STATE OF NEW MEXICO

OIL CONSERVATION COMMISSION

Case Nos.
24018-24019,
24024-24027,
24683,
24594

Moderated by Gerasimos Razatos

Thursday, August 15, 2024

9:00 a.m.

Wendell Chino Building
1220 South St. Francis Drive
Santa Fe, NM 87505

Reported by: James Cogswell

JOB NO.: 6861370

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I N D E X (Cont'd)

WITNESSES:	DX	CX	RDX	RCX
MILLION GEBREMICHAEL				
By Ms. Seningen	192			

E X H I B I T S

NO.	DESCRIPTION	ID/EVD
Case 24594		
Targa:		
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P R O C E E D I N G S

MR. RAZATOS: Well, good morning to everyone. It's nine o'clock. This is the August 15th meeting of the Oil & Conservation Commission. I'm Gerasimos Razatos. I am the acting director for the Oil Conservation Division in the interim. So nice to meet all of you.

And it is time to call our meeting in session. So we'd like to do a roll call. As I said, I'm Gerasimos Razatos, I go by Gerry. I'm the acting director, and I'm Oil Conservation Commission chair.

Doctor.

DR. AMPOMAH: I am Dr. William Ampomah, designee of the energy secretary.

MR. RAZATOS: And I believe Mr. Bloom is going to be joining us electronically today.

Mr. Bloom, Commissioner Bloom, are you on?

There he is.

MR. RUBIN: Can we have Commissioner Bloom just test his mic so we can make sure we hear him? Is he muted?

MR. RAZATOS: Well, I think we lost him again.

Commissioner Bloom?

MR. BLOOM: Hi there.

MR. RAZATOS: Awesome.

MR. BLOOM: Good morning, everyone.

MR. RAZATOS: Okay. So I believe we have a quorum. So let the record note that we do have a quorum.

Okay. We have this week's agenda. Everybody have a copy of the agenda? It has been published. Is there any changes that we need to do or any edits or anything like that?

Is this echoing because it's too far away from me, Sheila?

MS. APODACA: It could be. If you are logged into the meeting on another device, mute the volume on that device.

MR. RAZATOS: I have.

MS. APODACA: Okay. Let me try to turn down the volume then on your mic. Okay. Let's see if that's any better.

MR. RAZATOS: Okay. Yep. There we go.

So were there any changes or anything?

DR. AMPOMAH: No. Not from me.

MR. RAZATOS: Awesome. Do we have a motion to accept the agenda?

MR. BLOOM: I so move.

DR. AMPOMAH: I second.

MR. RAZATOS: Excellent. So our agenda has been accepted. Thank you.

Our next motion is our meeting minutes from last meeting. Any changes that we need to do to the meeting minutes?

MR. BLOOM: I thought the meeting minutes look good. I would move to approve.

MR. RAZATOS: Excellent.

DR. AMPOMAH: I second.

MR. RAZATOS: Okay. So we'll move that our meeting minutes are accepted. Thank you for that.

All righty. So now we have our cases. We're coming up to our cases. Our first case this morning -- and of course --

MR. BLOOM: Mr. Chairman.

MR. RAZATOS: Yes, please.

MR. BLOOM: I'm sorry. Do we need a vote on the agenda and the meeting minutes from the last month? Or just want to say --

MR. RAZATOS: I think we do.

MR. BLOOM: Yeah. That we have -- you can say they pass unanimously.

MR. RUBIN: Mr. Chairman, members of the commission, yes, that is correct. We should

formally have a motion.

MR. RAZATOS: Sorry. Let's formally have a motion then. A motion that we accept the meeting minutes and the agenda.

MR. BLOOM: I so move.

DR. AMPOMAH: And I second.

MR. RAZATOS: Excellent. So every -- both of them are accepted; correct? Do it separately?

MR. RUBIN: We do need a roll call vote because we have one member that is appearing virtually.

MR. RAZATOS: Okay. So Commissioner Bloom.

MR. BLOOM: Approve.

MR. RAZATOS: Okay. Commissioner Ampomah.

DR. AMPOMAH: Approved.

MR. RAZATOS: And I approve as well. Excellent. So now they're accepted?

MR. RUBIN: Yes, the agenda and the minutes have been accepted by one motion.

MR. RAZATOS: Excellent. I'm getting my feet wet, people. I'm sorry I'm learning.

MR. RUBIN: And I'd like to thank

Commissioner Bloom for reminding we had the open meetings --

MR. RAZATOS: Yes. Thank you, Commissioner Bloom. I need all the reminders I can get, so -- plus it's blazing hot in here, so I apologize. I look like I'm swearing, but it's, like -- heat is right here, so -- stress and heat. Got to love it; right?

Okay. Cool. Now we can get to our next part, which is our actual procedures. Our first case today is the consolidated cases 24018 through 19, and 24024 through 24027, an application by Empire for New Mexico to revoke the injection authority for the Andre Dawson SWD number 001 in Lea County, New Mexico. Are all parties present? Excellent. Go ahead.

MR. RUBIN: Mr. Chair, members of the commission, if I may brief the commission on my review of the expedited motion and the response and the reply?

MR. RAZATOS: Please.

MR. RUBIN: As you may have gleaned from them, the issues raised here do tend to relate to the pending hearing that is set in a few months before Hearing Officer Kip Harwood -- Rip Harwood, and relate to the propriety of the respondent in this motion's

continuing injection of produced water into those basins at issue.

Certainly a lot of the issues raised in the expedited motion do relate to what would be hopefully resolved at that hearing. In other words, the propriety of and whether there is any -- there are obviously legal issues as well. There is an issue raised in the expedited motion of it that needs to be addressed today.

And that is the accusation, for lack of a better word, in the expedited motion that the respondent has been exceeding its permitted amount of injection of produced water. And that, of course, is of serious concern to the commission. Any violation of its permits warrants immediate consideration, so the expedited nature of this motion is certainly warranted in my view.

And interestingly, there were no -- there was no evidence submitted with the expedited motion asserting these over injections. Nonetheless, the response didn't dispute that. It rather reluctantly referred -- it rather, instead, argued that as part of -- framing it as part of the standards for preliminary injunction, well, whatever damages are marginally are being caused to Empire by

whatever over diversion amount there is would not weigh in favor of granting this as a preliminary injunction.

I am not sure I agree with that argument. You know, there's an analogy to that preliminary injunction Rule 66 of course, but it does seem to be a concern that it's basically -- even there's no evidence and we don't know what the amounts are, that there is -- you know -- over diversion under that permit.

So what I would recommend is we don't know the amount, we also don't know the effects that would be resolved at the upcoming hearing through testimony and argument, and the hearing officer's report. Nonetheless, we do need to deal with this.

My recommendation is for the commission to immediately order, and this would be an order effective immediately, for the respondent here to immediately cease any over diversions. Not over diversions. Sorry, that's a state term. Any over injections that are there, currently may be -- they may be perpetrating. And that would be go into immediate effect.

To provide a full accounting of any such over diversions to the hearing officer and to all

the parties in the case as part of that hearing so the board can that -- the commission can then assess that as part of the rest of the issues in that case, and to basically hold in advance any further action on the expedited motion, so --

Of course, that's one way to handle it that perhaps, you know, splits the baby, so to speak, without having to take the drastic step of shutting anyone down. But nonetheless, I think would help get to the bottom of this. And certainly, if -- and stop any violation of any permits at the time.

So if any of the commissioners have any questions for me or of the parties, and certainly if the commission wishes, they can hear argument of counsel on this point, but it does seem like a fairly straight forward motion.

MR. BLOOM: Mr. Rubin, Mr. Chair, if I may?

MR. RAZATOS: Please.

MR. BLOOM: I'm wondering, I guess, a question related to scope and jurisdiction here. And I would like to hear from the parties, in particular, the OCD. I'm wondering if this matter should be first addressed by the OCD and handled as a typical -- I guess say typical for lack of a better

word -- accusation of over injection.

MR. RAZATOS: Mr. Moander, you're representing the OCD; correct?

MR. MOANDER: I am, Mr. Chair.

Commissioner Bloom, just to make sure I'm clear on the what the request is, it sounds like you want to know what OCD's overall position is on the allegation of over injection, or are you talking about within the confines of the, like, relevance to this particular matter?

MR. BLOOM: Maybe both. But I'm wondering if -- now that you mention it. But I'm wondering if this might be something that the OCD would typically deal with, and perhaps should deal with in this case, given that this claim of over injection has been made. I'm thinking that the first stop would typically be the OCD and not the OCC.

MR. MOANDER: So as to -- generally speaking, an allegation between operators like this is one that we would certainly take a look at. We do have some caution when the matter's actively being litigated. And we don't know yet what the evidence will show in this case. And I think there's some value.

And that's really the nature of my

response was written towards that, Commissioner Bloom, is that we want to see all the evidence, we want the opportunity to examine witnesses. And whatever flows from the hearing would be most likely material to our jurisdiction and our role. And then at that point, we would reevaluate, and then look to pursue whatever remedy that may be appropriate at that time.

It's not often the case where we have a matter that OCD appears in where we'll get this pointed of an accusation. So I think that the interests of the public are going to be served by fleshing out the evidence in the hearing, see what comes out, and then evaluate matters from there.

DR. AMPOMAH: Chris, I have a follow up. So is it a position of OCD that they do not have the injection volumes and they do not have the injection pressures to see straight away whether the accusation is true or not?

MR. MOANDER: At this point, I would not be able to tell you what that specific evidence would look like. Well, I would imagine we could -- we may have some filings that would reflect a yes or a no on that. And that's why OCD wants to proceed pretty severely with this hearing, is to sus all this out and --

And the other angle on this is, is there's an opportunity to get testimony about these things, additional information that might -- we could get potentially from an RFI, but there's also the issue of we can get it through this case. And that's part of why OCD has not, as far as I'm aware, taken any action one way or the other about the injection volumes.

DR. AMPOMAH: So Counsel, I do have a follow-up question then based on your submission. So if we do not have the evidence, how then can we say that Goodnight should cease the operation if, let's say, the -- more or less make sure there are not any over injection if we do not have any evidence?

MR. RUBIN: Commissioner Ampomah, members of the commission, that is why I -- that is a good point, and that is exactly why I couched my advice as I did, because we do not know. And so all we can do is issue an order, which is -- should be self-apparent saying do not -- cease all over diversions.

Do not -- we're not shutting anyone down, but this commission may want to take strong action as OCD counsel has stated. Once all the information is in and we know the full extent of these

over diversions as to penalties, whatever remedial action the hydrology may warrant as well. So I'm not recommending that we shut anyone down at this point.

But if there is by issue we can order today saying, "Cease any over injections," if the evidence comes out that for some reason they continued, well, we want to know that too. And this will all come to light through the prism of the hearing. And so all we could do today is say, "Stop it," and hold everything else in advance. We would get a full accounting about the --

MR. RAZATOS: The OCD wants to add something else.

MR. MOANDER: I am conferring with my cocounsel on this. Is the commission concerned about remanding this issue to OCD hearings? Is that what's underlying this? Just to kind of clarify things.

MR. RUBIN: I would agree with Counsel Moander there that in this case because we have pending litigation, the pending adjudicatory matter that this directly relates to, I could see why this was brought by Empire directly to the commission rather than going through the division as an enforcement mechanism.

MR. RAZATOS: Commissioner Bloom, you

look like you want to say something.

MR. BLOOM: Thank you, Mr. Chairman. Yes, when the moment's right, I would like to hear a response from Goodnight Midstream and then Empire, Counsel.

MR. RAZATOS: So Counsel, just wanted to make sure, we're not necessarily saying remand it back to the OCD hearings. We're just saying we don't know -- we don't have any evidence to show that there's an over injection; correct?

MR. RUBIN: Mr. Chair, members of the commission, correct, I'm not saying remand to the division. The commission has set this for a hearing.

MR. RAZATOS: Right.

MR. RUBIN: The hearing is through the hearing officer, who speaks -- who is an extension of this commission.

MR. RAZATOS: Okay.

MR. RUBIN: So there's no remand that I'm advocating for.

MR. RAZATOS: Okay. Does that answer your question, Mr. Moander?

MR. MOANDER: Yes. Thank you.

MR. RAZATOS: Okay. Great. So should we proceed to hear the parties? What's the

suggestion, I guess?

MR. RUBIN: Well, I did find that the motion, the response to reply fairly succinctly captured the issues as I've explained them. There might be some -- but in the interest -- if the commission wants to hear from counsel -- 'cause it an interesting argument that -- whether --

We don't have any facts in the motion or the reply and affidavit or some other discovery that was provided that would say exactly what the amounts are. We have not heard from Goodnight saying "Yes, we have" or "No, we haven't." So there might be something to be gained from that. It's up to the commission.

MR. RAZATOS: Okay. So then I'll just ask commissioners, do you want to hear the parties? I'll start with Dr. Ampomah.

DR. AMPOMAH: Yeah. Greg wants to hear, so I also want to hear.

MR. RAZATOS: I know Commissioner Bloom wants to hear.

Commissioner Bloom, is that an affirmative?

MR. BLOOM: Yes. And I think, you know, five minutes approximately should suffice. I

mean, if people need more time, that's fine, but I would like to hear from both parties.

MR. RAZATOS: Okay. Excellent. So the parties are present; correct?

MR. BLOOM: And I would start with the movement, Empire.

MR. RAZATOS: We'll start with Empire?

MR. BLOOM: Yes.

MR. RAZATOS: Yeah. Just making sure that all the parties are present. That's all.

Okay. Awesome. So let's start with Empire, please.

MR. PADILLA: Mr. Chairman, members of the commission, my name's Ernest L. Padilla, appearing for Goodnight. With me are Sharon Shaheen and Dana Hardy. We're counsel for Empire. I will be speaking concerning this motion today. And first of all, let me just say that I agree with Mr. Rubin's analysis of the situation.

The only thing that he missed that I think is reporting. If we don't have any public records, OCD records, of injection volumes from the Andre Dawson well, the Ernie Banks well, there's been no reporting on those two wells at all. But if you look at our motion, all of the wells that we listed

there are -- there's evidence of over injection.

Now, I take it you want evidence on this, in particularly, those wells that are outside the unit. Where we have to prove that there's going to be migration from those wells into the San Andres formation. But when you look at this, all you see is an abuse of orders.

For example, the allegation that we came up with -- and that was based on discovery evidence, the evidence that was submitted to us in discovery by Goodnight. There, we finally saw that there was over injection, especially in the Andre Dawson is egregious to where you have 41,000 barrels a day when you have a limit of 25,000. And who knows what the pressures are.

Seems to me that if you have a bottle of water in a confined area, and you start pouring more water in it, the water's going to have to go somewhere. We're saying it's going into the Grayburg formation, which is a producing formation for the unit.

I won't go into residual oil zones at this point, but that is what Empire is trying to protect. We're confident that in September, we'll be able to show that there's a residual oil zone, ROZ, in

the San Andres, and therefore, it needs to be protected.

Right now, with uncontrolled -- seemingly uncontrolled or excessive over injection, I think the order of the commission, and the commission has authority to do that, is to stop the over injection. That is one goal that we have.

Now, we asked also to balance and suspend, but doesn't seem like from what I understand and Mr. Rubin's analysis, is that you want to wait until the September hearing to find out what the evidence will show. But the problem here is that you have overnight just simply in every well there's over injection.

Some not as bad as others, but if you look at the Andre -- the allegations on the Andre Dawson well, I mean, that is really almost criminal in terms of -- I don't know what the profit -- well, I know it's a profit motive that drives that.

But it's -- you can't exceed the order of the division in all of these cases where you're limited to 25,000 barrels a day and the pressure, and you're going to have problems with pressure gradients and potentially fracturing the zone between the San

Andres and the Grayburg.

There are already -- we're going to show that there are already natural fracturing in areas of the -- between the San Andres and the Grayburg. So to add pressures and add volumes, you're not going to -- it's going to impair the ROZ in the San Andres. So I -- to speak again, I think Mr. Rubin analyzed this, and I think the pleadings speak for themselves pretty much.

Now, as far as division is concerned, I don't know where they're coming from. If I saw a motion like that and I was counsel for the division, I would certainly try to find out whether or not those orders are being violated instead of being in an adversarial situation where you want to prove something. I don't know where the OCD's coming from in this case.

So the OCD should be looking at over injection and try to find out if the allegations are correct. We're pretty certain they care correct. We wouldn't have put that in there without some basis, and evidence that we obtained only through discovery, not through the publics records of the OCD. We should've got it -- we should've been able to get it from the OCD records. We don't have that.

MR. RAZATOS: Mr. Moander.

MR. MOANDER: I'll wait my turn on that.

MR. RAZATOS: Okay. I was saying --

MR. MOANDER: I'm just preparing.

MR. RAZATOS: You were very insistent there, so --

Okay. Thank you, sir. Appreciate it.

Goodnight now; right? Doctor? The doctor has -- should we wait till we're done, or --

MR. RUBIN: Oh, you always can. You're the Commissioner.

MR. RAZATOS: Okay. Go ahead.

DR. AMPOMAH: So Mr. Padilla, I do have one quick question and probably some follow-up. How do you define over injection? Or how is Empire defining over injection?

MR. PADILLA: Through evidence that we obtained and the litigation part of this case. We asked in discovery what volumes they were injecting. Now, some of them there is reporting at the OCD, but the Ernie Banks and the Andre Dawson, there's no reporting on those wells from data first inception, from first injection into those wells.

So it's hard to figure out where -- how

much water there is or being put in the zone. In one instance in a four-day period, we were able to establish that it was 41,000 barrels per day. That's, like, 15,000 barrels over the limit. And you shouldn't do that. Does that answer your question?

DR. AMPOMAH: Well, from a reservoir engineering standpoint, I want to see the fracture pressure for this particular formation, and then I want to see the allowable pressure that OCD gave in the order for me to more or less come to a conclusion whether you are more or less injecting above what the order is saying.

From a previous hearing, OCD made clear that the pressure is the main item that -- the main parameter that they go to in terms of assigning what should be the maximum injection. So if I don't see -- if I don't know what the fracture pressure is, it becomes very difficult to just make an assumption that just based on the volume, someone is injecting above the fracture pressure, or more or less doing over injection.

MR. PADILLA: I can tell you that the Andre Dawson maximum pressure is 862.

DR. AMPOMAH: Surface?

MR. PADILLA: Daily. You can't exceed

that pressure. The Ernie Banks, I think, is 867, and the Sosa well that we also have in there, it can't exceed 900 pounds PSI injection pressure.

Now, I don't have the information on the fracture pressure -- on the fracture gradient what will part the formation.

DR. AMPOMAH: And I think that is certainly something that OCD has to be able to respond to. Thank you.

MR. PADILLA: Well, if that information isn't available and if you don't have any reporting on that, then that needs to be obtained.

MR. RAZATOS: Any other questions?

Commissioner Bloom, did you have any questions?

MR. BLOOM: No. No, thank you, Mr. Chair.

MR. RAZATOS: Dr. Ampomah, anymore?

DR. AMPOMAH: No, not from me.

MR. RUBIN: Mr. Chair, just one question for Mr. Padilla.

So Mr. Padilla, why did you not submit any evidence that you were referring to from discovery --

MR. PADILLA: Well, perhaps --

MR. RUBIN: -- as part of the motion?

MR. PADILLA: That would -- we probably should've added discovery information that we got. Or at least verified the motion.

MR. RUBIN: Thank you.

MR. RAZATOS: Any other questions?

DR. AMPOMAH: Yeah. So Counsel, even if they do not more or less submit any substantive evidence to support your claim, I think it is a matter of a concern that if that is happening, then more or less OCD has to be able to figure that out and respond to these allegations.

MR. PADILLA: I agree.

DR. AMPOMAH: It's for more or less a public concern, not necessarily for Empire alone. It's a public concern if that is certainly happening.

MR. RUBIN: Commissioner Ampomah and members of the commission, if I understand Mr. Moander's response, OCD cannot be -- may not necessarily have had knowledge of this if a lot of the information was gained in the discovery process and adjudication. I am not sure if they were able to monitor pressures in that region. I don't know if Mr. Moander would want to speak to that.

MR. MOANDER: May I assume this will be

my argument now? And as part of my response?

MR. RAZATOS: We definitely can do that if we all agree.

MR. MOANDER: Okay. So starting off, the nature of OCD's response was fairly straightforward and simple because OCD construed the primary issue in Empire's motion, focusing on the suspension more so than the stay, because the suspension would be a final determination. So OCD looked at the motion as being essentially a backdoor summary judgement without those terms ever actually appearing in the motion.

For OCD's view, first of all, is we have a hearing set for this, and OCD fully intends to participate, argue, ask questions. OCD has participated in discovery. We've had active litigation. The injection allegation is a more recent development that occurred within the confines of litigation.

And it -- from OCD's position, it stands to reason that since we have an active opportunity to conduct discovery, also, we'll have an opportunity to examine witnesses, and more importantly for this purpose, cross examine witnesses. That's the forum where this evidence will need to be developed.

I did not come today primarily more than -- that I'll say in terms of my reply. There was no evidence provided at any -- the showing from Empire's side that they could demonstrate the over injection. OCD's also aware that there are filings that are currently pending concerning some of this material. Those filings have not been finalized from the OCD end, so there is information there.

I cannot speak to whether that will have been fully processed by the time of the hearing or not. But when it comes to OCD's need to know -- the need to know about what parties are injecting, this -- when you have the reporting structure, that's nice, but now we have the additional opportunity to actually ask some questions, develop evidence, and make representations to this commission and its hearing officer in about six weeks.

