wolfbone Pool.

18 For that reason, we had to -- we
19 thought we had to address in our materials today some
20 of the ownership differences because ownership across
21 that depth severance is going to substantially come
22 into play. How those ownership differences are
23 represented, how they are treated across the depth
24 severance impacts significantly the -- and waste. So
25 for that reason, we presented to the Division some

1 updates on ownership across the depth severance. We
2 provided the Division an update notice that Permian
3 Resources provided to the owners, giving them an
4 update on the status of the competing cases and the
5 proposed special Wolfbone Pool and the competing
6 proposals.

7 We also, because, Mr. Examiner, at the
8 end of the hearing last August, Permian Resources
9 discussed all of its Bone Spring wells but for the
10 Third Bone Spring base wells. Made sure -- we wanted
11 to make sure that was clear so we provided a diagram
12 showing what the competing well proposals look like
13 currently. So that's for the land. Now, in the
14 geology, I think everything is new, if I'm not
15 mistaken. We provided a type log for the special pool
16 and confirmed that the basis for the pool is the same
17 between the parties. There is no difference in the
18 vertical extent of the geographic area. We both agree
19 it should be an oil -- oil pool. We both agree that
20 it should be state-wide rules.

21 And then our geologist gets into their
22 allocation formula, which is all-new. Now, they
23 proposed something similar in their underlying
24 compulsory pooling case. That wasn't clear to us,
25 that they were going to stick with that when it came

1 to this pool hearing. So we weren't sure exactly what
2 they were going to do. So nevertheless, we
3 anticipated that's what they were going to present,
4 and that's what they did.

5 Same thing with the engineering. The
6 focus was on addressing what we anticipated their
7 position to be, which was that the -- Permian
8 Resources' extra well would be unnecessary, that their
9 single well would sufficiently drain the entire pool,
10 and so the engineering exhibits address those points
11 because it's necessarily integrated into the pool
12 application and the contested pool proposals. But it
13 also necessarily implicates, to some extent, the
14 underlying compulsory pooling cases because it
15 reflects on their development plan. So there's some
16 necessary overlap, unfortunately.

17 We tried to focus in, in our exhibits
18 and testimony, on only the elements of their competing
19 development plans that implicate the creation of the
20 special pool, which in our view is the allocation
21 formula and whether or not that protects code of
22 rights, prevents waste. And so there are some
23 necessary overlaps, but we tried to limit the overlaps
24 where appropriate and then only to provide updated
25 testimony or exhibits on those points.

1 THE HEARING EXAMINER: Thank you.

2 Mr. Savage, what I'm trying to
3 understand is what exactly has changed regarding your
4 compulsory pooling applications when the Division
5 instructed that you come back to request a special
6 pool. So I don't understand.

7 MR. SAVAGE: So, Mr. Examiner, if you
8 look at what's on the application, we do clearly
9 request a special pool, and we specify how it's
10 created, the vertical extent and the means and the
11 reasons and the justifications for that, same as
12 Permian Resources. Now, because -- if I can point
13 out, Permian Resources filed a statement of intent
14 originally. We both filed statements of intent to
15 provide pooling application. Cimarex is under the
16 impression that we would be conferring because Permian
17 Resources stated that intent that they would confer
18 with Cimarex to make sure that the applications are
19 streamlined and they would not -- and that they would
20 address what they needed to be addressed.

21 Now, from my perspective, Permian
22 Resources drafted their applications in a rather
23 accelerated manner and they filed it and did not
24 confer, and I did not find out nor Cimarex find out
25 about the filing of these applications until the day

1 of. When we read the application -- and addition to
2 just -- it was not just proposing the pool, it was
3 arguments and requests that their applications be
4 approved and our applications be denied. Now, to us,
5 that brought in a whole wider scope of what this
6 hearing would be about based on those applications.
7 So we agree that the order in its construction is, you
8 know, narrower. But we were trying to negotiate the
9 order and response to that Wolfbone application.

10 Now, today could be really short as a
11 hearing because both parties agree on how this
12 Wolfbone is to be created. They stipulate -- they
13 both agree -- in the exhibits, they state that there
14 is no difference in the means by which we are creating
15 that Wolfbone Pool. There's no difference in the
16 vertical extent of it in terms of what formations it
17 includes. So since we're all in agreement and if the
18 order is to just address the Wolfbone Pool, we can do
19 that today in short order, probably just by having
20 testimony that confirms that we both agree and that
21 there's no disagreement in how that Wolfbone Pool is
22 created.

23 THE HEARING EXAMINER: Mr. Rankin?

24 MR. RANKIN: Mr. Examiner, well, I
25 think that Cimarex would have to dismiss from their

1 application their request for special allocation
2 formula in the special pool in order to do that. I
3 think we could stipulate to all the other elements of
4 the pool because I think we agree on the vertical
5 extent, geographic area, and so forth. As to the
6 applications, themselves, I don't understand why, at
7 least in our case, the creation of the Wolfbone Pool
8 has any impact on our applications. Permian Resources
9 has filed separate spacing units applications for
10 pooling of each of the two-mile Bone Spring -- would
11 be the Bone Spring portion of the Wolfbone Pool and
12 have filed separate -- have separate applications for
13 each of the Wolfcamp portions of that depth severance
14 portion of the Wolfbone Pool formation.

15 In the applications, Permian Resources
16 identifies not the pool, that it's seeking the pool,
17 but the formation. So depending on how the Division
18 wants to proceed, I think those applications are good
19 the way they are. Nevertheless, I don't see how the
20 creation of the Wolfbone Pool here or the depth
21 severance impacts Permian Resources' applications.
22 But for the fact of this special allocation formula,
23 our application and materials will be very simply,
24 just to address the geographic extent and the vertical
25 extent of the pool.

1 THE HEARING EXAMINER: Thank you. In
2 the original order in the findings of fact, the
3 Division states that "Cimarex submitted a total of 16
4 applications to compulsory pool, uncommitted interests
5 within the spacing unit as seen in the Cimarex
6 exhibits."

7 Now, Mr. Savage, which formation is
8 that finding of fact related to? It's paragraph 1.

9 MR. SAVAGE: Yes. I'm sorry. "A total
10 of 16 applications of the compulsory pool, the
11 uncommitted oil interests with the spacing unit as
12 seen in Cimarex exhibits." We had two spacing units.
13 We had two options, okay, option one and option two.
14 Option one -- so in this area, the historical
15 development is for the Third Bone Spring. That's the
16 historical development. That's the tradition that we
17 were following. So option one was to develop the
18 Third Bone Spring, and any time you drill a formation,
19 there's always going to be some form of incidental
20 drainage. So we had the option if the OCD wanted to
21 view any drainage that came from the Upper Wolfcamp,
22 that would be incidental. So that was the spacing
23 unit with the Bone Spring. And option two, we pulled
24 the Upper Wolfcamp, and that's included in these
25 applications. We pulled the Wolfcamp as a spacing

1 unit. And we recognize that the geology -- there's
2 open communication between the two. So we provided
3 for basically an allocation formula.

4 THE HEARING EXAMINER: Okay. So, Mr.
5 Savage, you're saying that this refers to both
6 options, the spacing unit as referred to in both
7 options --

8 MR. SAVAGE: That's correct.

9 THE HEARING EXAMINER: -- original
10 application?

11 MR. SAVAGE: Right. And if you choose
12 option two, if the OCD had chosen option two, the 16
13 applications would have covered spacing unit for the
14 Bone Spring and the spacing unit for the Wolfcamp.

15 THE HEARING EXAMINER: Okay. That's
16 theoretical, so I'm not asking that question.

17 MR. SAVAGE: Okay.

18 THE HEARING EXAMINER: So now, Read
19 Stevens, who is representing Read Stevens?

20 MR. RANKIN: That's me, Mr. Examiner.

21 THE HEARING EXAMINER: You're not
22 representing Read Stevens anymore?

23 MR. RANKIN: We are, yeah. Read
24 Stevens is a subsidiary. It's the applicant in this
25 case because they were the at the time, now interest

1 owner. Permian Resources has acquired Read & Stevens,
2 and they're now a subsidiary.

3 THE HEARING EXAMINER: Okay. So when I
4 read Read Stevens in this order, now we're referring
5 to Permian because you acquired their interests?

6 MR. RANKIN: Correct. I didn't. I
7 wish I did, but this company did.

8 THE HEARING EXAMINER: So then in
9 paragraph 2 in the finding of fact, Read Stevens
10 submitted 16 applications to compulsory pool
11 uncommitted within the spacing units as seen in your
12 exhibits. In your exhibits, what is the Division
13 referring to?

14 MR. RANKIN: So, Mr. Examiner, in our
15 exhibits, we filed separate applications to compulsory
16 pool, the Bone Spring for eight. So there are eight
17 separate applications for each -- in the Bone Spring,
18 and then there are eight separate applications for
19 eight separate spacing -- in the Wolfcamp. And unlike
20 Cimarex, Permian Resources had proposed wells in each
21 of those space units. Cimarex had proposed wells to
22 be completed only in the Bone Spring portion of their
23 spacing units.

24 THE HEARING EXAMINER: Okay. And, Mr.
25 Savage, Mr. Rankin just said that unlike you. So are

1 you saying that your 16 applications aren't divided
2 into two formations in isolation?

3 MR. SAVAGE: Permian Resources, like
4 Cimarex, spaced both the Bone Spring and the Wolfcamp
5 as two separate pools in formations. They were
6 designated with two separate pool codes, and they were
7 designated as two separate pools. Now, if I may speak
8 to Mr. Rankin's view that his applications do not need
9 to be modified --

10 THE HEARING EXAMINER: Hold on, hold
11 on.

12 MR. SAVAGE: Okay.

13 THE HEARING EXAMINER: I'd rather you
14 not --

15 MR. SAVAGE: Okay.

16 THE HEARING EXAMINER: -- get into a
17 separate issue. I'm trying to understand your
18 original case, which I wasn't involved in, so that I
19 can understand the scope of today's hearing. If I
20 don't understand anything different, this case today
21 is going to be restricted to one scope. So in your 16
22 applications, a very simple answer, are eight of them
23 in one formation and eight in the other, or are they
24 not?

25 MR. SAVAGE: They are.

1 THE HEARING EXAMINER: They are.

2 MR. SAVAGE: There's a set of
3 applications in that 16 that are spacing the Bone
4 Spring. And it's all of the Bone Spring, not just the
5 Third Bone Spring that we're looking at. It's all of
6 the Bone Spring as a pool. And then we have a set of
7 applications spacing the Wolfcamp as a separate pool,
8 same as Permian Resources.

9 THE HEARING EXAMINER: Before we go
10 back to Mr. Rankin, so in your understanding, in one
11 simple, concise statement, why is Mr. Rankin saying
12 that yours are unlike his?

13 MR. SAVAGE: Because the difference we
14 have -- and it was an approach that we felt like we
15 had to take because we asked at the beginning -- with
16 the number of motions, we asked at the beginning that
17 these issues regarding the geology be addressed.
18 Permian Resources vigorously opposed that. Okay. So
19 we felt like we knew -- in fact, the findings in the
20 order support our geological analysis because we knew
21 that the Bone Spring wells would produce the Wolfcamp.
22 Without drilling the Wolfcamp, it would produce that
23 Wolfcamp, and that's the findings in here. So what we
24 did -- and it's a very novel approach, it was very
25 unusual, and there was a lot of questions -- but we

1 spaced the Wolfcamp without drilling the Wolfcamp. We
2 pulled it and we spaced it and we said that the Bone
3 Spring wells would produce that Wolfcamp.

4 THE HEARING EXAMINER: I understand.

5 MR. SAVAGE: Yeah.

6 THE HEARING EXAMINER: Thank you, Mr.
7 Savage.

8 Mr. Rankin?

9 MR. RANKIN: Yeah, I apologize. I
10 thought I made it clear, but yeah. The difference is
11 that they didn't propose to drill any wells in the
12 Wolfcamp spacing units. Okay. So they, again,
13 unprecedented. Never -- novel, never been approved
14 before. But to space -- create a spacing unit without
15 any wells completed in the --

16 THE HEARING EXAMINER: Okay. Thank
17 you, sir. Let me continue reading these findings of
18 fact in this order. It's not very long. I see that
19 paragraphs 4 and 5 bear out what the parties suggest.

20 And, Mr. Savage, looking at paragraph
21 7, your geologist states she -- is she here today?

22 MR. SAVAGE: She is.

23 THE HEARING EXAMINER: I see that. It
24 states here that her testimony, "There are no
25 indications of any nature geo-mechanical changes -- in

1 between Cimarex Third Sand's target and Permian
2 Resources' Wolfcamp Sand's target indicating that
3 these two intervals are most likely one shared
4 reservoir." Do you agree with that?

5 MR. SAVAGE: Yes. That's the whole
6 point of -- that captures it. Captures it.

7 THE HEARING EXAMINER: Thank you.

8 And then, Mr. Rankin, paragraph 8, Read
9 & Stevens' reservoir engineer, John Fechtel -- is here
10 today? That's you, sir? Thank you -- testified that
11 "both wells developed in the Third Bone Sand and the
12 wells developed in the XY." What is XY?

13 MR. SAVAGE: That's the upper portion
14 of the Upper Wolfcamp.

15 THE HEARING EXAMINER: "Will share,
16 have some resources from either formation." Does that
17 capture?

18 MR. SAVAGE: It does.

19 THE HEARING EXAMINER: Thank you.

20 Do we have a geologist named Ira
21 Bradford here today? Thank you, sir. Also testified
22 -- talked about a little bit -- this is a question
23 about that you do agree with Ms. Mueller that the --
24 communication between the Third Bone and the Upper
25 Wolf; is that correct? Yes.

1 Mr. Savage, what information in your
2 exhibits that you have submitted for today's hearing
3 contradict the exhibits and information you submitted
4 for this compulsory pooling hearing?

5 MR. SAVAGE: So, Mr. Examiner, if you
6 look at the applications -- so if -- when the Wolfbone
7 Pool is created, which I assume it's going to be, that
8 is just going to cover the Third Bone Spring and the
9 Upper Wolfcamp. So both sets of -- all the
10 applications pool, the full Bone Spring, and the full
11 Wolfcamp. Now --

12 THE HEARING EXAMINER: I thought you
13 said those were separate applications? You had eight
14 for one and eight for the other.

15 MR. SAVAGE: Right. Together.
16 Together, all the applications together. That's what
17 they're -- so there's going to be a set of pools for
18 Bone Spring --

19 THE HEARING EXAMINER: Did you expect
20 the Division -- and I don't know the answer to this --
21 but when you submitted those 16 applications, did you
22 expect the Division, if found that you had the better
23 evidence, would approve all 16?

24 MR. SAVAGE: Yeah. We felt like we had
25 no choice, that the geologist -- we felt like the

1 geology should drive the decision regarding waste and
2 protection. That's the number one factor in the list
3 of factors. The geology should drive it. We felt the
4 geology -- the way the pools were designated, did not
5 accurately reflect the geology. So we felt like there
6 was a pathway to do this, and we -- if you go through
7 the motions and the pleadings, we in detail spell out
8 the legal analysis of how this is possible.

9 But we realize that it was
10 unprecedented. And we agreed with the OCD in the end
11 with the findings, and we thought that that was a very
12 fair and reasoned conclusion, that they acknowledged -
13 - the OCD acknowledged the open communication between
14 the formation. They acknowledged that it was a single
15 reservoir, not two reservoirs, designating the Bone
16 Spring and Wolfcamp as two separate pool -- means it's
17 two separate pools. OCD recognized that it was a
18 single reservoir. So those are all very good, as far
19 as we're concerned, very good findings and very good
20 conclusions. And that put us -- that at least allowed
21 us to come to a place where these important issues
22 could be addressed and evaluated in kind of a holding
23 pattern.

24 THE HEARING EXAMINER: So, Mr. Savage,
25 let me go back to my question that I don't have an

1 answer to yet. If you submitted -- or not "if." You
2 submitted 16 applications to cover, it sounds like a
3 larger geological area, that you seem to think that
4 the Division will form the special pool from; is that
5 correct?

6 MR. SAVAGE: That is correct.

7 THE HEARING EXAMINER: Okay. So if you
8 submitted compulsory pooling applications for a larger
9 area, and if the Division creates a special pool, why
10 do you need to submit additional evidence for a
11 smaller area?

12 MR. SAVAGE: Well, in terms of the
13 exhibits that support the applications, I think they
14 are -- they're customized towards those applications.
15 They're customized towards those. But I think the
16 evidence is there that would support the Wolfbone
17 slice, the Wolfbone Pool as a slice of the larger Bone
18 Spring and the larger Wolfcamp.

19 THE HEARING EXAMINER: If the Division
20 has your applications for the larger area and is
21 asking you to submit a application for a special pool
22 and the Division did not ask you for additional
23 exhibits for compulsory pooling order for the smaller
24 special pool, don't you think the Division has the
25 information it needs?

1 MR. SAVAGE: In a situation like this
2 that is unprecedented, I think the Division would want
3 as much information as it could possibly have to
4 understand this situation. We would not have -- let
5 me put it this way. Had Permian Resources just
6 provided an application for a special pool and that's
7 all they did and they did not say approve our
8 applications, deny their applications. Had they just
9 done that, we would have done the same, and there
10 would have been no question. But we felt like we had
11 to defend and justify our position, and that's what we
12 did to the best of our ability within --

13 THE HEARING EXAMINER: So what you're
14 saying, then, my understanding is, had they just
15 challenged the special pool, that's all you would have
16 responded with, your exhibits?

17 MR. SAVAGE: Exactly.

18 THE HEARING EXAMINER: You're saying
19 that Permian has enlarged the scope of this hearing by
20 their application --

21 MR. SAVAGE: That is our position.

22 THE HEARING EXAMINER: -- exhibits?
23 Okay. All right. Well, the Division will -- I'm
24 going to come to you, Mr. Rankin -- but the Division
25 will decide the scope of today's hearing, not based on

1 a party's submissions, but based on this order and
2 based on this argument.

3 Now, Mr. Rankin, you've heard the
4 discussion. Obviously -- do you disagree that your
5 exhibits in a way enlarge the scope of today's
6 hearing?

7 MR. RANKIN: Yes.

8 THE HEARING EXAMINER: Why?

9 MR. RANKIN: I think I -- there's two
10 reasons. Our exhibits -- Mr. Savage is saying that
11 because of our -- the nature -- because in our
12 application we requested a pool -- compulsory pooling
13 applications underly this dispute, we've expanded the
14 cope. What I think we did was to do what the order
15 here says would be done, which is that it would
16 approve -- it would then have the information
17 necessary to approve one or the other sets of
18 competing compulsory pooling applications. So at the
19 end of our request for creation of a special pool, we
20 asked for the release that was indicated in the order,
21 which is that the Division would then approve one or
22 the other sets of compulsory pooling applications.

23 Now, one thing I want to make very
24 clear is that while the competing pooling cases were
25 heard in August of 2023, what the Division heard no

1 information on, no testimony on, and no evidence on is
2 Cimarex's proposed allocation formula.

3 THE HEARING EXAMINER: What?

4 MR. RANKIN: The Division heard no
5 evidence or testimony on Cimarex's proposed allocation
6 formula.

7 THE HEARING EXAMINER: Okay. And what
8 is that?

9 MR. RANKIN: What they're proposing,
10 Mr. Examiner, is to allocate production between the
11 Bone Spring owners and the Wolfcamp owners based on a
12 geologic measurement known as porosity height, pore
13 height, Phi height.

14 And in their underlying compulsory
15 pooling case, they alluded to, and we discussed, the
16 different Phi height measurements between the Bone
17 Spring and the Wolfcamp in the proposed spacing unit
18 acreage and the offsetting acreage as a means to
19 determine -- as a means of comparison on the quality
20 of the reservoir. What Cimarex didn't do, and you'll
21 see this in our findings and conclusions in the
22 closing statement, is they did not put on any
23 testimony justifying their allocation saying that it
24 was fair, equitable, or complied with the correlative
25 rights requirements. So that information was missing

1 entirely from the underlying compulsory pooling case.

2 THE HEARING EXAMINER: Mr. Rankin, one
3 moment.

4 MR. RANKIN: Yeah.

5 THE HEARING EXAMINER: Does this order
6 deal with the allocation?

7 MR. RANKIN: It does not.

8 THE HEARING EXAMINER: It does not.
9 Okay. So you're saying it was alluded to, but not
10 spelled out?

11 MR. RANKIN: It was vaguely alluded to,
12 but there was no testimony on the record explaining
13 what the proposed allocation was going to be or how it
14 was going to work and any evidence supporting that it
15 was fair, equitable, or complied -- or protected
16 correlative rights.

17 THE HEARING EXAMINER: So if there is a
18 special pool created, would the proposed allocation
19 formula still apply?

20 MR. RANKIN: Well, I think that's the
21 gist of today's hearing, is whether or not it's an
22 accurate, precise way to distribute allocation between
23 those -- whether it's reliable, whether it's
24 protective of correlative rights, and whether it
25 should be adopted by the Division on a pool-wide

1 basis.

2 THE HEARING EXAMINER: Okay. But it
3 doesn't answer the question I just asked you. So if a
4 special pool were created, would it be based in part
5 on a proposed allocation formula?

6 MR. RANKIN: Well, our view is it
7 shouldn't be because it violates the mandate of the
8 Oil & Gas Act. So our view is it shouldn't be at all,
9 and it should be rejected.

10 THE HEARING EXAMINER: Okay.

11 And Mr. Savage?

12 MR. SAVAGE: Okay. The allocation
13 formula is not a part of the creation of the Wolfbone
14 Pool. The allocation formula would be part of a
15 compulsory pooling proceeding. And that -- basically,
16 that's what -- you know, it's a separate deal.

17 THE HEARING EXAMINER: Okay. So are
18 you trying to now introduce evidence that goes to the
19 allocation formulas?

20 MR. SAVAGE: So with Permian Resources'
21 application asking for approval of their application
22 and denial of ours, we felt like we had to justify
23 part of the compulsory pooling process and the
24 allocation formula is that. It's -- you know, that is
25 -- at some point, that will be a main focus of these

1 proceedings. So Permian Resources proposes drilling
2 above and below the severance and producing -- they're
3 trying to produce the Wolfcamp, Upper Wolfcamp
4 separately by that and the Third Bone Spring
5 separately. But as the findings in the order show,
6 the Third Bone Spring -- the Upper Wolfcamp wells are
7 going to produce the Third Bone Spring and vice versa.
8 And that's their allocation formula. Our allocation
9 formula is that you take one set of wells that will
10 produce the entire Wolfbone, and then you account for
11 the differences through an allocation formula under
12 the pooling statute. And that's basically the crux of
13 these proceedings.

14 THE HEARING EXAMINER: Okay. I
15 understand. We have an administrative record that has
16 already been in existence for quite some time since,
17 as the parties have told me, August of last year. So
18 a year ago, the record began. I guess the record was
19 closed at the end of that hearing. Now the record is
20 reopened to accept new evidence, according to this
21 order, on a specific issue. And what I think I
22 understand you're saying now, Mr. Savage, that the
23 Division will need to deal with this additional issue,
24 the proposed allocation formula, if it creates a
25 special pool. Is that what you're saying?

1 MR. SAVAGE: Yes. And if I may --

2 THE HEARING EXAMINER: As long as it
3 doesn't confuse me.

4 MR. SAVAGE: Okay. Hopefully. So I
5 think to make this clean, like if you wanted to do
6 this in as clean a possible way as possible, I believe
7 an approach would be create the pool, do away with the
8 previous, original hearing, create the pool, allow the
9 parties to submit new applications based on the
10 Wolfbone pool, and then address those allocations.

