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

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IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:  
Case Nos. 24941, 24942, 24994,  
24995, 25115, 25116, 25117,  
25145, 25146, 25147, 25148.

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HEARING  
DATE: Tuesday, January 28, 2025  
TIME: 8:59 a.m.  
BEFORE: Hearing Examiner Gregory A. Chakalian  
LOCATION: Energy, Minerals, and Natural Resources  
Department  
Pecos Hall, Wendell Chino Building  
220 South Saint Francis Drive  
Santa Fe, NM 87505  
REPORTED BY: James Cogswell  
JOB NO.: 7011524

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A P P E A R A N C E S

ON BEHALF OF PERMIAN RESOURCES OPERATING LLC AND XTO  
ENERGY INC.:

ADAM G. RANKIN, ESQUIRE  
PAULA M. VANCE, ESQUIRE  
Holland & Hart LLP  
110 North Guadalupe Street, Suite 1  
Santa Fe, NM 87501  
agrankin@hollandhart.com  
pmvance@hollandhart.com  
(505) 988-4421

ON BEHALF OF V-F PETROLEUM INC.:

DARIN C. SAVAGE, ESQUIRE  
Abadie & Schill, P.C.  
214 McKenzie Street  
Santa Fe, NM 87501  
darin@abadieschill.com  
(970) 385-4401

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ON BEHALF OF CAROLYN BEALL:

KAITLYN A. LUCK, ESQUIRE  
P.O. Box 483  
Taos, NM 87571  
luck.kaitlyn@gmail.com  
(361) 648-1973

ALSO PRESENT:

Dean McClure, Technical Examiner (by  
videoconference)  
Christopher Cantin (by videoconference)  
Sam Hamilton (by videoconference)  
Jordan Shaw (by videoconference)  
Stephen "Mike" Burke

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P R O C E E D I N G S

THE HEARING EXAMINER: It is approximately 9 a.m. on the 28th of January. We are here for a contested hearing. This is a special hearing of the Oil Conservation Division. My name is Gregory Chakalian; I'm the hearing examiner.

With me as technical examiner today is Mr. Dean McClure. Mr. James Cogswell is recording this and will be the verbatim transcriber.

I hear an echo. If you --

THE REPORTER: We're working on it.

THE HEARING EXAMINER: Thank you very much, but I'm going to keep talking even though there's an echo.

All right. So I'm going to call the cases now that are set for the contested hearing. Not in any particular order, these are case numbers. 24941, 24942, 24994, 24995, 25115, 25116, 25117, 25145, 46, 47, 48. We also have two -- no, we don't have that one. Okay. Those are the cases.

I'd like to deal first with the motion to dismiss case numbers 25145 through 25148. This motion was filed on behalf of V-F Petroleum. It was obviously opposed by Permian. I made a decision, after reading the briefs and reviewing the cases, to



1 deny the motion based on a workaround that I have  
2 developed with my technical examiner.

3 And what we're going to do is this.  
4 The reason that the motion, just for the record, was  
5 filed was that it was filed only two weeks ago, and  
6 that does not give the proper notice to parties.  
7 Under the rules it requires a 20-day notice period for  
8 applications that are filed to be heard before the  
9 OCD, both from the OCD's perspective of providing  
10 notice and of the company itself, this being Permian  
11 Resources Operating.

12 What we're going to do here to  
13 basically cure this notice problem is, after the  
14 hearing is over either today or tomorrow, we are going  
15 to leave the record open. We are going to come back  
16 on the record on February 13, which is when these four  
17 cases are noticed. We will see what happens on  
18 February 13. If there are no objections or no  
19 requests for additional admission of evidence, then we  
20 will close the record at that time having allowed a  
21 sufficient notice period.

22 Mr. Savage, do you understand?

23 MR. SAVAGE: So if I understand this  
24 right, so you're denying the motion because you have a  
25 built-in workaround, which was expressed in the

1 amended prehearing orders, and that is to keep the  
2 record open to allow folks who did not have the right  
3 to be heard at the actual hearing and did not receive  
4 notice prior to the hearing to able to enter an  
5 appearance after the fact, after the hearing is over,  
6 and express any objections they may have. If I may  
7 clarify, if --

8 THE HEARING EXAMINER: Before you  
9 continue, Mr. Savage, you characterized it in a way  
10 that I would push back on. I didn't say that the  
11 record would be -- after the hearing. The hearing is  
12 going to continue. The hearing is still open. So if  
13 anyone objects, if anyone wants to submit new  
14 evidence, the record is still open and they have a  
15 possibility to do that either on February 13th or, if  
16 they need more time, then they can argue for more time  
17 and we'll see how that goes. So I wouldn't  
18 characterize it the way you did.

19 MR. SAVAGE: Yes, sir.

20 THE HEARING EXAMINER: But go ahead.

21 MR. SAVAGE: So if I understand this,  
22 so if somebody does have an objection after the event  
23 of the initial hearing, then would you repeat the  
24 hearing? Would the hearing have to be repeated?

25 THE HEARING EXAMINER: Would it be

1 repeated? No, but it would be continued.

2 MR. SAVAGE: Okay.

3 THE HEARING EXAMINER: There's a  
4 difference between repeated and continued. I mean,  
5 all the record is there for their review and they can  
6 submit evidence to, you know, support their position  
7 if it's different from one of the parties here, by all  
8 means.

9 MR. SAVAGE: Yes, sir. If I may ask  
10 for another clarification. So now under the rules,  
11 based on this precedent, the definition of 20 days  
12 prior to hearing, 10 days prior to hearing, is hearing  
13 being defined now as not the actual initial event in  
14 which the parties appear to be heard, but it will  
15 include and be extended to include any time period in  
16 which the record is left open?

17 THE HEARING EXAMINER: My decision is  
18 based on the facts of this case, so I'm limiting this  
19 decision and it's precedential weight to this case.  
20 This case is a little different. It's been ongoing  
21 now for months and months, and Permian filed some  
22 competing applications, you know, so that the notice  
23 would not be sufficient. So in this case, this is how  
24 we're going to deal with it. I'll deal with other  
25 cases as they come up. So I'm not saying that this is

1 how we're going to do it as a Division from here on  
2 in.

3 MR. SAVAGE: Okay. Yes, sir. But any  
4 time a party files a late application, this opens the  
5 door for fast-tracking it by bypassing the specified  
6 notice. Is that correct? Would that be --

7 THE HEARING EXAMINER: I'm not going to  
8 agree or disagree with your characterization. Like I  
9 said, we'll deal with this as a case-by-case basis  
10 from here on in.

11 MR. SAVAGE: Yes. Thank you. Thank  
12 you, sir. I appreciate that clarification.

13 THE HEARING EXAMINER: So is there any  
14 comment on the motion?

15 MS. VANCE: The only thing that I would  
16 like to offer, and it may be helpful --

17 THE HEARING EXAMINER: Maybe we should  
18 have entries of appearance before we go any further.

19 MS. VANCE: Yeah.

20 THE HEARING EXAMINER: So let's do  
21 entries of appearance. Let's start with V-F  
22 Petroleum.

23 MR. SAVAGE: Yes, sir. Darin Savage  
24 with Abadie & Schill appearing on behalf of V-F  
25 Petroleum.

1 THE HEARING EXAMINER: And do you have  
2 co-counsel?

3 MR. SAVAGE: Today I do not.

4 THE HEARING EXAMINER: Would you  
5 indicate who's sitting with you at the table?

6 MR. SAVAGE: That is counsel for  
7 another party who has entered independently.

8 THE HEARING EXAMINER: So let's hear  
9 from that party.

10 MS. LUCK: Thank you, Mr. Hearing  
11 Examiner. Kaitlyn Luck appearing for Carolyn Beall.  
12 She is a party who received notice of one of these  
13 late applications, and so I'm standing with V-F  
14 Petroleum's motion to dismiss those applications, the  
15 25145 through 25148, due to the fact that my client  
16 didn't receive notice until two weeks ago, and she  
17 does own an interest in the Bone Spring formation  
18 that's being affected here.

19 THE HEARING EXAMINER: What is her  
20 interest? What is the amount? What is the percentage  
21 of her interest?

22 MS. LUCK: I have the assignments here.  
23 I can refer to them. But the issue here is that the  
24 well is being drilled in the lower portion of the Bone  
25 Spring and her interest is just above that, and

1 there's a depth severance in the Bone Spring, and so  
2 we have concerns regarding allocation of production to  
3 her interest. And so there is a real and substantial  
4 issue here with the development of the Bone Spring  
5 with my client's interest being located slightly above  
6 where the drilling is taking place in the Bone Spring  
7 formation.

8 THE HEARING EXAMINER: So in what way  
9 are you aligned with V-F Petroleum?

10 MS. LUCK: Ms. Beall is aligned with  
11 V-F Petroleum in opposition to Read & Stevens'  
12 applications. She does not support this drilling in  
13 the Bone Spring that's proposed by Read & Stevens  
14 because she hasn't had an adequate time to determine  
15 whether or not that's appropriate drilling for the  
16 Bone Spring in this area due to the location of where  
17 her interest is. She's not clear on how that  
18 production's going to be allocated to her interest at  
19 this point.

20 THE HEARING EXAMINER: Ms. Luck, you,  
21 you're confusing me in the following. I've asked what  
22 is her percentage interest?

23 MS. LUCK: And sorry, I'll have to find  
24 that. If you don't mind, if I could have a moment.

25 THE HEARING EXAMINER: Okay. Well,

1 while you're looking for that, I have another question  
2 for you. So in the other cases that have been filed,  
3 have you reviewed those cases?

4 MS. LUCK: I've only reviewed the V-F  
5 Petroleum cases that have been filed.

6 THE HEARING EXAMINER: Again, I'm  
7 confused. We have here Permian Resources filed their  
8 case 24941 and 42. Let's see -- let's get entries of  
9 appearance for Permian first or Read Stevens, however  
10 you characterize it.

11 MS. VANCE: Good morning, Mr. Hearing  
12 Examiner. Paula Vance and Adam Rankin on behalf of  
13 Permian.

14 THE HEARING EXAMINER: Okay.

15 MS. VANCE: Another echo.

16 THE HEARING EXAMINER: Yes.

17 MS. VANCE: And also XTO, and I'm going  
18 to let Mr. Rankin speak to XTO's position in these  
19 cases.

20 I would like to say, if you want to  
21 come back to me, but I would like to provide some  
22 further information regarding the notice which I think  
23 would be helpful to further support why we can move  
24 forward today.

25 And also I did want to address

1 Ms. Beall, Carolyn Beall, her interest. I do have  
2 that information regarding her interest and would like  
3 to point out that she's receiving notice in the cases  
4 that they entered an appearance and objection in,  
5 Permian's cases 25145 through 25148. Those are Third  
6 Bone Spring cases.

7 THE HEARING EXAMINER: Are those the  
8 only cases that Ms. Beall has objected to?

9 MS. VANCE: Yes. And so she received  
10 notice because she has a vertical offset, which  
11 Ms. Luck has just alluded to. And I would like to  
12 point out that we previously filed an application for  
13 the north half/north half, Permian did -- north  
14 half/north half of section 14. The Division heard  
15 that case. Ms. Beall received notice and her interest  
16 was pooled, and that order was entered on December 12,  
17 2024, more than 30 days ago.

18 THE HEARING EXAMINER: Thank you.

19 Ms. Luck?

20 MS. LUCK: Yes. It's my understanding  
21 that those are separate cases, but Ms. Beall has about  
22 a 1 percent interest in the spacing unit.

23 THE HEARING EXAMINER: Okay. Thank you  
24 for that information. Now, Permian filed its original  
25 cases back on October the 8th. I'm looking at it



1 here. Now, your client entered an objection not on  
2 the original cases, but on following cases?

3 MS. LUCK: Yes. It's my understanding.

4 THE HEARING EXAMINER: Okay. Is what  
5 Ms. Vance said correct in the case numbers that your  
6 client objected to?

7 MS. LUCK: I think that's correct.  
8 Yes, sir.

9 THE HEARING EXAMINER: Okay. Why don't  
10 you tell me. What cases did you enter an appearance  
11 on and object to?

12 MS. LUCK: In cases 25145 through  
13 25148.

14 THE HEARING EXAMINER: And these are  
15 the newer cases. Right, Ms. Vance?

16 MS. VANCE: Correct. They were filed  
17 in January.

18 THE HEARING EXAMINER: Very good. So  
19 these are the Third Bone Spring cases, as you stated,  
20 and Ms. Beall entered an objection on them. And why  
21 does the December order show that they have notice in  
22 these cases?

23 MS. VANCE: If you go to the hearing  
24 packet, which I would be glad to pull up, or you can  
25 go to the case file. It's case number 24939.