Generally, it's not ideal to have parallel litigation ongoing when you also -- if you're conducting enforcement plus active litigation before the commission. I'll just say it bluntly. It's much easier to proceed with gaining information and knowledge through litigation like this than it is through traditional enforcement action.

And so OCD is pursuing this litigation.

And if evidence ultimately does show that there is over injection, then OCD would evaluate that for potential future enforcement purposes.

So back to the original motion as it's been presented today. No, I did not come prepared to provide exhibits or anything of the kind because there were none to really respond to. It was mostly legal argument and allegations. And so OCD's position is we very much would like to proceed with this hearing at the end of September so we can fully learn the contours of both parties' cases and their evidence.

MR. RAZATOS: Thank you, Mr. Moander.

Any questions from the commissioners?

DR. AMPOMAH: Not from my side.

MR. RAZATOS: Commissioner Bloom?

MR. BLOOM: Not with -- no, Mr. Chair.

MR. RAZATOS: Excellent. Thank you. Goodnight, please.

MR. RANKIN: Morning. Acting Director Razatos, commissioners. Thank you for the opportunity to speak. We've heard this morning and in the papers that were filed by Empire are some very serious allegations verging on criminal this morning. And we take these allegations very seriously. And I'd like the opportunity rebut everything that was said this

morning.

In fact, we have some images to show to allay Mr. Ampomah's concerns about pressures, about whether that's occurred. I think I would like to take some time to clear the air and put this into context a little bit. The motion that they filed happened to have been filed when I was on vacation for three weeks, so I didn't have a lot of time to respond to it when I got back.

Well, our response was limited to mostly legal arguments because counsel and Empire did not file any exhibits or any evidence substantiating their claims. If I may, I'm just going to walk through this very quickly, because I think it would be helpful. It goes into the context here of what I want to say and review for the commission if I can share my screen.

Number one, Mr. Rubin, I do want to make clear that in response, Goodnight does deny the allegations that were raised by Empire vigorously. That we -- it's a general denial of the allegations because there was nothing specific to respond to in terms of evidence.

So if they had presented us with some evidence to directly attack, address, we would have

done so. Instead, they didn't, and they relied on the argument of counsel, so we did not see the need to attach any evidence or specifically rebut their claims.

Under the commission's precedence and guidance, when you're seeking a stay or suspension or -- of an order of the division or commission, the commission has very clear guidance. It's a high threshold. They cite to the Tenneco Oil Company case. The requirement is to -- sorry. I wish I had my mouse.

You have to make several showings. You have to make showings, which means you have to present evidence. You have to show that you're likely to prevail on the merits. You have to show that there's going to irreparable harm unless the stay is granted. You have to present evidence that no substantial harm will result as a result of the stay.

You have to make a showing that no harm will ensue to the public interest. All these things were not done. They also have to show under the commission's own regulations that a stay is necessary to prevent waste, to protect correlative rights, protect public health, and prevent gross negative consequences to an affected party.

So what is it that they're claiming here, and what has the commission done? The commission has very clearly in the past required clear showing -- evidentiary showing of what is necessary to overcome -- that you're likely going to prevail on the merits of the claims. When that hasn't been, where there's been no evidence shown, then those motions to stay are denied.

Here, again, they have submitted nothing. They rely entirely -- we're provided them lots of evidence and the record, pressure data, injection volumes, all that has been produced to them and the division. So mere allegations of counsel, as we understand from Tenneco, is not sufficient to demonstrate their burden.

So let me just address the specific issues here; okay? What would they need to show? Well, they're going to need to show that the injection is causing waste. To do that, they have to show that the wells that Goodnight is operating tend to reduce the total quantity of oil and gas ultimately recovered from --

They have to show what the amount of oil or gas is that can be recovered and that were causing an impairment, the prohibition of them from

recovering that amount; okay? That's a pretty big showing. They haven't attempted to make that showing.

Number two, they're saying that they were harming their correlative rights. Okay. To make that showing, you have to demonstrate that there's recoverable oil or gas; okay? They're claiming that we're impairing their correlative rights in the San Andres where they're alleging an ROZ, a residual oil zone.

So to make that claim, to say that we're actually impairing their correlative rights, they have to show that the gas down there is recoverable. Technically, feasibly, reasonably. Not only that, but under the correlative rights, under the water -- under the numeration of power statute, which defines the commission's authorities, they're alleging that we're watering out in the unit strata.

Well, what does that require -- what do they need to show to prove that? They need to show that the strata are capable of producing in paying quantities. They have to show that the San Andres ROZ that they're alleging exists is capable of producing in paying quantities, and that our injection tends to reduce the total ultimate recovery from that pool.

So they have to show how much could

actually be recovered, and they need to show that they can produce paying quantities in order for them to show that we're watering out that zone. They haven't even attempted to make that showing at all. And so for those reasons, they cannot prevail on this motion.

Now, the allegations that they raise are serious and concerning, and everybody agrees, including Goodnight, that if there are over injection -- continuous over injection issues, that they need to be addressed.

In fact, Goodnight self-disclosed to the division more than a year ago that it had discovered itself that it was over injecting in the Andre Dawson well. And it was -- and it disclosed the reason for that over injection was due to a malfunctioning meter.

So back, more than a year ago, end of May, early June, Goodnight submitted a disclosure to the division, to counsel, and the UIC group, that had discovered that it was over injecting for a period of time in the Andre Dawson, explained what it found, the efforts it made to correct the issue, and that was more than a year ago; okay? So that was disclosed by Goodnight and more than a year ago.

The reason that Empire hasn't been able

to identify the C-115s that would normally show the public reporting volumes is because the completion reports, the C-104 and C-105s that are required once a well is drilled, you need to get those approved before you can physically upload the C-115 reports, the volumes and the pressures that go along with your monthly reporting requirements.

So the division has not yet approved those. They've been with the division for some time. Goodnight has been actively engaged with the division to try to get those approved as quickly as possible. They have, in the interim, provided the division with email of the C-115 reports identifying all the volumes and pressures.

As the commission may or may not be aware, there is a -- there is, has been, a substantial backlog in these completion report approvals from the division. There are a lot of them. It does tend to impact public reporting about not just injection volumes, but also production volumes as well. So that is the issue.

For those two wells, the reason that you're not seeing those volumes publicly is because we don't -- we have no way to upload them into the division system because the C-104, C-105 haven't been

approved. Once they are approved, then the system allows for the volumes to be uploaded. So those -- the division is aware of those issues and we've been working with them for more than a year to try to get that resolved.

The injection issues, in their complaint -- in their complaint, in their motions, they allege that all of these wells have limits of 25,000 barrels of water per day. In fact, it's really easy to look at the orders, and you'll see that actually four of them have no limits whatsoever, and they're entirely based on the pressures; okay?

Now, more recently, the division has over concerns of induced seismicity, especially in the deeper Devonian where you're closer to basement rock, had imposed some rate limitations for high capacity disposal wells.

Now, the concern around those higher rate wells is generally limited to the Devonian where you've got basement rock. I understand there's some scientific papers and research that indicates that for those deeper formations, rates can influence induced seismicity, even though the injection pressures may not be an issue.

So the division has instituted more

recently rate limits on some of the SWDs. I'm going to explain a little bit for you on that because I think it's helpful to put this all in context.

The way the rate limits came up for the San -- for the Andre Dawson and the Ernie Banks is that when Goodnight filed a C-108 application, which is this snippet up here showing what they proposed, they initially proposed 25,000 barrels per day for the Andre Dawson and the Ernie Banks.

The reason they chose that number, as you will hear in about a month, is because 25,000 barrels per day is more than what they inject on an average basis in a month; okay? That is generally more than enough to manage their injection rates.

The issue is, and it's becoming more of an issue now as we move into more modern well completion practices, is that Goodnight experiences surges of disposal volumes. More commonly now, operators out in the field are completing their wells in batches. So rather than drilling one or two wells and getting flow back from one or two wells, they're doing batch drilling.

So when Goodnight first terminated these wells, you -- maybe you get batch drills for four or five days, and you get a slug of water over

four or five days. Now, you're seeing batch drills that take two weeks or so to complete. So you're getting more wells, you're getting longer laterals, and you're getting more flowback water, so you get more volumes in a big slug.

Goodnight's practice has been disperse the flows to as many wells as possible over an area so they have a central receipt point on their pipeline, they monitor the flows, they treat the water, they put it out to their multiple SWDs to manage the volumes and pressures.

So they have initially identified 25,000 barrels as enough, and in fact, the four wells that are currently injecting into the EMSU since January 2023 have averaged less than 15,000 barrels of water per day; okay? That's the average for the four wells injecting into the EMSU. So well under the 25,000 barrel per day limit.

Same here with the Ernie Banks. This just shows you, you know, what was initially proposed, what the order provides for, and you'll see that it does provide for 25,000 barrels with the rates and the pressures. So those are the only two wells out of all of the ones that were being accused of here that have an injection limit.

As I mentioned before, we've already self-disclosed on the Andre Dawson. As a result of the allegations here, we went through more recent injection volumes and did identify a few days for the Ernie Banks that have exceeded the 25,000 barrel limit. I understand that there is a valve issue that may have caused that. It's a few thousand barrels exceedance for a couple days.

But I'm going to show you at the end here to address any concerns about what the -- I mean, we take this very seriously obviously because Goodnight did self-disclosed when it did go over. And the intent is to make sure that they are in compliance. We take it -- Goodnight takes it very seriously.

Now, this just to sort of explain again the context here. The 25,000 barrel per day limit, was it proposed by Goodnight? It's not a technical limit -- space limit. It's not a limit that's tied to pressures. It's simply what Goodnight proposed. The division adopted it when it issued the orders.

And for one of the wells, the Andre Dawson here, we're actually asking for an increase as part of these cased just to accommodate the spikes that occur on occasion so we can make sure that we're

staying within our limits; okay?

Now, what does this look like in terms of pressure; okay? We 100 percent agree with Dr. Ampomah that the issue here is about pressures. So this is a chart that shows back from January 2023 to about the present for two of the wells that have the injection rate limits.

The squiggly lines here are the surface injection pressures; okay? You'll see that they tend to be very low and they bop up and down here and there; okay? And you'll see that for the blue line here, that's the Ernie Banks, there are some higher points up here; okay?

Now, what is the limit that the division has imposed; okay? Well, you look on the lefthand side on the y-axis, that's the PSI. You'll see the limits are way up here; okay? The Dawson is at 857, the Banks is at 862. We are far below those limits.

And the reason you're seeing some of the spiking here is simply because of scaling. Scaling is a common occurrence with saltwater disposal wells. As scaling occurs, Goodnight periodically will acidize its wells. And you'll see they just acidized at the end of July.

After they did their acid test -- acid cleanout, the wells both went back to vacuum; okay? Despite their injection rates. In other words, there is no impact to the reservoir. The reservoir is receiving the volumes on vacuum, meaning there is zero pressure buildup in the well.

Now, on the point that Empire made, they're seeking relief, they're seeking -- they want us to suspend or stop injection until -- on the assumption, I presume, that we're injecting continuously over the volumes here. And so they're asking for Goodnight's wells to be shut in until the net -- the over injections are balanced with the amount of the authorized injection.

Well, here's -- you know -- we've given them the data, and they would be able to see that if you put this data on a plot, you'll see that for both these wells, we're actually under by more than five million barrels. I mean, if you were to ask us to apply that relief right now, we could continue to inject because there's no issue. I mean, every day we're under injecting on average what the total volumes are with these wells.

So not only was there no evidence, but the claims, I think, are unsubstantiated. There are a

few days that have exceeded the injection rates. Goodnight takes it very seriously. They're addressing those issues. In one case, it was a metering from last year. We self-disclosed that.

On the Ernie Banks, there were a few additional days that had a different issue with a valve. And Goodnight, as I understand it, has completed that in fixing that issue. That was back in 2023. My understanding, and we'll provide all the data to Goodnight -- to Empire and to the division, is that there have been no further exceedances of the injection rates.

So Mr. Acting Director Razatos and commissioners, we ask that this motion be denied. These issues all are going to be heard by the commission in a month. They can continue to raise their allegations about over injection or over pressurization or communication with other zones, and we'll address them in the full course of that hearing.

And, you know, rather than present the data to the commission, for us to actually respond to -- they just relied on allegations. And we take those very seriously and want to have a full hearing and airing of all these issues in September.

MR. RAZATOS: Thank you, Mr. Rankin.

Any questions from the commissioners?

MR. PADILLA: Mr. Chairman, may I respond?

MR. RAZATOS: Please.

MR. PADILLA: Mr. Rankin makes an interesting argument about injection rates and volumes and that kind of thing, and he throws in the Devonian here. That one's particularly interesting because the Devonian has a disposal interval between 1,000 and 1200 feet of disposal zone. That's not the case with the San Andres. And the Devonian has nothing to do with the -- Devonian. The Devonian is not even relevant to this proceeding.

He talks about the C-115s. They have never been produced to us in discovery. And I don't know why, but we haven't received the C-118s that they have in their pockets somewhere, so --

And then he talks about surges. If you have surges, you got to do something about evening out those surges. And that means reduce injection volumes so that you can even out and not have the surges. The question -- the issue of whether or not a meter was inoperative, we don't know that. In their response, they never address any of this information that Mr. Rankin has submitted here.

If you look at their response, they go a lot into -- we had to respond to their argument on injunctive relief. It probably has something to do with it here. I mean, we're talking about a stay. We're asking for a stay and suspension and said what we're doing. And yes, a lot of this evidence is going to come in in September.

But to the extent that they're -- we didn't file this motion just for the frivolity of it and trying to be argumentative. I mean, what we saw is based upon information that we had. So if Mr. Rankin has C-115s in his pocket somewhere, then those should've been produced to show in the response that our allegations were misplaced.

So I don't know. We can go argue all day long on this thing, but I think Mr. Rubin's analysis is correct is that somehow there has to be an accounting, and ought to come before September.

The issue here is over injection. It's not the merits of whether there's ROZ in the San Andres or correlative rights. We're talking about existing orders that we see are being over injection -- where there's over injection. A systematic practice that should be addressed by the commission.

And I think the accounting should be coming. I mean, that's an order that the commission can issue at this point.

MR. RAZATOS: Thank you. Just to make sure -- just so we could have questions for Goodnight. I know Dr. Ampomah, you seem to have some questions as well. Commissioner Bloom, you may also. So go ahead, Dr. Ampomah.

MR. BLOOM: I want to -- Mr. Chair, if I could quickly.

Mr. Rankin, if you're doing sharing your screen, you could perhaps pull that down.

MR. RAZATOS: There we go. Thank you, Mr. Rankin.

DR. AMPOMAH: No, I really wanted that screen. I want the representation up. So if you can bring it up where you have the pressure? Sorry about that. So the next one, the one that had the pressure.

So Mr. Padilla, I do have a quick question for you and the same for OCD as well. So as you look at this data, is Empire challenging this data based on the information you have?

MR. PADILLA: We can't challenge it today. We've got to look at it. It certainly would have been helpful to have had it in the response. But

we didn't get it in the response. So I haven't seen -- we got nothing in the response in terms of refuting any of the allegations that we had. If you take all six wells that we cited in our motion, there was no answer to those allegations.

Seems like maybe the answer to your question on pressures is addressed by that slide on -- and if that's true, I don't know. I don't know what their pressures that were reported -- that's not backed by anything other than a graph that somebody wrote.

MS. HARDY: I think to be clear, if I may just add to what Mr. Padilla has said, none of this information is evidence on the record. This is the first time we are seeing it here today. And Goodnight has failed to produce the C-115s in response to discovery request after discovery request. That's the first time we heard today that those exist. So I think that's our issue with the presentation. We haven't seen this before.

MR. RUBIN: Commissioner Ampomah, members of the commission, I think it's -- I think Ms. Hardy's correct. I do ask that we kind of limit the argument to one lawyer per party. I don't want to -- we don't want to double team Mr. Rankin here.

But regardless, that point is taken.

Mr. Rankin, members of the commission, has provided a lot of substance here, but nonetheless, it is still just a lawyer talking. And he is not pretending otherwise. There is no evidence before this commission.

And I know Dr. Ampomah, you want to get at the truth. But it would be unfair to either side to get at the truth based upon what lawyers have said today.

DR. AMPOMAH: Okay. Okay. Then I rest my case.

MR. RUBIN: Which is why I am advising that the motion need to be held in advance or perhaps it could be denied without prejudice, but we do need the hearing officer, I think to, as part of its findings, decide -- make a recommendation to this commission as to whether the permit has been violated.

Mr. Rankin, go ahead.

MR. RANKIN: Thank you. I just want to address another allegation that was made. Empire did not ask for the C-115s to be produced. And the C-115s only would show monthly volumes; okay? What they asked for were the daily volumes. And they asked for the daily pressures. So we gave them more than what

would be discernable from the monthly volumes themselves.

So if you were to look simply at the monthly volumes, you may not, as I said because the monthly average injection rates are around 14,000 barrels per day, they may not have discerned that there was ever an over injection; okay?

So we gave them all this data including the pressures. And I can't tell you exactly the date it was up to, but it was up to around the end of 2023. So they have all the pressures. They have all the rates of the timeframe. We're going to supplement up to the end of July so they have all that as well.

And I just want to make very clear that actually they did have all this and they made more than what the division would've had had it been filed publicly.

MR. RAZATOS: Thank you, Mr. Rankin.

Commissioner Bloom, I wanted to give you an opportunity to as well. I mean, in light of what Mr. Rubin said, did you have any questions?

MR. BLOOM: Yes. Thank you, Mr. Chair.

So just sort of to recap. I opened this can of worms by wanting to make sure that OCD would fundamentally be okay with an order potentially

coming from the commission, and essentially bringing this issue now into this case. You know, we heard that the OCD is okay with that not wanting to explore these issues during litigation as we heard from Mr. Moander. So I heard that. I just note that, I guess, now every allegation between parties will become part of the case.

I'm wondering -- maybe some questions for Mr. Rubin. We heard from Mr. Rankin about Tenneco may have some bearing here. And I'm also wondering if an order at this point from the commission not to over inject would serve a purpose, and that all companies need to obey their permits and state laws and regs. And also, Mr. Rubin, would an order be seen as prejudicial? Or become prejudicial in some way?

MR. RUBIN: Commissioner Bloom, members of the commission, an order as I recommended that would simply state that all over injections in violation of the permit cease would not be prejudicial. It is simply restating what should be already understood by all operators licensed by the commission or the division.

So from what Mr. Rankin has presented, Commissioner Bloom, there might even be some dispute as to what the permit says that they can do as to what

the limitations are, whether it's daily, monthly, what the exceedances -- how to calculate exceedances. So that's why I would simply want it to be sort of a conclusory order from the commission today stating, "Do not violate your permit."

And as to what that is, we will find out after the hearing in September. But it is important that we get to the bottom of whether there was a violation, and we want a recommendation from a hearing officer on that.

As you can see, Commissioner Bloom, it is a rich tapestry as to whether what the permit says and whether it's been violated.

MR. RAZATOS: Thank you, Mr. Rubin.

Commissioner Bloom, anything else?

MR. BLOOM: That's it. Thank you.

MR. RAZATOS: Excellent.

Dr. Ampomah?

DR. AMPOMAH: No, I'm okay.

MR. RAZATOS: Okay. So I'm sorry. There is the OCD, please.

MR. MOANDER: As a matter of record because I do believe these things are important and this is related to the motion, but not the substance. And I didn't get to mention it, because things got

right into the fist fight early this morning.

OCD's going to withdraw its section 2 of its response. It turned out there was a major IT problem with email. And I, as the attorney, made an allegation that turns out to be a little incorrect, and so I wanted to withdraw that on the record and make that clear so there's no confusion.

MR. RAZATOS: Okay. Thank you. Appreciate that.

DR. AMPOMAH: So Counsel, we are not really admitting what Mr. Rankin showed us today as part of the proceedings; right?

MR. RUBIN: Commissioner Ampomah, that is correct. We are not deciding anything. We are not admitting -- there was nothing to admit in terms of evidence. Again, lawyers can -- as right as the grass may be, and Mr. Rankin may be, he's just still a lawyer. And so we are not admitting anything today. And I mean that -- I'm not -- don't mean that pejoratively, Mr. -- you're a better lawyer than I.

But nonetheless -- so all I suggest that we commit to today is, if it wishes, it can order today that the permit be adhered to, be -- any over injections cease as defined by the permit, whatever that is, and to direct the hearing officer to include

in his recommendations whether the permit has been violated, and to hold in obeyance any further action on the motion not decided today. So that's what I recommend the motion be. Can I get a so moved?

MR. RAZATOS: Well, I move it.

MR. RUBIN: Okay. Do I have a second?

DR. AMPOMAH: I second.

MR. RAZATOS: It is ordered.

MR. RUBIN: We will need a roll call.

MR. RAZATOS: We need a roll call. Okay.

Dr. Ampomah.

DR. AMPOMAH: Approved.

MR. RAZATOS: Commissioner Bloom.

MR. BLOOM: Nay, and I would like to say I don't know that an order is necessary at this point, so I am not voting in favor.

MR. RAZATOS: Okay. And I approve.

MR. RUBIN: Okay. Motion passes two to one. I will draft up an order for the chair's signature later today. And so with that, any other matters on this agenda item from the parties?

MR. PADILLA: Mr. Rubin, we do have -- we need some clarification. And maybe it's already in some form. But we were -- counsel and I

were talking yesterday about the hearing examiner. Will the -- and we were wondering if the commission was going to be present during the September hearing or just the hearing to the hearing examiner?

MR. RUBIN: Mr. Padilla, I do not know the answer to that myself. I think it is at the pleasure and discretion of the commission to delegate to what extent it wishes to the hearing officer -- examiner.