11 THE HEARING EXAMINER: Okay. Mr.
12 Rankin?

13 MR. RANKIN: Mr. Examiner, I think if
14 the Division wants to engage in an interminable
15 process, that would be the course to take. But I
16 don't think it's necessary. I think that the answer
17 is very straightforward and clear, and that is that
18 the Oil & Gas Act mandates for compulsory pooling
19 orders, whenever the Division issues a compulsory
20 pooling order, that it must do so based on surface --

21 THE HEARING EXAMINER: The what?

22 MR. RANKIN: On a surface-acreage
23 basis, on the proportion of the interest based on --

24 THE REPORTER: Just make sure the
25 microphone picks up your voice.

1 MR. RANKIN: So that to us is the
2 expositive, legal, and factual issue here. And it's
3 determinative of the question about whether their
4 proposed allocation formula is compliant with the Oil
5 & Gas Act and that mandate. That is addressed
6 squarely and basically forecloses consideration of
7 that proposed allocation formula.

8 THE HEARING EXAMINER: Why does it, the
9 surface acreage, foreclose the idea of a proposed
10 allocation formula?

11 MR. RANKIN: Under the statute,
12 production is to be allocated to each working interest
13 owner directly in proportion to the ownership that is
14 contributive to the spacing on a surface-acreage
15 basis. What Cimarex is proposing to do is to first
16 take that production, multiply it by a factor that is
17 not recognized in the statute, reduces both the Bone
18 Spring owner's share and effectively the Wolfcamp
19 owner's share, and allocates it on a basis that hasn't
20 yet been established as being protective of
21 correlative rights. And our view is, based on the
22 expressed language of the act, it isn't. It can't be
23 because it's a reduction of the production for both
24 owners, and then it's allocated on a surface-acreage
25 basis. So there's a factor that is first multiplied.

1 So it completely conflicts with the statute -- the
2 Division has never done it that way.

3 THE HEARING EXAMINER: Mr. Savage, the
4 argument is that your proposed allocation formula
5 shouldn't be allowed legally because it violates the
6 Act. Your response?

7 MR. SAVAGE: My response is that the
8 Act, Oil & Gas Act, is designed to prevent waste. The
9 whole purpose of it is designed to prevent waste and
10 protect correlative rights. Now, if you use some
11 terms in a statute to create \$80,000,000 worth of
12 waste and violate correlative rights by drilling Upper
13 Wolfcamp wells that produce the other people's
14 interest in the Third Bone Spring, I think that is a
15 violation of the Oil & Gas Act.

16 Now, we clearly show in our exhibits
17 where the OCD has circumvented that specific statute
18 and imposed an allocation formula to address non-
19 uniform ownership across a pool -- and in this case,
20 it's a Devon Order; it's a Devon Order in our exhibit
21 -- across a full extent of a pool that has two depth
22 severances, and they did not do separate units. They
23 just did an allocation formula based on percentage
24 ownership, the same way we were doing it.

25 And there's also case law where certain

1 folks like -- so the pooling statute requires
2 allocation to all the specific tracts, right? Now,
3 there could be a situation where, let's say one of the
4 tracts doesn't have the prerequisite geology to
5 produce, okay. So let's say there's five owners in
6 that tract. Now, under that statute, those owners
7 would get nothing. If you follow the strict
8 application of the language of that statute, those
9 owners would get nothing. But there's still owners
10 within a larger unit.

11 Now, in the past, the OCD has done a
12 completely different allocation formula, circumvented
13 that pooling statute, and they -- because correlative
14 rights is defined as just an equitable share, not just
15 share, the statute defines what a share is
16 unqualified. The statute, I believe it's 7233,
17 defines what correlative rights is, and correlative
18 rights are just are the owners -- opportunity to
19 produce. It's just an equitable share in oil and gas.
20 Just -- so the OCD in the past has circumvented that
21 statute and did a separate allocation formula and
22 allowed those folks in that unit to receive their just
23 an equitable share, even though they had no production
24 in that unit that they could --

25 THE HEARING EXAMINER: Okay. I

1 understand. Sounds like there is a legal difference
2 of opinion between how the statute would control the
3 interests in this compulsory pooling order. Let's
4 leave that for another day. I don't think that's the
5 purpose of today's hearing.

6 I'm going to take five minutes and
7 consult with my technical examiner about the scope of
8 today's hearing, and we'll come back on the record.
9 Let's see what time it is. It's 9:20. Let's come
10 back on the record at 9:30 this morning. Thank you.
11 We're in recess.

12 (Off the record.)

13 THE HEARING EXAMINER: It's 9:40 a.m.
14 We're back on the record.

15 I had a 15-minute telephone
16 conversation with our technical team, and we have
17 decided that today's hearing will be restricted to the
18 issue of the special pool. And the exhibits will have
19 to be resubmitted to only accept evidence on that one,
20 single, legal issue.

21 Now, it's my understanding from Mr.
22 Rankin that the idea of a proposed allocation formula
23 is not stipulated to and that's clear. So what the
24 Division intends to do is to look at the evidence
25 submitted today -- not today -- today. The Division

1 will look at the evidence submitted in today's
2 exhibits that go to the issue of special pool
3 formation, make a decision, and the Division expects
4 that the parties will be resubmitting competing
5 pooling applications based on the special pool
6 creation. So we'll be back here again, I'm sure, with
7 the same witnesses who have come, I'm sure, from far
8 away. So apologies to that. But the order was very
9 clear on what evidence would be admitted in today's
10 hearing.

11 So that being said, Mr. Savage, any
12 questions about that?

13 MR. SAVAGE: No, sir. Thank you.

14 THE HEARING EXAMINER: Okay. And, Mr.
15 Rankin, any questions about that?

16 MR. RANKIN: Yeah, I do because I don't
17 understand Cimarex's application for a special pool.
18 I understand the application for a special pool to
19 include an allocation formula. And I guess my
20 question is, when the Division's asking us to limit
21 our submissions to this creation of a special pool, as
22 I understand it -- Mr. Savage is going to tell me
23 differently and will -- something to make clear that
24 they're not seeking, as part of this creation of the
25 pool, this allocation formula, that would help me

1 understand, sure. But I just want to make sure I
2 understand the record's clear whether or not Cimarex
3 is requesting incorporation of a allocation formula as
4 part of creation of the special pool.

5 THE HEARING EXAMINER: Mr. Savage?

6 MR. SAVAGE: Cimarex would do the
7 allocation formula separately in the compulsory
8 pooling, and I think the -- we can proceed at the
9 OCD's discretion with the special pool.

10 THE HEARING EXAMINER: Okay. So, Mr.
11 Rankin, Mr. Savage has clarified that.

12 So, Mr. Savage, let's first look at
13 exhibits and what we're going to be admitting today.
14 Let's be very specific. Let me find your exhibit
15 packet.

16 And then, Mr. Rankin, I'm going to go
17 through your exhibit packet. We'll figure out which
18 exhibits we are admitting today either through
19 stipulation or through foundation through witnesses.
20 And then the parties will be submitting new exhibit
21 packets to only what we are admitting today, so
22 there's no confusion in this administrative record.
23 Okay. Let's start with -- okay.

24 Mr. Savage, I have three cases on
25 today's docket: 24541, which says Applicant Cimarex,

1 and I have an Applicant Riley. Riley is you? You're
2 Riley, Mr. Savage?

3 MR. SAVAGE: No. Riley is Mr. Ernie.

4 THE HEARING EXAMINER: Yeah.

5 MR. SAVAGE: But I'm in that case.

6 THE HEARING EXAMINER: I wonder if
7 we're --

8 MR. SAVAGE: That's the one where we
9 had to continue for notice purposes.

10 THE HEARING EXAMINER: Very -- but we
11 won't deal with that right now. Okay. So, Mr.
12 Savage, in your Case 24541 -- I'm going to review the
13 case file. When did you submit your exhibits?

14 MR. SAVAGE: I don't have the exact
15 date on that, but we submitted our exhibits the day
16 they were due.

17 THE HEARING EXAMINER: Okay.

18 MR. SAVAGE: Which would have been
19 August 6.

20 THE HEARING EXAMINER: Okay. They
21 don't look like exhibits. They look like statements.

22 MR. SAVAGE: They're --

23 THE HEARING EXAMINER: -- why I'm
24 having trouble finding it.

25 MR. SAVAGE: So they have a prehearing

1 statement.

2 THE HEARING EXAMINER: Okay.

3 MR. SAVAGE: And then they have the
4 exhibits attached to those.

5 THE HEARING EXAMINER: And, Mr. Savage,
6 who's sitting next to you?

7 MR. SAVAGE: That is Mr. Sessions. He
8 is my IT guy. I was having some trouble. I
9 apologize.

10 THE HEARING EXAMINER: No, I just
11 wanted to know who he was.

12 MR. SAVAGE: His professional look.

13 THE HEARING EXAMINER: Okay. Looks
14 like I found your table of contents.

15 MR. SAVAGE: Yes.

16 THE HEARING EXAMINER: All right. I
17 did find it. And looks like we have six tabs.

18 MR. SAVAGE: Correct.

19 THE HEARING EXAMINER: Can you help me
20 understand if the tabs go to specifically the issue of
21 a special pool creation?

22 MR. SAVAGE: Okay. So Tab 2 is Ms.
23 Sikes' exhibit.

24 THE HEARING EXAMINER: I'm sorry. Hold
25 on a second. Tab 1 doesn't go to it at all?

1 MR. SAVAGE: Tab 1 is our application.
2 (Exhibit Cimarex Tab 1 was marked for
3 identification.)

4 THE HEARING EXAMINER: Your application
5 for a compulsory pooling or the --

6 MR. SAVAGE: For the special pool.

7 THE HEARING EXAMINER: Oh. Then
8 wouldn't Tab 1 --

9 MR. SAVAGE: Yeah. Yeah. Because the
10 previous applications were addressed, we do have a
11 number of arguments in there about the compulsory
12 pooling applications in our Wolfbone Pool application.
13 But it can stand alone excluding those arguments. It
14 can stand alone as a creation of a Wolfbone Pool, that
15 application.

16 THE HEARING EXAMINER: Well, let's find
17 out.

18 Mr. Rankin, have you reviewed Tab 1, by
19 any chance?

20 MR. RANKIN: Chunks of it, but it was
21 long. But I did. I have no problem with the
22 prehearing statement. I have no problem with the
23 application.

24 THE HEARING EXAMINER: Okay.

25 MR. RANKIN: No problem with the copy

1 of the order.

2 THE HEARING EXAMINER: Okay.

3 MR. RANKIN: I'm not clear about why
4 we're attaching the compulsory pooling checklist. I
5 didn't confirm to see whether they were the same or
6 what, so I don't know why we --

7 THE HEARING EXAMINER: Okay. Mr.
8 Savage, are you trying to admit the pooling checklist,
9 or are you going to take that out?

10 MR. SAVAGE: That -- trying to find
11 what page that was on.

12 THE HEARING EXAMINER: Well, it's in
13 the table of contents.

14 MR. SAVAGE: Oh. Yes. Yeah, that's in
15 the reference. That was just a reference, and we
16 would take those out. We would take all that out.
17 Any reference to the previous original hearing and
18 compulsory pooling, we would clean that out.

19 THE HEARING EXAMINER: Okay. So we're
20 doing this together as a group so we're very clear
21 about this. Okay?

22 MR. SAVAGE: Okay.

23 THE HEARING EXAMINER: So, Mr. Savage,
24 well, are you seeking to admit the prehearing
25 statement, the application, the copy of the order,

1 those three items in Tab 1?

2 MR. SAVAGE: That would be appropriate.

3 THE HEARING EXAMINER: Okay. Mr.
4 Rankin?

5 MR. RANKIN: I'm sorry, I missed that.

6 THE HEARING EXAMINER: That's fine.
7 I'll say it again. In Tab Number One of Cimarex's
8 exhibits -- and I'm only looking at the table of
9 contents -- we have a prehearing statement, we have an
10 application, and we have a copy of an order. Do you
11 object to any of those three items coming in?

12 MR. RANKIN: I do not.

13 THE HEARING EXAMINER: You do not.

14 Okay. Mr. Savage, those parts of Tab 1 are admitted
15 into evidence, and you will resubmit a amended exhibit
16 packet in this case that have only those three items
17 in there. The pooling checklist will be omitted from
18 your amended exhibit packet. Is that clear?

19 (Exhibit Cimarex Tab 1 was received
20 into evidence.)

21 MR. SAVAGE: Yes, sir.

22 THE HEARING EXAMINER: Okay. I'm
23 taking notes.

24 And, James, you control the exhibits,
25 don't you? So is that clear to you?

1 THE REPORTER: Yes.

2 THE HEARING EXAMINER: Okay. Great.
3 All right. Tab 2. Is Tab 2 applicable to the special
4 pool creation?

5 MR. SAVAGE: So in Permian Resources'
6 landman exhibits, their landman goes into a lot of
7 detail about how that Wolfbone is created. In ours,
8 we don't -- the landman -- that's more focused --
9 topic that was addressed by the geologist, the
10 vertical extent and how it all kind of comes together.
11 So Ms. Sikes as a landman focused more on a lot of the
12 applications. So that's why we have the -- we have
13 working interest owners' letters, summary tables, cost
14 comparisons based on working interest owners, approval
15 status of the APDs, development timeline. I think
16 what we prefer to do is to have Ms. Sikes do an
17 amended statement where she describes, from a
18 landman's perspective, the creation of the pool. And
19 I think that would be basically what we need.

20 THE HEARING EXAMINER: Okay. That
21 won't work for today's hearing 'cause I won't be able
22 to admit something that I don't have in front of me --

23 MR. SAVAGE: Okay.

24 THE HEARING EXAMINER: -- in good faith
25 to object or not.

1 MR. SAVAGE: So we --

2 THE HEARING EXAMINER: You can call Ms.
3 Sikes and put her testimony on the record under oath
4 and that will suffice towards the creation of a
5 special pool, but I'm not going to ask Mr. Rankin --

6 MR. SAVAGE: Okay. I understand.

7 THE HEARING EXAMINER: Tab 2 will be
8 removed.

9 MR. SAVAGE: I believe so, yes.

10 THE HEARING EXAMINER: Let me write it
11 down. Okay. That's Tab 2. So Tab 2 will not be
12 resubmitted in the amended exhibit packet, and we will
13 rely on Ms. Sikes' sworn testimony today towards the
14 specific issue of creating a special pool. Now, Tab
15 3?

16 (Exhibit Cimarex Tab 3 was marked for
17 identification.)

18 MR. SAVAGE: So Tab 3 is Ms. Mueller's
19 geology exhibits, and they do show the vertical extent
20 of the Wolfbone and how it's created and that matches
21 Permian Resources. So her statement does have some
22 commentary on the previous applications, some of the
23 issues. But if we could submit the statement for the
24 purpose of addressing just the Wolfbone, I think that
25 would be appropriate.

1 THE HEARING EXAMINER: So which
2 exhibits are you --

3 MR. SAVAGE: So Exhibit G.

4 THE HEARING EXAMINER: G. Any others
5 besides G?

6 MR. SAVAGE: G. So G3 and G4, that --
7 let me go down and look at her exhibits. I apologize
8 for my delay here. I have to get more familiar with
9 this laptop. Okay. Yes. Okay. G3 is where Ms.
10 Mueller specifically addresses the vertical extent, so
11 we would submit that.

12 THE HEARING EXAMINER: Okay.

13 MR. SAVAGE: And so we would submit her
14 statement limited to the descriptions of the vertical
15 extent and then we submit G3.

16 THE HEARING EXAMINER: Okay. Very
17 good.

18 Mr. Rankin, G and G3?

19 MR. RANKIN: G is her statement; right?
20 I don't -- I mean, her statement is largely about the
21 allocation formula and the competing development plan.

22 THE HEARING EXAMINER: Mr. Savage has
23 already said that the only part that would be -- well,
24 Mr. Rankin, if you don't want to stipulate to G, we
25 can have this witness testify as to the special pool

1 creation as we are with Ms. Sikes, and then we won't
2 admit G if you object to it.

3 MR. RANKIN: I just think 99 percent of
4 it is about the allocation formula.

5 THE HEARING EXAMINER: Okay. So you
6 object to G. What about G3?

7 MR. RANKIN: G3, the title is "Wolfbone
8 Proposal and Allocation Formula." And it identifies
9 the alleged sea height. It does include the type log
10 with the -- I didn't compare this to their written
11 application, but it does appear to show the top -- TBD
12 for the top of the pool and the TBD for the base of
13 the pool. So that's fine. G3 is fine.

14 THE HEARING EXAMINER: Okay. So G3 is
15 admitted into evidence, but G is not. So the only
16 part of Tab 3 that is admitted into evidence is G3.
17 Anything further you want the Division to consider
18 will have to be sworn testimony.

19 (Exhibit Cimarex Tab 3 was received
20 into evidence.)

21 MR. SAVAGE: Mr. Examiner, in the
22 statement paragraph 9, that addresses the vertical
23 extent, and that's it. Is that something that could
24 be introduced from the statement, or do you want to --

25 THE HEARING EXAMINER: I think it's

1 better to have the sworn testimony. It's a lot
2 cleaner than trying to say to the technical team later
3 only to look at paragraph 9.

4 MR. SAVAGE: Okay. Thank you.

5 THE HEARING EXAMINER: You're welcome.
6 All right. So let's move onto Tab 4, please.

7 MR. SAVAGE: Tab 4 is out.

8 THE HEARING EXAMINER: Okay. How about
9 Tab 5?

10 MR. SAVAGE: Mr. Examiner, could we
11 just have a moment to confer?

12 THE HEARING EXAMINER: Sure. And I
13 think one of your witnesses wants to talk to you.

14 MR. SAVAGE: Mr. Examiner, I think that
15 Exhibit I can be excluded.

16 THE HEARING EXAMINER: I?

17 MR. SAVAGE: I'm sorry. Yeah, the
18 reservoir -- I'm sorry.

19 THE HEARING EXAMINER: I'm on Tab 5, so
20 specifically --

21 MR. SAVAGE: Tab 5, right.

22 THE HEARING EXAMINER: -- which
23 exhibits are you seeking to admit?

24 MR. SAVAGE: Correct. All of Tab 5 can
25 be excluded.

1 THE HEARING EXAMINER: Oh. So no Tab
2 5.

3 MR. SAVAGE: Right.

4 THE HEARING EXAMINER: Very good. What
5 about Tab 6?

6 (Exhibit Cimarex Tab 6 was marked for
7 identification.)

8 MR. SAVAGE: And that has to do with
9 notice of the Wolfbone application, so that should be
10 included.

11 THE HEARING EXAMINER: Okay. Notice
12 for the Wolfbone application, what do you mean by
13 that?

14 MR. SAVAGE: So when we -- the
15 application for the special pool --

16 THE HEARING EXAMINER: Oh, for the
17 special pool. I understand. Okay.

18 Mr. Rankin, we're dealing with Tab 6.
19 Nothing from Tab 4 and Five are coming in. Now we're
20 dealing with notice for the special pool creation in
21 Tab 6.

22 MR. RANKIN: I don't think I have any
23 problem with Tab 6.

24 THE HEARING EXAMINER: Okay. Mr.
25 Savage, Tab 6 is admitted in its entirety, so that

1 would be J through J5, are admitted into evidence.

2 (Exhibit Cimarex Tab 6 was received
3 into evidence.)

4 MR. SAVAGE: Thank you.

5 THE HEARING EXAMINER: Now let's deal
6 with Mr. Rankin's --

7 Mr. Rankin, is it possible to deal with
8 your exhibits now, or do you want to wait until after
9 the --

10 MR. RANKIN: Well, I think I could put
11 -- I think we can deal with it now.

12 THE HEARING EXAMINER: All right. Let
13 me find it. Hold on. Mr. Rankin, I'm looking for
14 your exhibit packet, so give me one moment.

15 MR. RANKIN: They were filed August
16 6th.

17 THE HEARING EXAMINER: And I did find
18 it. It says "Permian" on the front of it, so it makes
19 it easy to find. So, Mr. Rankin, I have a table of
20 contents here. Exhibit A is the application. Are you
21 seeking to admit that?

22 (Permian Exhibit A was marked for
23 identification.)

24 MR. RANKIN: I think might as well, Mr.
25 Examiner.

1 THE HEARING EXAMINER: Okay. Perfect.
2 Mr. Savage, application?

3 MR. SAVAGE: So same as Cimarex's
4 application, it has some additional materials in
5 there, such as requesting approval for the previous
6 applications. I would like to -- it'd be possible to
7 have some kind of specification about the nature of
8 the scope of those applications, both of them.

9 THE HEARING EXAMINER: Okay. So are
10 you saying that your application did not have anything
11 in there about the --

12 MR. SAVAGE: No, it did.

13 THE HEARING EXAMINER: Okay. So just
14 like his --

15 MR. SAVAGE: Yes, correct. Fair
16 enough.

17 THE HEARING EXAMINER: I mean, he
18 didn't object to yours.

19 MR. SAVAGE: I agree.

20 THE HEARING EXAMINER: Okay.

21 MR. SAVAGE: I wasn't planning on
22 objecting. I just wanted to --

23 THE HEARING EXAMINER: That's fine. I
24 mean, the technical team is going to be reviewing --

25 MR. SAVAGE: Yes.

1 THE HEARING EXAMINER: -- this data
2 specifically to the question of creating a special
3 pool.

4 So, Mr. Rankin, Exhibit A is admitted
5 into evidence. Exhibit B?

6 (Permian Exhibit A was received into
7 evidence.)

8 MR. RANKIN: Mr. Examiner, Exhibit B is
9 a statement from our landman, Mr. Travis Macha. It
10 has more discussion about the creation overview of it.
11 However, he does get into the allocation issues and
12 provides an overview of the correlative rights issues
13 and the concerns around waste as well. And so I think
14 Mr. Savage would likely object to the mission of the
15 entire statement. So I think for purposes of today's
16 hearing, we would have Mr. Macha testify directly on
17 the narrower issue of the land.

18 THE HEARING EXAMINER: Perfect. That
19 sounds acceptable. And are there any exhibits in Tab
20 B or under B, 1 through 8, are any of those
21 specifically and only on the special pool creation?

22 MR. RANKIN: Mr. Examiner, I believe
23 yes, and if you look at them, you'll see, and we can
24 flip through them, B1, it simply identifies notable
25 definitions that would pertain to the divisions

1 analysis. I mean, I think that's relatively
2 unnecessary --

3 THE HEARING EXAMINER: Okay.

4 MR. RANKIN: -- 'cause the reason we
5 included that was because of the allocation issues, so
6 I think we can exclude B1.

7 THE HEARING EXAMINER: If you could
8 just tell me which ones --

9 MR. RANKIN: Yeah.

10 THE HEARING EXAMINER: -- admitted,
11 it'll move faster.

12 MR. RANKIN: Sure. B2 and B3 I think
13 are appropriate to include. They identify Wolfbone's
14 proposal -- pool boundaries and review of the proposed
15 pool. And then B7 and B8 identify the tracts that
16 would be included in the sections included in the pool
17 and the parties were given notice.

18 THE HEARING EXAMINER: Perfect.

19 So, Mr. Savage, out of the exhibits
20 labeled B, Mr. Rankin's not seeking to admit B or B1,
21 but he is seeking to admit B2, "Wolfbone Pool Boundary
22 Subsurface Visual"; B3, "Wolfbone Pool Summary
23 Overview"; B7, "Wolfbone Pool Boundary Surface Visual
24 and Noticed Parties"; and B8, "Permian Resources
25 Wolfbone Pool Update to WIOs." Do you stipulate to

1 those four exhibits?

2 MR. SAVAGE: B2, we would object to
3 that. And the reason is it's a representation of
4 interval is -- we feel like the spacing on the wells
5 does not fully reflect a good perspective. We feel
6 like that it's -- the way it's labeled with Camp A,
7 even though that correctly shows the vertical extent,
8 it suggests or shows that the wells would be drilled
9 very close to what's Camp A or close to what's Camp A,
10 and we think that that would be a biased -- it would
11 be biased towards Cimarex.

12 THE HEARING EXAMINER: What about B3?

13 MR. SAVAGE: Right. So B3 addresses
14 their position on the surface acreage, and we disagree
15 with that. We think that should be excluded.

16 THE HEARING EXAMINER: Okay. What
17 about B7?

18 (Permian Exhibit B7 was marked for
19 identification.)

20 MR. SAVAGE: That's fine.

21 THE HEARING EXAMINER: B7 is admitted
22 into evidence. Go ahead. B8?

23 (Permian Exhibit B7 was received into
24 evidence.)