1 THE HEARING EXAMINER: Okay.

2 MS. VANCE: You can look at our hearing  
3 packet. You can see that her name is there on our  
4 mailing report and that it was timely delivered. Her  
5 name is also included on our notice of affidavit.

6 THE HEARING EXAMINER: I guess what I'm  
7 asking is -- and thank you for the information. What  
8 I'm asking you is what is the crossover between these  
9 cases and the 24939 in the subject lands?

10 MS. VANCE: So there is a depth  
11 severance here.

12 THE HEARING EXAMINER: Okay.

13 MS. VANCE: And so, as a part of our  
14 case, for our cases, the 25145 through 25148, we  
15 provide a notice to the vertical offset to let them  
16 know that we are conducting this pooling. And so what  
17 I suspect happened is yesterday I filed a revised  
18 hearing packet to address objection one from V-F,  
19 which was they did not get a chance to look at the  
20 notice. And we included in that the folks who were  
21 going to get notice, and Ms. Carolyn Beall's name is  
22 on there. And so I'm assuming that they saw that  
23 name, and, to go along with our theme that we'll talk  
24 about when we get to the contested hearing, is that  
25 this is grasping at straws. They're --

1 THE HEARING EXAMINER: But this isn't  
2 answering my question. So thank you for that, but  
3 let's go back to my question, which is, you were  
4 saying before that in case 24939 you provided  
5 Ms. Beall notice.

6 MS. VANCE: Correct.

7 THE HEARING EXAMINER: How does that  
8 notice cure her objection to the short notice in the  
9 new cases, 145 through 148?

10 MS. VANCE: It doesn't, but what I  
11 would say for these, it's not required to provide  
12 notice to the offset, but we do it. And also what I  
13 would say is that in her objection she's provided  
14 nothing to say why she's being impaired.

15 THE HEARING EXAMINER: Okay. I  
16 understand that. I just thought that you were saying  
17 something different. When you brought up case 24939  
18 and the order in December from that case, I thought  
19 you were saying that put Ms. Beall on notice of these  
20 new cases in some way.

21 MS. VANCE: No, no.

22 THE HEARING EXAMINER: That's not what  
23 you were saying. But it sounded like you were, so  
24 that's why I wanted to clarify.

25 MS. VANCE: Can I add just one other

1 thing?

2 THE HEARING EXAMINER: Sure.

3 MS. VANCE: Just to respond to the --  
4 Ms. Beall owns 1 percent working interest.

5 THE HEARING EXAMINER: Yes.

6 MS. VANCE: She is the wife of the  
7 owner of V-F Petroleum, and that interest is to Tom  
8 Beall and V-F Petroleum, not Carolyn Beall.

9 THE HEARING EXAMINER: Okay. Thank  
10 you.

11 So, Ms. Luck, is there anything else  
12 you want me to know about the objection?

13 MS. LUCK: Well, there's just one point  
14 of clarification that I'd like to point out. It looks  
15 like the 24939 case was just a 160-acre spacing unit  
16 and the 25145, these are 320s, so it does look like  
17 it's slightly different acreage. And the important  
18 thing here with the Bone Spring development is there's  
19 no geologic barrier, and so there could be dilution or  
20 drainage between this different development, and so  
21 that's part of the reason that I'm here. And we  
22 haven't had a chance to develop a full case on this  
23 issue yet just due to the late notice.

24 THE HEARING EXAMINER: Okay. Well  
25 we're going to start the hearing today, so I'm

1     overruling the objection. We're going to start the  
2     hearing today. If your client wants to bring  
3     additional information on February 13, we'll hear it  
4     on February 13, and then we'll deal with the record  
5     closing at that time.

6             Is there anything else?

7             MS. LUCK: Nothing further. Thank you.

8             THE HEARING EXAMINER: All right. Very  
9     good.

10            Ms. Vance?

11            MS. VANCE: There was one other item  
12     that I wanted to address. You know, we had a  
13     conversation about the preliminary hearing, I wanted  
14     to bring it up, but we'd like to go ahead and put it  
15     on the record, if that's okay with the Examiner. But  
16     I wanted to point out that the same noticed parties  
17     for our two cases, 24941 and 24942, which are timely,  
18     the same parties are being noticed for 25145 through  
19     25148. Again, there's a depth severance, and they  
20     just have different percentages of interest.

21            So to connect the dots, those parties  
22     have already received notice of our two cases in which  
23     a prehearing order was issued, and they have  
24     notification that they can go and follow the case for  
25     those two hearings, and they can see that all of these

1 cases have now been consolidated.

2 THE HEARING EXAMINER: And I understand  
3 that. And just for my clarification, I understand the  
4 parties are the same but the interests are different  
5 in the case numbers, but aren't the lands also  
6 expanded in the new cases to include new lands just  
7 north of that north half of the north half as opposed  
8 to just the south half of the north half?

9 MS. VANCE: That's correct.

10 THE HEARING EXAMINER: Okay. I thought  
11 so. All right. That's fine. I think we've dealt  
12 with this issue.

13 Mr. Savage, are there any other  
14 preliminary issues before we get to exhibits? Your  
15 microphone's off, sir.

16 MR. SAVAGE: I would just like to add  
17 some clarification to this. As I understand, 24939  
18 purported to pool the entire Third Bone Spring?

19 THE HEARING EXAMINER: I don't know why  
20 we're even talking about 24939. It's not relevant  
21 here.

22 MR. SAVAGE: Well, Ms. Vance was able  
23 to --

24 THE HEARING EXAMINER: I know, but when  
25 I drilled down further on it, it didn't really help

1 the notice issue, and that's the only reason that I  
2 think the case was brought up. Is there something  
3 else you wanted to tell me?

4 MR. SAVAGE: Well, I think that the  
5 severance is part of the overall -- addressing  
6 production from the Third Bone Spring with respect to  
7 the severance is critical to the overall development  
8 plan of these.

9 THE HEARING EXAMINER: Okay.

10 MR. SAVAGE: This is a taking.  
11 Ms. Beall's interest is in the upper part of the Third  
12 Bone Spring. They are landing in the lower part,  
13 below the severance. They are producing the entire  
14 Third Bone Spring. This is a taking of her interest  
15 and excluding her interest. I think this is a very  
16 serious issue, and I think the notice is a very  
17 serious matter, just for the record.

18 THE HEARING EXAMINER: Well, I think  
19 we've dealt with the notice issue. I mean, I can't  
20 say it any other way than I've already said it, so I'm  
21 not going to keep going into the notice issue. We'll  
22 come back on the record on February 13 to hear  
23 whatever other evidence that there is. But I think  
24 you're going to address that severance in today's with  
25 your witnesses. Are you not?

1 MR. SAVAGE: We didn't have ample time  
2 to address this because it was an issue that they had  
3 brought up --

4 THE HEARING EXAMINER: Yes.

5 MR. SAVAGE: -- in the exhibits when  
6 they -- we weren't aware of this necessarily in  
7 relation to how they were pooling because they were  
8 claiming to pool, in their application, the entire  
9 Third Bone Spring. Then we realized, based on their  
10 testimony that they filed a week ago, that we have a  
11 severance. Now, the legal issues surrounding the  
12 severance are pretty significant and should be  
13 thoroughly developed, and we're not going to have time  
14 to thoroughly develop those in the hearing today.

15 THE HEARING EXAMINER: Okay.

16 Mr. Savage, this issue that you're talking about, does  
17 it exist only in 25145 through 48?

18 MR. SAVAGE: Within the Third Bone  
19 Spring applications.

20 THE HEARING EXAMINER: I asked you does  
21 it only exist in application case numbers 25145  
22 through 48?

23 MR. SAVAGE: Those are the cases that  
24 cover the Third Bone Spring.

25 THE HEARING EXAMINER: Perfect. So you



1 will have additional opportunity on February 13. If  
2 you want to enter more evidence about this issue, you  
3 have plenty of time to do that.

4 MR. SAVAGE: Sir, we will not have  
5 ample opportunity to cross-examine the witnesses.

6 THE HEARING EXAMINER: Why not?  
7 They'll be here.

8 MR. SAVAGE: Mr. Macha will be here?

9 THE HEARING EXAMINER: Everyone will be  
10 here. The hearing continues on February 13. I don't  
11 know how to make that more clear.

12 MR. SAVAGE: Yes, sir. I understand.  
13 Thank you.

14 THE HEARING EXAMINER: So your  
15 witnesses will be here, their witnesses will be there,  
16 and if Ms. Beall -- is it Ms. Beall?

17 MS. LUCK: Yes. Ms. Beall.

18 THE HEARING EXAMINER: Beall. I  
19 thought so, but he said Beall so I got confused.

20 So if Ms. Beall wants to present  
21 witnesses on her behalf, she's more than welcome to.

22 MS. LUCK: And thank you for that  
23 clarification. We'll be prepared for February 13th.

24 THE HEARING EXAMINER: Perfect. And by  
25 the way, we will hear this at the end of the

1 February 13 docket, which is a little large right now,  
2 and we're going to be cutting it down.

3 And, Freya, we're going to cut it down  
4 substantially so we have plenty of time to hear any  
5 additional evidence in these cases. So I think maybe  
6 the max on that day should be somewhere between 30 and  
7 40 that we actually hear before we come back on the  
8 record on these cases.

9 Okay. Mr. Savage, do you have any  
10 other preliminary issues before we get to exhibits?

11 MR. SAVAGE: I believe that covers  
12 everything. Thank you.

13 THE HEARING EXAMINER: Let's deal with  
14 the exhibits. What exhibits do you have? Let's see  
15 whether we can get them admitted through stipulation.

16 MR. SAVAGE: So we have -- let's see  
17 here.

18 THE HEARING EXAMINER: Do you have a  
19 packet I can look at?

20 MR. SAVAGE: We do. I'm trying to pull  
21 it up here. So we have individual hearing packets for  
22 each case.

23 THE HEARING EXAMINER: Okay.

24 MR. SAVAGE: So we have filed a hearing  
25 packet for 24994, 24995, 25115, 25116, and 25117.

1 THE HEARING EXAMINER: Okay.

2 MR. SAVAGE: And those will contain all  
3 the landman exhibits and all the geology exhibits.  
4 And we did not have time to prepare the reservoir  
5 engineer. So we have geology and the landman  
6 exhibits.

7 THE HEARING EXAMINER: In which cases  
8 do you need your reservoir engineer?

9 MR. SAVAGE: Well, I think we would  
10 need a reservoir engineer in every case.

11 THE HEARING EXAMINER: Oh. Then what  
12 do you mean you didn't have time to prepare for a  
13 reservoir engineer --

14 MR. SAVAGE: So V-F Petroleum does not  
15 have an in-house reservoir engineer the same way that  
16 Permian Resource does, so we have to seek outside  
17 expertise. And V-F Petroleum inquired with the  
18 reservoir engineers it has worked with, and, within  
19 the timeline given, they said it was not possible for  
20 them to do it. The initial applications were filed  
21 and that was, you know, during a lot of the holidays,  
22 and the logistics during that time were very  
23 difficult, and then with the additional applications  
24 that was fast-tracked, and so that was not possible.

25 THE HEARING EXAMINER: So your case was

1 filed on December 2nd, and two weeks later was the  
2 prehearing order setting today as the -- actually  
3 setting -- let's see. Oh, wait, this was a motion.  
4 Excuse me. Let me go back. Let me see the prehearing  
5 order here.

6 This is the case in which originally we  
7 were thinking about March the 4.

8 MR. SAVAGE: Yes, sir.

9 THE HEARING EXAMINER: Then, as I  
10 remember, the parties came to me and asked for  
11 January 14. Then you filed a motion saying you  
12 wouldn't be ready because of witness availability, so  
13 we moved it to today.

14 MR. SAVAGE: Yes, sir.

15 THE HEARING EXAMINER: So during all  
16 that time I never heard that you had a problem with  
17 the reservoir engineer. So you'll proceed today as  
18 best you can.

19 MR. SAVAGE: Yes, sir.

20 THE HEARING EXAMINER: And if you're a  
21 reservoir engineer is able to appear on February 13,  
22 then it sounds like that would be of great benefit to  
23 you, and we'll see how that works.

24 Okay. So anyway, back to what I asked  
25 about. So you're saying each case has an individual

1 hearing packet.

2 MR. SAVAGE: Correct.

3 THE HEARING EXAMINER: Okay.

4 So, Ms. Vance and Mr. Rankin, excuse  
5 me, did you have an opportunity to review the exhibit  
6 packets filed by V-F?