MR. PADILLA: And would there be a report from the hearing officer recommending a decision one way or the other? Do you know or that's not decided yet?

MR. RUBIN: Mr. Padilla, it is my -- it was my understanding that the hearing officer, Mr. Harwood, would provide a recommendation, proposed findings, and conclusions to the commission. Is there some rule you're aware of that would preclude that?

MR. PADILLA: No, no, no. I was just wondering whether we were going to submit requests of findings and conclusions and that kind of thing.

MR. RUBIN: Yes. Mr. Padilla, the hearing officers -- with all administrative adjudication --

MR. RAZATOS: Mr. Rubin, I'm just going

to interrupt this again. There must be some IT glitch on our end, on Teams. We're still streaming. So I can see us on Teams. So we are proceeding. Sorry.

MR. RUBIN: Just open meetings and compliance, are those --

-- are people able to hear us, members of the public --

MR. RAZATOS: Commissioner Bloom, can you hear us?

MR. BLOOM: Yes. There's been no interruption on my end.

MR. RAZATOS: Okay. And can you see us?

MR. BLOOM: Yes, I can see the --

MR. RAZATOS: Okay. Good.

MR. BLOOM: -- right now.

MR. RAZATOS: Oh, there we go.

MR. RUBIN: There we go.

So to Mr. Padilla's point, hearing examiners sometimes will ask for the parties to submit proposed finding and conclusions before concocting their own. That's up to him. We would expect a report from him that this commission would then be able to digest.

MR. PADILLA: And finally, we were also wondering if -- how we're going to split up time, you

know, on who goes first, that kind of thing. That's probably something we need to talk to Mr. Rankin about, time limitations per witness and time limitations on cross-examination.

MR. RUBIN: Yes, Mr. Padilla. We are delegating those procedural matters to Mr. Harwood, but I'm sure he would welcome some consensus from the parties on those procedures.

MR. PADILLA: So if we had some concerns about that, we would with Mr. Harwood?

MR. RUBIN: Correct, Mr. Padilla.

MR. PADILLA: Okay.

MR. BLOOM: And Mr. Chair, Mr. Rubin, to my knowledge, I believe the commission has typically sat through the discussions and made questions, asked questions during hearings where there is a hearing officer. That would be my preference. But I just wanted to put that out there. I don't know if there's a consensus among the commission or how we'll handle that.

MR. RUBIN: If I may -- thank you, Commissioner Bloom. All I would ask is that the commission can be polled separated from today if a quorum of the commission wishes to be present for the hearing, we do need to comply with the Open Meetings

Act. that is the only constraint that I am concerned about.

DR. AMPOMAH: Yeah, Mr. Rubin, I remember -- when we're setting the date, I remember the commissioners were going to be present, so -- and that was my understanding too.

MR. RUBIN: Very well.

DR. AMPOMAH: Okay.

MR. RAZATOS: Okay. Any other points on this particular matter?

MR. RANKIN: I'll just say that, you know, counsel for Empire raised this question with me this morning. I think it's appropriate to confer among the parties and then coordinate with the hearing examiner outside of the commission's meeting. I think we can do that and should be able to reason to come to agreement on how to manage the procedure.

MR. MOANDER: And OCD joins in that and agrees as well.

MR. RAZATOS: Okay. Mr. Padilla.

MR. PADILLA: That's fine.

MR. RAZATOS: Okay.

MR. SUAZO: Mr. Chair.

MR. RAZATOS: Yes.

MR. SUAZO: May I be heard briefly?

MR. RAZATOS: Please.

MR. SUAZO: I'm Miguel Suazo, and I'm representing Pilot Water in a matter that is impacted by the matters that are before the commission today. And since we're talking this procedural grounds, I just wanted to flag for the commission that Pilot Water would like to participate in the hearing in September. The nature of that participation is going to be limited in scope.

But essentially what I wanted to flag for the commission is that Empire has filed essentially similar, you know, complaints against Pilot as it has against Goodnight. Specifically, they're challenging order SWD-1750 and an order R-23254, which was issued on June 26th.

They essentially state Pilot -- it's a matter pending the outcome of these proceedings today and the hearing in September. And so Pilot would just like to ask to be included with the discussions with the parties and the hearing examiner so that they can participate in September, potentially furnish a witness, although no decision has been made.

But most certainly to impart testimony to the effect or at least a statement to the effect that they are supportive generally of Pilot's position

in terms of its take on the impact to the EMSU in the San Andres in this proceeding, which stands to impact Pilot's interests in the San Andres outside of the EMSU.

MR. RUBIN: If I may?

MR. RAZATOS: Please share, Mr. Rubin.

MR. RUBIN: Mr. Suazo, I don't have the rules in front of me, but has there been a formal intervention by Pilot?

MR. SUAZO: Well, I would need to go back and look at the filings for this particular case. I know that Goodnight has intervened in our case and there was testimony from -- before the division about the fact that these matters are related.

I don't think that they've been formally consolidated, but they are, nevertheless interrelated, which is why they were stayed. So if that is a procedural matter that needs to be undertaken, I suppose we should discuss that and decide if that something that for purposes of recordkeeping, the commission and counsel would like to see just with those new issues once the hearing date is actually upon us.

MR. RUBIN: Yes, Mr. Suazo. I think you'd be well advised to consult the procedures on

this and the rules as to what you can do and cannot do with that intervening. I'm sure that the other parties may have opposition to you participating without something formal from your client. Thank you.

MR. SUAZO: Thank you.

MR. RAZATOS: Excellent. Anything else on this matter?

Okay.

MR. BECK: Commissioners, this is Matt Beck on behalf of Rice Operating Company and Permian Line Service, LLC. We stand in a similar position to Pilot. We have intervened in this matter, and so we're in the exact same position. Empire filed applications, they moved to dismiss them, but because of the commission's stay, they haven't been dismissed.

So we'll participate in a -- I would think in parallel manner with Pilot and the like manner and make sure that we're cleared in those discussions as well.

MR. RAZATOS: Right. Thank you, Mr. Beck. I think what Mr. Rubin said applies to you as well. So --

MR. BECK: Certainly.

MR. RAZATOS: Excellent. Okay. So this matter is complete.

MR. RUBIN: Yes, Mr. Chair, I would advise that we move on to the next agenda item.

MR. RAZATOS: I think we also need a little break, so how about we take a break? Let's take a ten-minute break. Thank you everyone.

(Off the record.)

MR. RAZATOS: Our next case is case number 24683, application of Western Environmental Law Center, Citizens Caring for the Future, Conservation Voters of New Mexico Education Fund, the Dine C.A.R.E., Earthworks, Naeva, New Mexico Interfaith Power and Light, San Juan Citizens Alliance, and Sierra Club to amend 19.15.2, 19.15.5, 19.15.8, 19.15.9, and 19.15.25 NMAC.

Are all the parties present for this particular case? Excellent. Great.

Mr. Rubin.

MR. CLOUTIER: Mr. Chair, this is Andrew Cloutier. I'm here on Teams, not present.

MR. RAZATOS: Excellent. Thank you, sir.

MR. RUBIN: Mr. Chair, members of the commission, at this point, it would be appropriate to have the petitioner, the parties seeking to have the commission initiate this proposed rulemaking to

address the commission and make a presentation, mindful, of course, that they should not be too substantive in nature as ultimately a hearing would resolve that -- a public hearing. Thank you.

MR. RAZATOS: Excellent. Thank you, Mr. Rubin.

So who would like to start off?

I can barely see you. Sorry. Sure. There you go.

MS. BEASLEY: There you go. Good morning, and thank you all. I'm Ally Beasley, counsel for Applicant. And here with me today are my cocounsel, Kyle Tisdel, Morgan O'Grady, and Tannis Fox over there.

So as you all sort of outlined, we are seeking to amend 19.15.2, 5, 8, 9, and 25 NMAC governing definitions, enforcement, and compliance, certain financial assurance provisions, well operative provisions, and well plugging and abandonment.

New Mexico needs an effective regulatory scheme in order to facilitate plugging and abandonment of wells when they reach the end of their useful lives, and to ensure that the state and its taxpayers don't bear the cost of orphan wells. And currently, the commission rules allow operators to

post financial assurances that fall short of the actual costs of plugging and cleanup.

And when wells reach the end of their useful lives, those wells needs to be sort of properly plugged and abandoned. And this discounting of that cost creates a significant gap between total estimated cost for the State to plug all of its oil and gas wells, and what actually is available for that purpose in funds held by the State for financial assurances.

And the current rules also allow operators to keep wells in temporary abandonment status indefinitely. And this creates risks for the State and its taxpayers and our communities, environment and financial risks when these wells can sort of linger in temporary abandonment and are at increased risks of becoming orphaned without any demonstration that the wells will return to beneficial use.

So this proposal, these proposed amendments seek to address these regulatory gaps and the attendant health and environment and financial risks.

We, in preparing this, we consulted with staff from both the Oil Conservation Division and the State Land Office about our scope and language of

our proposal. And we really appreciate the willingness to meet and the input.

And likewise, prior to filing the petition, we met with representatives from NMOGA, IPANM, the Permian Basin Petroleum Association to give them notice of our filing. And we look forward to continuing conversations with all parties here, and hope work with the parties prior to hearing if hearing is granted to try to find common ground and narrow the scope of the issues further.

Today, we respectfully request that the commission schedule a hybrid hearing on this matter beginning April 7, 2025, and continuing after as necessary. We anticipate needing about a week for the hearing, but of course, that's up to the commission, and it could go longer.

We had originally requested a hearing date in October, and then when we moved this meeting forward from July to August, we're looking at December. But in order to accommodate other Oil Conservation Division hearings coming up this year, commission hearings, and the upcoming legislative session during which the commission typically does not meet, we have proposed to move that date to April 7th for the start date for the hearing, and filed an

amended proposed notice to that effect earlier this week.

And we also request that the commission issue an order appointing a hearing officer in this matter and requiring that the parties file each witness's full direct testimony and exhibits by January 31, 2025. So that would be two months in advance of the April date if that were to be April. And then each witness's full rebuttal testimony a month in advance of hearing date, which for an April 7th hearing would be March 7, 2025.

And we request that full direct and rebuttal testimony rather than the concise statement of testimony as contemplated in the rules at 19.15.3.11(b)(2), so that the party and the commission have a full understanding of the evidence prior to hearing, and we can present a more fulsome record for decision at hearing.

This is something that we have seen in the Water Quality Control Commission, Environmental Improvement Board, and PRC hearings, and so we are proposing the same here. And it's my understanding that a similar process is happening before the commission in the PFAS hearing later this fall, so --

Yeah. Thank you for considering our

request for hearing, and I'd be happy to answer any questions.

MR. RAZATOS: Excellent. Thank you.

MR. RUBIN: Ms. Beasley, I apologize. I'm having some issues with my laptop. Do you have a hard copy of the strikethrough, redlined version of the proposed rules? An extra copy?

MS. BEASLEY: Would you like --

MR. RUBIN: Yeah.

MS. BEASLEY: It's not in red, but it does have the strikethrough. So it's starting here. Oh, it's -- I can extract it. You have one? Oh.

MR. RUBIN: Mr. Chair, members of the commission, I just would advise that we hear from anyone else, any other interested parties before we hear from the commission.

MR. RAZATOS: We'll just go down the table from --

MR. RUBIN: Looks like that's what we're going to do.

MR. RAZATOS: Okay. Awesome.

MR. SUAZO: Thank you, Mr. Chair. Good morning commissioners. My name is Miguel Suazo. I'm with the Santa Fe of Beatty & Wozniak, joined today by my colleague, Kaitlyn Luck. And we're here today

representing the New Mexico Oil and Gas Association, also known as NMOGA, which consists of over 200 member companies operating in New Mexico who help support our state schools, including producing almost $14 billion in 2023 alone.

I'm pleased to be here today on behalf of NMOGA. And I'm here because NMOGA's position on this rulemaking and the need for a hearing is clear. NMOGA opposes a hearing on these proposed rules. And the reason why is because these rules as drafted do not fit the needs of the industry. These rules demand additional clarity and flexibility.

Good rules must establish clear, cost effective, and performance-based standards. These rules do not achieve that. Rules must provide flexibility for operators and for the commission and the division. They should allow for operational flexibility without imposing rigid constraints. These grids do not achieve that purpose.

Rules should also not overburden those who are required to abide by them. NMOGA opposes generally rules that are overly burdensome, duplicative, redundant, impractical, and ineffective. That is what these rules are.

Now, it's important for the commission

to understand that these rules with impact industry differently, especially smaller oil and gas businesses. And these are businesses that generate value for our state's economy that are impacted.

There's a financial burden associated with these rules. They'll force companies, large and small, to bear significant costs, not only to ensure compliance, but also to navigate their own risks and expensive requirements.

These rules will create compliance and operational challenges. And that's because these rules are unclear and impractical. And because they are impractical, they'll also be difficult for this commission and OCD to implement them.

So bottom line here, broadly, which is what you've requested today, these rules need drastic refinement. To be practical and meaningful, the rules need substantial revisions to align with industry realities and avoid unnecessary strain on New Mexico's businesses.

And finally, as you heard the applicant's counsel say, they let NMOGA and IPANM know that these rules were coming, but they didn't collaborate with the industry to make sure that these rules made sense from an industry perspective. So

this rulemaking, unfortunately, arises under unfortunate circumstances.

The initiation of this rulemaking could've been more effective if it were approached with greater collaboration. This rulemaking was pursued without industry engagement. There was no consultation with NMOGA, the state's largest oil and gas trade association.

So this is really a missed chance for partnership with the application, and a valuable opportunity that was missed to work together. And as a result, these rules, as anybody who's worked in this industry for any number of years can see that these regulations reflect a lack of industry perspective and expertise.

You know, NMOGA is dedicated to industry improvement, and anyone who's worked in this industry knows that oil and gas operations have functioned better in recent decades than they did in decades prior.

NMOGA would've preferred a cooperative approach in this rulemaking, but instead, because it requires so much work to make these rules make sense for the industry itself, NMOGA has to oppose this rulemaking and opposes any hearing on these rules.

And if any rules are passed, industry should be involved from their inception before they are filed.

Instead, today, NMOGA's here in a reactive position formulating -- is placed in a reactive position that's neither productive or conducive to the industry's growth, and it taxes the resources of the agency's charge with regulating NMOGA's oil and gas industry. And because of that, NMOGA opposes these rules, opposes this rulemaking, and opposes any further hearing on these rules. Thank you.

MR. RAZATOS: Thank you, Mr. Suazo. Appreciate it.

Mr. Tremaine.

MR. TREMAINE: Thank you, Mr. Chair. My name's Jesse Tremaine. I am the legal director for the Oil Conservation Division. And the OCD is here today to, as a general matter, to support the amendment of the referenced rules. We do agree that there may likely be necessary changes and modifications to the proposals as the parties work through this process to refine the rule. But we do see that as a matter of refinement and logical outgrowth rather than going back to the drawing board.

I do, unfortunately, have to disagree

with Mr. Suazo. In my opinion, this has been a highly collaborative process, not the draft of this particular rule, but all of the parties present were party to probably something like a six-month stakeholder engagement process related to proposed amendments starting in 2023 to the Oil and Gas Act.

Now, you will see that there are, if you review the legislative proposals as opposed to WELC's petition to amend these rules, you will see that they are somewhat different, and that is the necessary nature of taking the critical aspects of what were proposed and discussed over a period of months between all of those parties of that stakeholder engagement, and applying it to the current existing statutory authority.

So we're inherently dealing with a different proposal because we're talking about modifying rules under the existing statute as opposed to modifying the statute.

But additional changes to transfer requirements, modifications to financial assurance, inactive well plugging, these are all issues that the State and the Oil Conservation Division have numerous public presentations regarding, and our position has been clear and quite detailed regarding the inactive

well and financial assurance liability posed to the State and the demands placed upon the current reclamation fund and available BIL funds.

So we do support some form of the current proposal, and we'll eagerly work with all of the parties present in the case. We support this going forward. OCD has reviewed the draft notice presented by Western Environmental Law Center, and provided some initial, like, technical wording feedback. And we've also recently received some proposed edits and comments on that in a comment form -- in a redline form. But that is helpful from IPANM.

So given that there is some additional feedback on that proposed notice, I am proposing to the commission that it might appropriate to allow the parties to consider that input, provide a deadline by which the parties can submit a stipulated -- either a stipulated notice or a stipulated prehearing order such as we did during, you know, the last ruling that is currently underway, PFAS rulemaking, that is at the pleasure or direction of the commission.

But I think those are alternatives that will allow the parties to work through some of the procedural questions that were presented in the filing

this morning IPANM. And I think that could be processed relatively quickly.

And the last thing that I will comment on is just as a procedural matter, OCD has proposed in discussion with all of the parties -- after discussion with all of the parties, we had proposed April as a potential rulemaking date, April 7th, or frankly anytime in April works for the division because of our witness and legal resource availability after session, we think that that would work. We do have some limitations in terms of May to push that out. Critical staff will be out during that period of time.

So in summary, we think that there is a lot of record and a lot of history and a lot of engagement here. It is critical, absent some change during the legislative change, to address the liability presented by the State of matters on the ground in New Mexico and the current language of the rules, and we support this rulemaking petition going to hearing in April.

MR. RAZATOS: Excellent. Thank you, Mr. Tremaine.

Mr. Feldewert.

MR. FELDEWERT: Good morning, Mr. Chair, members of the Commission. Michael

Feldewert representing the offices of Holland & Hart on behalf of OXY USA, Inc. OXY does not take a position on whether you should hold a hearing or not. I do have some comments, I guess, on the filing by WELC on the proposed notice of hearing.

One would be a request that if we're going spend your time and our time and all this money on any rulemaking, that if you're going to present a technical witness, the technical witness be here so that you can have more effective examination of that witness. So that would be my first proposed suggestion.

Secondly, to avoid any surprise if we do have a hearing, that not only technical testimony and exhibits, but any exhibits that would be considered nontechnical, whatever that necessarily means, that those exhibits be filed in advance of the hearing, not on the day of the hearing.

We don't know what those exhibits would be. Nobody wants to surprised. It's not too big of a burden to ask someone who wants to present nontechnical exhibits at the hearing to file them ahead of time. We did that in the procedural order for the PFAS rulemaking. I think it makes a lot of sense.

So if you're going to have a hearing, those would be the two changes that I would suggest. One, technical witnesses be here. I'm not talking about nontechnical, I'm not talking about public comment. I'm talking about technical witnesses, that they be here for effective cross-examination.

And then secondly, that any exhibits that you're going to -- people want to file, that they be filed ahead of time with the parties and the Commission so we have no surprise.

MR. RAZATOS: Thank you, Mr. Feldewert.

And Mr. -- and I don't remember how you pronounce it. Mr. Cloutier or Cloutier?

MR. CLOUTIER: Cloutier, but I've been called worse, so --

MR. RAZATOS: Okay. I apologize.

MR. CLOUTIER: No problem at all.

Good morning, Mr. Chair and members of the Commission. Andrew Cloutier of the Hinkle Shanor firm, representing the Independent Petroleum Association of New Mexico. Like NMOGA, IPANM strongly opposes the rule making on three primary bases.

First, I'm not going to repeat Mr. Suazo's comments about the needs for refinement and more collaboration, but I fully agree with and

IPANM adopts Mr. Suazo's comments by way of supplementation.

My client was notified of the proposed rulemaking about a week before the filing, and we believe a true collaborative process should not be under the gun of a upcoming hearing date, and the commission should direct the parties to collaborate some more before there's a filing.

We also oppose on public policy grounds, and thirdly, because the commission lacks statutory authority to enact many of these proposals.

That said, I'd like to make some comments. Mr. Tremaine correctly states that I filed this morning, based on receiving on the evening of April 12th the amendments to the proposed notice of hearing. I'd like to make some comments about those suggestions because I -- as indicated in the filing, I would make my comments here.

Mr. Tremaine identifies correctly that there was house bill 133 before the recent legislative session which had the strong backing of the administration, it did not pass. While IPANM believes that its failure to be enacted into law combined with the administrative's efforts to get that bill enacted into law is highly instructive on the issue of the

commission's authority to enact the proposed rulemaking. I'd like to raise it for a more practical issue, which is the hearing date.

As Mr. Tremaine alludes, and IPANM hears there's rumors that some version of house bill 133 may be submitted in the upcoming legislative session. I'm going to briefly share a screen with you. This is the calendar of session dates on the legislative session.

And on April 11th is the last day for the governor to -- or I guess April 10 is her last day to act on legislation. April 11th is the date that unacted upon bills become pocket vetoed. So the proposed hearing date is prior to what we will know about the ultimate results of the upcoming 60-day legislative session, and the 20-day period there is constitutional under Article 4, Section 22 of the constitution.

So assuming the legislature's website is correct about the dates of the session, that is the date for the so-called pocket veto, therefore, if the commission is going to move forward with the public hearing, which again, IPANM disagrees with, but if it does, the hearing should occur sometime after we all know what we're dealing with in terms of legislative

history.

I don't have a crystal ball, but it's very obvious -- or very easy to imagine a scenario where there is a reintroduction of some version of house bill 133 in the next session that some form of that bill passes with amendments.

And given a bill that presents her with some but not all of what she asks for or contains provisions that she may not have wanted, there's no guarantee we're going to know by April 7th what the governor has done with any bill that may alter the Oil and Gas Act. So we submit that some later date at the convenience of the parties would be more appropriate.

We think that the notice of hearing, and I provide specific language in my filing, ought to contain a provision for concerning motions because as IPANM believes, and I think NMOGA's also suggested, there's arguments about the Commission's authority to enact some or all of the proposed rulemaking.