25 MR. SAVAGE: B8, we believe that B8 is

1 a position in which they argue that their plan is, in
2 terms of -- it includes the pooling -- is preferable
3 over -- Cimarex -- effective.

4 THE HEARING EXAMINER: So you object?

5 MR. SAVAGE: I object to it.

6 THE HEARING EXAMINER: Okay. Fine.

7 So, Mr. Rankin, do you have Mr. Travis Macha here
8 today?

9 MR. RANKIN: We do. Mr. Macha, yeah,
10 we do.

11 THE HEARING EXAMINER: And he can
12 testify as to the specific issue of a special pool
13 creation?

14 MR. RANKIN: Yes.

15 THE HEARING EXAMINER: Okay. Very
16 good. So of the B exhibits, the only one that is
17 admitted through stipulation is B7. Okay? All right.
18 Let's go onto Exhibit C, please.

19 MR. RANKIN: So, Mr. Examiner, Exhibit
20 C is a statement from Mr. Bradford. He's our
21 petroleum geologist. Again, he provides a portion of
22 his testimony to the creation of special pool, the
23 definitions, stats, so forth. And the other portion
24 is addressing the allocation formula proposed by
25 Cimarex. So we would propose to have Mr. Bradford

1 testify directly on the narrower issue of the vertical
2 extent.

3 THE HEARING EXAMINER: Are there any
4 exhibits that specifically go to special pool
5 creation?

6 MR. RANKIN: Mr. Examiner, C1 and C2 do
7 just that.

8 (Permian Exhibit C1 and Permian Exhibit
9 C2 were marked for identification.)

10 THE HEARING EXAMINER: Very good. So
11 we have C1 and C2.

12 Mr. Savage?

13 MR. SAVAGE: C1, we would approve that.

14 THE HEARING EXAMINER: Admitted into
15 evidence, C1.

16 (Permian Exhibit C1 was received into
17 evidence.)

18 MR. SAVAGE: And then C2, we would also
19 not object to that.

20 THE HEARING EXAMINER: Very good. And
21 C2. So, Mr. Rankin, of all the C exhibits, the two
22 that are admitted into evidence through stipulation
23 are C1 and C2. Anything else will rely on sworn
24 testimony. And now have Exhibit D.

25 (Permian Exhibit C2 was received into

1 evidence.)

2 MR. RANKIN: Mr. Examiner, Mr. Fechtel,
3 our reservoir engineer, directly addresses the
4 allocation formula proposed by Cimarex and their pool
5 application, so all this testimony is with respect to
6 those claims. So I think as with Cimarex's engineer,
7 we can exclude Mr. Fechtel's Exhibit D and their
8 attachments.

9 THE HEARING EXAMINER: Does he have --
10 now, we're talking about D; right?

11 MR. RANKIN: Correct.

12 THE HEARING EXAMINER: D as in David?
13 Does he have any testimony that you feel would go to
14 specifically the creation of the special pool?

15 MR. RANKIN: Not if Cimarex is
16 withdrawing its proposal for an allocation formula and
17 the creation of the special pool.

18 THE HEARING EXAMINER: Okay. Thank
19 you. And how about Exhibit E?

20 (Permian Exhibit E was marked for
21 identification.)

22 MR. RANKIN: Exhibit E, Mr. Examiner,
23 is the notice statement that reflects that we provided
24 us to the parties, both in the proposed pool acreage
25 and then offsetting by one -- Mr. Savage and I

1 conferred on notice and believe we agreed on the --

2 THE HEARING EXAMINER: Mr. Savage,
3 admitting --

4 MR. SAVAGE: Yes. We have no objection
5 to that.

6 (Permian Exhibit E was received into
7 evidence.)

8 THE HEARING EXAMINER: And what about
9 Exhibit F, the affidavit of publication?

10 (Permian Exhibit F was marked for
11 identification.)

12 MR. SAVAGE: No objection to that.

13 (Permian Exhibit F was received into
14 evidence.)

15 THE HEARING EXAMINER: Excellent.

16 Okay. Mr. Savage, are you ready to put on your case
17 in chief?

18 MR. SAVAGE: Yes, sir.

19 THE HEARING EXAMINER: Okay. Which
20 witness -- how many witnesses do you anticipate
21 calling?

22 MR. SAVAGE: We will call two. Ms.
23 Sikes is a landman, Ms. Bella Sikes, and the
24 geologist, Staci Mueller.

25 THE HEARING EXAMINER: Okay. Very

1 good. And you said Mueller, didn't you?

2 MR. SAVAGE: Mueller.

3 THE HEARING EXAMINER: Which tab has
4 her exhibits? Was it 3?

5 MR. SAVAGE: Tab 3.

6 THE HEARING EXAMINER: That's what I
7 thought. So that's Ms. Mueller.

8 Ms. Sikes and Ms. Mueller, would you
9 come on up to the microphone, please? Would you turn
10 on your microphone, please, and stand close to it?
11 Would you state and spell your name for the record,
12 please, one at a time?

13 MS. MUELLER: Staci Mueller, S-T-A-C-I
14 M-U-E-L-L-E-R.

15 THE HEARING EXAMINER: Thank you.

16 MS. SIKES: Isabella Sikes,
17 I-S-A-B-E-L-L-A S-I-K-E-S.

18 THE HEARING EXAMINER: Would you both
19 raise your right hands, please?

20 WHEREUPON,

21 STACI MUELLER AND ISABELLA SIKES,
22 called as a witness and having been first duly sworn
23 to tell the truth, the whole truth, and nothing but
24 the truth, was examined and testified as follows:

25 THE HEARING EXAMINER: Thank you very

1 much.

2 Mr. Savage, which witness do you want
3 to start with? Ms. Sikes?

4 MR. SAVAGE: Let's start with Ms.
5 Sikes. Thank you.

6 THE HEARING EXAMINER: Ms. Sikes, would
7 you sit at the podium there, the witness stand, and
8 speak clearly into the microphone. You may have to
9 get a bit closer. Thank you.

10 Mr. Savage, go ahead.

11 DIRECT EXAMINATION

12 BY MR. SAVAGE:

13 Q Ms. Sikes, can you state your full name for
14 the record?

15 A Isabella Sikes.

16 Q And you are the landman for the -- can you
17 describe who you are employed by?

18 A I am a landman for Coterra Energy.

19 Q In what capacity? Were you working in the
20 capacity as a landman?

21 A Yeah.

22 Q Have you testified previously before the
23 Division?

24 A I have not.

25 Q Have you included a resume for the Division

1 to review your credentials?

2 A Yes.

3 Q Can you describe just briefly your
4 educational background?

5 A I graduated from Texas Tech University with
6 a degree in energy commerce, specifically with
7 petroleum land management, in May of 2023. And did
8 you want me to do work history as well, or just --

9 Q Yes. If you could include just a little bit
10 of work history on that.

11 A And then I began working full-time for
12 Coterra in May of 2023.

13 Q And your resume is attached to your
14 statement?

15 A Yes.

16 Q So --

17 THE HEARING EXAMINER: Let me take a
18 look at it, Mr. Savage. Let me take a look. You have
19 a page number of 845 pages?

20 MR. SAVAGE: Yes. The pages are
21 numbered on that. They should be numbered.

22 THE HEARING EXAMINER: I mean what page
23 number do you want me to go to?

24 MR. SAVAGE: 84. 84.

25 THE HEARING EXAMINER: Thank you.

1 How is Coterra Energy related to
2 Cimarex?

3 THE WITNESS: Coterra Energy is the
4 product of a merger in 2021 between Cimarex Energy Co.
5 and Cabot, a company in Pennsylvania.

6 THE HEARING EXAMINER: Thank you.
7 Okay. Reviewing your resume, which is on page 84 of
8 the exhibit packet, which will be taken -- this will
9 be removed from the administrative record once we
10 receive your amended exhibit packet, you're hereby
11 qualified in the expertise of petroleum landman before
12 this Division.

13 Mr. Savage, please include Ms. Sikes's
14 resume in your exhibit packet.

15 I assume, Mr. Rankin, that there is no
16 objection to this resume?

17 MR. RANKIN: I do not object.

18 THE HEARING EXAMINER: Thank you.

19 How will you identify this resume, Mr.
20 Savage, in your exhibit packet?

21 MR. SAVAGE: I will just list it as a
22 separate exhibit.

23 THE HEARING EXAMINER: Are you going to
24 keep it under the tab -- you had Tab 2 for Ms. Sikes.
25 Do you want to just label it as a subpart of Tab 2?

1 MR. SAVAGE: Yes. Those are Exhibits
2 F, and I will do F1.1.

3 THE HEARING EXAMINER: Okay. Well,
4 there are no other --

5 MR. SAVAGE: Okay.

6 THE HEARING EXAMINER: So just F1 --

7 MR. SAVAGE: F1.

8 (Cimarex Exhibit F1 was marked for
9 identification.)

10 THE HEARING EXAMINER: -- for Ms.
11 Sikes's resume?

12 (Cimarex Exhibit F1 was received into
13 evidence.)

14 MR. SAVAGE: Correct. Correct.

15 THE HEARING EXAMINER: 'Cause we don't
16 have any other.

17 MR. SAVAGE: That is correct. Yes,
18 thank you.

19 THE HEARING EXAMINER: All right.
20 Okay. Please proceed.

21 BY MR. SAVAGE:

22 Q Ms. Sikes, have you reviewed Cimarex's
23 application for a special pool for the Wolfbone Pool?

24 A Yes.

25 Q And in that application, does it describe

1 the creation of the Wolfbone Pool?

2 A Yes, it does.

3 Q Can you describe in general terms how
4 Cimarex plans to create that Wolfbone Pool?

5 A Cimarex is going to contract the Bone Spring
6 Pool and the Wolfcamp Pool to make way for the Special
7 Wolfbone Pool, and I think Staci will go into the
8 specific depths that those cover.

9 Q And Staci is Ms. Mueller, the --

10 A Yes.

11 Q -- geologist? Have you reviewed how Permian
12 Resources' landman has also described the creation of
13 the pool?

14 A Yes.

15 Q And does Cimarex's description correspond to
16 -- in basically the same manner that Permian
17 Resources' description is --

18 A With the interval of the Wolfbone Pool.

19 Q Yes. For the interval of the Wolfbone Pool.
20 What about how it's created and contracted?

21 A Yes.

22 MR. SAVAGE: Mr. Examiner, I have no
23 further questions.

24 THE HEARING EXAMINER: Mr. Rankin,
25 cross exam?

1 CROSS-EXAMINATION

2 BY MR. RANKIN:

3 Q Ms. Sikes, you've reviewed Permian
4 Resources' application for creation of pool as well?

5 A Yes.

6 Q And you agree that the proposed acreage and
7 the vertical extent match up with what Cimarex is
8 proposing?

9 A Yes.

10 MR. RANKIN: Nothing further, Mr.
11 Examiner.

12 THE HEARING EXAMINER: Okay. I'm going
13 to turn to our technical examiner, Mr. Dean McClure.

14 Mr. McClure, do you have any questions
15 for Ms. Sikes?

16 THE TECHNICAL EXAMINER: Yes, I do, Mr.
17 Hearing Examiner. Thanks.

18 Ms. Sikes, how did you -- how was the
19 existing pool in these areas determined?

20 THE WITNESS: I believe the OCD
21 determined the pool code for this area, if that's what
22 you're asking.

23 THE TECHNICAL EXAMINER: That is what
24 I'm asking. I guess what my question is, were you
25 aware that there's two different Bone Spring Pools in

1 this four-section area?

2 THE WITNESS: Yes. Yes.

3 THE TECHNICAL EXAMINER: Based off your
4 exhibit packet, are you asking to contract only a
5 single one of those pools?

6 THE WITNESS: I had communication with,
7 I believe his name's Paul -- he works with the OCD
8 codes. And he said either one works. Ultimately, at
9 the end of the day, they cover the same area. And so
10 he advised us that any pool code would work, and so
11 that's why we selected just one.

12 THE TECHNICAL EXAMINER: Ms. Sikes, are
13 you referring to the email that I'm assuming is still
14 part of your guys' exhibits?

15 THE WITNESS: This is not in our
16 exhibits. This was omitted, but it was an email with
17 Paul Kautz.

18 THE TECHNICAL EXAMINER: Are you
19 referring to the email in which Paul Kautz is
20 providing you with guidance for a pool name?

21 THE WITNESS: Yes, correct.

22 THE TECHNICAL EXAMINER: And is that
23 guidance for pool name in regards to the newly
24 proposed Wolfbone?

25 THE WITNESS: Yes. We were -- we were

1 asking him -- since there are two names, there's the
2 Teas and the Quail Ridge Bone Spring for our new
3 Wolfbone Pool -- which one would it fall under.

4 THE TECHNICAL EXAMINER: So if Cimarex
5 was aware of these two different Bone Springs in an
6 area, why are they only asking to retract a single one
7 of them instead of both?

8 THE WITNESS: I would just say it's my
9 understanding that if we're going to do the Wolfbone
10 pool as to the Quail Ridge or the Teas, whichever the
11 OCD does grant us, it would translate if we need to do
12 it as to both. But we can do that.

13 THE TECHNICAL EXAMINER: I mean, that
14 will definitely need to be done before Wolfbone Pool
15 can be issued here. Are you aware was notice provided
16 to all of the appropriate persons in regards to
17 contraction of both of those Bone Spring Pools?

18 THE WITNESS: I believe so, yes. I
19 provided a list to our attorneys with the working
20 interest owners within a one-mile radius of operators
21 and then within our inspection, the working interest
22 owners, override owners, and then any active Bone
23 Spring or Wolfcamp operators of the creation of our
24 special Wolfbone Pool.

25 THE TECHNICAL EXAMINER: And within

1 that notice, which Bone Spring Pools being contracted
2 was included?

3 THE WITNESS: I -- I would have to
4 check that letter itself.

5 THE TECHNICAL EXAMINER: If you can
6 direct us to the letter, I'm assuming it's still part
7 of your exhibit packet.

8 MR. SAVAGE: Mr. McClure, that would be
9 in our Section J, Tab J, and that's towards the very
10 end. And I'm looking around pages 400 and 475, for
11 example. So, Mr. McClure, these letters describe --

12 THE HEARING EXAMINER: Mr. Savage, why
13 don't you give Mr. McClure a moment --

14 MR. SAVAGE: Okay.

15 THE HEARING EXAMINER: -- to look at
16 this letter?

17 It's page 474, Mr. McClure, at the
18 beginning of the letter. While you review this
19 letter, I'm going to take a five-minute break. It's
20 10:20. We'll come back on the record at 10:25. Thank
21 you.

22 (Off the record.)

23 THE HEARING EXAMINER: It is 10:25 a.m.
24 We're back on the record.

25 Mr. McClure, you were questioning the

1 witness regarding this July 23rd letter. It looks
2 like it is Exhibit Number J4.

3 MR. SAVAGE: Mr. Hearing Examiner, if I
4 can make a correction. It's J1, and it's 363. There
5 are several letters that were sent to various
6 constituencies involved in this. Some were directly
7 to the working interest owners within the units
8 themselves. Some were operators within the -- so it
9 is 363.

10 THE HEARING EXAMINER: Okay. Thank
11 you.

12 MR. SAVAGE: Yeah.

13 THE HEARING EXAMINER: Does Mr. McClure
14 know that?

15 MR. SAVAGE: Mr. McClure, did you hear
16 that?

17 THE TECHNICAL EXAMINER: Yes. I did
18 hear that. I think they're, for the most part,
19 substantially the same.

20 MR. SAVAGE: Okay.

21 THE TECHNICAL EXAMINER: I should be
22 able to have Ms. Sikes reference this and indicate to
23 me.

24 MR. SAVAGE: Yes, sir.

25 THE TECHNICAL EXAMINER: If I may

1 continue my question now?

2 MR. SAVAGE: Yes, please.

3 THE TECHNICAL EXAMINER: Okay.

4 Thank you, Mr. Hearing Examiner.

5 Ms. Sikes, are you also on page 363 of
6 845?

7 THE WITNESS: I do not have anything in
8 front of me.

9 THE HEARING EXAMINER: Mr. Savage, do
10 you know how to share your screen?

11 MR. SAVAGE: Yes.

12 THE HEARING EXAMINER: Would you
13 please?

14 MR. SAVAGE: For the letter?

15 THE HEARING EXAMINER: Yes.

16 Freya, would you show Mr. Savage how to
17 share his screen, please?

18 MR. SAVAGE: Mr. Hearing Examiner, I
19 would disconnect it from the Teams for -- I got bumped
20 off.

21 THE HEARING EXAMINER: I see.

22 Okay. Thank you. I see it.

23 MR. SAVAGE: Do you see it, Ms. Sikes?

24 THE WITNESS: I do.

25 THE TECHNICAL EXAMINER: Ms. Sikes, I

1 know it's been a few minutes I guess since I asked my
2 original question, so just to make sure we're on the
3 same page, is it your understanding that Cimarex
4 notified the different appropriate persons that they
5 were seeking to contract the two different Bone Spring
6 Pools?

7 THE WITNESS: Would you please scroll
8 down to the next page, or is that it? From what I'm
9 reviewing now, it seems like we only notified the
10 parties of the creation of a Wolfbone Pool.

11 THE TECHNICAL EXAMINER: Let me find a
12 page number I can direct you to. Ms. Sikes, if I can
13 direct you to page 10 of 845. This should be the
14 original application that was provided to the -- or I
15 believe it was provided to the persons.

16 Should be page 10, Mr. Savage. It's
17 kind of towards the -- it's the second paragraph down
18 on page 10. Page 10, not 9. You're on 9, Mr. Savage.
19 Is this not a part of the application here?

20 MR. SAVAGE: No. It's the prehearing
21 statement, I believe. I believe the application --

22 THE TECHNICAL EXAMINER: Yeah. I
23 believe it appears in Cimarex's application too, if
24 you can direct me to those pages.

25 MR. SAVAGE: Yes. Page 20 is where the

1 application starts.

2 THE TECHNICAL EXAMINER: I believe it's
3 paragraph 13 of the application, page 26 of 845. 26,
4 Mr. Savage.

5 MR. SAVAGE: Mr. Technical Examiner, I
6 believe this is the paragraph you're interested in.

7 THE TECHNICAL EXAMINER: Yeah. Thank
8 you, Mr. Savage.

9 Ms. Sikes, can I direct your attention
10 to paragraph 13 of the application --

11 THE WITNESS: Yes.

12 THE TECHNICAL EXAMINER: -- Cimarex has
13 prepared? Within this application, which pools is
14 Cimarex asking to contract?

15 THE WITNESS: In paragraph 13, we state
16 the Teas Bone Spring East Pool and the Tonto Wolfcamp
17 Pool.

18 THE TECHNICAL EXAMINER: Are you aware
19 that the Quail Ridge Bone Spring Pool is also within
20 this four-section area?

21 THE WITNESS: Yes.

22 THE TECHNICAL EXAMINER: Are you in
23 agreement that in order to create this Wolfbone Pool,
24 the Quail Ridge Bone Spring would also need to be
25 contracted?

1 THE WITNESS: Yes.

2 THE TECHNICAL EXAMINER: In regards to
3 the Teas Bone Spring East Pool that is referenced
4 here, were the operators within that pool noticed of
5 this application?

6 THE WITNESS: If they operated in the
7 Teas Bone Spring, yes.

8 MR. SAVAGE: Mr. Technical Examiner,
9 may I clarify and elaborate a little bit on that?

10 THE HEARING EXAMINER: Mr. Savage, the
11 question was directed to the witness. If Mr.
12 Technical Examiner has a question for you, he'll ask
13 you directly, but I don't think it's proper for you to
14 answer a question that was directed to the witness.

15 THE WITNESS: To provide more clarity,
16 we were given guidance to only notify operators within
17 the pools we were contracting or within the areas
18 where the new pool would be formed, which is the Bone
19 Spring and the Wolfcamp formation.

20 THE TECHNICAL EXAMINER: Ms. Sikes, I'm
21 looking at my notes. I don't remember if Cimarex had
22 a map that showed where they had noticed. I think my
23 notes has it listed here. Are you aware off the top
24 of your head, Ms. Sikes?

25 THE WITNESS: Of a map where we

1 noticed?

2 THE TECHNICAL EXAMINER: Correct.

3 THE WITNESS: No.

4 THE TECHNICAL EXAMINER: And it looks
5 like I got two different page citations here. Ms.
6 Sikes, let me see if this is your original affidavit
7 or not. Oh, this is yours, actually. 871, paragraph
8 11. Are you there with me, Ms. Sikes?

9 THE WITNESS: I believe it's on the
10 next page, Darin, or I guess that is it, yes.

11 THE TECHNICAL EXAMINER: Okay.

12 THE WITNESS: Sorry.

13 THE TECHNICAL EXAMINER: Is my
14 understanding correct that notice was provided to
15 operators within this four-section area and one mile
16 around it?

17 THE WITNESS: Correct, and then I
18 believe the rest of this sentence states who operate
19 units in Bone Spring and Wolfcamp in satisfaction with
20 19.15.4.12.

21 THE TECHNICAL EXAMINER: Were interest
22 owners or operators for the entire time of the pool
23 noticed?

24 THE WITNESS: Do you mean outside of
25 the Bone Spring and the Wolfcamp formation?

1 THE TECHNICAL EXAMINER: No. No.
2 Outside of this four-section area.

3 THE WITNESS: Within a one-mile radius
4 of the sections, we notified the offset operators who
5 operate wells that are located in the Bone Spring or
6 the Wolfcamp formation.

7 THE TECHNICAL EXAMINER: Are you aware
8 that one of these, I guess it's the other one, which
9 was not included in the notice. But are you aware
10 that the other Bone Spring extends beyond, I guess
11 this 16-section area?

12 THE WITNESS: I'm not sure what you're
13 asking.

14 THE TECHNICAL EXAMINER: Okay. I don't
15 -- I guess I don't -- I don't think I need to follow
16 down that line of questioning, I guess. And I'll go a
17 different route. It is -- is it your understanding
18 that Cimarex is asking to adjust the vertical limit of
19 these Bone Spring Pools?

20 THE WITNESS: Yes. Our -- our
21 application states that it is our intent to apply to
22 contract the -- the Teas Bone Spring Pool.

23 THE TECHNICAL EXAMINER: And is it your
24 understanding that even if Cimarex had included both
25 of the Bone Spring Pools that it would have needed to

1 provided notice to all operators within those pools?

2 THE WITNESS: I am not completely sure.
3 The guidance I was given was just the one-mile
4 offset operators. I believe that Permian Resources
5 did the same. We were -- we were trying to stay
6 aligned with who we were notifying for the Special
7 Wolfbone Pool.

8 THE TECHNICAL EXAMINER: Okay. Thank
9 you, Ms. Sikes. I have -- I have no further
10 questions.

11 Mr. Hearing Examiner?

12 THE HEARING EXAMINER: Mr. Savage, is
13 there any redirect based on the questions asked by
14 either Mr. Rankin or Mr. McClure?

15 MR. SAVAGE: Yes, I'd like a few
16 questions.

17 REDIRECT EXAMINATION

18 BY MR. SAVAGE:

19 Q Ms. Sikes, is it your understanding that
20 Cimarex -- that you instructed Abadie & Schill to
21 provide notice?

22 A Yes.

23 Q And was it your understanding -- and you
24 provided the list of operators?

25 A Yes.

1 Q And when you came up with those list of
2 operators, you looked at all the operators -- this is
3 within a one-mile radius -- all the operators within
4 the Bone Spring regardless of pool designation?

5 A Correct.

6 Q So in your understanding, that would have
7 included any pool designation that would be assigned
8 to the Bone Spring would be covered?

9 A Correct. I -- I looked -- as long as it
10 said "Bone Spring," that's what I was focusing on, not
11 if it said "Teas" or "Quail Ridge."

12 Q So when you did your review of the
13 formation, of the operators in that formation, if it
14 said "Teas," you would include it, and if it said
15 "Quail Ridge" and if it said anything else, you would
16 include it?

17 A Correct.

18 Q And you did the same for the Wolfcamp; is
19 that correct?

20 A Correct.

21 Q And then you also did a group of working
22 interest owners if they had not been included in a
23 operating unit, that they also would get a courtesy
24 notice?