7 MS. VANCE: Yes.

8 THE HEARING EXAMINER: Okay. Very  
9 good. Are there any objections to the hearing packets  
10 filed by V-F?

11 MS. VANCE: No.

12 THE HEARING EXAMINER: No objections.

13 So, Mr. Savage, all of your exhibits  
14 filed in all of your cases as of today are admitted  
15 into evidence.

16 (V-F Petroleum Case 24994 Exhibits A,  
17 A-1 through A-9, B, B-1 through B-5, C,  
18 and C-1 through C-3 were marked for  
19 identification and received into  
20 evidence.)

21 (V-F Petroleum Case 24995 Exhibits A,  
22 A-1 through A-9, B, B-1 through B-5, C,  
23 and C-1 through C-3 were marked for  
24 identification and received into  
25 evidence.)

1 (V-F Petroleum Case 25115 Exhibits A,  
2 A-1 through A-7, B, B-1 through B-5, C,  
3 and C-1 through C-3 were marked for  
4 identification and received into  
5 evidence.)

6 (V-F Petroleum Case 25116 Exhibits A,  
7 A-1 through A-9, B, B-1 through B-5, C,  
8 and C-1 through C-3 were marked for  
9 identification and received into  
10 evidence.)

11 (V-F Petroleum Case 25117 Exhibits A,  
12 A-1 through A-7, B, B-1 through B-5, C,  
13 and C-1 through C-3 were marked for  
14 identification and received into  
15 evidence.)

16 MR. SAVAGE: Thank you, sir. And I  
17 have, during the initial examinations, such as cross,  
18 I have a couple of Code of Federal Regulations and  
19 some BLM regulations I would like to possibly pull up  
20 on the screen during that time. Can I do that during  
21 the examination, or do you want me to admit these  
22 regulations prior?

23 THE HEARING EXAMINER: If you show me  
24 how they're relevant and if there's no objection, then  
25 yes. But we'll deal with that as we go because I

1 don't know what they are and how they apply to today's  
2 cases.

3 Let me go to -- do you want me to call  
4 it Read & Stevens or Permian?

5 MS. VANCE: Permian is just fine.

6 THE HEARING EXAMINER: Permian. Let's  
7 go to Permian's counsel. Do you have exhibits that  
8 you'd like to admit through stipulation?

9 MS. VANCE: Yes, we do.

10 THE HEARING EXAMINER: And what are  
11 they?

12 MS. VANCE: I am pulling up my exhibits  
13 so I can just quickly walk through them. So we have  
14 provided the self-affirmed statement of Travis Macha,  
15 who --

16 THE HEARING EXAMINER: Is there a case  
17 number you want me to look at for this or are they all  
18 the same?

19 MS. VANCE: They're all the same.

20 THE HEARING EXAMINER: They're all the  
21 same.

22 MS. VANCE: We did a compiled hearing  
23 packet.

24 THE HEARING EXAMINER: Perfect.

25 MS. VANCE: So that the hearing

1 examiner and technical examiner can view all of the  
2 cases succinctly.

3 THE HEARING EXAMINER: I have something  
4 filed on the 22nd. Would that be the hearing packet?

5 MS. VANCE: That's correct.

6 THE HEARING EXAMINER: All right.

7 MS. VANCE: Well, I did file a revised  
8 hearing packet yesterday.

9 THE HEARING EXAMINER: Yesterday.

10 MS. VANCE: Yes. And there's a cover  
11 page describing the updates that I provided.

12 THE HEARING EXAMINER: Freya, do we  
13 have that? Maybe I'm not seeing it.

14 MS. VANCE: I am happy to email it to  
15 the Examiner.

16 THE HEARING EXAMINER: I have -- hold  
17 on a second.

18 MS. TSCHANTZ: We do have it. It's  
19 received on January 27th.

20 THE HEARING EXAMINER: Okay. I'll look  
21 now. Thank you.

22 MS. TSCHANTZ: I'm looking in case --

23 THE HEARING EXAMINER: Notice of  
24 revised exhibits. I have it. And this looks like a  
25 192-page document. Is that complete?



1 MS. VANCE: That's correct. With Bates  
2 numbering.

3 THE HEARING EXAMINER: Okay. And just  
4 to go back one second, Ms. Vance.

5 I also see a notice of rebuttal  
6 exhibits from V-F.

7 MR. SAVAGE: Yes, sir. And rebuttal  
8 exhibits from PR as well.

9 MS. VANCE: Yes, we did --

10 THE HEARING EXAMINER: I haven't seen  
11 that yet.

12 MS. VANCE: I am happy to send those.  
13 We circulated those to opposing counsel yesterday  
14 afternoon.

15 THE HEARING EXAMINER: So I just want  
16 to be clear about something. At first I was asking  
17 you if you'd stipulate to the exhibit packets that  
18 were filed. Does that include the rebuttal exhibits?

19 MS. VANCE: Yes.

20 THE HEARING EXAMINER: Okay. Very  
21 good. Then your rebuttal exhibits are admitted into  
22 evidence.

23 //

24 //

25 //

1 (V-F Petroleum Rebuttal Exhibits 1A  
2 through 1C and 2 through 14 were marked  
3 for identification and received into  
4 evidence.)

5 MR. SAVAGE: Thank you, sir.

6 THE HEARING EXAMINER: Now let's go to  
7 Ms. Vance. I do have your 192-page document here.  
8 You don't need to walk me through it yet.

9 MS. VANCE: Okay.

10 THE HEARING EXAMINER: Mr. Savage, are  
11 there any objections to this document?

12 MR. SAVAGE: No objection to  
13 admitting for review.

14 THE HEARING EXAMINER: No objections.  
15 Okay.

16 MR. SAVAGE: Ms. Vance, your revised  
17 exhibit packet is admitted into evidence.

18 (Permian Resources Revised Exhibits A  
19 through G were marked for  
20 identification and received into  
21 evidence.)

22 THE HEARING EXAMINER: And, Freya,  
23 would you please remove any conflicting exhibit  
24 packets?

25 MS. TSCHANTZ: Yes, I will.

1 THE HEARING EXAMINER: I know it's  
2 going to be a lot of work because there's a lot of  
3 case numbers and there's probably a lot of revisions,  
4 but if you would do that over time, I appreciate it.

5 Okay. So, Ms. Vance, I don't have  
6 rebuttal exhibits. Where would they be?

7 MS. VANCE: I circulated those to  
8 opposing counsel last night, and I'm happy to submit  
9 those -- email those to you, Mr. Hearing Examiner.

10 THE HEARING EXAMINER: That would be  
11 helpful, yes.

12 MS. VANCE: Yes, sir.

13 THE HEARING EXAMINER: Would you submit  
14 them also to Freya?

15 MS. VANCE: Yes.

16 THE HEARING EXAMINER: All right. So  
17 let's just deal with the rebuttal exhibits now.

18 MS. VANCE: Mr. Savage, have you seen  
19 these rebuttal exhibits?

20 MR. SAVAGE: We have reviewed --

21 THE HEARING EXAMINER: You have?

22 MR. SAVAGE: Yes.

23 THE HEARING EXAMINER: Okay. Are there  
24 any objections to the rebuttal exhibits from Permian?

25 MR. SAVAGE: Not initially. Nothing

1 that could be addressed when we address them.

2 THE HEARING EXAMINER: I understand.  
3 So Ms. Vance, all of your exhibits, including your  
4 revised exhibits and your rebuttal exhibits are  
5 admitted into evidence.

6 (Permian Resources Rebuttal Exhibit 1  
7 and Exhibit 2 were marked for  
8 identification and received into  
9 evidence.)

10 MS. VANCE: Thank you. And just to be  
11 clear then, because I do believe opposing counsel had  
12 some objections to our testimony --

13 THE HEARING EXAMINER: But your  
14 exhibits are admitted.

15 MS. VANCE: Okay.

16 THE HEARING EXAMINER: So let's just  
17 leave it there for now.

18 MS. VANCE: Fair enough.

19 THE HEARING EXAMINER: We'll deal with  
20 the objections as we go along.

21 Okay. Now, have the parties decided  
22 who wants to put on their case in chief first?

23 MS. VANCE: No.

24 MR. SAVAGE: So --

25 THE HEARING EXAMINER: Any suggestions?

1 MR. SAVAGE: Well --

2 THE HEARING EXAMINER: Maybe by witness  
3 availability or something of that nature?

4 MR. SAVAGE: We would be fine with  
5 Permian Resources going first.

6 THE HEARING EXAMINER: Okay. And how  
7 do you feel about that, Ms. Vance?

8 MS. VANCE: That's perfectly fine with  
9 us. Obviously, I think you already know that we have  
10 an unavailability issue.

11 THE HEARING EXAMINER: A landman issue?

12 MS. VANCE: Yes, we do. But it seems  
13 like that works out perfectly fine since the cases are  
14 going to be continued and he can be available, I'm  
15 assuming, on February 13th.

16 THE HEARING EXAMINER: Or tomorrow.

17 MS. VANCE: Or tomorrow.

18 THE HEARING EXAMINER: Depending on how  
19 this goes.

20 MS. VANCE: Yes. Yeah.

21 THE HEARING EXAMINER: So it's just  
22 today he's not available.

23 MS. VANCE: Well, his wife --

24 THE HEARING EXAMINER: Yes.

25 MS. VANCE: -- is in labor, and so I

1 don't want to promise tomorrow in case there's any  
2 kind of medical complications. I just --

3 THE HEARING EXAMINER: Or  
4 February 13th.

5 MS. VANCE: Yeah.

6 THE HEARING EXAMINER: Okay. Good.  
7 I'm glad we have February 13th to fall back on. Okay.  
8 How many witnesses do you have, Ms. Vance?

9 MS. VANCE: I have two other witnesses  
10 available. We have our geologist Chris Cantin, and we  
11 have our reservoir engineer Sam Hamilton. He has not  
12 appeared before the Division.

13 THE HEARING EXAMINER: Right. We'll  
14 deal with that in just a minute. So you have two  
15 witnesses available today for cross-examination.

16 MS. VANCE: Right.

17 THE HEARING EXAMINER: And, Mr. Savage,  
18 did you have any cross-examination questions for the  
19 landman?

20 MR. SAVAGE: Yes, sir.

21 THE HEARING EXAMINER: Okay.

22 MR. SAVAGE: May I just add one  
23 comment? So this seems like a very stressful  
24 situation for Mr. Macha and his --

25 THE HEARING EXAMINER: Who's Mr. Macha?

1 MR. SAVAGE: That's he landman for PR.

2 THE HEARING EXAMINER: Okay.

3 MR. SAVAGE: His wife is being induced  
4 in labor.

5 THE HEARING EXAMINER: Yes. I  
6 understand.

7 MR. SAVAGE: It would seem like a  
8 minimum to move everything to February 13th so --

9 THE HEARING EXAMINER: We're not doing  
10 that. So let's not comment on that anymore.

11 MR. SAVAGE: Yes, sir.

12 THE HEARING EXAMINER: Thank you,  
13 Mr. Savage.

14 Okay. So let's get your two witnesses  
15 on screen, Ms. Vance.

16 MS. VANCE: Yes. Let's see.

17 THE HEARING EXAMINER: And I know  
18 Mr. Cantin.

19 MS. VANCE: They're right there.

20 THE HEARING EXAMINER: I see  
21 Mr. Hamilton, and I see Mr. Cantin. Okay. Would you  
22 turn off your microphones? Thank you. Appreciate it.

23 Okay. So Mr. Cantin, Mr. Hamilton,  
24 will you please raise your right hands?

25 I saw both of them -- thank you.

1                   Okay. Mr. Cantin, I've already  
2 qualified you or you've been qualified as an expert in  
3 your field before this Division. Would you remind me  
4 what field? Are you the geologist or are you the  
5 reservoir engineer?

6                   MR. CANTIN: I'm the geologist.

7                   THE HEARING EXAMINER: Okay. Thank  
8 you.

9                   Okay. Mr. Hamilton, I'm not looking at  
10 your CV, although I'm sure Ms. Vance has provided it  
11 for me. What field of expertise are you seeking to be  
12 an expert in?

13                  MR. HAMILTON: Yes, sir. Reservoir  
14 engineering.

15                  THE HEARING EXAMINER: Okay. Perfect.  
16 Can you outline your education toward that degree?

17                  MR. HAMILTON: Yes, sir. I have a  
18 bachelor's of petroleum engineering that I attained  
19 from the University of Texas and have been working in  
20 the field for approximately ten years now.

21                  THE HEARING EXAMINER: Okay. So back  
22 to your education part, let's just break it down a  
23 little bit. So you got your bachelor's in reservoir  
24 engineering from University of Texas. Is there any  
25 other education that goes toward this field?



1 MR. HAMILTON: Yes, sir. I do have an  
2 MBA that I also attained the University of Texas.

3 THE HEARING EXAMINER: How does that go  
4 to qualifying you as a reservoir engineer?

5 MR. HAMILTON: I would say that it aids  
6 me in financial analysis and economic evaluation of  
7 oil and gas production.