We take issue with the legal authority section and think it should be amended. In particular, it currently that the proposed rule is authorized, et cetera. We believe that it ought to state "Applicants contend that the proposed amendments are authorized," because this commission has not made

any finding that it has the authority to enact these rules, and that issue will be disputed.

I agree with Mr. Feldewert's comments about the testimony section. IPANM is also considering expert testimony, and so we wanted to make clear that technical testimony includes expert witness testimony. And we believe that there should be a provision also that in the event -- especially in the event of some developments in the 2025 legislative session, for good caution, written testimony could be revised, supplemented, or new testimony offered.

Finally, Ms. Beasley, I think, articulates sensible and prudential reasons for submitting nontechnical, nonexpert testimony in writing, and IPANM agrees with this proposal. For that reason, IPANM contends there is no good reason for the oral comments section as written by the applicants, which they're proposing that anyone who essentially shows up at the hearing can offer testimony to the Commission.

Parties ought to be made to intervene and present their written nontechnical testimony in advance. The Commission should not get itself bogged down with surprise testimony, which none of us may anticipate.

Additionally, I point that both on the applicants' side and at least two of the intervener's sides, we've got membership driven organizations. I don't think the commission ought to be inviting us all to engage in the game of having our members, their employees, their friends, whatever, show up with surprise testimony at the last minute, and therefore, IPANM has suggested a completely different oral comments, which we'd be limited to traditional public comment that is usual for this Commission and more appropriate for a public body.

With that, thank you for considering IPANM's comments, and we look forward to hopefully working the parties on the rule before the commission considers any proposal. Thank you.

MR. RAZATOS: Thank you, sir. Appreciate it.

Any other questions?

Dr. Ampomah, any questions?

MR. RUBIN: Just one point of housekeeping, Mr. Chair.

MR. RAZATOS: Yes.

MR. RUBIN: Are there any other --

MR. RAZATOS: Sorry. Yes.

MR. RUBIN: -- persons entering today

that wish to offer comment on the proposed rulemaking? Okay. Hearing none.

Mr. Chair, members of the commission, if I may, briefly try to advise the commission on what we've heard here. Yes, certainly the commission, this is a proposed rulemaking. And Mr. Tremaine has accurately stated the concept that what is proposed today, what is put out for notice, does not necessarily need to be what is the final after a hearing.

The test is a logical outgrowth. So if you decide that what is being -- what is in the petition is at least, as OCD has said, could be tweaked, it could still go out for notice as is.

Now, the second point is if the commission does deem it prudent to initiate rulemaking, I do suggest that pursuant to the rules that we do have a hearing officer, and that would certainly make for a much more orderly procession of this proceeding.

Now, as to the notice, there are a lot of things we can put in a proposed notice, such as those issues of who can appear in person, who needs to appear -- who can appear virtually. That could be covered in the notice as well as what testimony needs

to be filed or not filed ahead of time.

I am mindful of the Open Meetings Act, but more importantly, the public comment provisions of the State Rules Act. And as I'm sure all the attorneys here would acknowledge, it is a gray area, what is public comment versus what is even nontechnical testimony. This came up in the PFAS as well.

And so we do have to be careful. Limiting people to pre-filings when they just want to get up and say something might be an -- might be a State Rules Act issue. But again, this could all be, in what I'm hoping would be a consensus notice or at least some consensus in a proposed notice that could be presented to the commission at its next meeting. Especially the hearing date, at least, of April 7th meets some consensus by all the concerned parties.

As to the concern about timing this with the legislature, certainly if there's legislative action that would obviate the need for any of this, that would be a wonderful problem to have. And this isn't legal advice, but waiting for a legislator to do something or not do something is a waiting-for-Godot proposition, often waiting for a pocket veto, we do know that our Governor Grisham does have deep pockets

in that respect. But again, that is still speculative.

So I did not hear from any of the parties here opposing the initiation of any specifics as directed to the specifics rather of the strike lines or proposed additions to the text. I supposed those will be tackled as part of the hearing if the commission sees fit. So the notice otherwise meets the requirements about the State Rules Act and the commission rules.

And again, I want to remind the commissioners, you may have questions about this, about the substance. I would strongly advise against getting too much into substance as there could be some argument of prejudgment. I think there are folks who would want to show up for a hearing in April who would want to hear everything the commission has to say about this.

So with that, I stand for any questions by the commission. And of course, the commission can ask questions of those parties appearing today.

DR. AMPOMAH: So I do have a question for NMOGA and then IPANM.

So you are opposing the commission setting up a hearing for this, but so were you invited

to the table or you were not invited at all?

MR. SUAZO: Thank you for the question, Commissioner Ampomah. Well, I would need to confer with my client on the exact timing. I guess what I will say is that I do take exception with OCD and Mr. Tremaine's characterization that we were involved in the development of the language of these specific rules as proposed.

And I am aware that HB-33 has been looming out there. It failed to pass. I am aware that these issues -- that the issues that the rules concern are issues that the industry has been dealing with for years.

But what I will say is that when it comes to the actual text that was submitted to the commission, that is not something that we feel that NMOGA was involved in as much as is practical and prudent, and, in our mind, essential so that the rules that are ultimately adopted ultimately make sense for the industry that actually has to abide by them.

And I think that if you put rules in front of the commission that needs significant modification, ultimately that leads to a poorer outcome rather than a positive outcome because at the end of the day, we have to abide by the rules, and the

commission and the division have to enforce those rules.

So the better they are, the more that we ensure that they make sense upon submission, that they make sense for the industry, the better product you're going to have. And that was not done here, which is why there are problems and reservations with these rules.

You know, there's no magic with adopting these rules on the timeframe proposed by the applicant. It is highly likely that a version of some of these rules will be adopted by statute after the legislative session next year.

And so what the commission faces is the prospect, and what the industry faces as a prospect, and what the applicant faces as a prospect is if there are statutes that are passed by the legislature next year, everybody's going to have to scramble to adjust their reasons and expectations and the nuance of those rules in the face of those adoptions when, in hindsight, we'll have been working on this very rulemaking may, in part, have been addressed through the statutes.

And so I think it is prudent for the commission to proceed carefully and slowly, and work

with and engage with industry so that we can do this effectively and well, and not create additional issues for ourselves just for the sake of passing regulations.

And I would remind this commission that many of these issues were addressed back in 2018. There's plenty of testimony on stripper wells and things of that nature and the impact economically. There was a robust record of the commission assessing these very issues.

This is just another bite of the apple by the applicant, and they took that bite then, they took that bite at the last legislative session, they're going to take as many bites at the apple as they can in this upcoming legislative session. And for purposes of this rulemaking, we're going to have to deal with the fallout of whatever results, if anything, but it's possible that something will.

And so if we have to scramble a month roughly ahead of our hearing to adjust to what the legislature has done, that kind of is a problem for everybody, and that's a waste of time, resources, effort, and energy, all of which are limited. So please keep that in mind. Thank you.

MR. CLOUTIER: Mr. Commissioner, the

question was also directed at me. Again, I will not repeat Mr. Suazo's comments. IPANM was approached by the applicants via email on June the 15th of this year about the proposed rulemaking, and I believe it was filed about a week later.

There was no substantive interaction between IPANM and the applicants. We were presented with rulemaking and told it was going to be filed, and we were graciously welcomed to provide them with comments, but it was not -- we were not part of the process of developing the rules presented to us as a package, and filed very shortly after it was presented to us.

DR. AMPOMAH: Then I'll follow up to the applicant, and then NMOCD. So they approached the applicant, and then NMOCD taken to make sure that the key stakeholders, those are the companies that needs to abide by these rules, more or less, you know, allowed to participate, you know, in the craft for this rulemaking?

MS. BEASLEY: Thank you, Commissioner. So our intent in reaching out was not for that to be the sort of one and only opportunity to refine the rules, to work together, to discuss the proposals. We were hoping that would be the start of such a process.

And I'm not aware of any requirements that we work to -- you know -- with any particular other parties to craft the language prior to filing.

But it was very much our intent that we would continue to do so and continue to refine these provisions and work together to try to find common ground, narrow the issues, all of that, you know, between filing and a hearing.

And in particular, given that a hearing would be now in the spring of 2025, if granted, that was fully our intent from the start was that that would just be initiation of what we hope would be a more collaborative process, and not sort of foreclosing anything further.

MR. TREMAINE: Commissioners, Jesse Tremaine for OCD. So first, a clarification. I may have misspoke or I may have just simply been misunderstood. I'm not sure which. But I was not intending to imply at any point that I had knowledge of NMOGA participating in the crafting of this particular language proposal.

What I said or what I intended to say was that NMOGA was deeply and regularly involved in the stakeholder process, and that the proposal presented by WELC represents a proposal which is

squarely within the content and the substance of those discussions from that stakeholder process that gave rise to the legislative proposal.

So I am not aware of OCD having provided substantive comment on the current proposal in advance of its filing. But we were all part of that process starting in August or September of last year, I believe, running all the way through the spring. So that was my comment.

And in terms of the stakeholder engagement, I would say that I do agree that this is simply the initiation of what OCD identifies as a very necessary and critical update to the referenced rules, and we will endeavor -- early in the process to continue to engage in that stakeholder engagement.

So I anticipate many meetings between all of the parties, exchange of additional red lines. OCD, in response to the petition, is already preparing to recommend revisions to the proposal, which we've shared with all parties. And we're pretty much, in my opinion, an open book as far as that goes.

We did not participate in drafting the petition, so we haven't had those substantive meetings with the industry stakeholders yet. We will have them.

MR. SUAZO: Mr. Chair, may I be heard briefly? Sorry.

MR. RAZATOS: Who asked?

MR. SUAZO: Miguel Suazo.

MR. RAZATOS: Oh. I'm trying to look. I apologize. Yes.

MR. SUAZO: No problem. Just to kind of harmonize what the applicant and OCD has said, and specifically, I'd like to focus on the applicant. You know, their purpose after filing is not to encourage refinement and engagement, and so on and so forth, modification of what they've proposed.

And the problem with that, and let me just take one example. Applicant uses the term "beneficial use" in their application. Beneficial use is the rock upon which their application is built. And as an environmental and more importantly a water law attorney, that creates problems. The term "beneficial use" is used in the Oil and Gas Act and the rules, but nowhere is it defined.

And as we know from the oil and gas context, terms of art are critical in any field of law. And protection of correlative rights, prevention of waste, those have a long body of case law behind them. Well, so does beneficial use. And beneficial

use in the context of oil and gas is a very broad term. It's a very vague term. And it runs the risk of conflating two very clear and important sectors of energy and environmental law.

And so if the applicant was truly concerned about ensuring engagement and refinement, at the very least, they could have brought industry to the table on the language of these rules so that we're not all faced with the next six, seven, eight months of trying to hash this out and make sure that the lines that currently drawn within the body of extent law are not conflated and convoluted and confused.

So I can go on and on down the list, but I've been asked not to go into depth by commission counsel. But again, these rules are half baked at best and problematic at worst. Not just now, but for the long term.

And that is why NMOGA urges this commission to reject these rules, encourage applicants to come to the table with a serious proposal after we've had the benefit of seeing if the legislature is going to pass something that alters the contents of these rules by statute so that we can actually come back and have an actual product rulemaking. So for those reasons, I encourage the Commission to reject

the rulemaking at the very least at this time. Thank you.

DR. AMPOMAH: Listening to all the arguments, I still believe NMOGA still do have the opportunity to provide input to this order or this rulemaking. So you still have the opportunity. Other than just saying we should more or less deny entirely the application, you still have opportunity to make sure your members' concerns are more or less addressed in the final draft.

MR. SUAZO: And we're not saying we don't have the opportunity. We're just saying the opportunity is now in front of us and not something that we're actually helping to put together constructively. And I think that does make a difference when you're facing procedural schedules, lining up witnesses, navigating what the legislature's doing.

You know, everybody has commitments. And so I think it's problematic under the circumstances was my point, not that we don't have the opportunity to participate in the process, Dr. Ampomah.

MR. RUBIN: Mr. Chair, members of the commission, this isn't strictly legal advice again,

but in my experience, lawyers respond well to deadlines, lawyers respond well to hearing dates, and so to the extent we want to spur the parties to get together and work out what they can work out, or really it's what they can't, as Dr. Ampomah, you have said, there is ample opportunity between now and April to do that.

And I have not heard anything -- it seems like there has been some reaching out prior to this petition. Again, so it is a long process, and as long as the final rule is a logical outgrowth of what is in the notice, the state law is satisfied.

DR. AMPOMAH: So let me ask. What prevent us more or less set in the ruling date after the legislative session? More like, let's say setting the date after?

MR. RUBIN: Commissioner Ampomah and members of the commission, there is nothing that would preclude you from giving more notice, more time through this rulemaking to proceed. The law only gives constraints as to how little time. You know, 30 days typically is what the --

So what you are proposing is certainly well within the commission's ability to do. If you want -- if you feel like it is prudent for this

hearing to be set several months after the end of the legislative session, that is certainly your prerogative, and that is certainly well within your discretion.

DR. AMPOMAH: Will that be a problem for the applicant?

MS. BEASLEY: We would prefer an April hearing, but are of course amenable to whatever the commission ultimately decides about the timing. Just given that we have already sort of moved this forward to accommodate other things, we would of course prefer April and feel that that is still ample time for the refinement and collaboration that we've discussed. But, of course, we defer to whatever the commission decides.

MR. RAZATOS: And I'm just going to interrupt. I apologize. There was concern that, well, the governor has the pocket veto authority for that particular week, which -- okay, whatever, she has authority to be able to do that and that's her job.

Could we postpone it by a week and start the 15th instead of the 7th? But would the parties be amicable to something like that?

MR. RUBIN: Again, Mr. Chair, I think the parties would probably want to get together and

propose a notice.

MR. RAZATOS: Sure.

MR. RUBIN: And everything would be wrapped into what they would have in front of us for a proposed notice including the hearing date, the procedures for witnesses, for pre-filings. It could all be something we could see at our next meeting --

MR. RAZATOS: Okay. So --

MR. RUBIN: -- in the form of a notice.

MR. RAZATOS: Just to make sure I'm understanding, your advice is let's just say yay or nay whether we want to have the hearing, and then they can bring all that stuff to us?

MR. RUBIN: Mr. Chair, yes. What I am saying is that you could vote today to initiate rulemaking subject to the parties -- subject to approval of a notice at the next meeting.

MR. RAZATOS: Okay.

MR. RUBIN: I would strongly suggest we get a notice out in some form by this commission after the next meeting, but we would give the interested parties opportunity to present that at the next meeting.

MR. RAZATOS: Okay. I just want to make sure that we also capture Commissioner Bloom.

Were there any questions that you may have had Commissioner?

MR. BLOOM: Thank you, Mr. Chair. No, I too was interested in these questions around an appropriate date and could something that happens in the session realistically affect what might happen in this chamber.

Ms. Beasley, I don't know if you want to -- if you have any other thoughts on that, I'd be glad to hear them. We've heard from, I think, NMOGA and IPANM on that. But if you have anything you'd like to add?

MS. BEASLEY: Sure. I would say given the sort of speculative nature of exactly what will even come up in session and even more so the speculative nature of what will actually get passed, even to these concerns about sort of having to scramble or be prepared, I would think it better to give ourselves deadlines, give ourselves these parameters and to be preparing in advance in the instance that something isn't passed legislatively so that we are not then scrambling to sort of come up with something and work out all of these procedural details if something isn't passed that changes these drastically while still leaving room for amendment

should something get through.

But in terms of that sort of causing a scramble to prepare should something pass, I think that one could argue that there would be a scramble if it didn't as well, and, if anything, I think that this would allow the parties to prepare more thoroughly for whatever may happen, and then adjust as needed if, say, the scope gets significantly narrowed by something that were to come through the legislature.

It's unlikely that something would go through that would broaden the scope significantly.

MR. RAZATOS: Thank you. Any other question, Commissioner Bloom?

MR. BLOOM: No, that's it. Thank you.

MR. RAZATOS: Okay. So Commissioners, I guess it's the question do we want to proceed with a rulemaking?

MR. BLOOM: Mr. Chair, I believe we should proceed with rulemaking, and I like Mr. Rubin's suggestion that we entertain specific dates potentially at our next meeting, but sometime in the future.

MR. RAZATOS: Okay. Thank you.

MR. RUBIN: So as I understand it from Commissioner Bloom, a motion is to initiate rulemaking

and to approve a proposed notice at the next meeting that would encompass the concerns.

MR. RAZATOS: Okay. So that was the motion. Do we have a second?

MR. RUBIN: Mr. Chair, did you make the motion?

MR. RAZATOS: Oh, I'm sorry. Well, I thought you were making the motion.

MR. RUBIN: Oh, I can't make it.

MR. RAZATOS: Well, I was -- that's why I was wondering. I was like, "Oh."

MR. RUBIN: No, I state the motion, and then I hope that one of my clients says, "So moved."

MR. RAZATOS: Okay. So moved.

DR. AMPOMAH: Yeah, so moved.

MR. BLOOM: I'll second.

MR. RUBIN: And can we have a roll call vote, please?

MR. RAZATOS: Okay. Commissioner Bloom?

MR. BLOOM: Approve.

MR. RAZATOS: Dr. Ampomah?

DR. AMPOMAH: Approved.

MR. RAZATOS: And I approve as well.

MR. RUBIN: Okay. Anything further

from the parties?

MS. BEASLEY: No, thank you, and we look forward to following up about the notice.

MR. RUBIN: Thank you.

MR. SUAZO: Nothing further. Thank you.

MR. RUBIN: Mr. Chair, do you want a brief break, or should we move right to item three, which is, I believe, a hearing?

MR. RAZATOS: I was thinking maybe we take a ten-minute, and we can go from there, so -- thank you, everybody.

(Off the record.)

MR. RAZATOS: Our next case is case number 24594, application of Targa Midstream Services, LLC for authorization to inject in Lea County, New Mexico. Are all the parties present?

MS. HARDY: Yes, I believe so.

MS. SENINGEN: Yes.

MR. RAZATOS: Excellent. Great. So Ms. Hardy, we will start with you.

MS. HARDY: Thank you. I'm Dana Hardy with Hinkle Shanor on behalf of Targa Midstream Services, LLC.

MS. SENINGEN: Hi, my name is Anna

Seningen, and I'm representing the Oil Conservation Division today along with Jesse Tremaine, the OCD legal director, who's here to help me if I need it.

MR. RAZATOS: Excellent. Ms. Seningen, thank you. You'll do good.

MS. HARDY: And Commissioners, would you like me to provide a brief opening?

MR. RAZATOS: Please, go ahead, Ms. Hardy.

MS. HARDY: Well, thank you all for your time. In this case, Targa seeks authorization to inject treated acid gas, which we will refer to periodically as TAG, from its Copperhead gas processing plant into the proposed Copperhead AGI number one well. That well will be located in section 13, township 24 south, range 32 east in Lea County.

The well is in an underground injection control class 2 well. The well will be a vertical well. We've provided the footages and the location in our exhibits. It will inject TAG into the Devonian 31 Upper Silurian Wristen and Lower Silurian Fusselman formations at a depth of approximately 17,299 feet to 18,689 feet.

The well's proposed maximum daily injection rate is 26 million standard cubic feet per

day, and the proposed maximum surface injection pressure will be approximately 3,460 pounds per square inch.

As we will show in our testimony and our exhibits, the well, as proposed in the C-108, will not cause waste, impair correlative rights, or harm public health or the environment, including through the risk of induced seismicity. And in addition, the well will facilitate the sequestration of TAG and CO2, which is in the public interest.

And I will add that OCD has proposed permit conditions here. And as Mr. Eales will explain, Targa has agreed to those proposed permit conditions. So Targa's application for the well is reasonable, comports with the requirements of the Oil and Gas Act, and we would ask that it be approved.

MR. RAZATOS: Thank you.

Ms. Seningen.

MS. SENINGEN: Yes. May we make an opening statement?

MR. RAZATOS: Please.

MS. SENINGEN: Good morning, Mr. Chair and commissioners. My name is Anna Seningen, as I have previously introduced myself, and I am here with Jesse Tremaine, the OCD legal director, and he's going

to help me as necessary. I would like to briefly summarize the OCD's case today.

Division will present one witness, Mr. Million Gebremichael. In addition, the division will present two exhibits. One will be the conditions of approval, and the other will be the resume of Mr. Gebremichael.

The division supports the approval of the well subject to the inclusion of the permit conditions identified in Exhibit 1, and the incorporation by reference the contents of the C-108 form application submitted by Targa for this case.

The division's purpose is to conserve oil and gas, prevent waste, protect correlative rights, protect public health and the environment, and protect sources of drinking water. Thank you.

MR. RAZATOS: Excellent. Thank you, Ms. Seningen.

So Ms. Hardy.

MS. HARDY: Thank you. Targa's first witness is Mr. Matthew Eales.

MR. RAZATOS: And we need to swear him in; correct?

MR. RUBIN: Sure. I will swear in the witness.

MR. RAZATOS: Okay.

MR. RUBIN: Mr. Eales, you've raised your right hand.

WHEREUPON,

ROBERT MATTHEW EALES,

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

MR. RUBIN: You are so duly sworn.

Proceed, Ms. Hardy.

MS. HARDY: Thank you.

VOIR DIRE EXAMINATION

BY MS. HARDY:

Q Can you please state your full name for the record? Can you turn on your microphone?

A There we go. Robert Matthew Eales.

Q Mr. Eales, by whom are you employed and in what capacity?