25 A Correct.

1 Q When you talked to Mr. Kautz -- and I'm
2 going to go up here and see if I -- you had some
3 correspondence with Mr. Kautz, the OCD geologist?

4 A Yeah.

5 Q I'm looking at page 47. Does these set of
6 emails reflect your correspondence?

7 A Yes.

8 Q So your email -- I don't see a date on this
9 one in particular -- but your initial email, it looks
10 like that you inquired about appropriate pools; is
11 that correct?

12 A I did.

13 Q And you mentioned that -- then you had
14 another correspondence where -- this is after you
15 reviewed Permian Resources' application?

16 A Correct.

17 Q And Permian Resources' application
18 designated the pool to be created as a Gotham Wolfbone
19 Pool?

20 A Yes.

21 Q And you asked Mr. Kautz if this was a name
22 that you could use?

23 A Correct. I wasn't sure how the OCD came up
24 with the pool -- the pool code names, so I reached out
25 to him and asked.

1 Q Okay. And he said that there is specific
2 names based on geography that had to be used; correct?

3 A Yes.

4 Q And did he -- so he said -- what did he
5 respond as being able to use?

6 A He stated that the -- the name needed to
7 have the geographic component, which would be the Teas
8 or the Quail Ridge.

9 Q Did he say that you could use either?

10 A Correct.

11 Q Where is --

12 A I believe if you scroll up. I wanted to
13 clarify with him. If you scroll -- scroll back down.

14 Q Okay. So this is an email from Mr. Kautz.
15 Mr. Kautz knew that you were creating a Wolfbone Pool?

16 A Correct.

17 Q He knew you'd be contracting the pool name
18 that he designated?

19 A Correct.

20 Q And he said you can use Teas Wolfbone or
21 Quail Ridge Wolfbone?

22 A Correct.

23 Q And you followed his instructions on that?

24 A I did.

25 THE HEARING EXAMINER: Mr. Savage?

1 MR. SAVAGE: Mm-hmm?

2 THE HEARING EXAMINER: Is the purpose
3 of this redirect to resolve the issue here about
4 notice?

5 MR. SAVAGE: Yes, Mr. Hearing Examiner.
6 In our letters, notice letters, we describe that we're
7 creating the Wolfbone, and we attached the pooling
8 application that describes that and it had the means
9 by which we would do that. So it looks to us -- you
10 know, there may be some technical aspects, very
11 technical aspects regarding some differences between
12 the Teas and the Quail Ridge. As I understood, when
13 you do a -- like, for example, you do a pooling
14 application, the application pools, the formation,
15 which is the pool, and then you receive -- for the
16 hearing, you would receive the name of the pool and a
17 code.

18 Now, what's interesting, in our
19 original applications, Cimarex originally, in the
20 application, used Quail Ridge and Permian Resources
21 used Teas Wolfbone in the original applications. And
22 so we wondered -- like, you know, we wondered if that
23 was a material issue during the original -- prior to
24 the original hearing, we wondered if that was a
25 material issue. We brought it up to the OCD, and, you

1 know, they had a temporary hearing examiner at the
2 time. And we actually had a motion hearing 'cause our
3 position was that we simply use Quail Ridge, that, you
4 know, perhaps we needed to, you know, continue the
5 case and see if we needed to use Teas and they both
6 need to be consistent 'cause if we had two different
7 pool names -- you can see in the records that -- so
8 OCD ruled that it didn't matter. They ruled on that,
9 that our Quail Ridge corresponded to the Teas in the
10 hearing packets, and that we would not continue a case
11 to address this, but we would go forward. And you can
12 see in those applications what transpired.

13 So I mean -- and not to, you know,
14 contradict Mr. McClure because he deals in the
15 technicalities in much more detail than we do, but
16 from all the feedback and information we were
17 receiving, this looked like the pathway to go forward.

18 THE HEARING EXAMINER: So let's -- so
19 is the argument that if the OCD provides incorrect
20 information to you and the notice is somehow
21 defective, that there is no notice issue or that it
22 needs to be re-noticed?

23 MR. SAVAGE: It -- I mean, there could
24 be a need to re-notice under those circumstances if
25 you feel like that notice was not sufficient. The

1 notice -- so the rules, if I remember on notice, is
2 that you have to have a general description that gets
3 the purpose of the application. And, you know, I
4 believe that, you know, in the letter saying we're
5 going to create a Wolfbone and that we're going to --
6 and it talked about the attached application, it
7 talked about the vertical extent.

8 The letter refers to the application,
9 it describes the vertical extent and then these
10 applications attached and it goes through the
11 mechanism. I believe that would satisfy a general
12 notice, general criteria for purposes of notice
13 because -- and it gives the order, the case number.
14 Any recipient could look at that case. They could use
15 the OCD database to research that. They could call
16 the OCD. So I think -- and participate in the
17 hearing. So I believe notice has been satisfied.

18 Now, I guess the -- if technically
19 there needs to be some kind of consideration or
20 adjustment on the specific technical name, that may
21 require maybe an amendment to the Wolfbone
22 application. And then if you did an amendment to the
23 Wolfbone application, you'd be doing notice for that
24 again. I think -- I mean, if it's not material, if
25 it's not -- if the OCD decides it's not material, I

1 think you could rely on the previous notice if you
2 didn't change the case number. This is beyond my --
3 this is in the hands of the Division. Thank you.

4 THE HEARING EXAMINER: All right. Mr.
5 Rankin, you've heard what's going on here. Do you
6 have any cross-examination questions based on the
7 redirect from Mr. Savage?

8 MR. RANKIN: Mr. Examiner, I don't. I
9 think Mr. McClure may have similar questions for my
10 witness, and I'd prefer to address these issues
11 through my own witness.

12 THE HEARING EXAMINER: You're going to
13 address the notice issue?

14 MR. RANKIN: I think so. I mean, I
15 think -- I mean, I can talk to you about it directly,
16 I think. But I'm not going to ask Ms. Sikes about it.
17 Yeah.

18 THE HEARING EXAMINER: We'll put the
19 notice issue on hold for now.

20 Mr. Savage, I believe 19.15.4.12
21 A(4)(b) --

22 MR. SAVAGE: That sounds pretty close
23 based --

24 THE HEARING EXAMINER: Be clear about
25 what notice is required. So, you know, obviously

1 we'll have to abide by the rule. But I'm not sure
2 what the evidence is at this point. We'll wait until
3 after your case is over and Mr. Rankin's case is over,
4 and then we can figure out if there's a -- if we need
5 any -- with the notice, we can go down that path. Do
6 you have any other redirect for this witness?

7 MR. SAVAGE: I have no more questions.

8 THE HEARING EXAMINER: No more
9 questions.

10 And you said you had no cross-
11 examination based on the redirect?

12 MR. RANKIN: No.

13 THE HEARING EXAMINER: Okay. Mr.
14 McClue, might you have some more questions?

15 THE TECHNICAL EXAMINER: Mr. Hearing
16 Examiner, just one quick question.

17 THE HEARING EXAMINER: Sure.

18 THE TECHNICAL EXAMINER: Ms. Sikes, in
19 this email communication with Mr. Kautz, did you ever
20 ask him what the existing Bone Spring Pools were in
21 the area?

22 THE WITNESS: Yes. If we can scroll
23 down, please. So I laid it out plainly. I attached
24 the order that the Division sent out. And then if you
25 scroll up and then keep scrolling up, and I said --

1 no. Just down a little bit. Okay. I said, "Thank
2 you for answering my questions. So in this area,
3 would the pool be Quail Ridge Wolfbone, or is there
4 another geographic name the OCD would want us to use?"
5 And then if you scroll up a little bit more, he said,
6 "Since I do not know what those sections are, I cannot
7 answer the question." Keep scrolling up a little bit.
8 And then it says the "Teas or the Quail Ridge."

9 THE TECHNICAL EXAMINER: Ms. Sikes,
10 does that reference the Wolfbone or the Bone Spring?

11 THE WITNESS: That references the
12 Wolfbone. It may have been an earlier conversation or
13 later conversation that it is acknowledged that the
14 Teas and the Quail Ridge geographic part of the name
15 is tied to the Bone Spring formation.

16 THE TECHNICAL EXAMINER: Okay. But
17 it's not -- is it included in this email
18 communication?

19 THE WITNESS: I'm not entirely sure.
20 Can we go to the very first one? I'm sorry. Very
21 first one.

22 MR. SAVAGE: That's the first one.

23 THE WITNESS: The bottom. No, he did
24 not say that that was attached to the Bone Spring or
25 just to the Bone Spring Pool.

1 THE TECHNICAL EXAMINER: Okay. Thank
2 you, Ms. Sikes.

3 No more questions, Mr. Hearing
4 Examiner.

5 THE HEARING EXAMINER: Okay. Mr.
6 McClure, do you know now how you want to deal with the
7 notice issue, or do you want to hear more evidence
8 from Permian's witnesses?

9 THE TECHNICAL EXAMINER: I believe
10 Permian has the exact same scenario. I guess it's
11 possible we could hear what Mr. Rankin's and his
12 witnesses' take on the situation is.

13 THE HEARING EXAMINER: Okay. Okay.
14 That's what we'll do.

15 Okay. No further questions for this
16 witness. You may be excused.

17 Ms. Mueller?

18 MR. SAVAGE: I'd like to move to
19 introduce those emails as Exhibit F2.

20 THE HEARING EXAMINER: Okay. And this
21 is F2.

22 Mr. Rankin, F2?

23 (Cimarex Exhibit F2 was marked for
24 identification.)

25 MR. RANKIN: No objections.

1 THE HEARING EXAMINER: Okay. Thank
2 you, Mr. Savage. Your Exhibit F2, the email chain
3 between Ms. Sikes and Mr. Kautz are admitted into
4 evidence. Does that -- that's under Tab 2, isn't it?

5 (Cimarex Exhibit F2 was received into
6 evidence.)

7 MR. SAVAGE: Actually, those are part
8 of the Wolfbone application that we submitted. So
9 that would be under reference section --

10 THE HEARING EXAMINER: Do you have a
11 case number? Well, here's the --

12 MR. SAVAGE: 48.

13 THE HEARING EXAMINER: I can't see the
14 page number, actually.

15 MR. SAVAGE: 48's the email.

16 THE HEARING EXAMINER: Is it marked as
17 an exhibit?

18 MR. SAVAGE: It is. It's Exhibit 2 to
19 the Wolfbone application.

20 THE HEARING EXAMINER: Exhibit 2 to the
21 application, so not F2?

22 MR. SAVAGE: Well, in the new, amended
23 packet, we would have it as F2.

24 THE HEARING EXAMINER: It will be F2,
25 but what is it marked now?

1 MR. SAVAGE: Right now, it is Exhibit 2
2 to the Wolfbone hearing application within our hearing
3 packet.

4 THE HEARING EXAMINER: Perfect. Okay.
5 So Exhibit 2 to the hearing packet is Exhibit 2 to the
6 application in the current hearing packet is admitted
7 into evidence, and it will be labeled F2 in your
8 amended exhibit packet. Thank you.

9 MR. SAVAGE: Thank you.

10 THE HEARING EXAMINER: Would you like
11 to call Ms. Mueller?

12 MR. SAVAGE: Yeah, I call Ms. Staci
13 Mueller as a witness.

14 THE HEARING EXAMINER: Please speak
15 clearly into the microphone and turn it up. Thank
16 you.

17 DIRECT EXAMINATION

18 BY MR. SAVAGE:

19 Q Ms. Mueller, could you state your full name
20 for the record?

21 A Staci Mueller.

22 Q And you have testified before the Division;
23 is that correct?

24 A That's correct.

25 MR. SAVAGE: And, Mr. Examiner, do you

1 want to hear a little bit of her educational
2 background, or you --

3 THE HEARING EXAMINER: No. Just what
4 area of expertise has she been admitted by this
5 Division.

6 BY MR. SAVAGE:

7 Q In what area of expertise have you been
8 admitted?

9 A As a petroleum geologist.

10 THE HEARING EXAMINER: Thank you.

11 BY MR. SAVAGE:

12 Q And who do you work for?

13 A I work for Coterra Energy.

14 MR. SAVAGE: I render Ms. Mueller an
15 expert witness in geology.

16 THE HEARING EXAMINER: She's already
17 been admitted.

18 BY MR. SAVAGE:

19 Q So, Ms. Mueller, you have reviewed the
20 Wolfbone application that we have submitted?

21 A Yes, I have.

22 Q And in your statement that we -- we're
23 excluding the statement, but did paragraph 9 describe
24 specifically the way the Wolfbone Pool would be
25 created?

1 A It describes the vertical extent, yes.

2 MR. SAVAGE: Mr. Hearing Examiner,
3 could she read that into the --

4 THE HEARING EXAMINER: Sure.

5 MR. SAVAGE: -- record?

6 BY MR. SAVAGE:

7 Q Could you read that into the record?

8 A Could you put it in front of me? Yes.

9 THE HEARING EXAMINER: You're handing
10 her what?

11 MR. SAVAGE: I'm handing to her
12 paragraph 9 of the Exhibit G, which is her statement.

13 THE HEARING EXAMINER: Your
14 microphone's not on. All I need is to know is what
15 exhibit are you handing her?

16 MR. SAVAGE: I am handing her Exhibit
17 G. Exhibit G was excluded, but this one paragraph
18 pertains --

19 THE HEARING EXAMINER: All right.
20 Thank you.

21 THE WITNESS: Okay. So I'm going to
22 skip to the part about the vertical extent, which
23 starts off with "Both Cimarex and Permian Resources
24 agree on the vertical extent of the Wolfbone pool,
25 which is proposed to be from the top of the Third Bone

1 Spring Sand to the base of the Wolfcamp A Shale, as
2 shown by the red box on the type log at 10,620 feet
3 TBD to 11,225 feet TBD at the Quail Ridge 32 State 2
4 Log. There are no significant frac baffles that lie
5 within the defined pool, but instead frac baffles act
6 as the upper and lower bounds. See where the gamma
7 ray is shaded blue just outside the red box."

8 THE HEARING EXAMINER: Mr. Savage, what
9 are you trying to show us?

10 MR. SAVAGE: I'm trying to get into the
11 records means by which Cimarex would create the
12 vertical extent of the Wolfbone Pool.

13 THE HEARING EXAMINER: What exhibit are
14 you trying to show us?

15 MR. SAVAGE: Well, that's part of --
16 that is part of her statement, her original statement,
17 and that's Exhibit G. But that is just an excerpt,
18 that one paragraph.

19 THE HEARING EXAMINER: That's not what
20 I'm asking you. What are you trying to show us on the
21 screen right now?

22 MR. SAVAGE: Oh. This will be the next
23 exhibit.

24 THE HEARING EXAMINER: Does that
25 illustrate what she was discussing?

1 MR. SAVAGE: Yes.

2 Ms. Mueller --

3 THE HEARING EXAMINER: What are you
4 showing us, what exhibit?

5 Ms. Mueller, this is Exhibit G3.

6 THE HEARING EXAMINER: Which has been
7 admitted into evidence. Thank you.

8 THE WITNESS: That's Exhibit G.

9 MR. SAVAGE: No, it's -- okay. There
10 we go.

11 THE HEARING EXAMINER: Is that G2 or
12 G3?

13 MR. SAVAGE: G3.

14 THE HEARING EXAMINER: That looks like
15 G2. Can you go up a bit?

16 MR. SAVAGE: Yes, I'm trying to. Thank
17 you. G3.

18 THE HEARING EXAMINER: Okay. We have
19 G3, which has been admitted into evidence.

20 BY MR. SAVAGE:

21 Q Ms. Mueller, can you describe what this
22 Exhibit G3 describes?

23 A Yes. So I combined the Wolfbone Pool
24 proposal and the vertical extent and the allocation
25 formula into one exhibit, so I'm ignoring the right

1 side of the slide, which describes the allocation
2 formula, and I'm only focusing on the type log on the
3 left side of the slide. And the vertical extent of
4 the Wolfbone Pool will be within the red box.

5 Q Can you describe the vertical extent of this
6 Wolfbone Pool?

7 A Yes. It's from the top of the Third Bone
8 Spring Sand to the base of the Wolfcamp A Shale.

9 Q And does this correspond exactly to the
10 parameters of Permian Resources' vertical extent?

11 A Yes. So in their exhibits, they use a
12 slightly different type log, but these are
13 stratigraphically equivalent to theirs.

14 MR. SAVAGE: Mr. Examiner, I have no
15 further questions.

16 THE HEARING EXAMINER: Mr. Rankin?

17 CROSS-EXAMINATION

18 BY MR. RANKIN:

19 Q Hey, Ms. Mueller. How are you?

20 A Doing well.

21 Q Looking at your exhibit here, you confirm
22 that, in your opinion, although Permian is using a
23 different type log well to define the vertical extent
24 of the proposed Wolfbone Pool, both Cimarex and
25 Permian agree on the identification of the top

1 boundary and the bottom boundary for this proposed
2 Wolfbone Pool?

3 A That's correct.

4 Q And there's no difference between the two
5 proposals in terms of the vertical extent or the
6 formations that would be included?

7 A Correct.

8 MR. RANKIN: Thank you.

9 No further questions, Mr. Examiner.

10 THE HEARING EXAMINER: Mr. McClure, do
11 you have any questions for Ms. Mueller? Sorry, Mr.
12 McClure, I think --

13 THE TECHNICAL EXAMINER: Yeah, I was
14 muted. I apologize, Mr. Hearing Examiner. Yes, I do
15 have questions for Ms. Mueller.

16 THE HEARING EXAMINER: Proceed.

17 THE TECHNICAL EXAMINER: Ms. Mueller --
18 I actually have a very fast question for Mr. Savage.

19 Is the page that you have highlighted
20 here, this type log, Mr. Savage, is it still part of
21 your exhibit packet of our record?

22 MR. SAVAGE: This is part of the
23 exhibit packet that we submitted for the hearing
24 today, and it's been admitted into this aspect of the
25 hearing.

1 THE TECHNICAL EXAMINER: Okay. I just
2 wanted to confirm because we are going to need that as
3 part of the records to be able to proceed here in the
4 long run. Thank you, Mr. Savage.

5 MR. SAVAGE: Thank you.

6 THE TECHNICAL EXAMINER: Ms. Mueller, I
7 did hear you correctly that it is Cimarex's intent for
8 the top of the proposed pool to be the top of the
9 Third Bone Spring Sand?

10 THE WITNESS: Yes.

11 THE TECHNICAL EXAMINER: Is that
12 correct?

13 THE WITNESS: Yes, that's correct.

14 THE TECHNICAL EXAMINER: Okay. Was any
15 consideration made to including the Third Bone Spring
16 Carbonate as well?

17 THE WITNESS: No just because we wanted
18 the new pool to be bounded by frac baffles, and there
19 is a frac baffle within the Third Carbonate that I
20 think bounds the upper bound of the new pool.

21 THE TECHNICAL EXAMINER: Are you aware
22 of any proposed production being drilled into the
23 Third Bone Spring Carbonate here?

24 THE WITNESS: I know Permian Resources,
25 I believe, proposed wells into the Third Bone Spring

1 Carbonate.

2 THE TECHNICAL EXAMINER: Were those
3 wells a part of the original compulsory pooling cases
4 that caused this case to proceed?

5 THE WITNESS: Yes, they were.

6 THE TECHNICAL EXAMINER: Did Cimarex
7 also propose any wells in the Third Bone Spring
8 Carbonate?

9 THE WITNESS: We did not. We proposed
10 wells in the lower second Bone Spring Sand, which is
11 also where Permian proposed wells.

12 THE TECHNICAL EXAMINER: So were there
13 wells that were a part of the original compulsory
14 pooling cases that would not be included in this new
15 Wolfbone Pool?

16 THE WITNESS: Can you restate the
17 question?

18 THE TECHNICAL EXAMINER: Of the
19 proposed wells within the original compulsory pooling
20 cases, would any of them have not been included in
21 this new Wolfbone Pool?

22 THE WITNESS: Yes. Many were not in
23 the current definition of the Wolfbone Pool. The only
24 wells that are included in the Wolfbone Pools for
25 Cimarex are the Third Bone Spring Sand wells. We also

1 proposed First Bone Spring Sand, Second Bone Spring
2 Sand.

3 THE TECHNICAL EXAMINER: Okay. So the
4 Second Bone Spring Sand would not be a part of this
5 Wolfbone pool; is that correct?

6 THE WITNESS: That's correct.

7 THE TECHNICAL EXAMINER: Thank you, Ms.
8 Mueller. I have no further questions.

9 Thank you, Mr. Hearing Examiner.

10 THE HEARING EXAMINER: Mr. Savage, any
11 redirect?

12 MR. SAVAGE: No questions.

13 THE HEARING EXAMINER: Okay. You may
14 be excused, Ms. Mueller.

15 Does that include your case in chief,
16 Mr. Savage?

17 MR. SAVAGE: It covered the two
18 witnesses. It does.

19 THE HEARING EXAMINER: Okay. Before I
20 forget, how long will it take for you to file an
21 amended exhibit packet?

22 MR. SAVAGE: I think a week.

23 THE HEARING EXAMINER: Okay. So that
24 would be the 20th of August? Okay. That will be your
25 deadline.

1 MR. SAVAGE: Thank you.

2 THE HEARING EXAMINER: Mr. Rankin, are
3 you ready to put on your case in chief?

4 MR. RANKIN: Yes, Mr. Examiner. We
5 are.

6 THE HEARING EXAMINER: How many
7 witnesses do you have?

8 MR. RANKIN: Two witnesses, Mr.
9 Examiner. Mr. Travis Macha and Mr. Ira Bradford.

10 THE HEARING EXAMINER: Mr. Bradford,
11 Mr. Macha, would you come up to the witness stand,
12 turn on the microphone, and we'll get you sworn in?
13 Would you individually state and spell your names for
14 the record?

15 MR. MACHA: Travis Macha, T-R-A-V-IS
16 M-A-C-H-A.

17 MR. BRADFORD: Ira Bradford, I-R-A
18 B-R-A-D-F-O-R-D.

19 THE HEARING EXAMINER: Would you both
20 raise your right hands?

21 //

22 //

23 //

24 //

25 WHEREUPON,

1 TRAVIS MACHA AND IRA BRADFORD,
2 called as a witness and having been first duly sworn
3 to tell the truth, the whole truth, and nothing but
4 the truth, was examined and testified as follows:

5 THE HEARING EXAMINER: Thank you.
6 Who do you want to call first? Mr.
7 Macha?

8 MR. RANKIN: Yes, please, Mr. Examiner.

9 THE HEARING EXAMINER: Thank you.

10 DIRECT EXAMINATION

11 BY MR. RANKIN:

12 Q Mr. Macha, would you please state your full
13 name for the record?

14 A Travis Macha.

15 Q By who are you employed and in what
16 capacity?

17 A Permian Resources, New Mexico --

18 Q Have you previously testified before the
19 Division?

20 A Yes.

21 Q And have you had your credentials as an
22 expert in petroleum land matters accepted as a matter
23 of record?

24 A Yes.

25 Q And are you familiar with the application

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1 filed in this case by Permian Resources and the
2 application filed by Cimarex as well?

3 A Yes.

4 Q And when I refer to Permian Resources, could
5 you explain the nature of the relationship between
6 Permian Resources and the actual applicant here, Read
7 & Stevens?

8 A Yes.

9 Q Yeah, what is the relationship between them?

10 A Permian is the owner of Read & Stevens.
11 Read & Stevens is the subsidiary.

12 Q And Permian Resources is the operator; is
13 that right?

14 A That is correct.

15 Q Okay. Have you conducted a study of the
16 land in the area at issue in this proposed pool
17 creation?

18 A Yes.

19 Q And have you prepared an analysis that
20 you're ready to discuss about the proposed formation
21 of this pool today?

22 A Yes.

23 Q And you have a couple exhibits to discuss;
24 correct?

25 A Correct.

1 Q Now, Mr. Macha, looking at the screen, which
2 I'm going to share here in just a moment.

3 MR. RANKIN: Mr. Savage, if you
4 wouldn't mind allowing me to share my screen by
5 removing your screensharing. Maybe I can override it.
6 No, I can't. It looks like I can override.