8 THE HEARING EXAMINER: Okay. And then  
9 what work have you done in the field of reservoir  
10 engineering?

11 MR. HAMILTON: I worked as a consulting  
12 petroleum engineer for ten years for Masters  
13 Consulting where we did litigation support as well as  
14 appraisals and valuations. And more recently I have  
15 been with Permian Resources for approximately six  
16 months now working as an asset development reservoir  
17 engineer.

18 THE HEARING EXAMINER: Okay.

19 Mr. Savage, any objections? You're  
20 turning off your microphone.

21 MR. SAVAGE: Did I not see the resume  
22 in here?

23 THE HEARING EXAMINER: What page number  
24 is it, Ms. Vance?

25 MS. VANCE: So it's page 156 of 192.

1 THE HEARING EXAMINER: Thank you.

2 MS. VANCE: And I'm happy to share it  
3 on screen if necessary.

4 THE HEARING EXAMINER: No, it's not  
5 necessary. Thank you.

6 Mr. Savage, any objections?

7 MR. SAVAGE: So his background is  
8 engineering and business, that's his credentials. And  
9 then he has experience in -- he's being qualified as a  
10 geologist?

11 THE HEARING EXAMINER: No, a reservoir  
12 engineer.

13 MR. SAVAGE: He is the reservoir  
14 engineer. Okay. Yeah. No. No objection to that.

15 THE HEARING EXAMINER: Very good.

16 Mr. Hamilton, you're qualified before  
17 this Division from here on in as an expert in  
18 reservoir engineering.

19 Okay. Ms. Vance, both of your  
20 witnesses are sworn in. Who do you want to call  
21 first?

22 MS. VANCE: I'm fine calling either/or.  
23 So we can call Mr. Cantin first.

24 THE HEARING EXAMINER: Okay.

25 MS. VANCE: Mr. Examiner, are we going

1 to do any opening statements or --

2 THE HEARING EXAMINER: I leave that to  
3 your discretion. Do you want to do a brief opening  
4 statement?

5 MS. VANCE: Just a brief opening  
6 statement.

7 THE HEARING EXAMINER: And then  
8 Mr. Savage, I'll give you an opportunity to do an  
9 opening statement when you present your case in chief.

10 MR. SAVAGE: Yes, sir.

11 OPENING STATEMENT

12 MS. VANCE: So just very briefly, just  
13 to lay the groundwork of where we are today. So I  
14 sort of mentioned this when we were talking during the  
15 preliminary hearing, but the theme here is grasping at  
16 straws. That is what V-F is doing. They are grasping  
17 at straws. They are acting like somebody is doing  
18 something to them, PR is doing something to them, when  
19 in fact they have just painted themselves into a  
20 corner, trying to use the contested hearing process to  
21 gain leverage in negotiations. And the problem is it  
22 has backfired, it's not worked, and basically they  
23 have not done their job because they have the burden  
24 of proof in this case.

25 So these are overlapping development

1 plans. The overlap is in section 15. And as the  
2 minority interest owner, they have the burden of  
3 showing that Permian's plan is causing waste,  
4 substantial waste, and impairing correlative rights.  
5 And nothing they have filed has done any of that.  
6 It's not done any of that. Nothing that they have  
7 filed in their hearing packet, none of their rebuttal  
8 exhibits, it has not supported anything to get them  
9 over that hurdle.

10 But what it has done has helped our  
11 case because it has shown what we are arguing is that  
12 they are a business that has little experience in  
13 drilling and operating wells in Eddy, New Mexico, and  
14 they are carrying out their business in a knee-jerk  
15 reaction manner, and, you know, that's where we are  
16 and that's how we got to these contested cases today.

17 So with that, that's our theme:  
18 Grasping at straws. So --

19 THE HEARING EXAMINER: Thank you,  
20 Ms. Vance.

21 MS. VANCE: Okay. I'm just going to  
22 pull up -- so let me just see. Give me one second  
23 here.

24 //

25 //

1 WHEREUPON,

2 CHRISTOPHER CANTIN,  
3 called as a witness and having been first duly sworn  
4 to tell the truth, the whole truth, and nothing but  
5 the truth, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MS. VANCE:

8 Q Mr. Cantin, can you please state your full  
9 name for the record?

10 MS. VANCE: I think they're still  
11 having a moment with the --

12 THE HEARING EXAMINER: Mr. Cantin, how  
13 many microphones do you have going?

14 MS. VANCE: Give us just a second to  
15 work out technical issues.

16 MR. HAMILTON: We're going to swap  
17 places real quick so Chris can work on this computer.

18 THE WITNESS: Can you hear me?

19 THE HEARING EXAMINER: Yes.

20 THE WITNESS: That's better. Awesome.  
21 I apologize. We have a TV on to the right showing the  
22 exhibits, so I'll be looking -- to the left, so I'll  
23 be looking this way periodically. So --

24 THE HEARING EXAMINER: Ms. Vance?

25 MS. VANCE: Yes.

1 BY MS. VANCE:

2 Q So, Mr. Cantin, can you please state your  
3 full name for the record?

4 A Yes. My name is Christopher Cantin.

5 Q Okay. And can you spell that for the court  
6 reporter?

7 A Yes. C-H-R-I-S-T-O-P-H-E-R. Last name is  
8 Cantin, C-A-N-T-I-N.

9 Q And by whom are you employed?

10 A Permian Resources.

11 Q And in what capacity?

12 A I am a geologist.

13 Q And you have previously testified before the  
14 Division. Correct?

15 A I have.

16 Q And your credentials have been accepted as a  
17 matter of record?

18 A Yes, ma'am.

19 Q And you are familiar with the applications  
20 filed in these competing cases?

21 A I am.

22 Q Okay. And you're familiar with the lands  
23 within the proposed spacing units?

24 A Yes.

25 Q Okay. And you prepared the written

1 testimony attached as Exhibit D that's a part of the  
2 hearing packet?

3 A Yes.

4 Q Okay. And then you also prepared the  
5 exhibits in connection with that testimony?

6 A I did.

7 Q And they are marked as Exhibits D-1 through  
8 D-6?

9 A That is correct.

10 Q Now, do you have any corrections or  
11 modifications or changes to that testimony?

12 A I do not.

13 Q Okay. And so do you adopt your written  
14 testimony in exhibits under oath?

15 A Yes, ma'am.

16 Q And you affirm the veracity of the exhibits  
17 that you prepared?

18 A Yes.

19 MS. VANCE: Okay. Mr. Hearing  
20 Examiner, I would tender Mr. Cantin as a witness and  
21 make him available for cross-examination.

22 THE HEARING EXAMINER: Mr. Savage?

23 MR. SAVAGE: Yes, sir.

24 //

25 //

1 CROSS-EXAMINATION

2 BY MR. SAVAGE:

3 Q Mr. Cantin, thank you for your time  
4 answering our questions. If you happen not to hear a  
5 question or a question isn't clear to you, please do  
6 not hesitate to ask me to repeat the question or  
7 rephrase the question.

8 Now, Mr. Cantin, in the course of your work  
9 as a geologist with Permian Resources, I assume you  
10 draft isopach maps periodically or on a regular basis.  
11 Is that correct?

12 A Yes, sir.

13 Q And do you agree that the isopach maps  
14 provide information on the veracity and net pay of a  
15 formation?

16 A They can. It just depends on what the --  
17 the thickness of the -- what the rock contains within  
18 that -- that -- the isopach, but yes.

19 Q Okay. So yes. Thank you. Would it be  
20 accurate to say that the greater the porosity of a  
21 formation, the greater the net pay?

22 A Yes.

23 Q Okay. Did you provide isopach maps for  
24 sections 14 and 15 in your exhibits?

25 A I did not.



1 Q Have you drafted isopach maps for the  
2 sections?

3 A I -- I did not for this -- for this hearing,  
4 no.

5 Q You did not for the exhibits, I understand  
6 that, but did you draft them in-house and have them  
7 but not submit them to the exhibits?

8 A I -- I have them -- I have in the past in  
9 this -- in this area. Correct.

10 Q Okay. So just to clarify, if I understand,  
11 you have not drafted isopach maps for this area and  
12 you do not have them, even though they're not part of  
13 the exhibit.

14 A I have -- I have worked this whole area and  
15 I have -- I have isopachs, but I did not put them in  
16 the exhibit. Correct.

17 Q Okay. So you have isopachs and you have the  
18 isopach data, but you did not include them in the  
19 exhibits.

20 THE HEARING EXAMINER: Mr. Savage,  
21 please.

22 MR. SAVAGE: Yes.

23 THE HEARING EXAMINER: You don't need  
24 to ask a question three times.

25 MR. SAVAGE: Okay. Thank you. There

1 was some stuttering in there, and I didn't quite catch  
2 everything.

3 BY MR. SAVAGE:

4 Q Based on your geological analysis of these  
5 three sections and in the isopachs you may have  
6 drafted internally and have available, how would you  
7 describe the porosity and net pay as you move from  
8 section 14 to section 16?

9 A Without the net pays and isopachs and the  
10 more granular maps in front of me, I -- I can't  
11 confidently tell you what -- what that looks like.

12 Q Can you speak in very general terms? For  
13 example, would section 14 have less net pay and  
14 section 16 have more net pay? Could you generalize in  
15 that manner?

16 A Again without having the net pay front me,  
17 I -- I cannot speak to that without having the map in  
18 front of me.

19 MR. SAVAGE: Mr. Hearing Examiner, is  
20 there opportunity for him to obtain a map such as that  
21 to address this question in general terms? I  
22 understand that he may not want to speak to very  
23 specific data because obviously he did not include it  
24 in the hearing packet, but I believe it's fair to ask  
25 him, as a geologist, to discuss the general

1 differences as you move from 14, 15, to 16.

2 THE HEARING EXAMINER: Ms. Vance?

3 MS. VANCE: Mr. Hearing Examiner, they  
4 have their own geologist who can speak to this. So if  
5 he wants to have an answer on this, then he can use  
6 his own geologist to answer these questions.

7 THE HEARING EXAMINER: I think what I'm  
8 being asked to rule on is whether or not Mr. Savage  
9 can ask your expert witness his expert opinion about  
10 something. Is that what you're asking?

11 MR. SAVAGE: Yes, sir. I think there's  
12 enough --

13 THE HEARING EXAMINER: Okay.  
14 Mr. Savage, I understand.

15 MR. SAVAGE: Yes. Thank you.

16 THE HEARING EXAMINER: I'm going to  
17 overrule the objection because that's the definition  
18 of an expert witness. However, the witness, if he  
19 doesn't know, can say he doesn't know, and we'll move  
20 on.

21 So go ahead, Mr. Savage, ask your  
22 question.

23 BY MR. SAVAGE:

24 Q Based on what -- Mr. Cantin, you said that  
25 you have done isopach analysis. Based on what you can

1 recall and what you can remember, can you describe the  
2 general difference in terms of porosity and net pay  
3 between section 14, 15, and 16?

4 A If I'm going to recall without looking at a  
5 map, I would say there's very analogous geology  
6 between our -- our two sections that we have. But  
7 that's -- again, that just me recalling. I would have  
8 to have a map to be able to confirm.

9 Q So if I understand that right, what you say  
10 generally may not be an accurate statement.

11 A Again, without the map in front of me, I  
12 cannot give you the most accurate version of the  
13 statement.

14 Q Yep. Thank you, Mr. Cantin.

15 MR. SAVAGE: I'll move on, Mr. Hearing  
16 Examiner.

17 BY MR. SAVAGE:

18 Q I direct your attention to Exhibit D-2. Are  
19 you aware of how long the laterals are 5 to 6 miles to  
20 the west of the lands depicted in D-2?

21 A Five to 6 miles to the west in D-2? My  
22 exhibit is only showing 2 to 3 miles to the west.

23 Q That's correct. Are you familiar with the  
24 laterals extending a little bit further to there?

25 A Yes.

1 Q Are the majority of the laterals 2-mile  
2 wells in that area?

3 A That is correct.

4 Q Okay. So wouldn't extending your units from  
5 section 14 to section 13 instead of 15 and 14,  
6 wouldn't this better reflect the sequential 2-mile  
7 development? You starting from the west, you move  
8 east. It looks like, as you point out, that most of  
9 this is 2-mile laterals. Isn't there an opportunity  
10 to develop 14 and 13 instead of 15 and 14?