A Targa Resources as the vice president of regulatory affairs.

Q What are your responsibilities in that position?

A I'm responsible for the permitting of and compliance with AGIs.

Q Have you previously testified at a

commission hearing?

A Yes.

Q Can you please briefly summarize your education and professional experience?

A Yes. I have a master's degree in environmental engineering from University of Kansas, 26 years of oil and gas experience in international and domestic roles, primarily in environment and health and safety, and most recently five years working the state of New Mexico and our operations and midstream operations.

MS. HARDY: Based on Mr. Eales' qualifications, I would request that he be qualified as an expert in environmental engineering.

MR. RAZATOS: If there's any concerns? None? Okay.

MS. SENINGEN: No objection.

MR. RAZATOS: Excellent. Thank you.

MS. HARDY: Thank you.

INATION

BY MS. HARDY:

Q I would like to share our hearing exhibits so we can go through them. So let me share my screen. Mr. Eales, can you see the screen that's in front of you? Is that turned on?

A No. Just showing the same images.
Q Okay.
A Yeah.
Q Can you see the exhibits now?
A Yes.
Q Okay. Mr. Eales, can you please -- let me just get to it -- identify the document that is marked as Targa Exhibit A?
(Targa Exhibit A was marked for identification.)
A That is our C-108 application and the hearing exhibits.
Q And are these document true and correct copies?
A Yes.
Q And let me just go to the C-108. Did Targa retain New Mexico Institute of Mining and Technology, which I'll refer to as New Mexico Tech, to prepare its C-108 application?
A Yes, we did.
Q And were you involved in that preparation?
A Yes.
Q And will other witnesses testify here today regarding the content of the C-108?
A Yes.

MS. HARDY: Commissioners, just so I don't forget later, I'd like to move the admission of Targa Exhibit A, which is the hearing application, and the attached C-108.

MR. RAZATOS: Any objections?

MS. SENINGEN: No objection.

MR. RAZATOS: Submitted.

MS. HARDY: Thank you.

(Targa Exhibit A was received into evidence.)

BY MS. HARDY:

Q Let's next go to Targa's hearing presentation, which hopefully this isn't making people dizzy. I'm almost there. Okay. Can you see that, Mr. Eales?

(Targa Exhibit B was marked for identification.)

A Yes, I can.

Q Okay. Okay. And can you please identify this document?

A Yes. That is our hearing presentation for today.

Q And were these slides prepared by you or under your supervision?

A Yes, they were.

Q Okay. And here on slide 2, this is outlining Targa's presentation and witnesses today; correct?

A That is correct.

Q Okay. So you will provide the overall introduction, and then Mr. El-Kaseeh will provide the site geology and hydrogeology and the dynamic reservoir simulations, and Mr. Ragsdale will provide the wellbore design?

A Correct.

Q Okay. Thank you.

Let's first look at the overview of the Copperhead area and slide number 4. Let me just shrink this down a little bit. Can you please summarize or describe the information provided on that slide?

A Yes. This slide is demonstrating the -- the growth that we have seen to date and anticipated growth for gas and oil volumes, to the right being the gas. You'll see that we've seen a 17 percent cumulative annual growth rate. Can expect that to continue growing at least at 6 percent from -- from here.

So basically, it's just showing what -- what most know, and that the oil and gas production

is -- is growing in southeast New Mexico.

Q And does this slide support Targa's need for this well?

A Yes.

Q Look at the next slide, slide 5. Can you describe generally the well location?

A Yep. So the proposed well that we're calling Copperhead AGI is located about 25 miles west of Jal, New Mexico. Again, in the southeast New Mexico corner.

Q And is additional natural gas treatment capacity necessary in this area?

A Yes, it is.

Q Can you describe the information shown on slide 6, which involves the Copperhead gathering and processing needs?

A Yes. So the -- the image on the left shows the gathering system that exists for Targa. You'll see Roadrunner and Carlsbad, Red Hills plant, and then Copperhead about 5 miles west of Red Hills, down into plants in Texas on Bull Moose and Wildcat. So it's just showing this particular area and the growth we anticipate. And you'll see the gathering lines are not as prevalent around Copperhead, but will be growing.

And then to the right is our expectation for growth and takeaway need for TAG specifically related to this well that we're requesting. We're expecting to see 10 million cubic foot per day within the first year of plant operations and stabilizing with potential growth at the upside with the -- the brown dotted line.

Q And does Targa require additional injection capacity to meet these --

A Yes, it does.

Q With respect to the environmental benefits of TAG injection, can you please summarize those?

A Yep. Yeah, so the advent of TAG injection came from protecting the environment where historically sour gas, it's a mix of H2S and CO2, was flared at sites, which creates a -- a large amount of sulfur dioxide, and it's something that -- of course one of the critical air pollutants with EPA.

So there was a conversion to injection of this TAG 15, 20 years ago and maybe a little bit beyond that in other countries, where you're taking that from the atmosphere and injecting it into the formations to eliminate that flaring and creation of SO2.

Q And without an AGI well, how would oil and gas operators treat their sour gas in the field?

A Yeah, it would be flaring.
Q Does the injection of TAG eliminate flaring -- eliminate or reduce flaring at the plant as a control for sulfur derived from the processing of sour gas?
A Yes, it does.
Q And does injection into an AGI well reduce the need to vent CO2?
A Yes, it does.
Q Will the injection of TAG here minimize CO2 emissions from the plant?
A Yes, it will.
Q In your opinion, will there be environmental benefits if Targa is authorized to inject TAG into the Copperhead AGI number one well?
A Yes, certainly.
Q Will Targa complete an H2S contingency plan before commencing injection?
A Yes, we will.
Q And in your opinion, will Targa's H2S contingency plan comply with all of the requirements set out in part 11 of 19.15 NMAC?
A Yes, it will.
Q Okay. Mr. Eales, have you reviewed OCD's proposed permit conditions?

A Yes, I have.

Q And I'm going to pull those up. And I believe they are Exhibit 1, and they are attached to OCD's prehearing statement.

(OCD Exhibit 1 was marked for identification.)

You've reviewed those conditions?

A Yes, I have. Yes.

Q Okay. And does Targa accept those conditions?

A Yes, Targa accepts those conditions.

Q Okay. Thank you. Go back momentarily to -- trying to get my screen to go back to my exhibits, but it's -- there we go.

Okay. So Mr. Eales, let's go next to our notice information that we provided in this case. Can you please identify Targa Exhibit C?

(Targa Exhibit C was marked for identification.)

A Yes. These are the notices that we provided for the regulation.

Q And did those include our hearing notice letter, the certified mail receipts, and a chart listing the parties?

A That's correct.

Q And was notice of this hearing provided to all effected parties?

A Yes, it was.

Q In conclusion, Mr. Eales, in your opinion, will the ability to inject treated acid gas into the well result in more efficient operation of the plant?

A Yes.

Q And in your opinion, will Targa's proposed method of disposing of TAG protect public health and the environment?

A Yes, it will.

Q And will it prevent waste and protect correlative rights?

A Yes.

Q Thank you.

MS. HARDY: Commissioners, I would move the admission of Targa Exhibits B and C because I don't believe I did that previously.

MR. RAZATOS: Any objections?

MS. SENINGEN: No objection.

(Targa Exhibit B and Targa Exhibit C were received into evidence.)

MR. RAZATOS: They're so submitted.

MS. HARDY: Thank you. I have no further questions for Mr. Eales. He's available for

cross-examination or questions from the commission.

MR. RAZATOS: Good training opportunity, so we'll just give them a second.

MS. SENINGEN: One moment, please.

MR. RAZATOS: No problem, Ms. Seningen.

CROSS-EXAMINATION

BY MS. SENINGEN:

Q Sorry about that. Okay. So I would like to -- you mentioned OCD Exhibit 1. I would like to direct your attention that, on number 18, it requires a redundant well. We were wondering about your operational plan and intent of the redundant well.

A Yeah, we do intend to meet the requirements of number 18 to permit a redundant well. That would allow us, if there was a need for the redundant well, to drill quickly.

Q As you sit here today, do you have an intended depth for that well?

A No. The thought, very early thought right now, would be a DMG well to be able to be in the similar property, stay within our property boundaries, 'cause we do have state land to the north, and it's best just to stay there. So if that were to be drilled, we would have the Siluro-Devonian, and then a stacked DMG.

MS. SENINGEN: No further questions. Thank you.

MR. RAZATOS: Thank you, Ms. Seningen.

MR. RUBIN: If I may, any redirect, Ms. Hardy?

MS. HARDY: No, thank you.

MR. RUBIN: Okay.

Dr. Ampomah?

DR. AMPOMAH: Thank you.

Mr. Eales, so I'm just following up with the redundant well. You said it's going to be in the DMG and then the Devonian. So can you really clarify, are you still in the preparation mode?

THE WITNESS: Yeah, I probably didn't state it clearly. This one -- this AGI number one that we're applying for is for the Siluro-Devonian. The redundant well that we intend to permit as part of number 18, at this point, it's looking like a DMG for that well would be the -- the intent.

DR. AMPOMAH: Yeah, because I was wondering if you are going to go back to the Devonian, then my question is how far would your redundant well be away from let's say the injection well? But --

THE WITNESS: It's a good question. It's a little early at this stage, but we're looking

at -- this well is on the east side of the property, number one. The second would be on the west side of the property. That's about 1600 foot to the west of this existing well. Or this -- this well that we're here for.

DR. AMPOMAH: Okay. So can you tell the commission the current gas production more like the TAG coming from the Copperhead facility right now?

THE WITNESS: Right now, it's all a envisioned facility. It's a facility that is currently a large compressor station that will be growing into a larger plant. So we do expect to see on the slide that I covered, I think the TAG is 12 -- 12 million. Let me look at that real quick.

DR. AMPOMAH: Page 6?

THE WITNESS: And that's within the first three years with potential of 25 million, but 12 million for what we foresee in the future for the first three years.

DR. AMPOMAH: Okay.

THE WITNESS: This -- this well is intended to be permitted and -- and drilled proactively to be well in advance of bringing the gas to the plant that's also would be built at the same time. Or enlarged was the proper word.

DR. AMPOMAH: So if your initial estimate is about 12,000 MCF today for a period of about three years, then why is Targa requesting 26,000 MCF?

THE WITNESS: Then it would be to anticipate the growth that we expect to see in that area.

DR. AMPOMAH: Thank you.

THE WITNESS: Yes.

MR. RAZATOS: Commissioner Bloom, did you have any questions?

MR. BLOOM: No questions. Thank you.

MR. RUBIN: Mr. Chair, I ask that this -- unless there's anything further from the division? One last question?

MS. SENINGEN: No, thank you.

MR. RUBIN: I ask that this witness be excused.

MR. RAZATOS: So excused.

Thank you, Mr. Eales.

MS. HARDY: Thank you.

Targa's next witness is George El-Kaseeh.

MR. RUBIN: Mr. El-Kaseeh, could you raise your right hand, please?

WHEREUPON,

GEORGE EL-KASEEH,

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

MR. RUBIN: You are duly sworn.

Proceed, Ms. Hardy.

MS. HARDY: Thank you.

VOIR DIRE EXAMINATION

BY MS. HARDY:

Q Can you please state your full name for the record?

A My name is George El-Kaseeh.

Q And is your microphone turned on?

A Yeah. Is this better?

Q That's better.

MS. HARDY: There's --

MR. RAZATOS: Ms. Hardy, there's some feedback as well. Can we just have the members on Teams please to mute themselves? Thank you.

Go ahead, Ms. Hardy.

BY MS. HARDY:

Q Can you state your full name again, please --

A My -- my full name is Khadir George

El-Kaseeh.

Q And by whom are you employed and in what capacity?

A I'm employed by New Mexico Tech Petroleum Recovery Research Center.

Q What are your responsibilities in your position?

A My -- I am as -- a research engineer. As well, I'm a section head for the industry service. I lead the technical team to support the industry and the challenges and anything that -- that require.

Q Have you previously testified at a commission hearing?

A No.

Q Can you please briefly summarize your educational and professional background?

A I have bachelor's degree in electrical engineering. I spent 20 years in the industry with Schlumberger. I started offshore, working offshore in the Gulf of Mexico, Caribbean, and South America where I was a team lead on -- in -- on data processing, seismic data processing, and -- and quality control.

I spent -- like I said, I spent 20 years Schlumberger. My last position was -- with Schlumberger carbon services as the global monitor and

seismic manager for Schlumberger carbon services. I left in 2017, and I joined in New Mexico Tech's Petroleum Recovery Research Center in November of 2017, and I've been there since then.

Q Thank you.

MS. HARDY: Based on Mr. El-Kaseeh's education and experience, I move that he be qualified as an expert in geophysics and subsurface project management.

MS. SENINGEN: No objection.

MR. RAZATOS: He is so entered.

MS. HARDY: Thank you.

DIRECT EXAMINATION

BY MS. HARDY:

Q Mr. El-Kaseeh, let's look at your slides. And so we'll start with the site geology review. Can you please explain what is shown on slide 8?

A Yes. So --

Q If you -- can you speak a little bit slowly for the court reporter?

A Sure. Yes, so typically when we -- when we make the geological model, we always -- always examine the wells -- offsets wells around us. And this -- and this slide shows the well within two-mile radius. And the small circle if a half a mile radius that -- the

table -- and the top table shows the two wells that are within the half a mile radius.

One of them is -- is actually SWD well that was permitted but not drilled. And the -- according to all our research, the -- the permit has expired. The second well is -- was drilled in 1957 for production, however, it was plugged the same year.

And you can see within the -- with the mile -- one-mile radius, you have several or so well -- gas -- oil and gas wells. And in the -- in the two-miles radius, there's some more wells there. We -- we just take the -- that into account when we build our model.

Q So is it correct that no wells produce from the proposed injection zone anywhere within the two-mile radius?

A That is correct.

Q Okay. Look at your next slide. Can you explain what's shown here in slide 9?

A Yes. This is -- this is actually the -- the Copperhead is -- is in the Delaware Basin, which is in the Greater Permian Basin. The units were divided with the Tobosa Basin. The geological model is based, of course -- we -- we used the available well logs from the area as well as we licensed some 3D seismic

that covered that area, and that's how we built the model based on the geology and based on the well logs and the seismic data.

Q Can you please explain what's shown on slide 10, paleography and depositional environments?

A Yeah. So again, this is the -- basically what -- what we were looking at. It's -- it's described as -- the -- the Copperhead area is described as a shallow water, high energy carbonate platform.

Q And what is shown on this slide, slide 11?

A Okay. This is -- this is consists of the -- we -- where we -- where we can see we were trying -- we -- this defines basically the confining zone as well as the injection -- injection zone. Our injection zone is consists of the Siluro-Devonian, which is -- Siluro-Devonian is -- is the -- the Thirtyone, as well as the Wristen. And also it includes the Fusselman, which is about 1380 feet in thickness.

And we have the confining zone, which is our primary -- our primary cap -- caprock or -- or seal is -- is the Woodford Shale, which is approximately 480 feet -- I'm sorry, 180 -- 140 to 180 feet. Then also we have this -- our secondary -- secondary

caprock or -- or seal, which is -- which is the Barnett Shale as well as the Mississippian Limestone. The total caprock we have or the seal is about 780 feet.

Q And based on your analysis, is this an appropriate injection zone for the AGI?

A Yes, because of the -- the -- yes, the -- because of the porosity and permeability, the caprock has very negligible porosity and permeability, which constitutes a good caprock.

Q And can you explain what slide 12 shows, please?

A Okay. So we obtained -- we obtained wells from the area, of course. And this shows, again, shows how the thickness of the injection zone, which is about 1380 feet, that include the Thirtyone and the Wristen, as -- as well as the Fusselman.

And the confining of, like I said, the 780 feet. The -- you see on the -- on the graph, you see the -- the AGI one well. To the left of it is -- is the gamma ray curve. Then to the right of it is the porosity curves that we -- from five wells. And this is what we used to -- to derive our porosities.

Q And what it shown on slide 13 regarding the petrophysical properties?

A Okay. So again, this is the -- the closest well we can find with deep blocks that we can use was about 4.4 miles, the Cyclone Federal. So the majority of the porosity as you see, it's -- it's highlighted in yellow. And it could be fractured here.

Basically it -- it's -- that's where that -- the -- the secondary porosity comes from. Maximum -- maximum porosity in -- in the injection zone is -- is 10 percent. The Woodford Mississippians have -- other confining zone, and they have negligible porosity.

Q And what is shown on slide 14, please?

A This actually represent the boundaries for the seismic data we've -- we've licensed to -- to build -- to help us build our model.

Q And can you explain the seismic interpretation shown on slide 15?

A Okay. Yes. So these are -- this interpret -- we interpreted different -- different horizons. This represent the top so that -- the Fusselman, of course, and you see the Siluro-Devonian over there as well as -- as the Barnett Shale, which is part of the caprock.

And this -- this was interpreted, of course, using the well logs and -- and the 3D seismic that we

licensed from that area. And again, the thickness of the -- of our injection zone is approximately 1380 feet. And our -- our caprock is about 780 feet with low porosities and permeability.

Q And let's look at slide 16. Can you explain what that slide shows regarding faults?

A Okay. So what we -- when we build the model and we -- we look at the well location and we explore around the well, of course, to identify any faults within the area. Based on our -- based on our interpretation from the seismic, we identified two -- two faults with minor -- with minor displacement.

They passed through our -- basically in the area where we are -- we are looking at. And I don't think -- the well -- there's a well to the northeast. It's about 4.88 miles to -- from our well. The one to the southwest is, what, 1.55 miles to the -- to the southwest of us.

Q Do these faults create and concerns regarding the proposed injection into the Copperhead AGI?

A Based on our analysis, no, and we -- as you can see in the -- in the coming slides, we have done some analysis. But based on our analysis, no.

Q What is shown on slide 17, please?

A Again, this is -- this is we interpreted -- we interpreted, of course, for the tops here, split until we can have a better view. And we overlaid our -- we overlaid the two faults. If you see the one on the north -- basically north to northeast, and the one in south -- south west, we want to see how they are represented on the tops of our -- of the confining zone.

This is basically the confining zone. As you see on the bottom righthand side, it's the Woodford Shale. And then you have the Mississippian Limestone and the Barnett Shale. Again, they combine to be about 780 feet in thickness.

Q And will these confining layers act as a geologic seal that prevents the migration of TAG outside of the injection interval?

A Yes. Based -- based on -- on the values of the porosity and the permeability, yes, they do what constitutes a good seal and good caprock.

Q And what is shown on slide 18, please?

A The -- again, this is -- this is interpretation of our injection zone. And you can -- you can see the Siluro-Devonian, and you can see also the Fusselman formations. Basically, this is

the top. We just want to show them separately.

Q And what is shown on slide 19?

A Okay. So one of the things we -- we consider also is what we call micro seismicities, or induced seismicity in the area. This -- this slide shows the -- the -- what we -- what we like to call stations. They're -- they're seismometers or -- or geophones that were installed and maintained by New Mexico Tech Seismology Observatory.

And this is within 10 -- this is 10 and 20 miles, I believe. Yes. The stations -- and these stations are monitored in real time, and the data is freely available. Historical data and actual real time data is -- is available.

Q And looking at slide 20, can you describe the seismicity within 20 miles of the Copperhead AGI site?

A Yes. So we look -- we looked at some historical data to see if -- if any induced seismicity, you know, happened within -- within the past few years. And what we find out the closest -- the closest event was about magnitude of 2. Closest to AGI well was magnitude of 2. It's about -- about -- over -- little bit over 8 miles away from us.

But if you can see that most -- most of the events are clustered in the southwest part of the -- of this -- of the graph. And that's about 20 miles away from where our well is. And they are three -- and they are three -- magnitude of 3 and below.

Q Do these findings create any concern regarding injection into the proposed well?

A No. Not based on our analysis.

Q Were these slides that we've just discussed prepared by your under your direct supervision?

A Yes.

Q And are they true and accurate?

A Yes.

Q Let's look next at your reservoir dynamic simulation. In looking at slide 22, is this a summary really of what -- of the requirements that apply to Targa as well and how it will meet them?

A Yes. Well, going back to what the -- I mentioned earlier, this is that -- that -- of course, this is -- we -- we do on the study and make sure that we comply with the New Mexico rules. And -- and we -- to prevent waste, of course, and will protect the correlative rights. And also, we -- we prevent any harm to environment and we protect the source of

drinking water. Yeah.

Now, specifically what we wanted to prove here is the Siluro-Devonian, what our injection zone can take the 26,000 -- the 26 figure that we are asking for or requesting, and keep it in -- in the ground safely. And also, we want to make sure that we are operating at or below the maximum surface injection pressure that's approved by the commission.

And our injection aim, of course, to -- we want to get rid of the waste to protect the environment.

Q And were you involved in preparing the reservoir dynamic simulation for this well?

A Yes.

Q Okay. Can you please describe the model?

A Okay. So when -- when we do the simulation, the simulation aims to -- to identify the behavior of the -- of the TAG, prove if you like. And for -- for us to build the model, we take into -- we take into account, of course, the -- the composition of -- of our TAG.

In this case, we have 70 percent of CO2 and 30 percent of -- of H2S in this case. And also, we want -- we -- we are going with simulated for 60 years, starting 2025 till 2028 -- 85. And that

includes 30 years of injection and 30 years post -- post of injection. Okay.

Again, we want to make sure that we are performing the -- the 26 SFD is -- is -- we're keeping -- we're staying within the maximum injection pressure at the one head. And the injection zone, again here, is about 1380 feet. This is -- we -- this is -- and you can see the confining zone overlay the Woodford and the Barnett at about 780.