7 BY MR. RANKIN:

8 Q All right. Mr. Macha, looking at the screen
9 here, do you see what's been marked as Exhibit A on
10 the screen?

11 A Yes, I do.

12 Q Is that the application that Permian
13 Resources filed for the creation of the Special
14 Wolfbone pool?

15 A That is correct.

16 Q Does this application accurately reflect
17 Permian Resources' proposed creation of this Wolfbone
18 pool?

19 A That is correct.

20 Q If you would, Mr. Macha, I'm going to help
21 you by scrolling through, but if you would just
22 identify at a high level what it is, looking at this
23 first paragraph, that Permian Resources is proposing
24 here.

25 A So similar to Cimarex, what we're doing is

1 contracting the Bone Spring pool, which obviously we
2 have done the Teas East Bone Spring East. We did not
3 mention the Quail Ridge either. So if we need to add
4 that in, we'll -- we have to do so. Obviously, we
5 intend to -- contract the entire Bone Spring pool in
6 general. Then the Tonto Wolfcamp pool is going to be
7 contracting downwards to create space for this new
8 Wolfcamp -- the new Wolfbone pool.

9 Q And the section, this will be applicable to
10 our Sections 4, 5, 8, and 9 in -- in Lea County?

11 A Yes, sir.

12 Q Listening to Ms. Sikes' testimony, you heard
13 her testimony on the definition of Cimarex's proposed
14 pool?

15 A Yes, sir.

16 Q Does that match what Permian Resources is
17 proposing here?

18 A Yes. There's nothing contested between each
19 other.

20 Q Okay. Now, you heard Ms. Sikes testify
21 about the notification issues that were raised by Mr.
22 McClure?

23 A Correct, yeah.

24 Q And Mr. McClure raised some questions about
25 the notice that was provided. Let's start off by

1 looking at your Exhibit B7, if you would, Mr. Macha.
2 What does B7 show? And let's just discuss from the
3 left to the right on this exhibit. What does it show?

4 A Yes. From left to right, these are just the
5 three federal leases that encompass all four sections.
6 We've noticed all record title owners, working
7 interest owners, override owners, everybody inside of
8 that Wolfbone pool of the intent to create it. And in
9 the offset notice, we noticed all operators. We
10 really only needed to notice the Wolfcamp and Bone
11 Spring operators. We went ahead and noticed everybody
12 as well as all the working interest owners where no
13 existing Bone Spring or Wolfcamp production was -- was
14 in place as well as --

15 Q As Cimarex did, you identified any well or
16 operated well or any operator who had a well operating
17 in the Bone Spring formation no matter what pool it
18 was; correct?

19 A That is correct.

20 Q And you gave them notice of the proposal to
21 contract the Bone Spring pool and the creation in
22 place, this Wolfbone pool?

23 A That is correct.

24 Q Now, I want to talk a little bit about the
25 reason Permian Resources and Cimarex gave notice to

1 the one-mile offsets here. Mr. Macha, you're familiar
2 with the creation of federal or state units?

3 A Yes, sir.

4 Q And I'm talking about exploratory units.

5 A Yeah.

6 Q And you're familiar that at times in the
7 creation of these federal units or state units,
8 operators sometimes for ease of development and
9 administrative purposes will create a special pool
10 within the federal unit; correct?

11 A Yes, that is correct.

12 Q And do you have an understanding of how the
13 Division has accepted notification for the purposes of
14 creating that special pool within a federal or state
15 exploratory unit?

16 A Yeah. It's always been -- or at least, from
17 my experience -- one-mile radius. We have -- I have,
18 at least not with Permian, created a new pool for a
19 federal unit before, and that is what we've done.

20 Q And the reason that's been accepted by the
21 Division is you understand is what? I mean, who are
22 the parties who are actually being impacted here by
23 the proposed contraction of the Bone Spring and
24 Wolfcamp pools and the creation of the Wolfbone pool?
25 Who actually are being impacted?

1 A The actual impacted owners obviously are
2 within that pool. Every -- offset I think deserves
3 courtesy notice. Working interest owners, override
4 owners, working title owners. Other than that, I
5 wouldn't say anybody else is materially -- materially
6 impacted.

7 Q Now, one of the reasons you give notice to
8 the one-mile radius is because under the notification
9 that Mr. Chakalian referenced, it's possible if a well
10 hasn't been designated to a pool, the Division rules
11 require that well to -- if it's within a mile
12 sometimes to be designated as part of that pool if
13 it's within a mile; correct?

14 A Yeah.

15 Q And so that's the reason why the one-mile
16 offset is the notice radius here; is that correct?

17 A That is correct.

18 Q So just in the event that any wells within a
19 mile are not otherwise designated to a pool, those
20 operators have been given notice of what you're
21 proposing to do here?

22 A That is correct.

23 Q Now, I want to talk about the sort of
24 practical aspects of this. You've been a landman for
25 how long?

1 A You put me on the spot. Seven -- eight
2 years.

3 Q Eight years now. And as a landman and a
4 person who is responsible for tracking applications
5 that impact your operations, your company's
6 operations, do you track that based on pool names or
7 pool codes, or do you track that based on legal
8 descriptions?

9 A Legal -- legal descriptions and I would say
10 pool -- just generalized pool. We are not aware and
11 do not track specific Bone Spring East, Bone Spring
12 West, whatever -- whatever pool names are kind of
13 distributed. We don't track that.

14 Q Would you say that it's industry practice
15 for land folks or anybody in the industry to identify
16 a location of a proposed application based on the
17 legal description first?

18 A Yes.

19 Q And here, both Cimarex and Permian Resources
20 have given an accurate and correct legal description
21 of the acreage that would be affected by your proposed
22 pool?

23 A That is correct.

24 Q And you've given an accurate and correct
25 description of the vertical portions of the geology

1 here that will be impacted by both the contraction and
2 of the offsetting Bone Spring pool and Wolfcamp pools?

3 A That is correct, yes.

4 Q And you've given an accurate and correct
5 description of the vertical extent of the proposed
6 Wolfbone pool?

7 A Yes.

8 Q And based on that description, of the legal
9 description and the vertical extent of your proposed
10 pool, is it your opinion that the notification
11 satisfied the intent and the requirements of the
12 Division's precedent for giving notifications to pool
13 contractions and pool creations?

14 A That would be my interpretation for, yes,
15 both us and Cimarex.

16 Q Now, another point I wanted to ask you
17 about, is there any way or anywhere that anybody in
18 the public or an operator could see where pools are
19 located, what the names of pools are, what the
20 vertical extents of pools are? Like, how do -- does
21 anybody -- is there any way anybody in the public
22 could ever find out --

23 A To my knowledge, no. We have to message the
24 OCD to identify pools and where they're located.

25 Q And even when you do, is the information --

1 is there sometimes conflicting information that you
2 get?

3 A Yes.

4 Q Okay. And so it's -- I mean, even as an
5 operator, it's not always clear.

6 A Yeah. To my knowledge, there's hundreds, if
7 not thousands of pools in New Mexico, so it's kind of
8 hard to track.

9 Q And in your time as a landman, traditionally
10 -- and this may be going back a little bit here -- but
11 traditionally, whenever the Division decided that
12 there was a need for a new pool or pool amendment, the
13 Division would put on what's called a nomenclature
14 case? That your recollection of how these would work?

15 A Yes. Yes, sir.

16 Q And the Division would decide what the
17 definition of the pool would be; right?

18 A Correct, yeah.

19 Q But here, the Division directed the parties
20 to propose a pool?

21 A That is correct.

22 Q Okay. And you did so on your best
23 understanding of what the existing pools were and how
24 they should be contracted and how they should be
25 formed?

1 A That is correct. Obviously, as we mentioned
2 and as Cimarex mentioned, we gave the Gotham name and
3 obviously, that -- the OCD gave their discretion that
4 they would prefer Teas or Quail Bridge. That's not
5 material to us. We don't care what the name is.

6 Q Okay. Now, just to be very clear on the
7 parties that you identify for notice purposes, you
8 gave notice to all -- and I'm looking at here Exhibit
9 B7 and to the right, there is an area that's red --
10 I'm sorry, orange, and that's the area that is the
11 geographic extent of the proposed Wolfbone pool?

12 A Yeah.

13 Q And so as I understood you to say, you gave
14 notice to all parties who were subject to the
15 compulsory pooling in that acreage, right, plus any
16 operators of wells in either the Bone Spring or
17 Wolfcamp pool?

18 A That is correct.

19 Q No matter what the pool designation was?

20 A That is correct.

21 Q And are there any operators of Bone Spring
22 wells in that four-section acreage?

23 A I -- I would defer to Ira on the -- I think
24 there might be shallow Bone Spring, but there are
25 definitely not any Third Bone Wolfcamp A wells.

1 Q Are there any operators in that four-section
2 acreage whose wells or operations would be impacted by
3 the proposed contraction of the Bone Springs in this
4 acreage?

5 A No.

6 Q How about in the Wolfcamp? Were there any
7 operators of Wolfcamp wells whose operations or
8 development of Wolfcamp would be impacted by the
9 proposed contraction of the Wolfcamp pool in that
10 acreage?

11 A No.

12 Q Mr. Macha, Exhibit B7 is a list of all the
13 parties that you've identified here as internal offset
14 noticed parties. Is this a full and complete list of
15 the parties you instructed on the -- notice to?

16 A That is correct.

17 Q And that includes any operator of any well
18 completed in the Bone Spring or Wolfcamp formation
19 within that one-mile offset area?

20 A Yes.

21 Q Including wells that are not -- maybe not
22 designated to a pool --

23 A Correct.

24 Q -- if that's the case? Mr. Macha, before I
25 let you go, is there anything -- based on any of the

1 discussions -- I think we covered everything, but is
2 there anything that I maybe -- oh, I know. One other
3 thing I wanted to bring up, Mr. Macha, is this case
4 has been -- these cases now have been going on since
5 before August of 2023; correct?

6 A Correct.

7 Q And we presented our compulsory pooling case
8 last year, and that -- then we got this order
9 directing the parties to propose a special pool. Mr.
10 Macha, I know that this has been a delay, and I -- if
11 you would just explain to the Division -- 'cause this
12 relates to the creation of the special pool -- if
13 there are concerns about timing or impacts to Permian
14 Resources' operations in this acreage. And if you
15 would just explain at a very high level what those
16 impacts may be so we understand the sensitivity around
17 timing, if you would.

18 A Yeah. Just speaking generally, so
19 obviously, with a lot of our exhibits, it's kind of
20 been excluded. We've been very active in the area.
21 We've done the Third Bone in Wolfcamp A, spacing tests
22 in both Batman and Robin, Second Bone Spring spacing
23 testing Batman. We've kind of moved onto the full
24 development phase where we are ready to start really
25 kind of developing on a mass scale in this area. And

1 so these sections are kind of right in the middle of
2 where -- what we would deem kind of a 14-section block
3 where we're going to be operating. And if we don't
4 get into these in time, there will be -- effects for
5 sure on at least one of these units.

6 Q And that's because there's development that
7 is going to be occurring immediately offsetting this
8 four-section area?

9 A Correct.

10 Q And Permian Resources would like to be able
11 to proceed in a timely fashion to develop this
12 acreage?

13 A Yes.

14 Q Okay. And we can't do so yet until we have
15 a designated pool; correct?

16 A Correct.

17 Q Okay. I think that's all, Mr. Macha. Is
18 there anything else you wanted to address in terms of
19 the questions or issues that have come up that you've
20 heard today?

21 A No. No, sir.

22 MR. RANKIN: Thank you, Mr. Macha.

23 Mr. Examiner, there will be admission
24 of Exhibit B -- A, rather. I guess we've already done
25 this. I'm sorry. So I'll pass on that. Exhibits A,

1 B6, and B7 have been admitted, so I pass Mr. Macha for
2 questioning.

3 THE HEARING EXAMINER: Mr. Savage,
4 cross?

5 MR. SAVAGE: Yes. Thank you.

6 CROSS-EXAMINATION

7 BY MR. SAVAGE:

8 Q Mr. Macha, there's no difference between the
9 two Wolfbone -- in any material sense or any sense in
10 general; correct?

11 A No. It's my understanding that today, there
12 are zero contested issues at this point.

13 Q Are you aware of the pleadings that were
14 filed prior to the original hearing? Are you familiar
15 with those?

16 A Back in July of 2022, yeah.

17 Q And did Cimarex identify this geological
18 issue back then?

19 MR. RANKIN: Mr. Examiner,
20 respectfully, this is outside the scope. I think we
21 were in full agreement about the deposition of the
22 special pool, and I don't see where Mr. Savage's
23 questions are going that relate to that issue or to my
24 direct examination of Mr. Macha.

25 THE HEARING EXAMINER: Mr. Savage,

1 there's an objection that this question is outside the
2 scope of the direct.

3 MR. SAVAGE: Mr. Examiner, I would
4 point out that Permian Resources and Mr. Macha
5 described in the testimony here that there's an issue
6 of time that they need to -- they want to have a
7 hearing that was quicker than later and that's a
8 factor, and I would point out in my questions -- my
9 questions are directed towards that had Permian
10 Resources agreed to address this geological issue
11 initially, we wouldn't be here.

12 We would have addressed it in the
13 prehearing conference that Cimarex requested, and that
14 would have been resolved. This specific issue would
15 have been resolved, and the pooling application would
16 have gone forward, and we would have a decision far --
17 well before this. Instead, we had to address this
18 geological issue during the actual hearings, and as
19 you may know, it took a long time to address those
20 issues because of their unusual nature. And so we
21 didn't get this particular order nine -- six to nine
22 months after -- it was nine months after the hearing.
23 So our view is that -- Permian Resources is saying
24 that they want to facilitate this, but this would have
25 been facilitated well before. And I think that line

1 of questioning would be appropriate in the scope of
2 what Mr. Rankin had asked during direct.

3 THE HEARING EXAMINER: So instead of
4 asking the court reporter, would you repeat the
5 question to me?

6 MR. SAVAGE: So the question begins --
7 the line of questioning begins with the pleadings that
8 Cimarex filed asking for a prehearing conference. So
9 the question was, are you aware of the pleadings that
10 Cimarex and the other parties filed.

11 THE HEARING EXAMINER: And the line of
12 questions here goes toward the delay created by
13 Permian. And why is that not evident from the record
14 itself? Why do we need to hear this from a witness?

15 MR. SAVAGE: Because the Division needs
16 to understand that there's a history between the
17 parties, and the history is addressed -- is one of the
18 factors that the Division considers in awarding an
19 application. And, you know, to act like time is of
20 the essence when there was a way to address this a
21 year ago or before a year ago that could have
22 facilitated and aborted this whole thing, I think
23 that's relevant to the factors that the Division
24 considers.

25 THE HEARING EXAMINER: So it sounds to

1 me like you're arguing good faith?

2 MR. SAVAGE: It's a good-faith issue.
3 But I believe that Mr. Rankin opened the door to that
4 by having testimony that how important it is that we
5 proceed quickly, which it is important to proceed
6 promptly. But as if the -- implying that the Division
7 is somehow responsible for that and -- remedy that at
8 this point when Permian Resources was the main
9 instigator.

10 THE HEARING EXAMINER: Correct me if
11 I'm wrong, but the issue of good faith goes to a
12 compulsory pooling order, not to creation of a special
13 pool; is that correct?

14 MR. SAVAGE: That is correct, but these
15 are intertwined in that regard. We can't get to --
16 the compulsory pooling issue pointed out would be
17 subsequent to the Wolfbone application, and we
18 wouldn't be doing it, the Wolfbone application at this
19 point, at this juncture in history had -- except but
20 for the actions of Permian Resources.

21 THE HEARING EXAMINER: Okay. I
22 understand where you're going with this, but we are
23 here today for the sole issue of the creation of a
24 special pool. I don't see how good faith is relevant.
25 I understand that your client is concerned about the

1 time delay. The Division knows this. I sustain the
2 objection. Let's find a different line of
3 questioning. Or do you have another line of
4 questioning?

5 MR. SAVAGE: No, no more questions.
6 Thank you.

7 THE HEARING EXAMINER: Thank you.
8 Well, there was no questions, so there's no redirect,
9 Mr. Rankin.

10 Mr. McClure, do you have any questions
11 for this witness?

12 THE TECHNICAL EXAMINER: Yes, I do, Mr.
13 Hearing Examiner.

14 THE HEARING EXAMINER: There may be
15 redirect after all. Sorry. Just a little -- anyway,
16 Mr. McClue, please proceed.

17 THE TECHNICAL EXAMINER: All right.
18 Thank you.

19 Mr. Macha, have you personally been
20 involved in special pool rule cases in the past?

21 THE WITNESS: Back when I worked at
22 Concho, we did a federal unit, Tomahawk Federal Unit
23 2428, in Eddy County, and we did a special pool there.
24 So yes, I was involved in that pool.

25 THE TECHNICAL EXAMINER: And do you

1 recall what those special pool rules were that was
2 requested by Concho?

3 THE WITNESS: So there were no special
4 pool rules. It was -- the only thing that we did was
5 get rid of the internal setbacks to -- to be able to
6 space our wells freely within sections based on -- to
7 get rid of the quarter-quarter lines and section
8 lines.

9 THE TECHNICAL EXAMINER: Okay. So that
10 was a part of the -- that was just essentially part of
11 the order then; is that correct?

12 THE WITNESS: I'm -- I would not -- I
13 would not be confident in my recollection of probably
14 four, five years ago.

15 THE TECHNICAL EXAMINER: Oh, no, that's
16 fine, sir. Was an attempt made to contact the
17 Division regarding the existing pools in the area?

18 THE WITNESS: No. We did -- obviously,
19 we saw Cimarex's email with Paul, so we went ahead on
20 email kind of just laying out kind of what our
21 thoughts were. We did not receive a response.

22 THE TECHNICAL EXAMINER: Was that in
23 regards to the name of the Wolfbone?

24 THE WITNESS: It was basically just
25 telling him that we are happy to do whatever they --

1 we were happy to comply with whatever they want --
2 want us to do.

3 THE TECHNICAL EXAMINER: Okay. Thank
4 you, sir. No further questions.

5 THE HEARING EXAMINER: Mr. Rankin?

6 MR. RANKIN: No questions.

7 THE HEARING EXAMINER: Thank you.

8 Mr. Macha, thank you for your
9 testimony. You're excused.

10 THE WITNESS: Thank you.

11 THE HEARING EXAMINER: Would you like
12 to call your next witness?

13 MR. RANKIN: Mr. Examiner, at this
14 time, I would request that Mr. Ira Bradford approach
15 the witness stand.

16 DIRECT EXAMINATION

17 BY MR. RANKIN:

18 Q Mr. Bradford, will you please state your
19 name and tell us by whom you are employed?

20 A My name is Ira Bradford, and I'm currently
21 the New Mexico geoscience manager for Permian
22 Resources.

23 Q And have you previously testified before the
24 Division?

25 A I have.

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1 Q Have you had your credentials as an expert
2 in petroleum geology accepted as a matter of record?

3 A Yes, sir.

4 Q Have you conducted a study of the geology
5 within the subject area, and by that, I mean the
6 proposed special pool area?

7 A Yes.

8 Q And you've also prepared some exhibits that
9 identify your proposed definition of the special
10 Wolfbone pool?

11 A Yes.

12 Q I will pull those up, Mr. Bradford. And you
13 were here -- before I do, you were here for Ms.
14 Mueller's testimony on behalf of Cimarex?

15 A Yes.

16 Q Do you agree with her that there are no
17 material differences between the proposals for the
18 Wolfbone pool here between Cimarex and Permian
19 Resources?

20 A Yeah.

21 Q Your exhibit marked as C1, if you would just
22 confirm what this shows and explain how Permian
23 Resources is defining the top and bottom of this
24 special pool, the well that you're using as a type
25 long well.

1 A Yes, sir. So on -- on this slide, it's
2 slightly busy, but we identified the top and the base
3 of the -- of the Wolfbone pool based off of the 5-inch
4 Number 1 Dual Lateralog Micro SFL Log that is on the
5 Matador 5 Number 1 H Log. We -- we picked the top of
6 the Third Bone Spring Sand at 10,598 feet which in the
7 -- in the exhibit below, you can see on the -- on the
8 lefthand side of the top, we have the log header from
9 the log is publicly available for this -- for this
10 well. Below, we have the locator map showing where
11 it's located in -- in our Joker DSU. And then I have
12 the top and the bottom of the pool captured on the 5-
13 inch log. I don't have the entire interval on the 5 -
14 - it's just too much to put into a single slide. So
15 at the top of the pool, at the top of the Third Bone
16 Spring Sand at 10,598, and then we have the base of
17 the pool at the base of the Wolfcamp A Shale at 11,263
18 feet. And then on the righthand side, it's just a
19 digital log showing the entire pool interval from the
20 top of Third Bone Spring to the base of the Wolfcamp A
21 Shale.

22 Q And the type log that you're using here,
23 that Matador well, that's actually within the proposed
24 Wolfbone special pool acreage?

25 A Yes, sir.

1 Q And you agree that the tops and bottoms in
2 the picture are the stratigraphic equivalent of
3 Cimarex's pics?

4 A Yes, sir.

5 Q And that is confirmed here on your next
6 slide, Exhibit C2?

7 A Yes, sir.

8 Q Then you show here -- just explain to me
9 what this shows, the type log wells here, and what the
10 -- map reflects.

11 A This is just a simple display, and it shows
12 that we are proposing the same stratigraphic interval
13 to be contained in this Wolfbone pool starting at A
14 with Cimarex's Quail Ridge 32 State Number 2 well and
15 going down to -- with the Matador 5 Federal Number 1
16 well showing the pool interval kind of highlighted on
17 the lefthand side of the Quail Ridge log and the
18 righthand side of the Matador log. You can see that
19 stratigraphically it is from the top of the Third Bone
20 Spring Sand to the base of the Wolfcamp A Shale on --
21 on both of the proposals, so we are in agreement on
22 what's to be contained in the pool.

23 Q And just so we're clear -- I'm going to
24 scroll back up to B7 -- or C1, rather -- the intervals
25 here that are going to be included are -- you refer to

1 them the same way as Cimarex; is that correct? So the
2 top interval is the Third Bone Spring Sand?

3 A Yes, sir.

4 Q The next interval down vertically is the
5 Wolfcamp XY; is that right?

6 A Yes, sir.

7 Q And then below that is the Wolfcamp A Shale?

8 A Yes, sir.

9 Q Okay. And those are generally industry
10 standard names for those intervals that you're
11 including in this pool?

12 A Yes, sir.

13 MR. RANKIN: Okay. I think that's
14 everything, Mr. Examiner. No further questions, and
15 these exhibits have already been admitted, so I'll
16 make Mr. Bradford available for cross-examination.

17 THE HEARING EXAMINER: Thank you.

18 Mr. Savage?

19 MR. SAVAGE: No questions.

20 THE HEARING EXAMINER: Mr. McClure?

21 THE TECHNICAL EXAMINER: Thank you, Mr.
22 Hearing Examiner. I do have one quick question for
23 Mr. Bradford.

24 THE HEARING EXAMINER: Please.

25 THE TECHNICAL EXAMINER: Mr. Bradford,

1 was there any consideration to including the Third
2 Bone Spring Carbonate in the proposed Wolfbone pool?

3 THE WITNESS: No, we did not because we
4 did not think that it was part of the same kind of
5 flow unit that is contained within the Wolfbone pool
6 here. We are looking at prospectivity in that zone as
7 a standalone target that can be either codeveloped or
8 developed after we develop the wells within this pool.

9 THE TECHNICAL EXAMINER: Did Permian or
10 I guess Read & Stevens at the time, did they propose a
11 well within the Third Bone Spring Carbonate within the
12 original compulsory pooling cases?

13 THE WITNESS: We did.

14 THE TECHNICAL EXAMINER: So that well
15 would not be included in this proposed Wolfbone pool;
16 is that correct?

17 THE WITNESS: That is correct, sir.

18 THE TECHNICAL EXAMINER: Do you feel
19 that the well within the Third Bone Spring Carbonate
20 would communicate with this proposed pool?