11 A I'm not sure on our ownership in 13, so I  
12 would not be able to answer that.

13 Q Mr. Cantin, are you familiar with the  
14 geology of the Third Bone Spring in Permian's proposed  
15 units?

16 A I'm familiar with the Third Bone Spring,  
17 yes.

18 Q Is it correct that there exists a depth  
19 severance in the Third Bone Spring in Permian units?

20 A I would refer to land on that. I have heard  
21 of it. I -- I don't know the -- the details of it,  
22 though.

23 Q Okay. Let's assume that there is a depth  
24 severance. I believe there's been discussion of that.  
25 Are there any geological barriers that would separate

1 product above a depth severance and a product below  
2 the depth severance within the Third Bone Spring if  
3 the depth severance were, say, like in the lower  
4 third?

5 A Sorry. Can you repeat that question?

6 I'm -- I'm --

7 Q Yeah. I guess --

8 A I'm -- give me one second. Let me scroll to  
9 that slide --

10 Q Yes, sir.

11 A -- on my cross-section real quick. Okay.  
12 What's the question?

13 Q So I guess the question is, are there any  
14 geological barriers that would prevent open  
15 communication between the interval above the depth  
16 severance, a depth severance, and the interval below a  
17 depth severance in the Third Bone Spring?

18 A Within the Third -- just the Third Bone  
19 Spring? I mean --

20 Q Yes, sir. So you have the Third Bone Spring  
21 interval from the top of the Third Bone Spring to the  
22 bottom of the Third Bone Spring. Then let's assume  
23 that there's a depth severance. Let's say it's in the  
24 lower one-third. Are there any geological barriers,  
25 baffling, that would separate the product in the upper

1 part of the Third Bone Spring above the severance from  
2 below the Third Bone Spring, or is there open  
3 communication within the entire --

4 A I'm sorry. I don't know really exactly  
5 where this depth severance is and how you're speaking  
6 to it.

7 Q Okay. Mr. Cantin, let's assume that the  
8 depth severance is squarely in the middle.

9 A Middle of the Third Bone Spring.

10 Q That's correct. Squarely in the middle.  
11 We're going to make that assumption. Based on that  
12 assumption, is there open communication of product  
13 between the interval above the depth severance and  
14 below the depth severance? Is there open  
15 communication or is there a geological barrier in the  
16 middle of that Third Bone Spring that would prevent  
17 open communication?

18 A I think depending on where that severance  
19 is, I think in the space between where we'd be  
20 drilling it and that depth severance. But I -- I  
21 guess if you're asking if it is above our target zone,  
22 then, you know, there probably is -- it looks like  
23 there's no geological baffle that would prevent  
24 drainage.

25 Q Okay. Thank you. So as a follow-up

1 question, do you consider the entire Third Bone Spring  
2 to be a single reservoir, a single tank?

3 A I would not consider the entire Third Bone  
4 Spring as a tank. I do not think you're physically  
5 draining the entire Third Bone Spring by putting one  
6 lateral in the base of it.

7 Q Would it substantially drain the Third Bone  
8 Spring? If there's limitations, would it  
9 substantially drain the Third Bone Spring?

10 A I'm not sure how much it would drain, but it  
11 would drain some of the Third Bone Spring, yes.

12 Q And that would be above --

13 A -- the exact footage above -- above. I  
14 can't give you a footage of how much it would drain.

15 MR. SAVAGE: Okay. Thank you. Thank  
16 you, Mr. Cantin.

17 That concludes my questions. Thank  
18 you.

19 THE HEARING EXAMINER: Let's go to  
20 Mr. McClure.

21 MR. MCCLURE: Thank you, Mr. Hearing  
22 Examiner.

23 CROSS-EXAMINATION

24 BY MR. MCCLURE:

25 Q Mr. Cantin, in your geology exhibit, do you



1 include the depth severance depicted anywhere here?

2 A Not within these exhibits. I did not.  
3 Again, I'm not very clear on what that depth severance  
4 is or the -- or where it is within the Third Bone  
5 Spring or the wording behind it. I'd refer to the  
6 landman for -- for that -- that definition. I did not  
7 include it on -- on this exhibit. I did not.

8 Q Did you include a depiction of any of the  
9 proposed laterals anywhere in your exhibits?

10 A The horizontal target on Exhibit 6 of my --  
11 my exhibits, the black box that depicts the target  
12 interval where we would likely be drilling this  
13 target.

14 Q Okay. And that's on page 150 of 192? Is  
15 that correct? I don't know if you have it in front of  
16 you on the page numbers or not.

17 A I think I just have my open exhibits right  
18 now. It'd be on 7 of my exhibits. But yes, it's  
19 the -- the two -- the two wells on the west/east  
20 cross-section, 8-A prime.

21 Q Yeah. It says Exhibit D-6-150 in the bottom  
22 right corner?

23 A I believe we are looking at the -- yeah.  
24 Exhibit number D-6 is -- is what I see.

25 Q Okay. I think I'm with you.

1 A Thanks. Yeah --

2 Q Have you --

3 A Go ahead. I'm sorry.

4 Q Have you included a gun-barrel diagram  
5 anywhere in your exhibits?

6 A I -- I did not include one. I did not.

7 MR. MCCLURE: Okay. I have no  
8 additional questions, but I will request some amended  
9 exhibits. Mr. Hearing Examiner, would it be most  
10 appropriate to wait until later to make a list of  
11 amended exhibits I would like?

12 THE HEARING EXAMINER: Yes, please.

13 MR. MCCLURE: Okay. I have no further  
14 questions.

15 THE HEARING EXAMINER: Thank you,  
16 Mr. McClure.

17 Ms. Vance, redirect?

18 MS. LUCK: Mr. Hearing Examiner, may I  
19 ask a question for my client?

20 THE HEARING EXAMINER: By all means.

21 CROSS-EXAMINATION

22 BY MS. LUCK:

23 Q I just wanted to ask, turning to this  
24 Exhibit D-6, if the geologist, Mr. Cantin, could  
25 describe any geologic barriers that are shown on the

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1 exhibit between the Second and the Third Bone Spring?

2 A Yeah. Between the second and the Third Bone  
3 Spring, there is a substantial carbonate that looks to  
4 be 200, 225 feet between the target in the Second Bone  
5 and the target that I have marked in the Third Bone  
6 Spring, so those black dashed boxes, that I believe  
7 act as a substantial barrier in between the two  
8 targets.

9 Q Okay. And then within the Third Bone  
10 Spring, are there any geologic barriers to development  
11 within the Third Bone Spring? Do you see any that are  
12 shown on this type log?

13 A I do not. It is mainly -- mainly sand. I  
14 do not see any tight rock or carbonates that would act  
15 as baffle --

16 Q Okay.

17 A -- within the Third Bone sand.

18 THE WITNESS: Okay. Well, thank you.

19 THE HEARING EXAMINER: Ms. Luck, are  
20 you done with your cross-examination?

21 MS. LUCK: Yes, Mr. Hearing Examiner.

22 THE HEARING EXAMINER: Thank you.

23 Ms. Vance, any redirect?

24 MS. VANCE: Just one question.

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REDIRECT EXAMINATION

BY MS. VANCE:

Q Mr. Cantin, Mr. Savage's questions regarding the drainage. Would you say that those are more geology or reservoir engineering questions?

A I -- I believe they -- they kind of point towards more the -- the engineering side.

MS. VANCE: Thank you. That's all I have.

THE WITNESS: Thank you.

THE HEARING EXAMINER: Mr. Savage, anything further on that one question?

MR. SAVAGE: On that one question?

THE HEARING EXAMINER: Yes.

RECROSS-EXAMINATION

BY MR. SAVAGE:

Q So, Mr. Cantin, when you evaluate the porosity and the potential for hydrocarbons to reside geologically within a formation, does that not also impact what a well would produce within that formation? Is there any kind of general correlation between the two?

A I'm sorry. Can -- can you repeat that?

Q Yes. When you evaluate the porosity of a formation to determine the amount of hydrocarbons

1 potentially within that formation, does this not speak  
2 to the ability to drain that formation or produce that  
3 formation?

4 A Yes. It does in my -- in my evaluation.  
5 Correct.

6 MR. SAVAGE: Yep. Thank you.

7 THE HEARING EXAMINER: Okay. All  
8 right. Mr. Cantin, thank you.

9 Mr. Hamilton, would you come on over to  
10 the other microphone?

11 THE WITNESS: Thank you.

12 THE HEARING EXAMINER: Ms. Vance?

13 MS. VANCE: Okay. Sorry.

14 WHEREUPON,

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

19 DIRECT EXAMINATION

20 BY MS. VANCE:

21 Q Mr. Hamilton, can you state your full name  
22 and spell it for the court reporter, please?

23 A Yes, ma'am. Sam Hamilton, S-A-M  
24 H-A-M-I-L-T-O-N.

25 Q Okay. And by whom are you employed and in

1 what capacity?

2 A Permian Resources as a reservoir engineer.

3 Q And obviously we know you have not  
4 previously testified, but you have been admitted as an  
5 expert in your field, and so we know that your  
6 credentials have been accepted today. Now, are you  
7 familiar with the applications filed in these  
8 competing cases?

9 A Yes, Ma'am.

10 Q Okay. And you're familiar with the lands  
11 within the proposed spacing units?

12 A Yes, ma'am.

13 Q Okay. And you prepared written testimony in  
14 advance of today's hearing?

15 A Yes, ma'am.

16 Q Okay. And your statement is marked as  
17 Exhibit E. Is that correct?

18 A Yes, ma'am.

19 Q And then the exhibits you prepared, they are  
20 marked as Exhibits E-1 through E-6?

21 A Yes, ma'am.

22 Q Now do you have any corrections,  
23 modifications, clarifications regarding any of those  
24 exhibits, and --

25 A My only clarification -- I'm sorry. Go

1 ahead.

2 Q And if you do, can you please provide the  
3 page number so that the Examiners can look at that?

4 A Yes, ma'am. With respect to Exhibit E-4 on  
5 page 2 or slide 2 of the exhibits, I just want to  
6 clarify that the primary purpose of that economic  
7 analysis is to indicate the potential outcome  
8 associated with two additional wells being drilled  
9 within the subject ESU and the incremental volume and  
10 value associated with those two wells.

11 Q Okay. And that would be in our hearing  
12 packet. It's page 159 of 192, just for clarification.

13 Now, do you adopt your written testimony and  
14 exhibits under oath?

15 A Yes, ma'am, I do.

16 Q And then you affirm the veracity of the  
17 exhibits that you prepared?

18 A Yes, ma'am.

19 MS. VANCE: Okay. So, Mr. Hearing  
20 Examiner, I would tender Mr. Hamilton as a witness and  
21 make him available for cross-examination.

22 THE HEARING EXAMINER: Thank you,  
23 Ms. Vance.

24 Mr. Savage?

25 MR. SAVAGE: Yeah. Thank you,

1 Mr. Hearing Examiner.

2 CROSS-EXAMINATION

3 BY MR. SAVAGE:

4 Q Mr. Hamilton, again, thank you for your time  
5 about these questions. If you happen not to hear a  
6 question or if a question isn't clear to you, please  
7 do not hesitate to ask me to repeat or rephrase the  
8 question.

9 Mr. Hamilton, I would like to direct your  
10 attention to Exhibit E-3, and I'm just going to ask  
11 some basic questions about these just to kind of get  
12 an orientation towards the exhibits. So I apologize  
13 if it looks like it's obvious or apparent. But is  
14 your comparison of average well performance graph an  
15 average of all V-F wells on Exhibit E-3? And that's  
16 page 158.

17 A No, sir. It includes the ten wells that V-F  
18 has drilled in Eddy County since 2020.

19 Q Okay. And of those, this is an average of  
20 those wells, those limited number of wells. Correct?

21 A Yes, sir. An average that has been  
22 normalized for the lateral length of the well.

23 Q Okay. At the bottom of E-3, you have a  
24 statement that says "comparing ten V-F Eddy horizontal  
25 wells to most analogous 81 PR horizontal wells." What

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1 is your specific criteria for analogous when you state  
2 that you make that comparison?

3 A They are within the same formation, so the  
4 Second Bone Spring as well as the Third Bone Spring.  
5 And they are in geologically analogous rock within a  
6 reasonable amount distance from the V-F developments.

7 Q Is the length consistent? Is that part of  
8 the analogous, the length of the interval?

9 A The length of the interval?

10 Q Of the well being compared?

11 A The -- the well set in its entirety has been  
12 normalized to 10,000 feet of lateral length, so the  
13 comparison is consistent. Yes, sir.

14 Q But it includes a mixture of different  
15 interval lengths in terms of the individual wells. Is  
16 that correct?

17 A Both -- both data sets contain a mixture of  
18 lateral lengths. Yes, sir.

19 Q Okay. Are there other wells in this data  
20 set that would not be in the same formation? So for  
21 example, if I can clarify the question, are all the  
22 wells in this data set in the Second Bone Spring?