Q In looking at slide 24, what are the petrophysical parameters of the model?

A Okay. So these are the -- the porosity and permeability are derived either from the literature or the literature and the core -- core reports. In our -- in this case, we wanted to show that the maximum permeability here for our injection zone is -- is the percent, of course.

And we want to show that -- we're showing here that the -- the low permeability and porosity for our confining zone, which constitute a good caprock. And as you see on the righthand side, the bottom righthand side where it identify which formation is seal and which formation is our injection zone, and the corresponding permeability and porosity.

Q Mr. El-Kaseeh, can you please explain what's

shown on slide 25?

A Yes. So this -- when we -- when we do the simulation, we build the certain model. And our -- this is basically the model dimensions. So our model dimensions here is about -- the model is close to 10 square miles. And the number says, as you see on -- on this, is over a million cells. And the cell size is 100 feet by 100 feet.

Q Okay. Then looking at slide 26, model initialization, can you please describe what's shown there?

A Okay. So there is -- when -- when we do -- when you do the -- the simulation, you take into consideration two things. One of the things you -- you take, of course, is -- is the bottom hole pressure. And this well head pressure. And also, you take the temperature. And the temperature here, we -- we obtained the temperature, of course, from the -- from the literature.

Also, we assume -- in our -- in our simulation, we assume in the reservoir that we have -- we have completely 100 percent brine. That's why you see the value of number 1, which is saturated water. Then we have the saturated water, which is we call SWI, and what they call -- refer to as a

reducible. This basically means that we have 45 percent of that space to inject the TAG.

Q And what is shown regarding the model initialization on slide 27?

A This is also another parameter that we put in our -- in our simulation, and -- which is the salinity in the area. So what we did is we looked around, we took about -- we took 11 miles radius around us, and we identified three different wells. And we took the salinity from each well. And we averaged it out. That was an input to the model. One of the inputs into the model.

Q And then what were the simulated injection parameters as shown on slide 28?

A Yeah. So the simulation injection parameter, this is -- this represent actually the -- the calculation for the maximum well head pressure. And it -- it was calculated based on point -- 0.2 gradient.

And also this -- also the calculation for the -- for the maximum bottom hole pressure, and which is calculated decimal point six -- 0.65 gradient. We need to keep the pressure -- the bottom hole pressure at 90 percent of the formation fracture pressure.

Q And what's shown on slide 29?

A This is actually the results of -- of our simulation. So these graphs represents the -- the green graph represent the -- the well head pressure. And we -- we want to make sure we are at or below it.

And this graph shows that based on our simulation, it stayed within that. Same thing as the -- the bottom -- the bottom hole pressure. It stayed within the -- the maximum allowable. And also, you can see that the pressure stayed steady for through the injection period till we reached the -- till we reached 155.

Q Mr. El-Kaseeh, if you could probably slow down a little bit more, I'm sure it would help our court reporter.

A Okay.

Q I know it's difficult. Could you please describe what's shown on slide 30 regarding the TAG plume?

A Okay. So this is the -- the TAG. There you can see AGI well in the -- in the middle of the circle. This circle represent the development and the movement of the -- of the TAG plume over and for -- and on -- on five years increment. And you can see it's from 2030 to 2060.

And also, this is the -- the largest extent

of the TAG plume that we find here. It's just a little bit over one mile with injection rate of the 26 that we are applying for.

Q And then what does slide 31 show regarding the plume?

A This -- yes. This is, again, showing the plume, but also here, we are displaying the -- the vertical extent of the plume within the formation with injection formations.

Q And let's turn to fault slip potential. Can you explain what's shown on slide 32?

A Yeah. So since we -- the -- we think that -- we identify the two faults, so we decided to go ahead and -- and try to -- to study the effect of the -- of our injection on that. But here, what's shown -- showing the distances for these -- for these faults from our -- from our injection well.

Q And what is shown on slide 33 regarding the plume?

A This is the -- this is the plume, the TAG plume in relation to the -- to the faults. You can see the one to the northeast and the one in the southwest. And this is a five-year increment, of course.

Q So the plume doesn't reach the faults?

A The fault -- the plume does not. According to our analysis, no, it does not reach the fault.

Q And then what does slide 34 show about the CO2 plume?

A This is similar to the slides before. It's a little -- except a little bit more powerful, of course. This is -- this came out -- an output from our simulation software. But it's pretty much an identify -- it identifies where the faults are in relation to the plume, to the TAG plume.

Q And then what are the fault slip potential inputs?

A Okay. So fault -- fault slip potential software developed by -- by Stanford actually, and it's used in the industry. These -- this table actually -- this place the parameters that were -- were input in the -- in the software to -- to calculate the fault slip potential in -- in that area.

It takes -- the -- the software takes into account the azimuth and the dip of the faults as well as the regional stress.

Q And -- shown on slide 36, what is the pressure change needed to activate the fault?

A Okay. So we -- we -- when -- when -- from the fault slip potential software, the output you get

is how much -- what is the pressure required to activate a slip in fault. And this picture -- this picture is showing actually where the faults are, and it's -- it's displaying also the -- the TAG plume development and the pressure front from that plume development.

Q And does this show that there's no fault slip potential risk after a 30-year injection period?

A That is correct. The next slide will show actually the values that we calculated.

Q Okay. And then can you describe what's shown here in slide 37?

A Yes. So there -- there are four -- four different values. The faults that you see in the northwest -- in the northeast and the southwest, these are the faults we took into consideration when we ran our program. The seven -- the -- under -- I start with the northwest -- with the northeast one.

The northeast fault, as you see, 1787 PSI is what represents the -- the pressure that came out or the output from our fault slip potential software. And the 250 PSI is what came out of our simulation software, which when we -- when we examined the development of the plume. And you -- as you can see, it's much, much less than what it needs to activate

that -- that fault.

And similarly on the southwest, as you can see, the 2849 came out of the software from the fault slippage software. And it -- it's a 2849 compared to 250 PSI that came out of the output from -- from our simulation software. And you can see it's much, much less than what -- what's required to activate that specific fault.

Q So is it correct that injection into this AGI as proposed will not be sufficient to activate the faults?

A Yes. That's accurate.

Q Okay. Okay. And Mr. El-Kaseeh, based on your geophysical evaluation, is it your opinion that the Devonian, Upper Silurian Wristen, and Lower Silurian Fusselman formations are appropriate to accept the injection of TAG at the location of the Copperhead AGI?

A Yes.

Q Is it your opinion that TAG will safely be contained within the injection interval?

A Yes.

Q In your opinion, will the injection of TAG into the Copperhead AGI result in any increased risk of induced seismicity?

A No.

Q Based on your analysis, will injection into the well prevent waste, protect correlative rights, and protect public health and the environment?

A Yes.

MS. HARDY: Thank you. I have no further questions for Mr. El-Kaseeh.

MS. SENINGEN: The division has a few questions.

CROSS-EXAMINATION

BY MS. SENINGEN:

Q Mr. El-Kaseeh, we'd like to clarify the units that you've used. You have referenced to thousands regarding the injection rate, but the exhibits are labeled as millions. Can you please clarify for the commission how you are referencing -- referring to the units in the presentation?

A Twenty-six million standard cubic feet per day.

Q Okay. Thank you. I have a few more questions to ask.

For your reservoir simulation calculation, you estimated the bottom hole temperature to be 225 degrees Fahrenheit, which is close to 230 degrees

Fahrenheit, that could cause strength retrogression. Do you think the well will reach to that bottom hole temperature in a dynamic state?

A I don't believe so. That -- that temperature actually, the 225, was the derived from literature. It's -- it's regional in that area, and what's what we used for our modeling.

Q I apologize. Can you please explain for the commission what strength retrogression is?

A This -- I have to get you that answer during a break. I don't have that answer right now. But I will get it for you in -- during a break.

Q One moment, please.

So is it your testimony that the temperature will not exceed 225 degrees Fahrenheit?

A Yes.

Q Okay. I have a few more questions. What convinced you to apply the 0.3 Poisson ration? Ration, excuse me.

A That's -- that's the actual -- this question's better suited to be answered by Mr. Paul Ragsdale. This is something that has to do with the drilling.

Q Okay. That's fine. Thank you.

Okay. I have one more question. Have you

compared the fracture gradient acquired using Eaton's formula with the fracture gradient acquired via step-rate tests for other AGI wells?

A I'm sorry. Are -- are you talking about the -- the fracture or the fault slippage?

Q The fracture gradient.

A The fracture gradient. No. The fracture gradient is -- we -- we use that -- we use 0.65 -- 0.65 PSI per foot, which is pretty much standard.

MS. SENINGEN: Okay. Thank you. No further questions.

MR. RUBIN: Any redirect by Ms. Hardy?

MS. HARDY: I do not have redirect.

I don't think you're done yet, though.

THE WITNESS: Sorry.

MR. RUBIN: Any questions by the commissioners? We'll start with Dr. Ampomah.

DR. AMPOMAH: Okay. Yeah, thank you. I do have a couple.

So let's start with slide number 8, if we can go to slide number 8.

MS. HARDY: I think I'm there.

DR. AMPOMAH: Okay. Slide number 8 is up. So I do see the star, which is the proposed AGI

well. Now, you've shown that there are two wells that are very close. One was drilled in the '50s, but was quickly abandoned. And then the other one was not even drilled at all. But within less a couple of radius -- couple of miles radius, are there any production wells in the shale -- sessions that are looking -- in yet?

THE WITNESS: Are you asking production wells within the two-mile radius?

DR. AMPOMAH: Yeah.

THE WITNESS: Okay. Okay. I -- I have some answer here, but -- within -- within one -- one mile, there are eight active wells, gas and wells, and one SWD well within the one mile. Then within two miles radius, there are two active SWD wells and one plugged.

DR. AMPOMAH: I do see -- so there are essentially multiple wells, though? So you do have two circles. So the first circle is one -- what would the first circle be?

THE WITNESS: Half a mile, a mile, and two.

DR. AMPOMAH: Okay. So if I look at your legend, there are a lot of active oil wells in there. Now, my -- and even there is one active gas

well I see within the 0.5 mile radius.

So I think probably this question would be more suited for Mr. Ragsdale with regards to how that well location was selected, because if you are very close to, let's say, a production well, you're going to have a lot of problems when you are drilling, especially if -- taken significant amount of gas from this well.

So that is a question pending, though. So you don't necessarily have to answer that, but I want to know what analysis was done to choose that well location to avoid any potential issues when you're drilling this particular well. Because you might end up not being able to drill that well. You have gas that's coming up --

So I want to know how that well location was selected and then if there any mitigation plans available to deal with this particular problem if just in case it comes up? So you don't necessarily have to answer that.

Now, let me ask how many wells have porosity and permeability? Now we're entering to the modeling.

THE WITNESS: The deepest well we have of porosity and permeability was the -- the one I

mentioned, the SWD well that was about 4.4 miles from us.

DR. AMPOMAH: So that will essentially be only one well available to do the entire petrophysics?

THE WITNESS: We -- that's the only deep -- deep well that goes into our -- our formation. Yes. But there are other wells that we use, but they're -- they're not as deep.

DR. AMPOMAH: Well, I want to stress on that. So let's go to slide number 24. So from that deep well, then you got all these porosity and permeability data that went into the modeling?

THE WITNESS: Of course. We -- the -- we use that well as -- as one of the -- as one of our data points. Yes. However, we -- we also use the literature and we have some core -- core reports that we -- for that.

DR. AMPOMAH: So then my question back again, how many wells had porosity and permeability that went into the modeling?

THE WITNESS: Five. On the -- and we have one gamma ray. So there's -- there's five -- if you go back to the slide where they show the graphs.

MS. HARDY: The one we were looking

at -- this one, or --

THE WITNESS: No. It's -- it shows the -- the -- and that --

DR. AMPOMAH: That'll be slide number -- slide number 12.

MS. HARDY: Twelve.

DR. AMPOMAH: Yeah.

THE WITNESS: Yeah, this one. So as you see on the -- on the lefthand side, we have the gamma ray, and on the righthand side, we have -- we have data from five wells that we used.

DR. AMPOMAH: But what are those? Like, on your righthand side, what are those? Are they still not gamma ray logs? Because you are doing correlation, so you're just telling us how the structure was being developed, but not porosity or permeability except some of these well logs that I'm seeing is a porosity log.

THE WITNESS: Right. So like -- like I mentioned, we -- we have on the -- from the literature, mainly the we -- the -- we -- we derived the porosity and the permeability -- the permeability actually was also derived using the core -- core reports that we have from there. And the heat well is what we use mainly. Yes.

DR. AMPOMAH: Well, I don't -- so my question is still not answered, though. Like, so we go to slide number 13. You know, slide number 12 is not porosity logs. And it's just a gamma ray log trying to show the subsurfacing.

So definitely on this particular slide, number 13, you are showing where you go into porosity from. So my question is was this based on this single well that the petrophysics was derived from? The reason why I'm asking that is I want to know is your model that you are using to more or less suggest to the commission that you want 26 million, is that a heterogenous model or is a homogenous model?

THE WITNESS: Okay. Yeah. So we have some lateral variation within that, and also we -- we looked at the seismic from that area. And I -- now I understand what you are asking. I apologize. I didn't understand.

Yes, the -- the model is -- is definitely has some variation laterally and variation horizontally, but is not -- because of the -- the data that we have, the -- the available data we have, we had to make some assumptions. And so it's not -- I wouldn't say it's 100 percent heterogenous, but also it's not 100 percent homogenous.

We had to make some assumptions to -- to come -- to come to a point in between that will give us the answer we -- we are looking for.

DR. AMPOMAH: On slide number 25. Let me see if we can get to the bottom of this. So slide number 25. Would you say that this one is an inversion-derived porosity?

THE WITNESS: We -- to be -- I -- I cannot recall, but I -- I believe -- I believe we have done some -- some inversion in this area. Yes.

DR. AMPOMAH: Well, let's go back to slide number 12. I think that needs to be clarified though in terms of how many -- like -- let's say how many well logs were utilized in the construction of the geological model? That is not clear in your presentation. Definitely the slide number 12 is not.

So I just want to be sure that we do have that information that were utilized to be able to build the geological model.

THE WITNESS: I -- I can get you that answer.

DR. AMPOMAH: Okay. I appreciate that.

Let's go to slide number 16. Now, the faults that you picked, at least you've shown us the fault slip analysis that was done. But let me ask in

the hydrodynamic simulation itself, how did you handle the fault? In the simulation itself, how did you handle the faults?

THE WITNESS: In -- in what way? They were input with the -- they were input to the -- to the simulation, but -- I'm sorry. I don't understand that question.

DR. AMPOMAH: Okay. Let me help a little bit. So you have the fault, and -- okay. Then let me put it this way. Is this faults closed or open faults?

THE WITNESS: Oh, I see -- I see the question now. How did we input it in the simulation?

DR. AMPOMAH: Yes.

THE WITNESS: If it's closed or open faults. I believe we haven't -- I -- I have to give you the correct answer, but I believe we -- we treated them as open faults, but I will give you the answer -- the correct answer in -- during the break.

DR. AMPOMAH: I will need that answer. And then I want to know the specification as to how you chose whether it's a closed or open. So normally, you don't have the data, you know, for this unless you drill through. So normally you have two scenarios where one will be open and then one will be closed to

show the commission that even if it is open or closed, maybe I'm still able to put in the volume, the required volume.

So I want to know is it open or sealed faults, and what is the specification for that? You know, how were you able to do that or come up with that number? Especially when you didn't do the sensitivity analysis.

The fault slip analysis is good, but the simulation itself -- you know -- the simulation itself, where you get the information to put into the fault slip analysis also has to be correct as well. So yeah, if you can provide that information, that would be wonderful.

THE WITNESS: Yes. Definitely I will.

DR. AMPOMAH: And you're saying that these faults will not have an impact. I've seen the pressures. You know, you've done a fault slip analysis, you know the amount of pressure buildup that needs to cause any potential, let's say, reactivation of these faults depending on your put it.

But this fault is going all the way past the Barnett. So what about brine migration? You are pushing the brine away from the injection well. So what about brine migration?

THE WITNESS: We -- yes. I don't think -- I don't think the brine -- the brine will reach that point based on our analysis. And I -- I see your concern about maybe potential leakage, but based on our analysis, I don't think we will reach that point.

DR. AMPOMAH: I will politely disagree on that. I mean, you have a fault. That is a -- so let's -- the same slide that is on. You have less than a mile away from, let's say, the fault. Less than a mile away from the fault. So I don't know how much you can do in such a way that 45 percent of the space that will be available to contain the CO2. You are not going to have impact. You're not going to displace the brine to that particular fault.

If you look at the volume of your CO2 -- what is the footprint? You have that somewhere? The total distance for the plume was 1.04 miles of TAG plume. Assuming those miles more or less moving to the south, you know, that is, like, 33 or 34. How is it -- I mean, definitely there is going to be a brine migration. So maybe something to look into.

And also for -- and NMOCD as well. Especially when you are coming back, let's say, after

five years to give an update. So something for us to keep an eye on.

How was the fracture pressure calculated?

THE WITNESS: Fracture pressure, how -- how it's calculated?

DR. AMPOMAH: Yeah. How was it calculated in your model? And let's say what is the source of that information?

THE WITNESS: We use -- we use the -- the dips then multiply by 0.65 PSI per foot.

DR. AMPOMAH: So the 0.65 is the one that I'm talking about.

THE WITNESS: Yes.

DR. AMPOMAH: How was it -- how did you come up with that number?

THE WITNESS: That is -- I -- I believe that's -- that's from the regional, and that -- that's what we -- we attained from the literature.

DR. AMPOMAH: So then that goes to the fact that once the well is drilled, you're going to do a step-rate test. So definitely you're going to have your actual number, and that would determine whether you get 26 million standard cubic feet of injection or not. So I think we can take it -- we can take it like

that. That is good enough.

THE WITNESS: Yeah.

DR. AMPOMAH: Now, on your slide 24. On your slide number 24, I'll be very brief, so --

Now, when I look at these parameters -- slide number 24. When I look at these parameters, so you've highlighted your caprock and then the reservoir zone. I mean, you have a caprock with a porosity of, like, 1 percent, 1.5 percent, and your actual injection zone have a porosity of, like, 2 percent. So I'm wondering is it really a caprock?

And I would be surprised -- I would be surprised to see that comparison how your plume did not really move up the caprock. So can you -- I mean, can you respond to how you look at the difference between the properties for your caprock that you use for the modeling, and then tell me how you feel like, let's say, just between a difference of 1.2 becomes a reservoir? Unless it becomes, let's say, a caprock?

THE WITNESS: Okay. So based on our analysis, the maximum -- the maximum porosity in -- in our -- in our injection zone is about 10 percent. The primary porosity comes from the -- from the limestone. The secondary porosity, what we believe is -- is, like to -- from what our -- our analysis is, is fractured

zone; right? And that's where you -- your secondary porosity -- I'm mean porosity comes from.

And we believe it -- it's much higher than -- than, of course, than the caprock. And you have also secondary caprock on the top. Over there, that actually guarantees that there's no leak that's going to be there. But yeah, I see your point here.

DR. AMPOMAH: So how did we -- definitely we do know that Woodford Shale is a shale. So definitely it's a good caprock. But I'm wondering the type of porosity and then the permeability that you are showing here really, really, really --

I mean, I can guarantee you that if you do a modeling with a caprock of 0.1 milli -- you're going to have CO2 moving. So I don't know whether you guys had that situation or not.

THE WITNESS: Okay. I -- I think I have an answer for you on this. Okay. So the porosity that -- that you see in the caprock is what -- what's called micro -- microporosity. And this -- this actually -- 'cause it looks higher than it is because it's -- it's water bound to -- to the formation. And that's why your porosity shows much higher here. But this is actual microporosity in

the -- in the caprock.

DR. AMPOMAH: Let me ask about salinity. So you have three wells that you collected data from. So I think it was within 11 miles. So does this well more or less go through your injection zone?

THE WITNESS: Yes.

DR. AMPOMAH: It goes through your injection zone?

THE WITNESS: Yes, those wells, I believe so. I need to confirm that, but I believe so.

DR. AMPOMAH: Okay.

THE WITNESS: And we averaged them out as you see.

DR. AMPOMAH: Yeah, so I think I do have some outstanding questions that probably if you can concur with your team and probably respond to that later. One is how many wells that were used for the property modeling. How the fault was modeled within the model? Is it a closed or open fault?

And since you didn't do -- or -- to your analysis on that, how did you come up with, let's say, whether it's closed or open. And the fault transmissibility. Yeah. So what fault transmissibility was used in the simulation model?

Now, let's talk about the temperature issue. The temperature issue. So you said -- how did you calculate the temperature, though?

THE WITNESS: This is from the literature.

DR. AMPOMAH: Yeah, when you say "from the literature," what was from the literature, though? Like, what was the -- what was the information you got from the literature?

THE WITNESS: We -- we looked at -- in the -- in the regional area, and we -- we decided that 225 was an acceptable value in this area. But I can also confirm if we used any other wells from that area.

DR. AMPOMAH: So definitely then you are looking at the temperature gradient. You got the temperature gradient from the literature. And then you tried to use that to calculate what is the ultimate temperature within your zone.

The question was asked how is that temperature changing when you are putting in the CO2? Did you look at the potential temperature changes? You know, how it impacts your well bore? I think that was a question that was asked.

And hopefully you can concur and then

come back and tell us, you know, in regards to, let's say, how the temperature is going to change over time. And does it have an impact on the, let's say, the wellbore or not. I think that was the question that was asked. And I'm interested in that too, so --

THE WITNESS: Okay. I'll look into that.