21 THE WITNESS: I think I agree with
22 Staci's testimony that there is a -- a baffle above
23 the Third Bone Spring Carbonate and tight rock that
24 segregate the Third Bone Spring Sand from the
25 prospective-looking rock in the Third Bone Spring

1 Carbonate. So no, I do not think that they will --
2 will communicate to the degree that we're seeing in
3 the Wolfbone pool.

4 THE TECHNICAL EXAMINER: Okay. Thank
5 you, Mr. Bradford. No further questions.

6 THE HEARING EXAMINER: Mr. Rankin, any
7 redirect on that question?

8 MR. RANKIN: I have no redirect.

9 THE HEARING EXAMINER: You may be
10 excused. Thank you, Mr. Bradford.

11 Does that conclude your case in chief,
12 Mr. Rankin?

13 MR. RANKIN: I believe it does, Mr.
14 Examiner.

15 THE HEARING EXAMINER: Is there a
16 rebuttal case, Mr. Savage?

17 MR. SAVAGE: No rebuttal.

18 THE HEARING EXAMINER: Then that
19 concludes the evidentiary portion of today's hearing.

20 Are there any housekeeping issues we
21 need to deal with, Mr. Savage?

22 MR. SAVAGE: At this time, I can't
23 think of any.

24 THE HEARING EXAMINER: Well, we have a
25 deadline for you, one week from today close of

1 business on the 20th of August, to submit your amended
2 exhibit packet.

3 Mr. Rankin, does that deadline work for
4 you?

5 MR. RANKIN: For me to submit amended
6 exhibits? I'm not sure that I need to submit any
7 amended exhibits. We have our --

8 THE HEARING EXAMINER: -- requiring
9 both parties to submit amended exhibit packets to only
10 admit the evidence that we admitted here today at the
11 hearing.

12 MR. RANKIN: We can do that in very
13 short order.

14 THE HEARING EXAMINER: Keep the record
15 clean so that this doesn't look like a hearing that
16 would be on the scope as directed by the order.

17 MR. RANKIN: Mr. Hearing Examiner,
18 August 20th, I have a contested hearing. Can I --
19 yes. Could we -- instead of close of business, could
20 we do it in the evening? I have to -- anytime within
21 that day.

22 THE HEARING EXAMINER: Do you want to
23 do the following day, the 21st?

24 MR. RANKIN: That'll be fine. Thank
25 you.

1 THE HEARING EXAMINER: I'll change the
2 deadline for both parties to submit amended exhibit
3 packets to August 21st close of business. And with
4 that timeframe, I will remove the exhibit packet that
5 was submitted on the 6th of August of 2024.

6 Is there anything else, James, that you
7 can think of?

8 THE REPORTER: No.

9 MR. RANKIN: Mr. Examiner, you asked
10 Mr. Savage about housekeeping. If you wouldn't mind,
11 just to make sure I understand the directions here to
12 the parties, my understanding is at the -- immediately
13 before we proceeded with the presentation of the
14 merits of this special pool hearing was that the
15 Division has directed the parties to file new
16 competing compulsory pooling applications for --

17 THE HEARING EXAMINER: Not yet. Not
18 yet. We're going to wait until the Division issues
19 its ruling on the special pool and then the parties
20 are welcome to resubmit competing pooling applications
21 under the same case numbers that we have -- that we've
22 been proceeding on today. We're still on the original
23 administrative record. It hasn't -- yes, it's closed
24 today. For the purpose of today's hearing, it is
25 closed. Insomuch that we are accepting the amended

1 exhibit packets, it's closed. Once the Division
2 issues a ruling on the special pool, we, the Division,
3 anticipate that the parties will want to resubmit
4 competing pooling applications based on the new
5 special pool. At that time, we will proceed with
6 another contested hearing.

7 MR. RANKIN: So I appreciate the
8 clarification, Mr. Examiner, because one of my
9 concerns was the abundant records, which I think is
10 important for the Division and for the parties to be
11 able to rely on both in terms of the statements,
12 arguments, and the data that had been presented, so
13 I'm grateful for the clarification that that record
14 remains intact. That was one of my next follow-up
15 questions.

16 So obviously, Mr. Examiner, just a
17 final kind of statement on behalf of my client, the
18 Division is well aware that there Permian Resources
19 has many offsetting developments that they're in the
20 process of developing and drilling, including the
21 offsetting Robin wells and then the offsetting
22 Riddlers and but for the fact of this pool issue and
23 the competing pooling cases, they would like to also
24 develop this as well.

25 And the point here, Mr. Examiner, is

1 that in our view, delay serves Cimarex's purposes. So
2 that's a concern of ours. And I'm happy to talk with
3 Mr. Savage separately about, you know, how to
4 streamline. But nevertheless, I just would like to
5 make that clear for the record.

6 THE HEARING EXAMINER: Based on Mr.
7 Savage's statement earlier in the proceedings, I think
8 he feels also that this delay was in part unnecessary
9 and in part caused by Permian. So I think both
10 parties have expressed the issue of delay to the
11 Division. As soon as the order is drafted, we can
12 hold a contested hearing on competing new applications
13 for pooling and maybe the issues will winnow down over
14 time.

15 So is there anything further, Mr.
16 Savage?

17 MR. SAVAGE: I just want to point out
18 that we are not advocating for delay. We also have
19 developments in this area and ongoing projects. But
20 thank you for the clarification on that.

21 THE HEARING EXAMINER: Okay. Anything
22 further, Mr. Rankin?

23 MR. RANKIN: No, sir.

24 THE HEARING EXAMINER: Okay. Well,
25 thank you, witnesses, for traveling to this hearing

1 and for your testimony, and we are in recess on these
2 cases. Thank you.

3 THE TECHNICAL EXAMINER: Mr. Hearing
4 Examiner?

5 THE HEARING EXAMINER: Mr. McClure?

6 THE TECHNICAL EXAMINER: Yeah. Do we
7 want to give the applicants a chance to hear their
8 notice or just take it as it is? It makes for an easy
9 order, I guess, if we take it as it is.

10 THE HEARING EXAMINER: I wasn't sure
11 where you were going with your questions regarding
12 notice. I think we're back on the record. So, Mr.
13 McClure, how do you view the notice issue here, and how
14 do you think it can be fixed?

15 THE TECHNICAL EXAMINER: Well, it
16 appears that both applicants are asking to get special
17 pool rules for two different pools, one of which
18 neither of them mentioned in the notice. The
19 administrative code references pool when it talks
20 about the notice, not specifically an area. As such,
21 neither one provided notice to operators or working
22 interest owners in vast areas that include it in at
23 least one of the pools that is having a special pool
24 rules being requested for.

25 THE HEARING EXAMINER: So, Mr. McClure,

1 do you mean one of the pools is being retracted or
2 contracted?

3 THE TECHNICAL EXAMINER: Correct.
4 They're asking -- I mean, they did not ask to retract
5 the Quail Ridge Bone Spring South. However, that's
6 going to need to be retracted -- or excuse me. I
7 might have said it wrong. No, the Teas is the one
8 they're asking for. The Quail Ridge also needs to be
9 -- and neither applicant requested to do so nor did it
10 seem that they provided notice to all the operators
11 within that pool. I know Mr. Rankin had referenced
12 unit orders that may have issued special pool rules
13 for pool. I'm not sure of the -- what went on for our
14 decision in that case.

15 THE HEARING EXAMINER: So which are the
16 specific pools that need to be noticed under your
17 analysis?

18 THE TECHNICAL EXAMINER: Well, the one
19 that they ask for, I do not believe that they -- from
20 the area to -- extends to one mile outside of it.
21 That's the Teas Bone Spring East. The one which they
22 did not reference was the Quail Ridge from Spring
23 South.

24 THE HEARING EXAMINER: Quail Ridge Bone
25 Spring South?

1 THE TECHNICAL EXAMINER: That's
2 correct.

3 THE HEARING EXAMINER: All right. So
4 do they need to re-notice everything or just the Quail
5 Ridge Bone Spring South?

6 THE TECHNICAL EXAMINER: I mean, I
7 would notice everything at the same time because I'm
8 not sure if they included a mile outside of the Teas.
9 They only included a mile outside of their
10 four-section area. Although maybe the attorneys might
11 have more thoughts on it, I guess.

12 THE HEARING EXAMINER: Okay. I'm sure
13 they will. Okay. I wanted to get your take first
14 before I go to the attorneys, so you feel as though if
15 that's not done, then the Division can't move forward
16 on a special pooling application; right?

17 THE TECHNICAL EXAMINER: Well, if
18 notice is not conducted appropriately, then there's
19 only one result.

20 THE HEARING EXAMINER: Right.

21 THE TECHNICAL EXAMINER: And that's --
22 yea.

23 THE HEARING EXAMINER: Not a positive
24 one. Okay.

25 THE TECHNICAL EXAMINER: Yeah. No, no.

1 Yeah.

2 THE HEARING EXAMINER: Okay. So, Mr.
3 Rankin, you had your hand up. I was going to call on
4 you. What is your opinion about this issue?

5 MR. RANKIN: Mr. Examiner, a couple
6 things. Number one, I think when the Division used to
7 do nomenclature hearings, which I know is a burden on
8 the Division, so they don't do them anymore, they
9 would give a general notification. I'm not sure they
10 ever actually gave notice to all the operators within
11 the proposed tracks. I think they would just give a
12 general notification that they were going to do a
13 nomenclature hearing, and they would identify the
14 tracks -- impacted. So I think that's worth just
15 taking into consideration.

16 Number two, we have no way of knowing
17 what operators are in any of these Bone Spring pools,
18 what the geographic extent of them are, so we need the
19 Division to give us a list of all the parties that
20 they want us to notice so that we can do it correctly
21 because there's no way for us to know. It's not
22 public. We can't discern it. We need to know who
23 they are from the Division.

24 THE HEARING EXAMINER: So back to your
25 first point. Let's take these one at a time. What

1 you're suggesting is that in a nomenclature hearing
2 scenario, a general notice is sufficient?

3 MR. RANKIN: I would ask Mr. McClure
4 maybe to confer with Division counsel, but I believe
5 that when the Division has historically done
6 nomenclature hearings, they get a general notice, not
7 specific notice, to each operator. I believe that the
8 -- indicate general notice that they were going to
9 conduct a hearing on nomenclature to create or
10 contract or expand pools, and I don't believe that
11 they gave specific notice to those -- any operators
12 within that acreage, I don't believe.

13 THE HEARING EXAMINER: Let's go to Mr.
14 -- we're just dealing with one point at a time.

15 Mr. Savage, what do you have to say
16 about that specific issue?

17 MR. SAVAGE: Well, first of all, is
18 there a particular administrative code rule that we
19 can look at --

20 THE HEARING EXAMINER: The one I gave
21 you earlier, but I can get it back on my computer.

22 Mr. McClure, what was the citation?
23 19.15 and then what, 14?

24 THE TECHNICAL EXAMINER: 4.

25 THE HEARING EXAMINER: 19.15?

1 THE TECHNICAL EXAMINER: It's
2 19.15.4.12 A(4)(b).

3 THE HEARING EXAMINER: A(4)(b). And
4 would you read it out loud, Mr. McClure?

5 THE TECHNICAL EXAMINER: Yes, I can.
6 There's two -- to it, but essentially, if the
7 application involves other matters, the applicant
8 shall notify, little I, Division-designated operator
9 in the pool and, double little I, Division-designated
10 operators of wells within the same formation as the
11 pool and within one mile of the pool's outer boundary
12 that have not been assigned to another pool.

13 THE HEARING EXAMINER: All right. Now,
14 Mr. Rankin, you heard that. How does what you state
15 go to that rule?

16 MR. RANKIN: Well --

17 THE HEARING EXAMINER: You turned it
18 off. Wrong way.

19 MR. RANKIN: What I'm saying is that we
20 have no way of knowing who those Division-designated
21 operators are, number one. We have no way of knowing
22 what the geographic extent of those pools are. So we
23 -- the only way to do that is to get those parties
24 from the Division.

25 THE HEARING EXAMINER: Right. That was

1 your second argument. Go back to your first argument
2 of general notice being sufficient in a nomenclature
3 hearing.

4 MR. RANKIN: Mr. Examiner, I don't know
5 this for sure, but my understanding is that when the
6 Division has done nomenclature hearings, that they
7 anticipate -- given a general notification on the
8 website, that they're going to do a pool rule creating
9 a pool or contracting a pool or expanding a pool. I'm
10 not aware that they had given specific notice to
11 individual operators within the affected pool.

12 THE HEARING EXAMINER: So are you
13 saying that this rule wouldn't apply?

14 MR. RANKIN: I'm wondering if it would
15 if the Division would do a nomenclature hearing. I
16 don't know. I'm not sure. I don't know. I put it to
17 the Division to -- you know, I think if there was an
18 easier way to get this done, then I would love to see
19 it 'cause I think we all want the same thing. And so
20 I'm trying to figure out how to do it in an official
21 way where everybody understands what's happening.

22 THE HEARING EXAMINER: All right. Mr.
23 Savage, you heard the rule.

24 MR. SAVAGE: I did.

25 THE HEARING EXAMINER: So the question

1 first is, do you believe this nomenclature idea of
2 general notice being sufficient works in this
3 situation?

4 MR. SAVAGE: So I'm not real familiar
5 with the nomenclature hearing. But I'm looking at
6 this rule here, and I can explain it in terms of what
7 we've done. So looking at this, Ms. Sikes had
8 correspondence with Paul Kautz. He said either the
9 Quail Ridge or the Bone Spring. Now, grammatically,
10 "or" means it's either/or, and both are singular.
11 Like, if he said the --

12 THE HEARING EXAMINER: I understand
13 your argument is that the Division gave the wrong
14 information.

15 MR. SAVAGE: No, no. That's actually
16 not the argument, no.

17 THE HEARING EXAMINER: It sounds like
18 you're --

19 MR. SAVAGE: No, no. I just wanted to
20 --

21 THE HEARING EXAMINER: You don't need
22 to. We were all here. What's your argument?

23 MR. SAVAGE: Okay. So looking at this
24 rule, so operators of wells within the same formation.
25 So the same formation is a single formation. There's

1 not multiple formations. You don't create multiple
2 formations through any kind of designation. It's the
3 pool that's designated. So we selected the single
4 formation, and then as the pool, and it's the pool
5 with a singular pool. There's nothing in this rule
6 that says anything about multiple pools in terms of
7 the specific code in the designation.

8 THE HEARING EXAMINER: Mr. Savage,
9 aren't you asking the Division to create a special
10 pool out of two independent pools?

11 MR. SAVAGE: We are asking the Division
12 to create a special pool out of one pool or the pool,
13 the Bone Spring pool and the Wolfcamp pool. And I
14 believe Paul Kautz is a geologist. He has lots of
15 experience in this. I believe that he provided two
16 options for that to decide which would be the pool. I
17 mean, that --

18 THE HEARING EXAMINER: Hold on a
19 second. But we're talking about two pools that people
20 have interest, mineral interest in. I don't know how
21 you get around without noticing that. I don't -- from
22 your argument, I don't -- so you don't really have a
23 response to the general notice with the nomenclature
24 argument?

25 MR. SAVAGE: Well, looking up here at

1 the general rules on notice requirements for -- 9,
2 14.9 I'm sorry. There is a -- "initiating a hearing"
3 -- okay. There is a rule here that addresses -- okay.
4 So it's 4.9, "Adjudicatory hearing notice." And this
5 is for -- you know, applicable to all adjudicatory
6 hearings, and 6 says, "A reasonable identification of
7 the adjudication subject matter that alerts persons
8 who may be affected in the Division's grant of the
9 application." I think that description should be
10 applied to any, you know, subsets of the
11 administrative code that pertain to noticing. That is
12 kind of the overriding guidance. So I think I agree
13 with Mr. Rankin that he has an example of a
14 nomenclature hearing in which it is a general notice,
15 and I think given that, 4.9 plus the specific language
16 of 12, I think it would be well within the authority
17 of the Division to rule the notice is satisfied.

18 THE HEARING EXAMINER: Mr. McClure,
19 what do you see as the deficiency in the notice?

20 THE TECHNICAL EXAMINER: That they did
21 not meet the standards within the -- essentially, they
22 did not provide notice to all of the operators within
23 --

24 THE HEARING EXAMINER: So the notice
25 that they provided to interest owners in one of the

1 pools, but not both of the pools? Is that what you're
2 saying?

3 THE TECHNICAL EXAMINER: Well, they
4 provided notice with only consideration to the
5 Wolfbone pool. So they followed this notice for just
6 this four-section area that they're making the
7 Wolfbone in. However, the contraction, which is the
8 special pool rules for each of these other two pools,
9 was not noticed at least per the letter of what's
10 wrote in the rule.

11 THE HEARING EXAMINER: Okay. Mr.
12 Rankin?

13 MR. RANKIN: Thank you very much, Mr.
14 Examiner. And I guess it's kind of a legal question.
15 And I think the way we've been interpreting this as
16 demonstrated by the special pool approach with federal
17 units and state units, it's my understanding that the
18 Division has approached this way as well, is that when
19 you read subpart 4B, little I, "Division-designated
20 operations of pool," Mr. McClure is interpreting the
21 pool to be any pool affected by whatever the
22 application may be. And I understand the Division has
23 previously and we have interpreted the pool to be the
24 creation of the pool because the only parties that are
25 affected by the creation of the pool, the Wolfbone

1 pool, are those within the pool itself and within
2 potentially a one-mile radius. If this geographic --
3 one or both of these Bone Spring pools goes out five
4 miles, the change of this pool to a Bone Spring --
5 Wolfbone pool has no bearing on those people.

6 It makes no sense to extend out \$8
7 Certified Mail to 5,000 operators who have absolutely
8 zero interest in what's happening in these four
9 sections. So for that reason, as I understand, as
10 demonstrated by the -- I can happily give the Division
11 the numerous exploratory unit cases where we have done
12 exactly this. We've contracted pools and created a
13 special pool or expanded pools to fill up the unit
14 where we've only given notice to the affected parties
15 in the pool that's being created and to the one-mile
16 offset. Now --

17 THE HEARING EXAMINER: I'm going to
18 interrupt you. So back to what you were saying.
19 Contrast for me -- and remember that you're talking to
20 someone who doesn't understand all the intricacies of
21 the pools as you do. Contrast for me the
22 understanding that you think Mr. McClure has in this
23 rule and your argument of how the Division has handled
24 these instances in the past. What is the difference
25 in the ownership interests here?

1 MR. RANKIN: Well, that's a different
2 question, I guess.

3 THE HEARING EXAMINER: Clarify what you
4 said first.

5 MR. RANKIN: Yeah. So, you know, our
6 situation here, as I understand, is that there are two
7 partially overlapping Bone Spring pools of different
8 geographic extents. But as per these four sections,
9 they overlap. And so Mr. McClure's concern is that
10 because we in both of our applications have proposed
11 to contract only one of those pools and we've only
12 given notice to an area, four-section area plus the
13 offset sections, that all the operators in those two
14 overlapping Bone Spring pools haven't been given
15 notice of the proposed contraction and the creation of
16 the Wolfbone pool, okay.

17 So there's always other operators out
18 there many, many miles away or, you know, 1.1 miles
19 away who have not been given notice of the proposed
20 contraction of the Bone Spring or Wolfcamp and the
21 creation of the Wolfbone. And so my understanding is
22 that he's interpreting the requirement under that
23 notification under the regulation to give notice to
24 Division-designated operators in any pool, all pools
25 that may be affected by the application. And that I

1 think is an expansive reading of that regulation. And
2 my point is simply that it doesn't make any sense to
3 read it that way when the proposed applications that
4 we both are filing are not a pool-wide change for
5 those Bone Spring pools. They're not a pool-wide
6 modification of either of those Bone Spring pools.
7 They're simply a contraction of those Bone Spring
8 pools vertically and in a very limited area. So the
9 reason that we have read it this way in the context of
10 these vertical contraction cases for units creation,
11 which is completely analogous here, is because there
12 is no pool-wide impact within those Bone Spring pools.
13 The only impact is to the discrete geographic area.

14 THE HEARING EXAMINER: And you were
15 showing me different layers of the subsurface. Where
16 is the Wolfcamp versus the Bone Spring in your
17 diagram? Do you have an exhibit? Excellent.

18 MR. RANKIN: Pulling up Mr. Bradford's
19 type log here from Permian Resources, Exhibit C1. So
20 the existing Bone Spring pools exist down to this
21 purple line.

22 THE HEARING EXAMINER: Are you on the
23 diagram on the right?

24 MR. RANKIN: I am. I'm sorry, you
25 can't see my cursor, but yeah. The diagram --

1 THE HEARING EXAMINER: I see it now.
2 Which is what now?

3 MR. RANKIN: So the existing Bone
4 Spring pool --

5 THE HEARING EXAMINER: Yes.

6 MR. RANKIN: -- extend up above this
7 Third Bone Spring --

8 THE HEARING EXAMINER: I see. I see.

9 MR. RANKIN: -- down to the base of the
10 Third Bone Spring here, which is this purple line.

11 THE HEARING EXAMINER: Okay.

12 MR. RANKIN: My understanding is that
13 both Bone Spring pools overlap to that vertical
14 extent.

15 THE HEARING EXAMINER: Both? What do
16 you mean by "both"?

17 MR. RANKIN: There are two existing
18 Bone Spring pools, the Teas and the Quail Ridge.

19 THE HEARING EXAMINER: And where are
20 they in this diagram?

21 MR. RANKIN: They're not identified.
22 Neither of the pools are identified, just the
23 formations.

24 THE HEARING EXAMINER: I see.

25 MR. RANKIN: Just the formations are

1 identified. So the pool -- both Bone Spring pools,
2 the Teas and the Quail Ridge, as I understand, have a
3 vertical that goes down to this purple line. So what
4 we're proposing to do is to contract those pools up to
5 this red line here, okay, only within the acreage
6 identified by this blue box. So the only portions of
7 these two pools that are being impacted at all are
8 within these four sections.

9 THE HEARING EXAMINER: Both parties are
10 proposing the same thing.

11 MR. RANKIN: We are.

12 THE HEARING EXAMINER: That's what I
13 thought. So you're proposing, I thought, to merge the
14 Wolfcamp and the Bone Spring.

15 MR. RANKIN: So the next part of that
16 is -- so not only are we proposing to contract
17 vertically the two Bone Spring pools up to this red
18 line, but we're also proposing to contract vertically
19 downward the Wolfcamp pool, which is there's only one
20 existing Wolfcamp pool, from this purple line down to
21 the top of this purple line, the Wolfcamp B, which is
22 the base to Wolfcamp A. So essentially, upwards, Bone
23 Spring, and downwards, Wolfcamp --

24 THE HEARING EXAMINER: You mean to form
25 a new pool, you're taking part of one and part of the

1 other. And when you say "contracting" means to bring
2 this up and bring this down, and that way, you create
3 your own pool. I understand now.

4 So, Mr. McClure -- can you stop sharing
5 for a moment?

6 So, Mr. McClure, Mr. Rankin -- and I
7 believe Mr. Savage would agree with the argument --
8 Mr. Savage and Mr. Ranking both are asserting that
9 your reading of this regulation is overly broad
10 because you're taking something that's going to occur
11 in a localized area and expanding it through the pool
12 as it migrates out. Are you persuaded in any way?

13 THE TECHNICAL EXAMINER: I mean, I'm
14 not because -- do you want me to expand upon that, Mr.
15 Examiner?

16 THE HEARING EXAMINER: Of course.
17 Yeah, I'm asking why you don't agree with that
18 localized effect of this special pool and which
19 operators or mineral interest owners it would affect.