23 A No, sir. This data set includes the Second  
24 and Third Bone Spring.

25 Q So some wells are in the Second Bone Spring

1 and some wells are in the Third Bone Spring.

2 A Yes, sir. That is correct.

3 Q Okay. So when you make the comparison, do  
4 you pick which wells would be analogous for various  
5 comparative situations?

6 A Can you repeat the question?

7 Q Yeah. So is there opportunity to select --  
8 let's say you want to weight it towards the Second  
9 Bone Spring in your wells, for example, but -- or  
10 weight it towards the Third Bone Spring. Is there  
11 opportunity to weight the data in different ways by  
12 selecting which wells you're going to include as the  
13 Third Bone Spring and which wells included for the  
14 Second Bone Spring?

15 A I can't comment on the opportunity. If we  
16 had wells within the criteria that was previously  
17 described that met the Second Bone Spring or Third  
18 Bone Spring designation, they were included within the  
19 dataset.

20 Q Okay. Thank you. And you mentioned that it  
21 was normalized to 10,000 feet -- lateral foot.  
22 Correct?

23 A Yes, sir.

24 Q Did you calculate the normalization yourself  
25 or did you use an automated switch on the software to

1 normalize?

2 A We have a proprietary in-house normalization  
3 algorithm which was used in this case.

4 Q And that's one of the -- I believe I -- so,  
5 for example, in lower Exhibit E-5, there is a  
6 normalization switch on that --

7 A Yes, sir. That is correct.

8 Q And that switches on your -- are you  
9 familiar with the algorithm that this switch uses?

10 A We are talking about two separate softwares  
11 here. Which one are you referring to, sir?

12 Q Okay. Could you explain the two softwares  
13 that we're dealing with?

14 A We're using a proprietary in-house Spotfire  
15 software as well as a -- as ComboCurve.

16 Q And are you familiar with the algorithms  
17 that these softwares use?

18 A At high level, generally. Yes, sir.

19 Q But not specifically. Is that correct?

20 A I have a -- in my opinion, a sufficient  
21 understanding of them, but I'm not an expert. I did  
22 not create the softwares.

23 Q So would it be fair to say that you really  
24 don't have a clear understanding of the biases and any  
25 distortions that the normalization software algorithm

1 might cause or might be inherent to the algorithm?

2 A No.

3 Q That's no, you do not fully understand the  
4 details on that?

5 A No, sir. That's no that I do not have an  
6 understanding of the bias.

7 Q Okay. Thank you. Permian is proposing to  
8 drill a 1-mile well in section 14 as part of its  
9 development plan. Is that correct?

10 A Yes, sir, it is.

11 Q And Permian has already invested in and  
12 drilled a number of 1-mile wells in Eddy County since  
13 2020. Is that correct?

14 A Yes, sir.

15 Q I don't have the number on that. Can you  
16 tell me approximately how many 1-mile wells Permian  
17 Resources has drilled in Eddy County since 2020?

18 A I can't quote that number off the top of my  
19 head, sir.

20 Q Would it be less or more than 50?

21 A My preference would be not to speculate.

22 Q Yeah. I understand that. Thank you. Since  
23 Permian regularly invests in 1-mile wells in this  
24 area, why doesn't Permian develop all of section 14  
25 with 1-mile wells which would allow V-F to develop

1 section 15 and 16? Would that be a viable option?

2 A It would not be the most favorable economic  
3 outcome for Permian Resources or for our working  
4 interest partners.

5 Q But do you agree that the OCD views 1-mile  
6 wells as economical?

7 A I would prefer not to comment on the OCD's  
8 views. I'm not necessarily at dispute on how they  
9 view our internal economics for 1-mile versus 2-mile  
10 wells.

11 Q By Permian drilling 1-mile wells in a number  
12 of circumstances, is it fair to say that they also in  
13 certain circumstances view 1-mile wells as economical?

14 A Yes.

15 Q Thank you. In your area -- Second Bone  
16 Spring map, who has drilled the wells to the west of  
17 section 16 adjacent to Slim Jim?

18 A I believe that development is primarily  
19 Mewbourne.

20 Q Okay. And what is the length of Mewbourne's  
21 wells?

22 A Typically they develop at 2 miles.

23 Q And isn't there room and space east of  
24 section 14 for Permian Resources to extend its  
25 development plans east?

1           A       I'm not aware of the ownership or  
2 development status of the acreage to the east of that  
3 section.

4           Q       Okay. But if the ownership was available,  
5 Permian Resources could extend their development plan  
6 east to develop 2-mile wells. Is that correct?

7           A       In the hypothetical situation that you're  
8 describing, I don't see why that's not a possibility.

9           Q       Yes, sir. Thank you. In your Exhibit 6,  
10 you represent that V-F's EUR is 513.94 Mbbl, million  
11 barrels, and Permian's EUR is 529.27 Mbbl, million  
12 barrels. Do you agree with that description?

13          A       Thousand barrels, but yes, sir, otherwise.

14          Q       I'm sorry. Thank you. Can you clarify what  
15 the quantity is on that?

16          A       Yes, sir. V-F's type curve results in an  
17 EUR of 514,000 barrels, whereas PR's Second Bone  
18 Spring type curve results in a EUR of 529,000 barrels.

19          Q       Okay. Thank you for that clarification.

20          A       Yes, sir.

21          Q       What factors mostly affect EUR? Can you  
22 give like a general list of factors that would be a  
23 high priority in understanding EUR?

24          A       Production rates would be the first decline  
25 curve as well as the shape of the curve.

1 Q Would geology be a primary factor on  
2 understanding the EUR?

3 A It would.

4 Q And then in a reservoir engineering  
5 evaluation, I would assume that would also be correct.

6 A Yes, sir.

7 Q Okay. And which of the list of factors  
8 would you say is the most important?

9 A I would want to evaluate that on a  
10 case-by-case basis, I think.

11 Q Hypothetically, looking at a case, could  
12 geology become the primary factor in determining EUR?

13 A Absent other information, it could.

14 Q Okay. Thank you. Would it be accurate to  
15 say, looking at your type curve, your Second Bone  
16 Spring type curve or -- V-Fs Second Bone Spring type  
17 curve is within about 2.89 percent of Permian's Second  
18 Bone Spring type curve?

19 A From a EUR perspective? Is that what you're  
20 referencing?

21 Q If you could describe the differences  
22 between those two curves in terms of percentages.

23 A I don't have the exact percentages in front  
24 of me, but I do know that PR's type curve demonstrates  
25 a higher peak rate versus V-F's and a modestly higher

1 EUR.

2 Q And we're talking about what threshold  
3 percentages? Like 3 percent?

4 A The difference between EURs is significantly  
5 smaller than that of peak rates. Yes, sir.

6 Q Okay. Could any biases or distortions in  
7 the normalization of switch and algorithm that you do  
8 not have the full details on contribute to certain  
9 minor differences or differences in the actual EUR?

10 A It's possible.

11 Q All right. Would it be fair to say that if  
12 the differences exist, that if you're accurate in your  
13 description of the difference, wouldn't it result in  
14 only about a difference of about 300 barrels per well  
15 per year?

16 A I haven't done the math on that, but that  
17 sounds reasonable.

18 Q That sounds reasonable? Thank you. Permian  
19 Resources has described the depth severance in the  
20 Third Bone Spring. Is that correct?

21 A I'm sorry. Can you repeat the question?

22 Q Yep. I wanted to ask about the depth  
23 severance in the Third Bone Spring. Do you agree that  
24 Permian Resources has acknowledged that there's a  
25 depth severance in the Third Bone Spring?



1           A     I believe that is true. I'm not as up to  
2 speed on the depth severance.

3           Q     Okay. Does the Third Bone Spring represent  
4 one reservoir? Is it one tank?

5           A     Typically we rely more on the geological  
6 analysis of that, in which case I would defer to our  
7 geology department, but it sounds like it is not  
8 sufficiently drained by one well.

9           Q     Okay. Thank you. But as an engineer, you  
10 know where you are planning to land your wells that  
11 you want to drill in the Third Bone Spring. Correct?

12          A     With specific respect to this subject ESU or  
13 generally?

14          Q     With respect to this. So are you planning  
15 to land and drill your Third Bone Spring well below or  
16 above the depth severance? Well, let me ask it this  
17 way since you don't know exactly where the depth  
18 severance is. Are you planning to drill in the lower  
19 one-third of the Bone Spring or in the top one-third  
20 of the Bone Spring?

21          A     My understanding is that we are targeting  
22 some area in the lower portion, but I am not exactly  
23 certain what that is.

24          Q     Okay. And why do you locate wellbores in  
25 the bottom part of the Third Bone Spring instead of

1 the top part of the interval?

2 A Typically that is something that we would  
3 defer to geology with respect to targeting, and we  
4 would generate that in unison with their input.

5 Q Okay. Would it have anything to do with the  
6 fact that, from an engineering point of view, when you  
7 frack, do the fractures go up typically or do they go  
8 down?

9 A They go in a variety of directions. They're  
10 beyond the control of -- of our completions team.

11 Q So it would be fair to say that they could  
12 or would frack upward into the upper part of the Third  
13 Bone Spring? Would that be a fair statement?

14 A It's possible.

15 Q Okay. In your expert opinion, if the well  
16 is drilled in the lower part, let's assume it's  
17 drilled below the depth severance, would that well  
18 produce hydrocarbons from both the lower part of the  
19 Third Bone Spring below the severance and the upper  
20 part of the Third Bone Spring above the severance?

21 A I really can't comment on that.

22 Q As a reservoir engineer, you can't comment  
23 on how a wellbore would produce the interval in which  
24 it's drilled?

25 A It depends on the completions technique and

1 many other variables, so I really don't know exactly  
2 how far we would be permeating into other areas of the  
3 zone.

4 Q Okay. So you're not aware of the completion  
5 techniques for the wells that you proposed?

6 A I do not know exactly what the details of  
7 the completions are, no.

8 Q How much do you not know? Could you  
9 describe what you know and what you don't know at this  
10 time?

11 A I don't really understand the question. I  
12 know -- I know a good bit within the scope of what is  
13 detailed to me as a reservoir engineer designing the  
14 development of this area.

15 Q Okay. So would it be fair to say that your  
16 development plan is not complete because you do not  
17 know the full scope of how you're going to drill these  
18 wells and complete them?

19 A The development is still several months out,  
20 if not years, and it is going to incorporate other  
21 facets of our team.

22 Q So the OCD cannot review the full details of  
23 your plan -- is that correct -- today?

24 A No.

25 Q And they cannot ask questions that would

1 give them information about the details of your plan  
2 today. Is that correct?

3 A They're welcome to ask questions. I don't  
4 believe we would hold anything back, certainly.

5 Q But it sounds like you would not be able to  
6 provide information that would be critical to  
7 understanding how this Third Bone Spring well would  
8 produce.

9 MS. VANCE: Mr. Hearing Examiner, I'd  
10 like to object. These questions are for completion.  
11 Mr. Hamilton is a reservoir engineer, and these  
12 questions should be limited to what he is here to  
13 speak on.

14 THE HEARING EXAMINER: Mr. Savage?

15 MR. SAVAGE: Yes, sir. So today,  
16 Permian Resources proposed to drill wells in the lower  
17 Third Bone Spring. We've established that. That is  
18 going to produce, as the geologist pointed out and as  
19 an engineer, that it's going to produce interest in  
20 hydrocarbons from owners in the upper part of the  
21 Third Bone Spring. That's going to violate or impact  
22 their correlative rights. We need to know the details  
23 of that extraction to fully understand this  
24 development plan at this time.

25 I think these are valid questions. I'm

1 kind of surprised that Permian Resources come to this  
2 hearing without information along those lines about  
3 the nature of the production from the Third Bone  
4 Spring, and I think they're valid questions.

5 THE HEARING EXAMINER: I don't think  
6 the objection is whether they're valid questions or  
7 not. I think the objection is, is this the right  
8 witness to ask these questions to. I think you've  
9 elicited the data you need to make that argument. In  
10 fact, you just did make that argument. And maybe  
11 that's part of your opening argument. I'm not sure,  
12 but I'll leave that to you.

13 So I sustain the objection, but I'm not  
14 striking any of the questions or answers that you have  
15 achieved so far. Let's stick to what this witness is  
16 an expert in. Do you have any other questions for  
17 this witness?

18 MR. SAVAGE: Yes, sir. Please.

19 BY MR. SAVAGE:

20 Q Mr. Hamilton, I would like to direct your  
21 attention to your Exhibit E-4.

22 A Yes, sir.

23 Q You state you tested higher density to the  
24 south, and it looks like you list the wells Pinkie  
25 Pie, Long John, and Silver. Is that correct?