DR. AMPOMAH: But I'm going to stop here. Thank you.

MS. SENINGEN: Could I recommend a lunch break just considering that for time, we still have -- they want to concur with each other about something and we have a witness as well.

MR. RAZATOS: I was going to recommend a lunch break. I was just waiting for the doctor to finish his questions. So yeah, why don't we take -- if everybody's okay with it, let's take an hour lunch and we'll be back here at 1:45.

MS. SENINGEN: Thank you.

MS. HARDY: Thank you.

(Off the record.)

MR. RAZATOS: Okay. Good afternoon to everyone. It's 1:45. We'll reconvene our hearing. We were in the process of hearing case number 24594, the application of Targa Midstream Services for

authorization to inject in Lea County, New Mexico. We had finished with -- did we do rebuttal, cross-exam? Where did we finish off? Oh, the doctor's questionings. Okay. Awesome.

Commissioner Bloom, did you have any questions for our witness?

MR. BLOOM: I do not. Dr. Ampomah asked all my questions and more, so thank you.

MR. RAZATOS: Awesome.

Ms. Hardy, we'll turn it back to you.

MS. HARDY: Yes, thank you.

REDIRECT EXAMINATION

BY MS. HARDY:

Q So Mr. El-Kaseeh, before we took our break, Dr. Ampomah asked you several questions. And I wanted to go through those so you can provide the answers.

I believe the first question was regarding the number of wells that were used in the model.

A Okay. So for -- for the geological model, we used three wells, the existing wells there. And also what we did, we used more than three existing wells that -- that went deep, as deep as our reservoir, and even deeper.

And we used additional wells that are shallower. We tied them to -- to those wells, and we

tied them also -- we converted them with the seismic.

Q Thank you. And then I know there was a question about whether the faults were modeled as open or closed and the reason. And can you answer that question?

A Yes. The faults -- as I mentioned earlier, the faults were modeled open because our -- our reasoning for that is to go with the worst case scenario. And we could've definitely with the model closed, but we thought we need to go with open model -- open faults.

Q Thank you. And Dr. Ampomah had some questions about whether the brine could reach the faults, and can you answer -- provide the information he requested?

A Yes. So if you -- if you look at the -- at the pressure front close to the faults, it's about 150 to 250 PSI. For the brine to migrate up, you need much more higher pressure for the brine to migrate up there. We had calculated the critical pressure, and we found out that it's not going to be any danger of the brine migrating up into the -- the drinking water.

Q Thank you. And then I believe there was a question on slide 25. Let's get there. Yeah, I was there -- regarding the porosity and whether the model

was homogenous or heterogenous?

A Yes.

Q Can you answer -- provide that information, please?

A Yes. So I apologize. I -- I was under the impression we inverted here. We did not invert. We used five wells in this area to -- and we rigged those wells to come up with the -- with the heterogenous porosity in the area, and we run through -- of course, we compared it to the seismic.

MS. HARDY: I believe those were all the questions I intended to ask him in redirect, but I don't know if -- I wanted to make sure we answered Dr. Ampomah's questions.

DR. AMPOMAH: Yeah, but -- so with regards to the heterogeneity of the model, you know, if you look at -- so let's look at slide number 31. Slide number 31. And I think this one -- and NMOCD will take care of it because you definitely do the step-rate test. And that will infer whether you get a 26 million or not.

When I look at this model, I mean -- go up, 31. So if you look at this model, the well is right within the middle. And then your plume is more or less equally distributed. So this is more like

close to a homogenous model.

You know, so if you use this model to make a strong case that you can put in 26 million standard cubic feet of gas per day -- I think that is why the step-rate test is there. So I -- I still -- I cannot argue that much, you know, because the step-rate test is still going to help.

I'm always concerned about the 26 million request. You know, it's really on the higher side. And I feel like the model -- there's no way the model is going to support that because you have only three wells. Or five wells populating through the entire boundaries of the model. That is of the concerning. But I think still NMOCD will take care of that. So it's not a big problem.

Now, with regards to the faults, I'm surprised that you say that the open fault is the worst case scenario. If you put a closed fault, you see that the direction of the flow is going to be impeded. Like, you're going to build up pressure.

If you have open, you are more or less releasing the pressure. So you are not building the pressure. So your open fault scenario is not really the worst case scenario, especially if you want to see where the plume is going or let's say how much

pressure you are building up. So it can work both ways.

So definitely during your five-year period, definitely you might want to consider including that scenario as well.

THE WITNESS: We will. Definitely. Thank you.

DR. AMPOMAH: And thank you for taking time to go back and then get some clarification. Thank you.

MR. RAZATOS: Excellent. Anything else?

MS. SENINGEN: No, we have nothing else.

MR. RAZATOS: Awesome.

MS. HARDY: I don't have any further questions for Mr. El-Kaseeh.

MR. RAZATOS: Okay. Can we excuse this witness?

You are excused. Now you can get up.

THE WITNESS: I wanted to stand up for --

MR. RAZATOS: Yeah, now you can do it. Thank you, sir.

Ms. Hardy.

MS. HARDY: Thank you. Targa's next witness is Mr. Paul Ragsdale.

MR. RUBIN: Mr. Ragsdale, please raise your right hand.

WHEREUPON,

PAUL RAGSDALE,

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

MR. RUBIN: So duly sworn.

VOIR DIRE EXAMINATION

BY MS. HARDY:

Q Mr. Ragsdale, can you please state your full name for the record?

A Luther Paul Ragsdale.

Q By whom are you employed and in what capacity?

A I'm employed by Targa Midstream as a engineering consultant.

Q And what do you do as an engineering consultant?

A I -- I help them with the design and construction and operation of the acid gas wells.

Q Have you previously testified at a commission hearing?

A Yes.

Q Can you please briefly summarize your educational and professional background?

A I graduated from New Mexico State in 1977, went to work for Halliburton in 1977 in Hobbs, New Mexico. Worked for Halliburton for about five years. Then I've worked family-owned independent oil companies.

I ended up with Yates Petroleum in 1995, and worked for -- well, 1990. Worked for them for about 21 years, retired, and in the last five -- five or six years I've done consulting.

MS. HARDY: Based on Mr. Ragsdale's education and professional experience, I request that he be qualified as an expert in drilling and completion engineering.

MR. RAZATOS: Any objections?

MS. SENINGEN: No objection.

MR. RAZATOS: He has been entered.

MS. HARDY: Thank you.

DIRECT EXAMINATION

BY MS. HARDY:

Q Mr. Ragsdale, let's look at slide 39 of the presentation. Can you please explain what's shown there?

A This is the C-102 that was attached to the C-108 that we submitted. On the lefthand side, it shows the name of the well, the fact that we're a AGI well, a Devonian, and the legal location 132432. The righthand side is the surveyor's plot.

Q And can you please explain the wellbore schematic that's shown on page 40?

A So this is a wellbore schematic that we've done. And this is a very deep well, and so we kind of split the schematic in half. This actually shows the surface casing, the intermediate casing, and the second intermediate that we would run.

Q And then what's shown on slide 41?

A So this is the bottom half. And in it, you can see the production casing, which is the 7-inch casing that will be set in the top of the Devonian. The open hole that we will drill the Devonian hole from 17,299 to 18,699. And then the tubing that would be run into the well. The packer would be set at 17,250.

One thing I wanted to add, it's 3.5-inch G3, which is a nickel alloy, a special alloy. It's very noncorrosive, very resistant to H2S and CO2. And in it, we -- you know -- we put packer fluid, diesel plus additives. Those additives are biocides and corrosion

inhibitors that we run. And that's just in case you have a leak, you -- you -- if you have water behind it, it would -- it would corrode.

You can see the little green dashed line on there. That's a fiber optic line that is going to be run behind the 7-inch provided that our hole conditions permit that -- that we can do that. We don't show -- and -- and we will have a fiber optic DTS line attached to the 3.5-inch tubing that will be attached to the packer. And I'll -- and I'll go into that further.

Q What's shown on slide 22?

A So this is our casing and our tubing design. Shows you that the conductor will set 100 foot of 28-inch conductor basically just to get the rig on. And then we'll set 1208 feet of 20-inch -- and that's set at -- into the top of the rustler that protects your water zone.

Then 5,034 feet of 13 3/8, that's set to the top of the Delaware through the Lamar line. And I think there was a question as to the DMG well that -- the second DMG well. That's the top of the DMG, and -- you know -- you probably have a couple thousand feet, maybe five to seven thousand foot for your DMG.

The intermediate is a 9 5/8 set to 12250. That's to the top of the Wolfcamp. And then you'd set the 7-inch down at 17,299 feet.

Q And what's shown on slide 43?

A These are the casing specs for each one of those casing. And you can see under the long string. The long string has both P110, and it's going to have some special alloy pipe in it too. It also shows the connections that we have. The tubing, it shows 9.2 Vantop G3.

Q And what is the cement design?

A And the -- and the cement design -- you know -- I think the main thing is, is that all of these strings will be circulated, cement will be circulated to the surface. You can see in the -- the 9 5/8 intermediate number two, that's 12,250.

It lists three stages of cement, and in that, we'll run -- stage 2 would be some CorrosaCem, a very corrosion resistant cement, resistant to H2S. And then down to the -- and that -- that'll be placed across the DMG. So it would protect it from future injection, protect our pipe.

And then the production string, we -- we're going to use a WellLock resin cement as -- as our shoe. And then, you know, we'll run a class H cement.

I think there was a question about high temperatures, and -- and does -- does that high temperature cause cement degradation?

This is a class H cement. I talked to Halliburton, that's who's going to do our cement. They'll some high temperature additives and -- and some retarder, so you can get the cement in place.

We did look and we found one log -- we -- we looked at lunch, and we found one log that had -- close to the well, had 220 degrees on the log as bottom hole temperature. And then we found another one that was over that. Was, like, 230 or 240, something like that.

Q What's shown on slide 45?

A So this is our drilling fluid design, AKA, this is the mud. And so you'll -- you'll drill your 20-inch with fresh water and get it set. The -- the 17.5-inch hole, you're going to drill through the salt section and land in the top of the Delaware Mountain Group. And so you'll use brine. It'll be saturated brine in there.

We'll then drill down to the Wolfcamp using a cut brine system with about 9 pounds. Pretty viscous. We shouldn't have a lot of problems, but I think there was some questions about maybe lost

circulations because of offset producing wells. There are some producing wells in the Bone Springs out there. So -- so we'll be prepared for that.

Then when we -- after we set pipe into the Wolfcamp, from the Wolfcamp to the top of the Devonian, you're going to drill the Wolfcamp, and there are Wolfcamp producing wells out there. They're -- they're high pressure gas. And so we'll drill with this oil-based mud.

We plan to use -- actually, from the time we drill out from below the Delaware all the way to TD, we'll have a managed pressure drilling system out there. And so -- you know -- if we take kicks, we can hold pressure and hold back pressure and -- and try to hold that gas back.

And then -- and then once we get pipes set into the top of the Devonian, we basically will drill the open hole in the Devonian with fresh water and some viscosity there. But a lot of times when you drill the Devonian, you -- you'll lose circulation in there, which is what you're looking for in an injection well.

Q And then what about logging and testing, which is discussed on slide 46?

A So -- so we -- we plan -- we've discussed

this with OCD, we -- we're going to try to find a bond log for the 20-inch. It's -- it's -- sometimes it's hard to find it. So I listed a four-arm caliper log. I don't plan on any cased hole logs, but we might -- if we can find the bond log, we -- we will get one. They're hard to find.

In the intermediate is -- is your neutron density and -- and resistivity logs, gamma ray and forearm caliper, cased hole, cement bond logs, gamma ray. The intermediate pretty much the same sweep of logs.

Then when you get down in the production casing, pretty much the same sweep logs, but we also plan on running an FMI, which is a formation microimager log, and a sonic log. And so a big part of that is, is to look at the -- at our seal zones, the Woodford and the zones above that, and -- and just look -- where you're looking for fracturing.

And then, of course, when you go to the open hole, we're going to run the gamma ray caliper, an FMI, a sonic, a porosity log, a density log, resistivity log. We'll run lots of logs in the open hole.

Q Okay. And then you describe the additional coring and monitoring which is --

A Yes. The coring, we -- we plan to do -- to core the Woodford, and take an 80-foot section of core on the Woodford. And then once we get into the open hole, I think George had a slide that showed that there's three porosity zones that we anticipate. And we'll try to take a core of each one of those porosity zones in the Devonian and I think in the Fusselman.

The fiber optics -- the fiber optic will -- will be attached behind the 7-inch casing to enable monitoring of temperature and the acoustics in the formation. Again, this is dependent upon hole conditions. You know -- it -- that's a very -- it's an 8.5-inch hole, 7-inch, and running that fiber.

If we're having issues, we -- we may not be able to run that. But we -- we plan on it. And that will -- that really helps us to monitor the -- or to model the plume if we can do that.

Then we'll have a fiber optic line attached to the 3.5-inch tubing and to the 7-inch packer at, like, 17,250 feet. That -- that fiber optic line gives us both the bottom hole temperature and pressure of the -- of the injection zone. It gives you the bottom hole temperature and pressure of the casing anulus. So it's a great way to monitor for leaks.

You also get real time data for pressure and

temperature. And so if your temperature starts to change, you -- if you start seeing -- and we monitor this daily. If you -- if your temperature starts to change, it -- it could tell you that you have a -- a leak.

As far as daily monitoring, we -- we inspect those well heads daily. Somebody goes by and checks them. We -- we have the pressures in our control room, and the control people can see them and have alarms. We have well head safety valves to shut the pressure down -- I mean shut the well down if we get overpressure. And -- and then we, you know, do a visual inspection daily also.

Q And Mr. Ragsdale, will the coring be used to confirm porosity --

A Yes.

Q -- in the caprock --

A Yes.

Q -- and underlying rock as well?

A Yes.

Q Okay. Thank you.

A Or lack of porosity.

Q Yes. That's -- yes. Hopefully, yes.

And I believe earlier Mr. El-Kaseeh referred a question to you on temperature.

A I -- I think that was about the cement. And so that -- it -- it is. I mean, it's -- it's very high temperatures in there down at the bottom. And -- and so, you know, we -- we -- when we get -- we will log -- when we log, we'll get an accurate temperature reading, and then we will get with our cementers, probably Halliburton, and we will, you know, come up with our cement blend.

In -- in this case, I have a Halliburton recommendation, and they have a trademark cement that they call NeoCem that has proprietary additives to it. But it -- but it's those temperature retarders and -- and things like that.

And then you'll pump test it. And so you'll pump test this and you'll -- you'll get your pump times, and you get compressive streaks one and two.

Q And Mr. Ragsdale, let me just go back for a minute to the slide that was presented earlier on the wells in and around the proposed AGI well. Let's see if I can find that slide.

And there were questions about a well located within the -- here it is -- within the half-mile area of review. Do you recall those --

A Yes. And so that well -- you can see on your table, it's called the McCloy Central. That's

really not a well. That well was -- I mean, that APD was fired -- filed and then expired, and so there really is not a well there.

Q Okay.

A Okay.

Q Okay. And were the slides that you discussed prepared by you or under your direct supervision?

A Yes.

Q Okay. And can you please summarize your conclusions and recommendations?

A Well, this Siluro-Devonian formation can receive the acid gas, the TAG. We can contain it safely using good well design and good cementing properties, and a -- and a good tubing and packer. And we can keep this below the maximum surface injection pressure.

Q And in your opinion, will the well be designed to ensure the safe injection of TAG?

A Yes.

Q And is this well design appropriate for the injection of TAG at this location and this reservoir?

A Yes, it is.

Q And in your opinion, will the proposed well prevent waste to protect correlative rights?

A Yes, it will.
Q And is it correct that the proposed well will not harm public health or the environment?
A That's correct.
Q Thank you.
MS. HARDY: Those are all of my questions for Mr. Ragsdale.
MS. SENINGEN: We have a few questions.
MR. RAZATOS: Great.
CROSS-EXAMINATION
BY MS. SENINGEN:
Q You noted that your method of determination of the cement top is a visual inspection. OCD would like you to couple it with CBL to determine the cement top except for surface casing, which OCD agreed that visual inspection of the cement top and cement report that includes density is acceptable. Did Targa agree with OCD to couple visual inspection with cement bond log?
A Yes.
Q Okay. What is your expected temperature range between surface and 12,250 feet of depth?
A Well, let's start at the surface. you know, your -- usually your -- your ambient temperature -- but usually it's 70 degrees is your

surface temperature. And then we think the bottom hole, the static bottom hole temperature in this well will be approximately 225 degrees. And it's a gradient from there down.

I -- for years, I've always used a 1 degree per 100 feet. So you're at 180 stages, that'd be 180 degrees plus 50 or 60 degrees. 230, 220.

Q Do you agree that class C cement may not be suitable if the temperature is greater than 170 degrees Fahrenheit?

A That -- that is correct. Class H is recommended.

Q What convinced you to apply a 0.3 Poisson ration?

A Ratio?

Q Ratio. Sorry.

A You know, I didn't do that, so -- I -- I'll have to look at that see -- I'm not -- I'm not sure where that was at. That's in the permit application?

Yeah, and that's -- I'm sorry.

Q One moment.

Would you prefer to have a break to check on that?

A Sure.

Q Okay. We can proceed with questions but

we'll go back to that; is that okay?

A Okay.

Q Okay. One moment, please.

MS. SENINGEN: Our remaining questions depend on the answer to the Poisson's ratio, so we don't have any more questions at this time.

MR. RAZATOS: Okay. Commissioners?

Dr. Ampomah?

DR. AMPOMAH: Yeah, definitely I do have a few.

So certainly the Poisson ratio, the model this has to be able to respond to that. I mean we would have to be able to respond to that. Those who did the modeling, they should be able to respond to that.

THE WITNESS: Thank you --

DR. AMPOMAH: And I think that the range that was given, 0.3, normally is a typical, like -- it can be sandstone probably 0.25, so it is still in a typical range. Mr. Ragsdale why open hole in the production zone?

THE WITNESS: So -- so we found -- I -- I've drilled several Devonian disposal wells, SWDs, and -- and it's -- we found that if you leave the hole open rather than sticking casing down

into it -- first off, you know, you would end up running a liner into it and -- and liner tops are notorious for leaking.

But the other is, is that when you cement that liner across that porous Devonian formation, you may damage the formation. And so by -- by filling it full cement. And then you have to perforate it, then you have to acidize it.

And so -- so when we drill open hole, if you can get to your depth, you -- you've left your hole, you know, basically undamaged, then -- it -- you can increase your injection rate, I think.

DR. AMPOMAH: Interesting. So do you believe that a typical class 2 well drilled in the Permian -- and now you see a lot of class 6 wells coming into play as well. So do you believe that within the Permian, at least within that depth that we did -- open hole would still suffice for a class 6?

THE WITNESS: Oh, I don't know about class 6.

DR. AMPOMAH: Well, so that is where my question is, so -- and that would be more or less for the regulator to respond to. In terms of if we have open holes for class 2 wells, and then we're going and decide class 6 wells, which probably would have the

force to put in more, like, a casing --

THE WITNESS: A liner.

DR. AMPOMAH: Yeah. In the production zone, then what are we really preventing? Because we do have some wells that already open hole, and they are going to say class 6 has to come up with the -- the strict rules. So I think that is something that NMOCD might have to start thinking about, especially if we go into permitting.

MR. TREMAINE: Commissioner Ampomah, I just -- at a very high level, the OCD will be looking very closely at that. We do understand that there are some similarities between class 2 and class 6. It's the division's position that this is a class 2 well.

And so that -- those questions will be answered in detail over a multi-year project that -- to answer that. So we're -- none of our witnesses or staff or myself are able to answer that question today, but there's a lot that depends, and it's something we'll be looking at.

DR. AMPOMAH: Thank you. I appreciate that.

So with regards to the corrosion resistance casing, I do see P110 and --

THE WITNESS: In the 7-inch.

DR. AMPOMAH: Yeah, in the 7-inch.

THE WITNESS: So I think it's listed as P110 and chromium 13.

DR. AMPOMAH: So be specific on that one.

THE WITNESS: So chromium 13 is a corrosion-resistant alloy also. But I think we've decided to run the G3 because it's better. It's in there. I think when -- when this was written, we couldn't find the -- the G3.

DR. AMPOMAH: So you believe that the G3 will be even higher than that of the chrome --

THE WITNESS: If we run on the bottom of the --

Can you -- can you go to that table, Dana? It's the tubing and casing.

DR. AMPOMAH: Yeah, so page 42. Slide 42.

THE WITNESS: Yeah, so it's the -- one more.

MS. HARDY: This one?

THE WITNESS: One more. Let's see. No. That's it.

MS. HARDY: Okay.

DR. AMPOMAH: So I do see in the table

for sure, but in some part of your presentation, I do see the P110 chrome --

THE WITNESS: Chromium 13.

DR. AMPOMAH: -- in there. So would you -- is it your testimony that Targa is going to use a higher level --

THE WITNESS: We are going to go -- we are going to use the G3.

DR. AMPOMAH: But the G3, that is a tubing; right?

THE WITNESS: It -- well, above -- you can buy it -- you can buy the casing -- 7-inch casing also.

DR. AMPOMAH: How about the -- right here, you are not showing the CAD. So how would we stick -- like, how would we hold Targa to that? Because it's not -- like, if you look at the long string -- yeah, the 7-inch, you do have chrome casing and then P110. And even now, you're saying that probably you're going to use G3 corresponding casing, which is not shown here.