20 THE TECHNICAL EXAMINER: Specifically
21 to the localized area, I'm not sure the reason I --
22 maybe the rule is such that it's just trying to take
23 in a lot of different circumstances, and so it's just
24 -- maybe the rule itself is overly broad. I just
25 don't know if we can make some sort of determination

1 that we're going to, you know, interpret it
2 differently. My only concern, I guess, is with the
3 prior cases that Mr. Rankin brought up. I'm wondering
4 if those fell under nomenclature rather than special
5 pool rules. In this particular case --

6 THE HEARING EXAMINER: What is the
7 difference between nomenclature and special pool
8 rules?

9 THE TECHNICAL EXAMINER: Well, I do not
10 know if it's well-defined in the rules. But I believe
11 in the prior nomenclature hearings, essentially, it
12 was just contracting the horizontal boundaries, like
13 where they are on the surface, wherein special pool
14 rules can go in and change, like, the actual
15 stipulations within those boundaries of the pool. In
16 this particular instance, it would be changing the
17 vertical boundary at least within these -- well,
18 within these four sections is essentially what would
19 end up taking place rather than across the entire
20 pool.

21 THE HEARING EXAMINER: Mr. McClure --

22 THE TECHNICAL EXAMINER: That
23 standpoint -- go ahead.

24 THE HEARING EXAMINER: So, Mr. McClure,
25 if the special pool is only within these four

1 sections, why would anyone outside the four sections
2 need to be noticed?

3 THE TECHNICAL EXAMINER: Because we're
4 doing special pool rules for the two Bone Spring
5 pools. Having said that, I think it would be correct
6 that the special pools we would do for those would be
7 for these four sections. So I think that there is
8 where maybe there's some thought in it. I just don't
9 think that that circumstance is at least directly
10 wrote in the rules here for the special pool rules.

11 THE HEARING EXAMINER: Well, so are you
12 -- so I'm not sure what you're saying at this point.
13 So if everyone who would be affected within this
14 special pool has been noticed, why would anyone
15 outside these four sections need to be noticed?

16 THE TECHNICAL EXAMINER: Simply 'cause
17 that's what the rule says. I don't know the reason
18 that the commission did it as such. It's pure
19 speculation on my part --

20 THE HEARING EXAMINER: Right.

21 THE TECHNICAL EXAMINER: -- as to why
22 it's wrote as such.

23 THE HEARING EXAMINER: Okay. Thank
24 you, Mr. McClure.

25 So, Mr. Savage and Mr. Rankin, you've

1 heard what Mr. McClure's said. You've heard the
2 discussion. How do you want to proceed?

3 MR. SAVAGE: Can we add some additional
4 comments? So if I understand -- I'd like to ask Mr.
5 McClure a question. So based on Ms. Sikes' testimony,
6 so we had an application that referenced the Quail
7 Ridge. That was the one pool designation. Ms. Sikes
8 went out and did a search within the one-mile radius
9 of all operators in the Bone Spring -- I mean, if it
10 was in the Quail Ridge, it was in the Teas, wherever,
11 we put it on the list, the parties to be noticed.

12 We sent those parties -- so let's say -
13 - let's assume that an operator in the Teas received
14 that and then they opened it up and they said, okay,
15 there's a contraction going on, you know, a creation
16 of a new pool. The operator would know that they're
17 in the Bone Spring. Clearly, they would know they're
18 in the Bone Spring. And then the application is
19 attached. They would review that. Now, we're dealing
20 with parties that are rather sophisticated. I don't
21 know if -- so it seems like Mr. McClure is saying that
22 an oil company, an operator who operates in this,
23 would say, oh, I'm in the Teas, and this says the
24 Quail Spring, so therefore, I'm not concerned, you
25 know, I'm not going to show up for that hearing

1 because it's not going to affect me. And I believe
2 that would be the distinction that Mr. McClure is
3 making. But under the rules, under the general
4 guidelines that the larger criteria for notice, I
5 would think that if a person in the Teas received a
6 letter in an application that talked about the
7 Wolfbone creation and it mentioned Quail Ridge Bone
8 Spring and they would think, I'm in the Bone Spring,
9 that would be -- that's reasonable notice about the
10 general subject matter, I think, that would satisfy,
11 unless -- I guess I'm asking, is that the distinction
12 that the Division is making, that somebody in the Teas
13 because the Teas was not mentioned, somebody receives
14 that notice letter in the Teas, who owns in the Teas
15 but not the Quail Ridge, would not be aware of the
16 significance of the hearing?

17 THE HEARING EXAMINER: It's my
18 understanding from Mr. McClure that he's suggesting
19 that anyone in any of these pools needs to be noticed.

20 And, Mr. McClure, correct me if I'm
21 wrong, even outside of the four-section area?

22 THE TECHNICAL EXAMINER: I can correct
23 you there. It's solely based upon what it references
24 in that rule right there. It would certainly imply as
25 such to me. I mean, it's not even implied. It

1 explicitly states that. And I don't know why the
2 commission did what they did there.

3 THE HEARING EXAMINER: Right. So, Mr.
4 McClure, you're saying that anyone in any of these
5 pools that's being affected would have to be noticed?

6 THE TECHNICAL EXAMINER: That would be
7 my interpretation of that rule.

8 THE HEARING EXAMINER: Right.

9 So, Mr. Savage --

10 MR. SAVAGE: They were. They were.
11 Everybody in a Bone Spring pool and within a one-mile
12 radius were noticed.

13 THE HEARING EXAMINER: Within a
14 one-mile radius?

15 MR. SAVAGE: Yeah.

16 THE HEARING EXAMINER: And, Mr.
17 McClure, the one-mile radius still applies here?

18 THE TECHNICAL EXAMINER: That's
19 correct, but Mr. Savage is conflating pool versus
20 formation. These little I's references pools. The
21 double little I references the same pool as the -- or
22 same formation as the pool, excuse me.

23 MR. SAVAGE: Correct, Mr. McClure. But
24 I guess -- so if I understand what you're saying, our
25 notice fails because we sent out a letter and an

1 application that only references and describes the
2 Quail Ridge; is that correct? Am I understanding that
3 correct?

4 THE TECHNICAL EXAMINER: I mean, in
5 addition to the other problems, that's one of the
6 issues.

7 MR. SAVAGE: Okay. So if we send it
8 out to all the Bone Spring owners, if that letter goes
9 to a Bone Spring pool, a Bone Spring owner who owns in
10 that Quail Ridge, that would be satisfied under those
11 conditions. If it goes to a Bone Spring owner that
12 owns in the Teas -- now, they own in the Teas pool,
13 they see that this is a Bone Spring pool, but because
14 of that distinction between the Teas and the Quail
15 Ridge, they receive that letter in hand, they're not
16 noticed. That's what you're pointing out, that
17 they're not going to be noticed?

18 THE TECHNICAL EXAMINER: Among other
19 issues. I mean, there's several different parts of
20 the administrative --

21 MR. SAVAGE: Okay.

22 THE TECHNICAL EXAMINER: -- that is
23 very specific on what it requires. Some of it require
24 sure and precise -- presenting the pool that's being
25 asked to be adjusted here. This will be one of those

1 instances.

2 THE HEARING EXAMINER: So, Mr. Savage,
3 let's go to Mr. Rankin while you're thinking of your
4 next problem.

5 Mr. Rankin?

6 MR. RANKIN: Thank you, Mr. Examiner.
7 I guess in the old days, Mr. Examiner, sometimes, when
8 we would run into these issues that were really legal
9 in nature, we would make a formal request of Division
10 counsel to issue a legal opinion about how to
11 interpret a rule that the Division has been -- to
12 implement from the commission.

13 And I think this is an occasion where
14 it would be helpful for Division counsel to render a
15 legal opinion on whether the sub B little I reference
16 to the pool is as expansive as Mr. McClure reads it to
17 be, or rather it's appropriate to interpret that
18 requirement in this circumstance where the
19 applications are not seeking to impose pool-wide
20 obligations on those Bone Spring pools but are simply
21 seeking to contract in a limited geographic area the
22 extent of the vertical extent of those pools. And so
23 I think maybe what I'm saying is it may be appropriate
24 to request -- I am requesting the Division, you know,
25 confer with counsel and give us a legal opinion on

1 exactly what their interpretation of that requirement
2 is. And if it is to give notice to all owners within
3 both of these overlapping Bone Spring pools, to please
4 provide us with a list of all those operators and any
5 additional information that they think is necessary to
6 perfect notice because I don't want to come back and
7 do it again.

8 THE HEARING EXAMINER: You provided
9 notice too, didn't you?

10 MR. RANKIN: We did.

11 THE HEARING EXAMINER: Okay. And which
12 pools did you provide notice in?

13 MR. RANKIN: As with Cimarex, we didn't
14 limit our notice to the pools. We gave notice to all
15 owners in the Bone Spring, which would be inclusive of
16 any owners in the Teas or Quail Ridge, but we did so
17 only within the four-section area and then the one-
18 mile offset. We did not give notice that we were
19 seeking to contract one of the overlapping pools that
20 Mr. McClue identifies as a problem, nor did we give
21 notice to all of the owners in both overlapping Bone
22 Spring pools as far as they go out. We gave notice
23 only within that four-section plus the one-mile
24 offset.

25 THE HEARING EXAMINER: Okay. So let me

1 see if I understand -- notice. You're saying you gave
2 notice to all owners in the Bone Spring pool, period?
3 Period for now.

4 MR. RANKIN: Period, correct.

5 THE HEARING EXAMINER: So, Mr. McClue,
6 if they gave notice to all owners in the Bone Spring
7 pool, why doesn't that incorporate the subsections of
8 the Bone Spring being the Teas and the Quail Run or
9 whatever it's called?

10 THE TECHNICAL EXAMINER: They reference
11 -- I'm sorry, Mr. Hearing Examiner. The question --

12 THE HEARING EXAMINER: Well, Mr. Rankin
13 just said --

14 THE TECHNICAL EXAMINER: -- if they --
15 oh, go ahead. I'm sorry.

16 THE HEARING EXAMINER: Mr. Rankin just
17 said that they provided notice --

18 Mr. Rankin, you provided notice to all
19 mineral interest owners in which pool?

20 MR. RANKIN: I'm going to share my
21 screen again. So I'm looking now -- before, I was
22 explaining to you what was happening vertically.

23 THE HEARING EXAMINER: Yes.

24 MR. RANKIN: Now I'm going to explain
25 horizontally, geographically. And correct me if I'm

1 wrong, but my understanding based on Mr. McClure's
2 discussion or questions is that on the right side of
3 this Exhibit B7 is a map, and my understanding from
4 Mr. McClure is that in this geographic area, which
5 includes the gray cells and the orange cells, there
6 are two Bone Spring pools that completely overlap in
7 this area. And what we did was we gave -- and as I
8 understand Cimarex did -- we gave notice to all
9 operators in both pools within this acreage, the
10 orange area and the gray area. Okay. We gave any
11 operator in either the Bone Spring pools, any operator
12 that is an operator in the Bone Spring, we gave notice
13 to.

14 THE HEARING EXAMINER: So your notice
15 includes operators in all the Bone Spring pools?

16 MR. RANKIN: Only within this
17 geographic area.

18 THE HEARING EXAMINER: Still, going
19 down --

20 MR. RANKIN: Correct. But we didn't do
21 -- Mr. McClure has two complaints, as I understand.
22 One is that in our applications, we only indicated
23 that we were seeking to contract vertically one of
24 those Bone Spring pools. Because there are two
25 overlapping Bone Spring pools, we didn't say that we

1 were seeking to contract both of them. Okay. So
2 that's one problem that Mr. McClure identifies. The
3 other problem is that we didn't give notice to each of
4 the Bone Spring operators in both these pools to the
5 full geographic extent.

6 THE HEARING EXAMINER: I didn't hear
7 Mr. McClure say that that part was an issue.

8 Mr. McClure, how far out -- are you
9 saying that this notice has to be provided beyond the
10 surface area of this diagram?

11 THE TECHNICAL EXAMINER: I'm not sure
12 how the Division may have interpreted it in the past,
13 but a straight reading of the rules would imply as
14 such, yeah.

15 THE HEARING EXAMINER: You mean if the
16 pool goes out ten miles from this center point, owners
17 would need to be put on notice?

18 THE TECHNICAL EXAMINER: Well, the rule
19 specifically says "pool." And with the pool, it's
20 referencing the entirety of the pool would be my
21 interpretation, at least.

22 THE HEARING EXAMINER: So when we heard
23 reference earlier to a one-mile radius, what were we
24 talking about?

25 THE TECHNICAL EXAMINER: Well, it

1 almost means, like, there's a little bit of conflation
2 in the issue where maybe we're talking about the
3 Wolfbone pool rather the Bone Spring pool. It's
4 either that or we're talking about the formation
5 rather than the pool. What they're referencing is the
6 Bone Spring formation for this four-section area is
7 how I believe -- either that or they're referencing
8 the Wolfbone pool.

9 THE HEARING EXAMINER: Okay. All
10 right. Well, Mr. Rankin has requested that the
11 Division counsel issues some sort of guidance into the
12 reading of this rule. How does that occur?

13 THE TECHNICAL EXAMINER: I mean, in the
14 past, I don't know if it occurred as part of a
15 hearing. I guess maybe Mr. Rankin can provide a
16 little bit more guidance. I know out of hearing,
17 there's been discussion with general counsel before.

18 THE HEARING EXAMINER: Okay. Thank
19 you, Mr. McClure.

20 Mr. Rankin?

21 MR. RANKIN: In the past, Mr. Examiner,
22 we've done it by email. We framed a question, and we
23 submitted it. I think -- I mean, I'm trying not to
24 burn anybody with additional work because Lord knows I
25 got too much to do. But so maybe -- I mean,

1 basically, I think the question is fairly clear,
2 although I understand there's obviously some confusion
3 about what we're all talking about here. But I think
4 we could possibly articulate the question for Division
5 counsel to opine on.

6 But essentially, the question is, what
7 does "in the pool" mean? Does it mean the pool that
8 we're seeking to create or does it mean the pool that
9 we're seeking to contract or pools that we're seeking
10 to contract? And the way Mr. Savage and I are
11 advocating is that in the pool -- because it's not
12 clear from the expressed language of the rule what is
13 meant, our advocacy here is that it should be
14 limited as a practical matter, if not as an expressed
15 reading, to the proposed creation of the Wolfbone pool
16 because those are the only parties that are going to
17 be impacted at all by the contraction of the
18 offsetting Bone Spring and Wolfcamp pools.

19 So our proposal is to -- I can put it
20 together as a request and confer with Mr. Zimsky and
21 Mr. Savage, but to simply kind of articulate that
22 point, what does "in the pool" mean? Because if it
23 were otherwise, not only would we have to give notice
24 to everybody five miles out and whatever the
25 geographic extent of the pool is, but then we would

1 have to go one mile beyond that, according to the
2 language of the pool.

3 THE HEARING EXAMINER: I'm thinking of
4 depth when I think of -- I'm not thinking about out
5 for the moment. I'm thinking about depth. And what
6 you're saying is, if I understand you, what you're
7 saying is, you're seeking to create a special pool
8 within what's already existing so that you can
9 ultimately get a compulsory pooling order for that
10 area. Okay. So what you're saying is if you retract
11 this or contract other formations to create this pool,
12 what's being -- the areas outside of this special pool
13 won't be affected ultimately by the compulsory pooling
14 order. That's really what you're saying, is it not?

15 MR. RANKIN: Or the creation of the
16 special pool because their operations are not being
17 impacted in any way.

18 THE HEARING EXAMINER: I understand.
19 So when it came to that diagram you showed me before,
20 can you go back to that diagram for a moment?

21 MR. RANKIN: The depth diagram?

22 THE HEARING EXAMINER: Yes, that's the
23 one. Okay. This one here. So you're saying, then --
24 where are the lines now? Are the lines the purple
25 lines now, or that's what you want?

1 MR. RANKIN: Correct. The distinction
2 between these existing two Bone Spring pools and the
3 existing one Wolfcamp pool is this purple line right
4 here. So above this purple line, there are two
5 overlapping Bone Springs, and below it, there's one
6 Wolfcamp pool.

7 THE HEARING EXAMINER: I understand.
8 So what you're saying is you provided notice to
9 everyone within the red lines? I guess they're
10 reddish.

11 MR. RANKIN: Yeah.

12 THE HEARING EXAMINER: You provided
13 notice to everyone within the red lines?

14 MR. RANKIN: Everybody within the red
15 lines within this geographic --

16 THE HEARING EXAMINER: Yes, I
17 understand that. Can you go back down to the depth
18 thing?

19 MR. RANKIN: Yeah.

20 THE HEARING EXAMINER: Okay. So what
21 you're saying is anyone above the red line that's on
22 top or below the red line that's on the bottom has not
23 been provided notice?

24 MR. RANKIN: No. Actually, everybody
25 above that red line has been provided notice within

1 the Bone Spring pool and formation.

2 THE HEARING EXAMINER: I thought you
3 just said that you provided notice only based on the
4 pool you're asking for.

5 MR. RANKIN: Let me back up. So there
6 are two overlapping pools here from the purple line
7 up, okay. And those are coterminous. They overlap in
8 the Bone Spring formation, okay. So we went out and
9 identified every operator that had a well completed in
10 either one of those Bone Spring pools in that
11 formation, which would include any wells above this
12 red line if they're in the Bone Spring pool, okay.

13 THE HEARING EXAMINER: Why did you
14 include those if they're not --

15 MR. RANKIN: Because they're in that
16 pool in that acreage, and it was appropriate, we felt
17 like, reading the rule because it's contracting their
18 pool that they should get notice within the geographic
19 area.

20 THE HEARING EXAMINER: But aren't you
21 now arguing against what you said before?

22 MR. RANKIN: No. I said I think
23 because there's no way -- we can't distinguish -- we
24 have to go through and look at where every well is
25 landed to figure out what zones are completed in. I

1 mean, that's just nonsensical, so we just identified
2 every operator within the Bone Spring pool, either one
3 of those two pools. We gave them notice of the
4 contraction of that pool within this geographic area.

5 THE HEARING EXAMINER: So you had given
6 notice to everyone in the Bone Spring pool?

7 MR. RANKIN: Only within this
8 geographic area.

9 THE HEARING EXAMINER: I understand
10 that. I'm not talking about that right now. I'm
11 talking about --

12 MR. RANKIN: Yes. Yeah.

13 THE HEARING EXAMINER: We're talking
14 about surface area.

15 MR. RANKIN: Right.

16 THE HEARING EXAMINER: So then you --
17 okay. What about people in the Wolfcamp?

18 MR. RANKIN: We gave -- we did the same
19 thing. Everybody below that purple line who has a
20 well completed or is an operator in the Wolfcamp from
21 the purple line down within that geographic area, they
22 all got notice.

23 THE HEARING EXAMINER: So your notice,
24 then, included every operator in the Bone Spring and
25 Wolfcamp no matter whether it's above this or below

1 this special pool that you're requesting?

2 MR. RANKIN: Correct.

3 THE HEARING EXAMINER: Okay.

4 MR. RANKIN: Including --

5 THE HEARING EXAMINER: -- just on that
6 point alone, is that sufficient notice? Mr. McClure,
7 did you know I was asking you a question?

8 THE TECHNICAL EXAMINER: Oh, I
9 apologize, Mr. Hearing Examiner. Could you ask it
10 again? I'm sorry, I was --

11 THE HEARING EXAMINER: Sir, did you
12 hear what Mr. Rankin said about who they provided
13 notice to?

14 THE TECHNICAL EXAMINER: They provided
15 -- well, I heard during the case. I didn't hear what
16 he just said. My understanding is they provided
17 notice to all the operators and working interest
18 owners in the four-section area and one mile extending
19 beyond it.

20 THE HEARING EXAMINER: Right. But you
21 have two separate issues to the notice. Your first
22 issue is that their notice was artificially
23 constricted when it came to the pools being operated
24 in, when it came to the depth; is that not correct?

25 THE TECHNICAL EXAMINER: Yeah. There's

1 going to be special pool rules which contract the
2 depth of the Bone Spring pools in these four sections.
3 I mean, essentially, it'll be two sections for each of
4 the pools 'cause it's divided in half. So, like, the
5 west half would have a special pool rule issued for
6 that Bone Spring pool contracting its vertical limit
7 to exclude from the Third Bone Spring Sand down. And
8 then in the east half, that Bone Spring pool would
9 have special pool rules issued for it, contracting it
10 to exclude from the Third Bone Spring Sand down.

11 THE HEARING EXAMINER: I understand
12 that point. If you look at the --

13 THE TECHNICAL EXAMINER: I'm sorry.

14 THE HEARING EXAMINER: -- diagrams --
15 it's okay. If you look at the diagrams that are on
16 the screen, can you see the diagrams here?

17 THE TECHNICAL EXAMINER: Yes, sir, I
18 can.

19 THE HEARING EXAMINER: Okay. Very
20 good. If you look at the far right diagram, it's the
21 one that has some red colors. It has the heading say
22 "GR," "RES," and "PHI"?

23 THE TECHNICAL EXAMINER: Mm-hmm.

24 THE HEARING EXAMINER: Okay. Now,
25 vertically, it's written "pool interval." Do you see

1 the pool's interval, and it's outlined in red bars?

2 THE TECHNICAL EXAMINER: Yes, sir.

3 THE HEARING EXAMINER: Okay. Very
4 good. Now, what I understand now from Mr. Rankin and
5 I believe from Mr. Savage as well is that the parties
6 have noticed everyone in all of the Bone Spring and
7 all of the Wolfcamp formations, and that includes both
8 pools.

9 Right, Mr. Rankin? That includes both
10 Bone Spring pools that are either within this pool
11 interval that they're asking for or above it.

12 Now, they're nodding, so I think I got
13 that right. So, Mr. McClure, why is that not
14 sufficient notice if they've noticed everyone in the
15 Wolfcamp and the Bone Spring formations, which
16 includes both Bone Spring pools?

17 THE TECHNICAL EXAMINER: If we're
18 excluding for a moment including the entirety of the
19 pool, then we're --

20 THE HEARING EXAMINER: We are.

21 THE TECHNICAL EXAMINER: Okay. Then
22 essentially, the remaining concern there is the
23 applicants only request it, special pool rules be
24 issued for one of the pools and not both of them.

25 THE HEARING EXAMINER: Okay. Hold on

1 now. Okay. Let's take that issue.

2 Mr. Savage?

3 MR. SAVAGE: Mr. McClure, can you
4 please repeat that?

5 THE HEARING EXAMINER: Mr. McClure,
6 would you repeat the last sentence you just said?

7 THE TECHNICAL EXAMINER: Yes. The
8 issue then becomes that the applicants only request it
9 to contract or issue a special pool rule for one of
10 the pools and not both of them.

11 MR. SAVAGE: Thank you. So we gave
12 notice to all the owners within the two pools and two
13 formations within those boundaries you point out and
14 also above and also below, okay. And they receive the
15 notice and they receive the letter and the application
16 and they were informed that we were contracting the
17 Quail Ridge.

18 THE HEARING EXAMINER: Not the Teas?

19 MR. SAVAGE: Not the Teas. But whether
20 they're in the Teas or whether they're in the Quail
21 Ridge or whether they're in any other Bone Spring
22 designation, they receive that notice, so they know
23 what's going on.

24 THE HEARING EXAMINER: Well, you may
25 say that. That's a conclusion you're making. But Mr.

1 McClure is pointing out a specific issue. Why did you
2 only refer to one of the pools being retracted and not
3 both?

4 MR. SAVAGE: So just to point out, this
5 issue is going to affect another contested hearing and
6 Wolfbone application on August 15th, and that is
7 competing applications between -- and Cimarex, and
8 that involves Mr. Bruce as counsel, and I'm counsel
9 for Cimarex. Mr. Bruce and I actually conferred very
10 closely on and with respect to Paul Kautz's
11 information about how to approach this.

12 And, you know, I looked up in the past
13 five years how many applications there were for
14 creation of a pool, less than a handful. Mr. Bruce is
15 one of them. In his application, he actually said the
16 Teas, Bone Spring, or the Quail Ridge Bone Spring or
17 the pool name at the OCD's discretion. So I mean,
18 that seems -- you know, that's a lot of years of
19 experience. That seems like, you know, consistent
20 with what Mr. Rankin is discussing and also what I --
21 you know, we both did notice -- all three of us did
22 notice in the same manner. I mean, maybe that
23 doesn't, you know. But it's going to affect --
24 whatever we decide here is going to affect that case
25 on October 15th. So just --

1 THE HEARING EXAMINER: So you gave --
2 so what you're saying is you sent out notice to
3 parties in both pools. However, your notice was
4 restricted to contracting one pool and not the other?