1 A Yes, sir, it is.

2 Q Have you received production results after  
3 drilling these wells?

4 A We have preliminary production data on those  
5 wells, yes.

6 Q When did you receive the production data?

7 A The wells came online in late October, early  
8 November, so around those dates.

9 Q Does Permian Resources have an obligation  
10 requirement to report the production to the OCD within  
11 45 days under the rules?

12 A Can't comment on those regulatory rules.

13 Q Are you familiar with the C-145 report?

14 A Not directly. No, sir. That's outside of  
15 the scope of what I do as a reservoir engineer.

16 MR. SAVAGE: Okay. Thank you,  
17 Mr. Hamilton. I appreciate your time. That's all the  
18 questions I have.

19 THE HEARING EXAMINER: Ms. Luck?

20 MS. LUCK: Thank you, Mr. Hearing  
21 Examiner. I just have a few questions.

22 CROSS-EXAMINATION

23 BY MS. LUCK:

24 Q So, Mr. Hamilton, I'm not a scientist. I  
25 need just a little bit of help understanding why the

1 curve used wells from both the Second and the Third  
2 Bone Spring. Is that because that's a single source  
3 of production, or why would you use both for that  
4 curve?

5 A You're referring to Exhibit E-3?

6 Q Yes, sir. Sorry.

7 A My understanding was that the hearing was  
8 relevant to the Second Bone Spring as well as the  
9 Third Bone Spring, and the intent with this slide was  
10 to show that PR drills wells that produce cumulatively  
11 more oil than V-F does within those formations.

12 Q Okay. Were you involved in this case that  
13 Ms. Vance mentioned that went to hearing in November,  
14 the 24939 case that dealt with the upper portions of  
15 Bone Spring in these sections?

16 A No, ma'am.

17 Q Okay. Well, can you speak to the Second and  
18 the First Bone Spring in these sections?

19 A I cannot.

20 Q Okay. Do you have any knowledge about when  
21 these Slim Jim wells will be drilled?

22 A They are somewhere out in the future, but we  
23 are still evaluating when we would like to develop the  
24 acreage.

25 Q Okay. But at this point in time, none of

1 the wells in the First, Second, or Third have been  
2 drilled.

3 A In the First, Second, or Third in Slim Jim?  
4 No.

5 Q Okay. I guess what I'm trying to get at  
6 here is does it matter what order the wells are  
7 drilled, in your opinion?

8 A Does it matter in what context?

9 Q In what order, in terms of will the Second  
10 Bone Spring be drilled first? Will the Third Bone  
11 Spring be drilled first? I mean, I'm just wondering  
12 because my client's interest was pooled in those upper  
13 portions of the Bone Spring, and I'm trying to get at  
14 how much her interest will be affected by this lower  
15 drilling and what order it will happen in.

16 A I don't -- I can't comment on that. That  
17 would be within a different department that makes  
18 decisions as to when we develop in what order.

19 Q But you don't have any opinion on how the  
20 formation will be drained.

21 A Can you repeat the question please?

22 Q Sorry. Do you have an opinion on how the  
23 formation will be drained or the best way for the Bone  
24 Spring formation to be developed?

25 A We have lined out what we believe to be an



1 effective way to develop the Bone Spring within the  
2 Second and Third in the densities that we mentioned.

3 Q Okay. And does that include an allocation  
4 of production as between the Second and Third Bone  
5 Spring?

6 A I don't know.

7 MS. LUCK: Okay. Thank you.

8 THE HEARING EXAMINER: Mr. McClure?

9 MR. MCCLURE: Mr. Hearing Examiner, I  
10 have no questions for this expert.

11 THE HEARING EXAMINER: Ms. Vance, are  
12 there any follow-up to Mr. Savage's or Ms. Luck's  
13 cross-examination questions?

14 MS. VANCE: Yes. I just have a couple  
15 of questions.

16 THE HEARING EXAMINER: Please.

17 REDIRECT EXAMINATION

18 BY MS. VANCE:

19 Q So, Mr. Hamilton, Mr. Savage was asking you  
20 about the algorithm. Do you think it's a fair  
21 representation of the curve?

22 A Yes, ma'am, I do.

23 Q Okay. And then, also, Mr. Savage was  
24 talking about, you know, some different ideas of doing  
25 the development here, and I know you're not the

1 landman, but you would agree that Permian is the  
2 majority interest holder in section 15 in which the  
3 two plans overlap. Correct?

4 MR. SAVAGE: I'm going to object to  
5 that question.

6 THE HEARING EXAMINER: What are you  
7 objecting to, Mr. Savage?

8 MR. SAVAGE: That's squarely a landman  
9 question. For example, the engineer could not even  
10 discuss the location of the severance because that was  
11 a landman question. Working interest is a landman  
12 question.

13 THE HEARING EXAMINER: Okay. So the  
14 objection is -- specifically what is the objection?

15 MR. SAVAGE: The objection is to strike  
16 that question.

17 THE HEARING EXAMINER: The objection is  
18 based on what?

19 MR. SAVAGE: The objection is based on  
20 that this is a question about working interest and  
21 it's the landman who calculates the working interest.

22 THE HEARING EXAMINER: So, Mr. Savage,  
23 when I went back to Ms. Vance for redirect, it was  
24 based on the scope of your cross-examination  
25 questions. So are you suggesting --

1 MR. SAVAGE: Yes, yes. And it's  
2 outside the scope.

3 THE HEARING EXAMINER: That's what  
4 you're --

5 MR. SAVAGE: Yes, sir.

6 THE HEARING EXAMINER: So that's what  
7 the objection is?

8 MR. SAVAGE: Thank you.

9 THE HEARING EXAMINER: Ms. Vance,  
10 outside the scope.

11 MS. VANCE: He has personal knowledge  
12 of this so he can speak to it.

13 THE HEARING EXAMINER: Okay. That's  
14 not the point, though. The point is that I asked for  
15 redirect questions based on the cross-examination  
16 questions and the scope of the cross-examination. So  
17 what question did Mr. Vance or Ms. Luck ask that this  
18 is based on?

19 MS. VANCE: That's okay. We can move  
20 on, but just to maybe reframe it because he is  
21 familiar with the development here.

22 THE HEARING EXAMINER: Well, hold on,  
23 Ms. Vance.

24 MS. VANCE: Sure.

25 THE HEARING EXAMINER: I still have to

1 make a ruling, and we have to decide what we're doing  
2 here. So is that your answer? So you can't point to  
3 a question that Mr. Savage or Ms. Luck asked that  
4 makes your question within that scope?

5 MS. VANCE: Mr. Savage brought up  
6 different development plans and proposals and, you  
7 know, Mr. Hamilton, all of the Permian folks, they  
8 work hand-in-hand, you know, doing developments. So  
9 if he's going to ask questions that open up  
10 development that squarely cross over to land, then I  
11 think it's fair to ask the question.

12 THE HEARING EXAMINER: Ms. Vance,  
13 what's the question again? Would you ask me the  
14 question?

15 MS. VANCE: I asked if Permian has the  
16 working interest control in section 15, and I'd like  
17 to point out that Mr. Savage brought up the  
18 differences between 1- and 2-mile. Again, there's  
19 crossover with planning, and that has to do with land.

20 THE HEARING EXAMINER: So, Mr. Savage,  
21 you've heard an explanation. Explain to me why that's  
22 not within the scope of your cross-exam.

23 MR. SAVAGE: So this is a reservoir  
24 engineer, very technical, talking about drilling,  
25 talking about completion. The questions in relation

1 to 1-mile or 2-mile, that's all within the scope of  
2 drilling and completing and producing the reservoir.  
3 Producing the reservoir has nothing to do with who  
4 owns that interest. It's just extracting the  
5 hydrocarbons out of the hole. The --

6 THE HEARING EXAMINER: Okay. All  
7 right. I understand. Thank you, Mr. Savage.

8 MR. SAVAGE: Ms. Vance, I sustain the  
9 objection. Find another way to ask your question  
10 within the scope of the cross-examination questions  
11 only.

12 MS. VANCE: Okay.

13 BY MS. VANCE:

14 Q So, Mr. Hamilton, because reservoir  
15 engineering has to do with looking at the economics of  
16 development and comparing 1- to 2-miles, do you think  
17 it is more economical, because of Permian's position  
18 in this acreage, to develop --

19 MR. SAVAGE: Objection. Objection.

20 THE HEARING EXAMINER: What's the  
21 objection?

22 MR. SAVAGE: The objection is she's  
23 working this question through the back door. It's --

24 THE HEARING EXAMINER: I know. But  
25 what's the basis of the --

1                   MR. SAVAGE: Outside the scope. If I  
2 may --

3                   THE HEARING EXAMINER: If you may what?  
4 You made an objection, you just leave it at that.

5                   MR. SAVAGE: Thank you.

6                   THE HEARING EXAMINER: So, Ms. Vance,  
7 the objection is the same objection. So can you point  
8 to a question that Mr. Savage or Ms. Luck asked that  
9 opens the door to this question of interest?

10                  MR. SAVAGE: Mr. Savage asked a  
11 question to Mr. Hamilton about 1- or 2-mile wells, and  
12 he was asking questions about some of the surrounding  
13 development and what is taken into account by  
14 operators when they're making these decisions, and as  
15 a reservoir engineer looking at the economics, he is  
16 looking at what makes sense for Permian based on what  
17 they own where and where the economics for development  
18 is going to lead them.

19                  THE HEARING EXAMINER: Okay. I  
20 understand the response. I understand the objection.  
21 Let's go back to --

22                  Mr. Cogswell, can you find the  
23 questions that Mr. Savage asked about the 1- and  
24 2-mile lateral wells?

25                  Would it be helpful to have a 5-minute

1 break?

2 THE REPORTER: Yes.

3 THE HEARING EXAMINER: Yes. Let's have  
4 a five-minute break. So we're at 10:30 approximately  
5 now. Let's come back on the record at 10:35. Thank  
6 you.

7 (Off the record.)

8 THE HEARING EXAMINER: We're back on  
9 the record. It's 10:36 a.m. on January 28, 2025.

10 I reviewed the transcript of the  
11 questions that Mr. Savage asked the witness, and it  
12 does open the door to a question about interest.

13 So would you please frame the question,  
14 Ms. Vance, so that the question sits within this  
15 expert's field of expertise,

16 BY MS. VANCE:

17 Q Mr. Hamilton, based on your analysis of the  
18 economics involved, based on Permian's plan, would you  
19 say that you believe that Permian should be allowed to  
20 develop, where they are the majority interest owner,  
21 how they want to?

22 A Yes, ma'am, I would.

23 Q Thank you. And I just have a couple of more  
24 questions. So, Mr. Hamilton, Mr. Savage asked a  
25 series of questions related to drainage, and I think

1 I've already asked this, but you are familiar with the  
2 applications, including V-F's development. Correct?

3 A Yes, ma'am.

4 Q And you're familiar where their landing  
5 zones are, correct?

6 A Generally, yes.

7 Q Okay. And would you say that all of these  
8 issues regarding drainage, both parties, then, would  
9 have to address?

10 A Yes.

11 MR. SAVAGE: Objection.

12 THE HEARING EXAMINER: Mr. Savage, if  
13 you want to object to a question, would you object  
14 before the answer is given? Okay. So what's the  
15 objection?

16 MR. SAVAGE: The objection is, is  
17 there's a major difference between Permian Resources'  
18 development plan in the Third Bone Spring and V-F's  
19 development plan, and the difference is in V-F's  
20 development plan there are no depth severances within  
21 that Third Bone Spring at all.

22 THE HEARING EXAMINER: Okay. So what's  
23 the objection, though?

24 MR. SAVAGE: So the objection is she  
25 states that wouldn't it apply to both in the same --



1 the issues that I raised would apply to both issues in  
2 the same way, and the answer is no. I would say the  
3 foundation of that question is wrong. It's question  
4 that is inappropriate for the inquiry.

5 THE HEARING EXAMINER: Okay. So what  
6 was the question, Mr. Savage?

7 MR. SAVAGE: So the question was -- she  
8 said you're familiar with V-F's development plan, and  
9 he said yes, and she said, wouldn't the drainage  
10 issues that I raised in Permian Resources' development  
11 plan also apply the same to both parties?

12 THE HEARING EXAMINER: So you're  
13 objecting to the accuracy of the answer?

14 MR. SAVAGE: I'm objecting to the  
15 nature of the question.

16 THE HEARING EXAMINER: What's the  
17 objection, though? I need a basis for the objection.

18 MR. SAVAGE: Improper foundation for  
19 the question.

20 THE HEARING EXAMINER: Well --

21 MR. SAVAGE: Inaccurate foundation.

22 THE HEARING EXAMINER: Wait. Hold on.  
23 I'm confused because your exhibits are entered into  
24 evidence. Their exhibits are entered into evidence.  
25 This is an expert in petroleum reservoir engineering,

1 and she's asking for a comparison between the two  
2 development plans. And you're saying that's improper?