THE WITNESS: It's -- no, it's not. It's -- it is better, it's an upgrade from the chrome. It'll be 300 foot of corrosion-resistant pipe on the bottom of the -- the bottom 300 foot from 17,299

to -- what would that be? -- 16,799, of chrome resistant -- I mean of corrosion-resistant alloy pipe for your shoot joint.

DR. AMPOMAH: So then would you amend your application to make sure that, you know, we are holding Targa to that?

MS. HARDY: I think it could be included in the commission's order.

DR. AMPOMAH: Okay. Okay.

MS. HARDY: And it may be in the C-108 itself. I haven't been able to confirm that because I don't know where it would be located, but the C-108 is actually the application that we submitted.

DR. AMPOMAH: Okay. Okay. Yeah.

You know, so you talked a little bit about the plans that you'll do to more or less control the low circulation and even being able to control the well. But is there a written plan? Because I think this is something that NMOCD will have to look at carefully because recently there was one well that was drilled where you have gas coming up and then the well needed to be shut down. Pivot to some location.

So production wells close by to, let's say, a TAG injection well, there has to be a plan as to how you're going to deal with the production zones.

The Woodford. You have to have a plan, you know, to be able to deal with that. Or I don't know -- from you description it sounds to me that you're going to use experience, but is there a written plan?

THE WITNESS: There -- there will be.

DR. AMPOMAH: There will be.

THE WITNESS: Yes, sir. And we can submit that to you.

DR. AMPOMAH: I think that --

THE WITNESS: We have a drilling -- we'll -- we'll have a drilling plan and a fluids design plan on -- on both. It'll be -- it'll be very thorough.

DR. AMPOMAH: Very --

THE WITNESS: And -- and we'd be glad to share that with you.

DR. AMPOMAH: Okay. Thank you. I appreciate that.

So NMOCD agreed to ask you about whether you're going to use cement bond logs to identify the top of the cement. So is that your testimony that it's strictly cement bond log, or you intend to also use the fiber optic, which can also do the same?

THE WITNESS: No. Just cement bond

log.

DR. AMPOMAH: Just the cement bond log?

THE WITNESS: Yes.

DR. AMPOMAH: Okay. You said the fiber optic measures pressure?

THE WITNESS: Uh-huh. It's -- it's attached.

DR. AMPOMAH: Okay.

THE WITNESS: So it's attached to a gauge that is -- that is in the -- inside -- through the -- through the packer so it can sense what the pressure is in the tubing and the gauge on the outside. And it transmits that data to it -- through the fiber optic.

DR. AMPOMAH: Okay. So why the oil base --

THE WITNESS: Oil base -- that'll keep your shales from getting wet and sloughing. There's lots of shales below the Wolfcamp in the Strawn and the Atoka and in the Morrow and the Woodford. And so if you can oil-based muds that then you keep those shales from sloughing. It actually increases your penetration rate to --

DR. AMPOMAH: So has there been, like, a normally mud that is being used when drilling

through those zones?

THE WITNESS: Most of the horizontal wells drilled in the Wolfcamp are using oil-based muds.

DR. AMPOMAH: Okay. Okay. Thank you, sir.

Oh, one last question. So you believe the 3.5-inch tubing intake close to, like, a million megatons of CO2 a year?

THE WITNESS: Yes, I do.

DR. AMPOMAH: Interesting. Okay. Thank you. Thank you, sir.

THE WITNESS: You're welcome.

MR. RAZATOS: Commissioner Bloom, did you have any questions? Just to make sure we catch you as well.

MR. BLOOM: No questions. Thank you, Mr. Chair.

MR. RAZATOS: Awesome. Mr. Tremaine.

MR. TREMAINE: Mr. Chair, if I could interject here real quick? So we kind of left off with a question about the Poisson ratio, and I understand that Commissioner Ampomah responded there. So if the commission's satisfied with the answer on the record, we don't have to come back

I can make Mr. Gebremichael available to address any technical questions that they had about that or the reason for the question on direct. But it sounded as if the commission was satisfied. So if that -- if my read of that is correct, then I think we can obviate the need to have the witness come back.

MR. RAZATOS: Dr. Ampomah, did that answer your question?

DR. AMPOMAH: Yeah, because all these are all estimations, until they drill the well and get a core and go to the lab do the measurement. But I think 0.3, 0.25 is still within the normal range for Poisson's ratio.

MR. RAZATOS: Okay. Excellent.

Ms. Hardy.

MS. HARDY: Then I have no further questions for Mr. Ragsdale. Thank you.

MR. RAZATOS: Okay. Mr. Ragsdale will be -- may go.

Anyone else, Ms. Hardy?

MS. HARDY: Nothing further from Targa. Thank you.

MR. RAZATOS: Okay. Excellent. Should we take a quick ten-minute break? Yeah. Let's take a ten-minute break, and then we can start with the OCD.

(Off the record.)

MR. RAZATOS: Okay. Let's get back on record here. We had just -- we're still on case number 24594. Targa finished with all of its witnesses, so now we're turning it over to the NMOCD.

Ms. Seningen.

MS. SENINGEN: Good afternoon. I would like to call our only witness, Mr. Million Gebremichael, to the stand.

MR. RAZATOS: Excellent.

WHEREUPON,

MILLION GEBREMICHAEL,

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

MR. RUBIN: Duly sworn.

VOIR DIRE EXAMINATION

BY MS. SENINGEN:

Q Good afternoon. Could you please state your name for the record?

A My name is Million Gebremichael.

Q Where do you work?

A I work for the Energy Mineral and Natural Resources Department as part of a group responsible for the oversight of the underground injection

control.

Q What is your position?

A Petroleum specialist advanced for the Underground Injection Control Group.

Q What are the job responsibilities of your position?

A I review technical aspects of UIC permits, provide recommendations to district offices regarding UIC wells, and provide input for the process, design, and rulemaking.

Q Have you ever testified before the Oil Conservation Commission before?

A Yes, I have.

Q Have you been recognized as an expert in the field of petroleum engineering and underground injection by the commission before?

A Yes, I have.

Q Have you prepared a resume for this hearing?

A Yes. It is Exhibit 2.

Q Could you please summarize your educational background, training, and experience for the commission?

A Yes. I have a Bachelor of Petroleum Engineering degree from the Southern Alberta Polytechnic in Canada. And also I have 12 years of

working for the exploration and production companies as well as regulatory agencies.

I -- I work for Shell International, Encana, ARC Resources, and also I work for the Alberta Energy Regulator, which is a component organization to OCD for three years. And then for the last two years, I've been working as a UIC engineer with the state of New Mexico Underground Injection Control Group.

MS. SENINGEN: Mr. Chair, at this time, I move for the admission of Exhibit 2.

MR. RAZATOS: Any objections?

MS. HARDY: No objection.

MR. RAZATOS: He is so entered.

(OCD Exhibit 2 was marked for identification and received into evidence.)

MS. SENINGEN: I also would like to move for the admission of Mr. Gebremichael as an expert in the field of petroleum engineering underground injection control, and acid gas injection wells.

MR. RAZATOS: Any objections?

MS. HARDY: No objection.

MR. RAZATOS: Okay. He is entered.

//

BY MS. SENINGEN:

Q Which standard do you apply when you evaluate a class 2 underground injection control well to be approved?

A The standards applies the prevent waste, protect correlative rights, protect public health and the environment, including the underground source of drinking water.

Q Have you reviewed the Copperhead acid gas injection number one application?

A Yes, I have.

Q And what is your opinion of the application?

A Targa's application to inject the treated acid gas into the Devonian formation via Copperhead AGI number one well is designed to ensure the safe and effective injection.

And then the acquisition of tailored 3D seismic data of the injection project area addresses concern regarding presence -- any presence of any faults that could impact by injection pressure, and then lead to induced seismicity.

Additionally, Targa's proposed managed pressure drilling will significantly reduce a likelihood of the under/over drilling balances that

may occur.

Q Were there any concerns that you had with the application and the proposed location and depth of the proposed AGI well?

A Yes. Targa has proposed a maximum injection of 26 million cubic foot per day. OCD will reassess this maximum injection rate once Targa completes the step-rate test, which will be a condition of approval outlined in Exhibit 1.

Additionally, Targa plans to install the bottom hole pressure and temperature gauged by the optic -- the fiber optic line. OCD would like -- we would like to ensure that when it goes through the master valves, that it's provides a complete seal or it doesn't impair a complete seal of the well.

Q You mentioned conditions of approval. Do you have an exhibit listing those conditions?

A Yes. It's Exhibit 1.

Q Has the commission seen this exhibit or something similar to this exhibit before?

A Yes, it has.

Q Who was this exhibit prepared by?

A By OCDUIC group, which I'm part of.

Q To the best of your knowledge, is this exhibit a true and accurate representation of OCD's

updated recommendations for AGI conditions of approval?

A Yes.

MS. SENINGEN: Mr. Chair, at this time, I move for the admission of Exhibit 1.

MR. RAZATOS: Any objections?

MS. HARDY: No objection.

MR. RAZATOS: It so will be admitted.

(OCD Exhibit 1 was received into evidence.)

BY MS. SENINGEN:

Q Did you change this exhibit relative to any prior versions provided to the commission in earlier AGI cases?

A Yes, we did.

Q And why did you change this exhibit?

A We added item 12 and then item 18 in the Exhibit 1. Item 12 was added to make sure all seismic events are recorded with seismic monitoring station. And item 18 was added to make sure that redundant well is constructed in a timely manner.

Q Did you discuss these changes with Targa?

A Yes, we did.

Q Have OCD and Targa agreed to the conditions that ensure compliance with the standards you

previously mentioned?

A There is an overall agreement. And OCD expects Targa to address the concern mentioned earlier. OCD reserves the right to reassess the -- the proposed maximum injection rate after the completion of the step-rate test on the well.

Additionally, the integration of the fiber optic line into the well construction must be done in a way that it doesn't impede the complete seal of the well to prevent an escape of the injectate.

Q So you would agree that Targa agreed to comply with the conditions listed in the conditions --

A Yes.

Q -- of Exhibit 1? Excuse me.

A Yes.

Q Could you please summarize the conditions for the commission?

A The conditions outlined in Exhibit 1 represent OCD's standard approval criteria for AG -- for AGI wells. These conditions exceed the standard approval or requirements for underground injection wells due to the specific nature of the injectate, namely treated acid gas.

The AGI wells must be constructed using corrosion-resistant alloy strings and include

subsurface safety box and then a packer fluid that contains corrosion inhibited -- inhibitors and biocide additives.

OCD has added two items to the previously approved AGI condition of approval admitted by the commission. Like I mentioned before, these items are item 12 and then 18 in the OCD Exhibit 1.

The addition item 12 in the OCD Exhibit 1 is necessitated by the fact that deep wells subject to such high pressure could be subjected to induced seismicity. And then having seismic monitoring stations would provide OCD with necessary data to take appropriate seismic provision protocol in a timely manner.

Item 18 was added to ensure that limited time required to initiate the completion of the second well, to have available redundant well in case the primary well is down from various reasons.

Q I would like to ask some questions now in response to Targa's witnesses. Are there any other clarifications that you feel are necessary after reviewing Targa's application and cement top methodology?

A Well, with the cement top methodology, it's just we -- we would like to ensure that the 20-inch

surface casing, both the -- like he mentioned earlier, CBL and then visual inspection are coupled. Especially in the -- no, no. The 20-inch CBL is exempted, but the visual inspection should be coupled with a cement report that includes density of the -- density of the cement.

Also, as I mentioned in the -- at the 12 -- at the 1250 depth, still the cement type is described as a C type. And then as the Targa expert testified earlier, at this depth, the temperature could be about 180 degrees, which exceeds the 170 degrees, which makes the C type not suitable. So we would -- OCD would like Targa to utilize a cement type H and above.

Q Are there any other clarifications that you feel are necessary about strength regression?

A Yes. So the strength -- the strength -- the cement strength retrogression, which is especially at the bottom, that might be -- I think the gentleman already addressed it, but OCD would like to make sure that --

At or about 230 degrees there is going to be a degradation of the cement and then creation of permeability, so OCD would require you to add additives like the -- the, you know, silica flour,

that would prevent the degradation.

Q Are there any other clarifications you wish to address about Poisson's ratio?

A Yes. Dr. Ampomah kind of touched it, but we would like to make sure that whether is it a limestone or a sandstone or it's a mix, that triggered you to utilize the 0.3?

I mean, usually 0.27 is for limestone, which is mostly the industry accepted standard. And then 0.33 is for sandstone. But you pick point -- what was the -- the ratio that you picked is 0.3? Was it 0.3?

Q That's correct.

A Yes, 0.3. So we would like you to characterize the exact nature of that formation. Is it a mix between the two that triggered you to put the 0.3? Because those single ratios could make a lot of difference in the simulation in the model.

Q Are there any other clarifications you wish to address about the fracture gradient comparison?

A We would like to ask Targa -- they did use the Eaton's formula for theoretical calculation of fracture gradient. Of course, that will be determined by the step-rate test, which is unempirical data.

But we would like to know though your Eaton -- Eaton's fracture gradient which was utilized

for the simulation model, if you have compared it to any other AGI wells in the past, and then what is the value discrepancy between Eaton's driven fracture gradient and then step-rate test driven fracture gradient?

Q Do you have any concerns about the redundant well being on the Delaware Mountain group?

A Yes. That came today. When we were evaluating the Copperhead AGI number one, the Devonian well, we were not aware Targa's intent that they will drill the redundant well in the DMG.

So the intermediate two, which covers the DMG zone, which is the Cherry, the Bell, you know, those -- those are active producing zones. And OCD would like that you utilize a corrosion-resistant cement for that part. Also, when you -- when you build your -- I'm talking about for AGI number one.

The way it's designed right now, there is no corrosion-resistant cement in there. Also, we highly recommend if you could consider corrosion-resistant alloys for that part as well, if you really go ahead with your DMG redundant well.

Q In your opinion, will these conditions and the items that you addressed in your testimony provide adequate assurance that the proposed well will not

cause waste or harm correlative rights?

A Yes, given our concerns are addressed.

Q In your opinion, will these conditions and items addressed in your testimony protect public health and the environment, including underground sources of drinking water?

A Yes.

MS. SENINGEN: Those are all of the questions that I had for Mr. Gebremichael.

MR. RAZATOS: Okay. Ms. Hardy.

MS. HARDY: No questions. Thank you.

MR. RAZATOS: Okay. Commissioners, did you have any questions?

DR. AMPOMAH: No questions.

MR. RUBIN: Yes. Yes, I have one question for the witness.

The concerns that you cited, sir, with the respect to the class H concrete, the Poisson ratio, whether it's a 0.27 or a 0.33, depending on the type of stone we're looking at, and also your concerns about the DMG redundant well, did you -- are you advocating those concerns be incorporated into what is now Exhibit 1 as permit conditions?

THE WITNESS: Yes.

MR. RUBIN: Oh, okay. Are they

currently part of the Exhibit 1?

THE WITNESS: No, they are not, but they should be incorporated. Those -- those concerns should be addressed. Yeah.

MR. RUBIN: Okay.

MR. TREMAINE: If I may, Counselor. I think the division would advocate -- or I would advocate for the division that based on the record today, that we make sure that those clarifications made on the record during all of the direct testimony, that my understanding is all of the parties are agreeing to would be added into the terms of the order.

So rather than adding them to the exhibit, I think the record's adequate to include those as requirements and incorporate into the order.

MR. RUBIN: Thank you, Mr. Tremaine. So I guess if the commission were to approve the application, the parties would submit a new proposed form of order with those conditions incorporated therein?

MR. TREMAINE: That would be my recommendation rather than resubmitting exhibits.

MR. RUBIN: All right. Because you don't want me to write it.

MR. RAZATOS: Excellent. Commissioner Bloom, did you have any questions?

MR. BLOOM: I do not. Thank you, Mr. Chair.

MR. RAZATOS: Okay. Can this witness step down? Everybody okay with that?

THE WITNESS: Yes. Thank you.

MR. RAZATOS: You're still muted.

MR. RUBIN: Anything further from either party before the commission deliberate?

MS. HARDY: Not from Targa.

MS. SENINGEN: No.

MR. RUBIN: All right. Commissioners, if you have any deliberations you wish to -- of course, we can always go in a closed session, but I understand it's not the wish of the commission. So well, would you like, Counsel, to state a motion at this point?

MR. RAZATOS: Commissioner Bloom, Commissioner Ampomah?

DR. AMPOMAH: Yeah, so I think if you look at the application very detailed, and I'm very happy with regards to how NMOCD is handling this, especially the rate that they are proposing and then their approach. You know, after the step-rate test,

NMOCD will -- they have the right -- they reserve the right to go back and say, "No, you cannot have the 26."

So I think that addresses most of my concerns. But essentially, the application looks great, and I do not have any concerns. You know, and I do support this.

MR. RUBIN: Okay. Commissioner Bloom, do you have any further comment?

MR. BLOOM: No, I concur with Dr. Ampomah, and would move to approve this.

MR. RUBIN: All right. So then based upon the sentiments of the commission, will the commission entertain a motion to approve the application subject to the permit conditions as proposed by the department, that Exhibit 1 to be supplemented by the testimony of the department witness today?

MR. BLOOM: I so move.

DR. AMPOMAH: I second.

MR. RUBIN: Okay. And we'll take a roll call vote. Mr. Chair.

MR. RAZATOS: I agree.

MR. RUBIN: Okay. Dr. Ampomah.

DR. AMPOMAH: Approve.

MR. RUBIN: Mr. Bloom.

MR. BLOOM: Approve.

MR. RUBIN: All right. The application is so granted.

Anything further from the parties on that?

MS. HARDY: No. Thank you very much for your time today.

MR. RUBIN: Oh, that's okay.

MS. SENINGEN: No. Thank you very much.

MR. RUBIN: All right. Thank you very much for your presentations. Very professional, and they are very much appreciated.

MR. RAZATOS: Excellent.

MR. RUBIN: Mr. Chair, I believe that --

MR. RAZATOS: We've got our next point on our list is any pending litigation.

Mr. Rubin.

MR. RUBIN: Well, could give you the inevitable Atencio lawsuit update. The motion for a -- petition for an interlocutory appeal was granted, so the court has now in the realm court of appeals. They will decide the legal issues as presented in our

motion to dismiss this, which we joined in with the other defendants, the legislative defendants had a different motion, but our executive codefendants, which were Ebner, NMBD, and their cabinet secretary.

So I would anticipate at least six months for the court of appeals to chew on this, and then in the meantime we are mercifully relieved of our duties to respond -- do anything else. In the district court level, everything is stayed.

MR. RAZATOS: Great.

MR. RUBIN: Yes. So that's all I have at this time.

MR. RAZATOS: Thank you for the update.

And our next point this afternoon is any other business that anyone may have. I do have one point. We had discussed last meeting that in October, I would be out of the country the week that the meeting is held. I believe we did -- we looked at all schedules.

And Sheila, it was October the 9th; correct? -- that it worked out?

MS. APODACA: Yes, that's correct.

MR. RAZATOS: Excellent. So our October hearing is going to be held on October the 9th for that reason, so --

Any other issues that anybody else may have?

DR. AMPOMAH: The next meeting is September 19th, and we do have the long hearing also coming up, so are we going to have two meetings in a month?

MR. RUBIN: I was writing that down.

Sheila, is it true -- I understood as we discussed before that the hearing on Empire and Goodnight is scheduled for the 23rd?

MS. APODACA: Yeah, that's right. The 23rd through the 27th.

MR. RUBIN: Okay. And so to have a meeting on September 19th in addition to that, is that something we can consolidate with the hearing -- with that date, or no?

MS. APODACA: Right now, the only thing on the September 19th docket would be the presentation of a notice of hearing for the rulemaking that was heard today.

MR. RUBIN: Okay. Well, certainly, Commissioners, nothing set in stone yet as to when you wish to meet. Hopefully that notice on the issue we just heard this morning, we might be able to deal with that rather quickly, and we could just have one

meeting on -- beginning on the date of the hearing. Is that -- I mean, I think we should probably pin that down now.

MR. RAZATOS: That works for me.

Commissioner Bloom?

MR. BLOOM: So Mr. Rubin, are you saying that we would forego meeting on the 19th, and instead bring up the 19th's business on the 23rd?

MR. RUBIN: Yes, Commissioner Bloom, that is my suggestion just as a --

MR. BLOOM: I think that would make sense, yeah. Save people some time and driving.

MR. RAZATOS: Dr. Ampomah.

DR. AMPOMAH: Oh, I second that.

MR. RUBIN: All right, then. Okay. Okay. So you'll make sure that happens with --

MR. RAZATOS: Yes.

MR. RUBIN: Okay.

MR. RAZATOS: So Sheila, can we just document that the 19th's hearing, since we only have the one topic, we'll hear it on the 23rd at the beginning before we start with a case?

MS. APODACA: Okay.

MR. RAZATOS: Excellent. Any other business? Any other issues? Okay. So --

MR. BLOOM: We can push it out to five o'clock, guys.

MR. RAZATOS: I beg your pardon?

MR. BLOOM: We can push it out to five o'clock.

MR. RAZATOS: Is that what you want? You want us to push it out to five?

MR. BLOOM: No, we can wrap it up. Let's wrap it up.

MR. RUBIN: Yeah, you do not need a motion to adjourn.

MR. RAZATOS: So just as mentioned, our next meeting is going to be on the 23rd, and this meeting is adjourned. Thank you, everybody.

(Whereupon, the meeting concluded at 2:55 p.m.)

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 29, 2024

JAMES COGSWELL

Notary Public in and for the

State of New Mexico

CERTIFICATE OF TRANSCRIBER

I, MORGAN PALMER, 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 29, 2024

MORGAN PALMER

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