5 MR. SAVAGE: It describes how we're
6 going to create the Wolfbone pool, and that would be
7 contracting --

8 THE HEARING EXAMINER: Right. One but
9 not the other. But in fact, you're contracting two.

10 MR. SAVAGE: I'm not sure that you have
11 to contract two to get the end result of a Wolfbone
12 pool that's named -- that has, you know, Quail Ridge
13 Wolfbone. That's -- I mean, that's a good question,
14 Mr. Hearing Examiner. You know, that is --

15 THE HEARING EXAMINER: I don't know
16 what you asked for in your -- did you ask to contract
17 both pools in the Bone Spring or not?

18 MR. SAVAGE: No. We asked to contract
19 one of the -- you know, the pools that Mr. Kautz
20 designated. You know, we contracted one of them, one
21 for the Bone Spring and one for the Wolfcamp. We did
22 not list, you know, two pools.

23 THE HEARING EXAMINER: So, Mr. McClure,
24 you heard what Mr. Savage just said. They're only
25 asking to change the depth of one of the Bone Spring

1 pools. Why would they need to put operators in the
2 other Bone Spring on notice?

3 THE TECHNICAL EXAMINER: Well, because
4 for us to issue or for us to create this new pool, if
5 we -- or your question's specific about operators on
6 notice. Well, it will be affecting the other pools
7 and the operators in that other pool, I suppose. Is
8 that your question, or you want me to address the
9 concern of why we need to contract both pools?

10 THE HEARING EXAMINER: I didn't realize
11 that we had to contract both pools.

12 THE TECHNICAL EXAMINER: Well, in order
13 to create this new Wolfbone pool, both of the Bone
14 Spring pools by necessity would have to be retracted.
15 We can't have overlapping. You'd have a piece that is
16 in both this new pool and the existing Bone Spring
17 pool if we don't do both pools.

18 THE HEARING EXAMINER: And that's
19 within that surface diagram that we saw earlier of the
20 four sections and the one section around it?

21 THE TECHNICAL EXAMINER: Yeah, correct.
22 Essentially, it'd be either the west half to get done
23 or the east half.

24 THE HEARING EXAMINER: I get it.

25 THE TECHNICAL EXAMINER: Have to go see

1 which one of the Bone Springs they actually asked for.

2 THE HEARING EXAMINER: So, Mr. Savage,
3 as Mr. McClure just said, we need to retract both
4 pools, not just one.

5 MR. SAVAGE: So I would agree with Mr.
6 Rankin that we need some guidance on this from the
7 OCD.

8 THE HEARING EXAMINER: Are you
9 finished?

10 MR. SAVAGE: I am, thank you.

11 THE HEARING EXAMINER: Okay. Mr.
12 Rankin?

13 MR. RANKIN: I really am grateful, Mr.
14 Chakalian, for your engagement because this is kind of
15 -- making. I think part of the confusion here -- and
16 I speak for myself -- is that I think there is I'm not
17 aware of any other circumstance where the Division has
18 overlapping pools in the same formation, okay. That,
19 to me -- I don't know if that was intentional or a
20 mistake. I don't know why that would be the case, and
21 I think in my view the Division should correct that.
22 And the Division has control over pools and
23 designation of pools. I don't know why there is
24 overlapping Bone Spring pools. It serves no purpose.
25 The purpose of pools is for the Division to

1 administratively track production and allocation of
2 production and designation of the spacing units and
3 it's a really administrative matter.

4 So it was a surprise to me today,
5 frankly, to learn that there are overlapping Bone
6 Spring pools that the Division has kept in place and
7 allowed to be persist. That is weird. And I think a
8 big part of this confusion and problem is because of
9 that circumstance. So not only would I request that
10 the Division give us guidance on what notice they
11 believe is required under the language of the rule, I
12 would advocate and I think Mr. Savage would as well
13 for more constrained interpretation of the rule.
14 Number two, I think part of the problem could be
15 resolved by the Division itself on its own contracting
16 one and maybe the pool that we didn't get noticed for
17 on its own -- contracting that pool on its own so that
18 there are no longer overlapping Bone Spring pools in
19 this acreage. I think that is confusing. I'm not
20 sure why that's the case. But it seems to be a
21 problem that the Division created and can resolve
22 that.

23 So that's my only point here is I think
24 that some of this can be resolved by the Division
25 contracting, I guess it would be the Teas pool, Quail

1 Ridge Pool so that they are no longer overlapping in
2 this acreage, number one.

3 THE HEARING EXAMINER: The parties have
4 been complaining about delay here, and I don't know
5 whether it's the commission or the Division that would
6 do something like that, but it sounds to me like that
7 would take some time and affects other people. Why
8 not just send out notice -- why not just re-notice
9 this? And if you both are worried about delay, why
10 not just re-notice this because I mean, we're not
11 talking about that many days of notice. Isn't it 20
12 days from -- I realize that it's Certified Mail. It's
13 expensive. But, you know, if you didn't get it right
14 the first time, sorry to say it that way, but why not
15 just redo it to allow this special pool order to go
16 forward and then we can deal with these other problems
17 in the future?

18 Now, the other thing that we haven't
19 really dealt with here is this extensive surface
20 coverage of the notice. I mean, I think that's
21 another thing here that's a bit of a thing. So, Mr.
22 McClure, back to you again. Are you saying here that,
23 going back up --

24 Could I have the diagram for the
25 surface, please, with the squares? Thank you.

1 Mr. McClure, are you saying that the
2 right-side diagram in Exhibit B7 would not suffice for
3 all the operators in this surface area to receive a
4 new notice so that they could get that part with the
5 separate Bone Spring pools proper? Are you saying it
6 should go out further than this?

7 THE TECHNICAL EXAMINER: Well, a peer
8 reading of the rule would seem to explicitly say so to
9 myself. I do not know, however, if the Division has
10 interpreted it, the rule, differently to be more
11 constrained.

12 THE HEARING EXAMINER: Right. Let me
13 ask counsel.

14 Mr. Savage, can you point to something
15 that would help?

16 MR. SAVAGE: I'd have to look at this a
17 little more closely. That actually surprised me quite
18 a bit, that possible consideration. That is heavily,
19 heavily -- I mean, that would be -- I'm not sure if
20 that would be something that could be done in any kind
21 of administrative manner with any kind of efficiency.
22 I mean, it can be referred to as nonsensical. I mean,
23 that really -- I mean, I think that probably it would
24 result in only the big players --

25 THE HEARING EXAMINER: Where did you

1 come up with this diagram? How did you come up with
2 this diagram?

3 MR. SAVAGE: I didn't do that diagram.

4 THE HEARING EXAMINER: Whoever did.
5 How did you come up with this diagram?

6 MR. RANKIN: So, Mr. Examiner, looking
7 at the definition of the notice requirements here,
8 okay, because this application does not involve
9 amending or changing the amount of acreage to be
10 dedicated to a well, right, so that's definition B, so
11 part B involves other matters, and it says, "The
12 applicant shall notify the Division-designated
13 operators in the pool." Okay. I'm interpreting "the
14 pool" to be the Wolfbone pool, okay.

15 THE HEARING EXAMINER: The one you're
16 asking to be created?

17 MR. RANKIN: The one I'm asking to be
18 created. And so to accomplish that, okay, because I'm
19 giving notice with respect to a pool that doesn't yet
20 exist, I therefore look to who would be in that pool,
21 and I'm giving notice to every operator in the
22 existing Bone Spring pools and existing Wolfcamp pools
23 within the proposed pool acreage and within one mile
24 of that proposed pool acreage.

25 THE HEARING EXAMINER: Within one mile?

1 MR. RANKIN: So under subpart B, little
2 I, it says, "The Division-designated operators of
3 wells within the same formation as the pool and within
4 one mile of the pool's outer boundary that have not
5 been assigned to another pool." So out of abundance
6 of caution, we went ahead and noticed all operators in
7 both the Bone Spring and Wolfcamp pool out to one mile
8 including any wells or operators that have not been
9 otherwise designated to a pool.

10 THE HEARING EXAMINER: And ultimately,
11 this granting or denying of the special pool will go
12 to the competing compulsory pooling applications?

13 MR. RANKIN: Ultimately, there's no
14 bearing on Permian Resources' applications because we
15 nevertheless, you know, have separate -- we believe
16 you need to have separate space units for the Bone
17 Spring and Wolfcamp. But I think it would have
18 significant bearing on Cimarex's application because
19 they have to figure out some way to deal with the
20 ownership difference.

21 THE HEARING EXAMINER: So you never --
22 you're not asking for a special pool?

23 MR. RANKIN: We are asking for a
24 special pool, the Wolfbone pool. We are.

25 THE HEARING EXAMINER: It sounded like

1 a moment ago that you were not.

2 MR. RANKIN: We are asking for a
3 special pool, the Wolfbone pool, as we have defined
4 it.

5 THE HEARING EXAMINER: Okay. I
6 understand.

7 MR. RANKIN: So, Mr. Examiner, just
8 last point. In order --

9 THE HEARING EXAMINER: To your point,
10 is there an easier way to do this and do it quickly?

11 MR. RANKIN: Yes. If the Division
12 insists on notifying every operator within the Bone
13 Spring pools and Wolfcamp pools, whatever the
14 geographic extent of those are, and if they were
15 willing to give us all the notice parties, including
16 operators within one mile of the formation so that we
17 can properly give notice according to their
18 interpretation, I think we would do it. However, it
19 may be many, many people, and we would both be
20 requiring to give the same notice to that many people.
21 And, again, it's nonsensical to do so given our more
22 narrow and I think appropriate interpretation of the
23 notice requirement.

24 THE HEARING EXAMINER: I think the
25 argument is persuasive that notice should be given to

1 owners and operators within the pool that you are
2 seeking to establish. To require it outside of there
3 past one mile doesn't seem logical, but I understand
4 why Mr. McClure, how he's reading the rule also. I
5 think obviously, it would be helpful if you had any
6 precedent.

7 MR. RANKIN: Mr. Examiner, as soon as I
8 get back to my office, I'll give you guys one of the
9 ones I'm thinking about. It's ConocoPhillips or COG
10 exploratory unit. We have referred to that since in
11 the creation of special pools for units. This is
12 directly analogous to those circumstances, and I will
13 give you guys those orders and the case files.

14 THE HEARING EXAMINER: Well, it seems
15 to me that you know you have a problem with the notice
16 that you have already served on the owners and
17 operators within this.

18 Can we go back to that section? 4N.
19 4N. 12. It looks like you have a problem with your
20 notice within the 16 section. We all agree that you
21 only told the operators and owners that you wanted to
22 contract one of the Bone Spring pools when
23 unfortunately, they're overlapping Bone Spring pools,
24 and you didn't identify them. Whether the Division
25 steered you right or wrong, I don't think that's the

1 issue here. The issue is you have to provide proper
2 notice. I would suggest to the parties that you
3 provide notice to those owners now. It can't hurt if
4 we resolve this in your favor and it's a more
5 constricted reading of the rule. Then you've done
6 what you need to do. If, in fact, there's some other
7 interpretation of this rule, that can then lead to all
8 sorts of motions and responses and rulings and maybe
9 appeals. That's going to take quite some time.

10 So why don't you re-notice this. We'll
11 talk about that in a moment. Submit your precedent.
12 Mr. Savage, Mr. Rankin, I would suggest you both give
13 me some precedent to go on here and the Division to go
14 on to convince the Division a more restricted reading
15 is appropriate in this situation. Logically, I would
16 agree with you, but I'm not the only one who's going
17 to be dealing with this.

18 So if you -- so I know you're busy Mr.
19 Rankin, Mr. Savage. Why don't we say you have a week
20 to provide me some precedent, which I know is a day
21 that you have a hearing, Mr. Savage, but I don't think
22 you're going to spend all the time between now and
23 then doing this. So just give me what you got. Maybe
24 you can talk to some other oil and gas lawyers too and
25 see if they know of something 'cause this would be

1 helpful I think to the Division in general how to help
2 this.

3 And if you re-notice this, what is the
4 timeframe, Mr. Savage, that it would take to re-notice
5 the owners and operators in the 16-section area?

6 MR. SAVAGE: So if I could ask for some
7 clarification on what would constitute notice under
8 the circumstance. So the applications list, just the
9 one pool. If we put in the letter that we are all --
10 all the pools that are involved, we note them in the
11 letter, we do not have to amend our application. We
12 attach the application to that letter. The letter
13 explains everything, and then we can go forward with
14 the Wolfbone application as drafted. Is that fair --

15 THE HEARING EXAMINER: It seems to be.
16 That seems to be fair to me.

17 Mr. Rankin, what do you think?

18 MR. RANKIN: That's what I was going to
19 propose, Mr. Examiner. I think, you know, we used to
20 be able to easily amend an application, keep it under
21 the same case number, and it wasn't an issue. I think
22 it's a little harder to do that now. That was before.
23 I think they have a new system tracking the
24 applications, and it became impossible to simply
25 retain a case number with an amended application. So

1 the Division has discouraged or has not allowed us to
2 do amended applications, just new applications. So I
3 think we could provide very clear cover letter that
4 explains, in fact, both Bone Spring pools are seeking
5 to be contracted.

6 THE HEARING EXAMINER: And Wolfcamp.

7 MR. RANKIN: Yeah, and Wolfcamp. Yeah.
8 Which is covered in the application. I think we could
9 do that. And I think it would take us -- I mean, to
10 perfect that notice, it probably would take us five or
11 six weeks, I think, at least.

12 THE HEARING EXAMINER: Mr. Savage, the
13 last thing, is this your exhibit packet that's up here
14 or is this Mr. Rankin's?

15 MR. RANKIN: That's Permian Resources'.

16 THE HEARING EXAMINER: Permian. Can
17 you take me to the application in your packet so I can
18 see how you discuss the pools or the formations here?

19 MR. RANKIN: I think it's similar. The
20 initial paragraph identifies it as the vertically
21 contracted Teas Bone Spring East pool. And as we
22 discuss specific -- and so forth, yeah, we discuss
23 only the Teas Bone Spring pool.

24 THE HEARING EXAMINER: And then down
25 below, you discuss the Wolfcamp pool.

1 MR. RANKIN: Right.

2 THE HEARING EXAMINER: So you mentioned
3 -- so okay. So literally, we're just adding a few
4 words to this -- well, not -- this is the application
5 now.

6 MR. RANKIN: Yeah.

7 THE HEARING EXAMINER: So the
8 application is very specific about which Bone Spring
9 pool it is.

10 MR. RANKIN: Right.

11 THE HEARING EXAMINER: And in your
12 notice, do you basically copy this language?

13 MR. RANKIN: We defer to the
14 application.

15 THE HEARING EXAMINER: All right.

16 Mr. McClure, any thoughts from you?

17 THE TECHNICAL EXAMINER: No. I don't
18 have any immediate thoughts. I was going to say I can
19 abide, though, with a map that includes the entirety
20 of both pools. But if we're satisfied, we could -- 16
21 sections, then I guess that wouldn't really be
22 necessary.

23 THE HEARING EXAMINER: But Mr. McClure
24 -- yes, let's stick to the 16 sections for now, but we
25 have an application that talks about vertically

1 contracting the base of the Teas Bone Spring and
2 doesn't mention the Quail Ridge Bone Spring.

3 THE TECHNICAL EXAMINER: Yeah, correct.
4 You will need to reference both of them. It should
5 reference both the Quail Ridge and the Teas is what
6 the notice should reference.

7 THE HEARING EXAMINER: Right. But --

8 THE TECHNICAL EXAMINER: -- your
9 question. I'm sorry, Mr. Hearing Examiner.

10 THE HEARING EXAMINER: That's okay.
11 Because the notice that they sent out only refers to
12 the application. If they send out -- if they re-send
13 the application, which is very specific, and then they
14 provide some sort of a cover letter, let's say, that
15 says, well, we are also seeking to vertically contract
16 the base of the Quail Ridge Bone Spring in these 16 --
17 or sorry, in these four sections, will that cure the
18 notice?

19 THE TECHNICAL EXAMINER: Well, they
20 should amend their application to include both would
21 be my recommendation, send out the amended application
22 to all operators and/or working interest owners if
23 there isn't an operator.

24 THE HEARING EXAMINER: Okay. So if
25 they amend the application as an exhibit to the

1 notice, can they leave this application as -- I think
2 they're trying to avoid having to re-open a new case.
3 Is there a way for them to submit an amended
4 application to fix this problem, or do they have to
5 have a whole new case for that?

6 THE TECHNICAL EXAMINER: I mean, I
7 would think it would be made part of this. But I
8 guess that's kind of -- however we want to proceed,
9 really, but I would assume they could amend the
10 application, resend it, and leave it as a part of this
11 case.

12 THE HEARING EXAMINER: Mr. Savage?

13 MR. SAVAGE: So that would be a
14 decision that the Division has to make. I mean, I
15 don't -- you know, our preference hopefully would be
16 that we could address this in the notice letter. But
17 if we have to amend the application, I mean, I don't
18 know how the Division categorizes those, you know,
19 filings. So I don't know how -- I would like to
20 maintain it in the same case, for sure.

21 THE HEARING EXAMINER: Why can't you
22 file an amended application, both parties file an
23 amended application, and then we post that in the same
24 -- why not just post that in the same case number? I
25 don't understand why they would have to be a new case.

1 MR. SAVAGE: If the Division would
2 agree to do that, I think that would work fine. It's
3 cleaner to have amended applications. But I think as
4 long as we can do that without having to open a new
5 case file and do this, you know, quickly, I think that
6 makes sense.

7 THE HEARING EXAMINER: Let me ask
8 Freya.

9 Freya, is there something that would
10 prevent them filing an amended application into this
11 case number?

12 MS. ISCHANTZ: No. I think I can
13 figure out how to do it.

14 THE HEARING EXAMINER: Okay. Mr.
15 McClure, do you have a problem with that?

16 THE TECHNICAL EXAMINER: No, I don't.

17 THE HEARING EXAMINER: Okay. Then I
18 don't have a problem with it, either. And anything we
19 can do to help the parties, I'd like to do. So with
20 that in mind, Mr. Savage, when will you file an
21 amended application to fix this problem with the Bone
22 Spring citation? Two weeks?

23 MR. SAVAGE: I mean --

24 THE HEARING EXAMINER: Seems like a
25 long time. I'd like it by the time that you file your

1 amended exhibits, and I would like this to be part of
2 the amended exhibit packet and to take the place of
3 this application.

4 MR. SAVAGE: If when we file -- so this
5 -- both applications and certainly our application has
6 a lot of additional information, so if we amend it, we
7 are going to amend it --

8 THE HEARING EXAMINER: Good.

9 MR. SAVAGE: -- to have it be clean to
10 the --

11 THE HEARING EXAMINER: Right.

12 MR. SAVAGE: So --

13 THE HEARING EXAMINER: I see. So
14 that's why you want more time?

15 MR. SAVAGE: Yeah, a little bit more
16 time would be appreciated.

17 THE HEARING EXAMINER: All right. So
18 why don't we do this? Since we have to do re-noticing
19 anyway -- and, Mr. Rankin, if you don't agree with
20 this, tell me -- but why don't we set a two-week
21 deadline then? That would be 14 and 1327, I hope.
22 August 27. You will file an amended exhibit packet to
23 include what we've admitted today at the hearing, to
24 include an amended application. You're going to make
25 that very clear in the title of your application.

1 It's going to say "Amended Application." You're going
2 to fix the wording here to apply to both Bone Spring
3 pools. We will figure out how to make that the only
4 application in your file.

5 In the meantime, you will go ahead and
6 re-notice everyone using your amended application as
7 an exhibit with a new cover letter or whatever notice,
8 however you do your notice. And we will give you
9 those five or six weeks that Mr. Rankin mentioned that
10 it would take to get the notice perfected for the
11 special pool application.

12 Any problems with that, Mr. Savage?

13 MR. SAVAGE: No. That is much
14 appreciated. There's one other -- I don't -- maybe
15 you want to --

16 THE HEARING EXAMINER: I'll hear your
17 thing in just a moment.

18 Mr. Rankin, from what I've said so far,
19 is it satisfactory to you?

20 MR. RANKIN: Yeah. So we would file
21 amended exhibits in the amended application by the
22 21st or --

23 THE HEARING EXAMINER: 27th.

24 MR. RANKIN: 27th?

25 THE HEARING EXAMINER: Two weeks from

1 today.

2 MR. RANKIN: Okay. 27th. Okay.

3 THE HEARING EXAMINER: Of course, in
4 the meantime, you'll be doing your notice. I don't
5 know how the Division -- so obviously, the record is
6 staying open in this case. The record won't be
7 closing obviously. We'll be taking it under
8 advisement until the notice is cured. But hopefully,
9 that'll be the fastest way of curing the notice. We
10 haven't dealt with the outward problem yet, but you're
11 going to provide your citations to persuade some
12 authority for me and the Division to consider to keep
13 the notice within the 16 sections that we've
14 discussed. But otherwise, the deadlines are clear,
15 Mr. Rankin?

16 MR. RANKIN: Yes.

17 THE HEARING EXAMINER: Okay. Very
18 good.

19 Mr. Savage?

20 MR. SAVAGE: Yes.

21 THE HEARING EXAMINER: What about --
22 what else did you want to say?

23 MR. SAVAGE: I just wanted to point out
24 that these applications are going to be exactly the
25 same. We do not disagree in any way on the creation

1 of the Wolfbone. So this is really not a contested
2 hearing. It's not contested. So I would ask -- I
3 mean, it seems like if you choose one or the other,
4 that creates possibly some perception of bias that
5 would lead into the compulsory pooling hearing. So to
6 maintain a level playing field, since they are both
7 the same, is there a way for the Division, even sua
8 sponte, to consolidate two applications and get a
9 consolidated order that recognizes the merit of both?

10 THE HEARING EXAMINER: The order said,
11 "The record is left open for such a proposal and will
12 prompt a reopening of the hearing record on both
13 applications." So it was contemplated that there
14 would be two applications for the special pool.

15 MR. SAVAGE: Correct.

16 THE HEARING EXAMINER: If they
17 contradict each other, which it sounds like they
18 won't, I don't see your point.

19 MR. SAVAGE: So we have two Wolfbone
20 applications.

21 THE HEARING EXAMINER: The Division's
22 going to grant --

23 MR. SAVAGE: They're going to grant one
24 or another, and that creates a certain perception of
25 favoritism in that regard.

1 MR. RANKIN: Do you want to file a
2 joint application?

3 MR. SAVAGE: Yes. That would be great.

4 MR. RANKIN: Will the Division accept
5 the joint application?

6 THE HEARING EXAMINER: A joint amended
7 application.

8 MR. RANKIN: A joint amended
9 application under both case files?

10 THE HEARING EXAMINER: Sounds like a
11 very good idea.

12 MR. RANKIN: We can confer on notice to
13 make it happen, I think, so that we don't have to do
14 it twice.

15 THE HEARING EXAMINER: Sounds like a
16 very good idea. So the Division can approve the one
17 joint amended application. Sounds like a very good
18 idea. Okay. The deadlines are the same, August 27th,
19 close of business.

20 Now, Mr. Rankin, you're not suggesting
21 that affects the exhibit packets, are you?

22 MR. RANKIN: No.

23 THE HEARING EXAMINER: Okay. Fine.
24 Separate exhibit packets.

25 MR. RANKIN: Yes.

1 THE HEARING EXAMINER: That's fine.
2 Okay. All right. Is there anything further on this?
3 You're shaking your head, Mr. Savage.

4 MR. SAVAGE: There are not, I don't
5 think.

6 THE HEARING EXAMINER: Mr. Rankin?

7 MR. RANKIN: I don't believe so.


8 THE HEARING EXAMINER: So we're off the
9 record.

10 (Whereupon, at 1:03 p.m., the
11 proceeding was concluded.)
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CERTIFICATE

I, JAMES COGSWELL, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action. August 27, 2024



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

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CERTIFICATE OF TRANSCRIBER

I, PROMY ISLAM, 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 27, 2024



PROMY ISLAM

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