3 MR. SAVAGE: She didn't ask for a  
4 comparison.

5 THE HEARING EXAMINER: No.

6 MR. SAVAGE: She asked for wouldn't it  
7 apply to the same, the issues that I raised, and  
8 that --

9 THE HEARING EXAMINER: Well --

10 MR. SAVAGE: Yes, sir. I understand.  
11 This is administrative law, and I'm not --

12 THE HEARING EXAMINER: Well, I'm a  
13 trial attorney, and I did criminal law for six years.

14 MR. SAVAGE: Yes, you did. You did.

15 THE HEARING EXAMINER: So I needed to  
16 know --

17 MR. SAVAGE: And your precision in  
18 these matters are impressive.

19 THE HEARING EXAMINER: Okay. Thank  
20 you. So I'm overruling your objection --

21 MR. SAVAGE: Yeah. Fair enough.

22 THE HEARING EXAMINER: -- without even  
23 hearing from Ms. Vance because you have an opportunity  
24 to ask this witness recross on this question, and  
25 you're more than welcome to do it.

1 MR. SAVAGE: Yes, sir. Yes, sir.

2 Thank you.

3 THE HEARING EXAMINER: So, Ms. Vance,  
4 did you get an answer?

5 MS. VANCE: I believe Mr. Hamilton  
6 answered.

7 THE HEARING EXAMINER: I thought he  
8 did. What was his answer?

9 MS. VANCE: I believe it was -- well, I  
10 think --

11 THE HEARING EXAMINER: Why don't you  
12 ask the question again?

13 MS. VANCE: Yeah.

14 BY MS. VANCE:

15 Q Mr. Hamilton, based on your review of these  
16 applications, do you -- I'm sorry. Mr. Hamilton,  
17 based on the series of questions that Mr. Savage was  
18 asking about drainage, do you believe that both  
19 parties are going to have to address this as an issue  
20 based on their proposed plans?

21 A With respect to how the reservoir is  
22 drained, yes.

23 Q Okay. And V-F does not have a reservoir  
24 engineer here today. Correct?

25 A Yes, ma'am. That is my understanding.

1 Q They provided no exhibits related to  
2 reservoir engineering. Correct?

3 A Yes, ma'am. That is correct.

4 Q And they do not have an expert on  
5 completions here today. Correct?

6 A Yes, ma'am. That is correct.

7 Q And they provided no testimony on their  
8 proposed completions based on their plans. Correct?

9 A Yes, ma'am. That is correct.

10 MS. VANCE: Okay. Thank you.

11 THE HEARING EXAMINER: Mr. Savage?

12 MR. SAVAGE: Yes. Thank you,  
13 Mr. Hearing Examiner.

14 RECROSS-EXAMINATION

15 BY MR. SAVAGE:

16 Q Mr. Hamilton, with respect to that question  
17 about whether both parties would be facing the same  
18 issues, do you acknowledge that there's a depth  
19 severance in Permian's Third Bone Spring that it's  
20 developing and that there is not a depth severance in  
21 the Third Bone Spring that V-F Petroleum is  
22 developing? Do you agree with that?

23 A I suppose that is correct. Yes, sir.

24 MR. SAVAGE: Thank you. That's all the  
25 questions I have.

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1 THE HEARING EXAMINER: Ms. Vance, did  
2 you hear the answer?

3 MS. VANCE: Sorry. I did not. I  
4 apologize.

5 THE HEARING EXAMINER: Okay. Well,  
6 there was a recross question asked, there was an  
7 answer given, and I was going to go back to you and --  
8 well, let me go to Mr. McClure first.

9 Mr. McClure, do you have any recross on  
10 that point?

11 MR. MCCLURE: I do not, Mr. Hearing  
12 Examiner.

13 THE HEARING EXAMINER: All right.  
14 Thank you, Mr. McClure.

15 Ms. Vance, is there any redirect on  
16 that one question that Mr. Mr. Savage asked?

17 MS. VANCE: Sure.

18 THE HEARING EXAMINER: Go ahead.

19 FURTHER REDIRECT EXAMINATION

20 BY MS. VANCE:

21 Q Mr. Hamilton, was my question related to the  
22 depth severance or drainage?

23 A My understanding it was with respect to  
24 drainage.

25 MS. VANCE: Thank you.

1 THE HEARING EXAMINER: Mr. Savage?

2 FURTHER RECROSS-EXAMINATION

3 BY MR. SAVAGE:

4 Q Mr. Hamilton, is it accurate to say that  
5 quantities of drainage of parts of the Third Bone  
6 Spring interval would be affected by the depth  
7 severance versus not having a depth severance in terms  
8 of allocation to the owners?

9 A Can you repeat the question, please?

10 Q I believe this is a -- okay. So this is a  
11 question that kind of crosses into the landman area  
12 because we're talking about allocation of interest of  
13 the -- I'll ask this and I'll let, you know, Ms. Vance  
14 object if she wants. So is it fair to say that  
15 Permian Resources would have to measure and assess  
16 drainage across a severance to allocate production  
17 above and below the severance and V-F Petroleum does  
18 not face that concern? Would that be a fair  
19 statement?

20 MS. VANCE: Objection. Mr. Savage is  
21 asking for a legal conclusion, and I don't believe  
22 that Mr. Hamilton can provide that and --

23 MR. SAVAGE: Mr. Hearing Examiner, I  
24 believe this falls into economic interest. I mean, I  
25 think this --

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1 THE HEARING EXAMINER: Mr. Savage, I  
2 understood your question to try to relate the idea of  
3 drainage and depth severance, and now it sounds like  
4 your question is getting muddied. I'd rather you  
5 rephrase the question to be based on the redirect that  
6 Ms. Vance asked.

7 BY MR. SAVAGE:

8 Q Okay. Mr. Hamilton, would it be fair to say  
9 that Permian, in dealing with their drainage issue,  
10 that they would have to assess how a well drilled in  
11 the lower third, below the depth severance, how it  
12 would drain the interval above the depth severance and  
13 how would it drain the interval below the depth  
14 severance? Would that be a fair statement?

15 A Permian Resources would have to conclude  
16 allocation of ownership, but that is outside of the  
17 scope of -- of what I do within --

18 Q I agree with that. But in terms of  
19 drainage, you would have to look at the drainage of  
20 the interval above the severance and you would have to  
21 look at drainage of the interval below the severance.  
22 Is that correct?

23 A That would be a -- excuse me?

24 Q Yeah. Regardless of how the landman decides  
25 to allocate that working interest above and below.

1 Would it be fair to say that the engineer would have  
2 to assess how drainage would occur above the severance  
3 and how drainage would occur below the severance?

4 A That would be outside of the scope of what I  
5 would do in my responsibilities.

6 Q Who would be responsible for that analysis?

7 A I -- I honestly do not know whether it would  
8 be land or -- or someone on the geo team, but  
9 understanding where resources being drained from is  
10 inherently uncertain and outside of the scope of what  
11 I do.

12 Q So you can't determine how much drainage  
13 will occur from a formation in general?

14 A Not with respect to a -- a number of feet  
15 and a depth severance. Certainly not with that level  
16 of granularity.

17 MR. SAVAGE: All right. Thank you,  
18 Mr. Hamilton.

19 THE HEARING EXAMINER: Ms. Vance?

20 MS. VANCE: Just one follow up  
21 question.

22 THE HEARING EXAMINER: Go ahead.

23 FURTHER REDIRECT EXAMINATION

24 BY MS. VANCE:

25 Q So, Mr. Hamilton, you don't know, under the



1 pooling orders and under New Mexico statute, how  
2 allocation is done. Correct?

3 A No, ma'am, I do not.

4 THE WITNESS: Okay. Thank you.

5 THE HEARING EXAMINER: Okay. All  
6 right. May this witness be excused?

7 THE WITNESS: Thank you.

8 MS. VANCE: Yes.

9 THE HEARING EXAMINER: Okay. Thank  
10 you, sir.

11 And thank you, Mr. Cantin.

12 So, Ms. Vance, without the landman  
13 being present, do you have any other witnesses you  
14 want to call in your case in chief?

15 MS. VANCE: No.

16 THE HEARING EXAMINER: All right.  
17 Thank you.

18 Mr. Savage, then we come to you for  
19 your case in chief, a brief opening?

20 MR. SAVAGE: Yes. I'm wondering when  
21 do you want to address the notice exhibit and get  
22 those into the record? Is that something that we  
23 should do now or --

24 THE HEARING EXAMINER: I'm confused.  
25 What do you mean the notice exhibit?

1 MR. SAVAGE: So we went through and Ms.  
2 Vance went through Exhibit A, C, D, and E, and then  
3 there's an additional notice exhibit.

4 THE HEARING EXAMINER: Do you have a  
5 number or can you be more specific because that you're  
6 confusing me.

7 MR. SAVAGE: Mine is Exhibit C, but  
8 Permian Resources, I believe --

9 THE HEARING EXAMINER: So is this the  
10 rebuttal exhibits or is this the revised?

11 MR. SAVAGE: No. This is just the  
12 remaining notice exhibit.

13 THE HEARING EXAMINER: Is it in the  
14 revised amended packet?

15 MR. SAVAGE: No, no. It's in the case  
16 in chief. It's in Permian Resources case in chief.

17 THE HEARING EXAMINER: Then that would  
18 be their revised amended exhibit --

19 MR. SAVAGE: Right, right, right.

20 THE HEARING EXAMINER: -- because  
21 that's the 192 pages that we admitted.

22 MR. SAVAGE: It's Exhibit F. It's  
23 Exhibit F.

24 THE HEARING EXAMINER: Exhibit F.  
25 Okay. Let me go to Exhibit F. And what are you

1 suggesting? Why do we need to address that  
2 separately?

3 MR. SAVAGE: To finish off the -- I  
4 don't know. It might be -- I thought it might be  
5 helpful to finish off the case in chief to admit that  
6 into the --

7 THE HEARING EXAMINER: You're doing  
8 their case in chief?

9 MR. SAVAGE: No.

10 THE HEARING EXAMINER: So I don't  
11 understand what you're saying.

12 MR. SAVAGE: I'm just asking if  
13 procedurally it would be useful to finish off the --

14 THE HEARING EXAMINER: They've rested  
15 their case in chief.

16 MR. SAVAGE: Yes, sir.

17 THE HEARING EXAMINER: I'm coming to  
18 you for your case in chief.

19 MR. SAVAGE: Okay. I'd be glad to do  
20 an introductory statement.

21 THE HEARING EXAMINER: Please.

22 OPENING STATEMENT

23 MR. SAVAGE: Okay. Mr. Hearing  
24 Examiner, Division technical examiners, long before  
25 these subject units in the present cases were on

1 Permian Resources' radar, V-F Petroleum began working  
2 on its development plan in these units in section 16  
3 and 15, beginning title in May 2023, sending out its  
4 first well proposals long before Permian Resources  
5 sent theirs in 2023 for sections 16 and 15, and  
6 completing the well proposal process in 2024, thereby  
7 fully developing its set of plans for all of  
8 sections 15 and 16. When Permian Resources became  
9 aware of V-F Petroleum's well proposals, and, as far  
10 as we can ascertain, that was the only way that they  
11 became aware of the potential of 15 and 16, it only  
12 had interest in section 14. And it's based on a  
13 federal lease that when you look at this lease, it's  
14 held by very sketchy production from what V-F  
15 Petroleum can tell.

16           Once they received V-F's well proposal  
17 and became aware of it, Permian Resources then began  
18 acquiring interest in section 15. They cobbled  
19 together competing units that cover section 14 and 15,  
20 competing with V-F's units in section 15, the section  
21 where the competing units overlap. Now, it should be  
22 noted, and I think it should be inquired into, when  
23 they received those well proposals, they had  
24 opportunity to acquire interest in section 13 at that  
25 time. Why wouldn't they extend it, if wanted 2-miles,

1 to 14 and 13 and let V-F continue its development plan  
2 in its efforts for 16 and 15. But no, it decided to  
3 encroach upon V-F Petroleum's development plan instead  
4 of coordinating.

5 So today the parties will be  
6 presenting, and as they have in part, presenting and  
7 reviewing the two competing development plans to see  
8 which plan would best prevent waste and protect  
9 correlative rights. Based on the lengthy and extended  
10 history of V-F Petroleum's efforts to develop 16 and  
11 15 and the superior geology in section 16 versus the  
12 poor geology in section 14, among other factors which  
13 we would show, V-F Petroleum requests that the  
14 Division approve V-F Petroleum's applications and  
15 development plan and deny Permian Resources'  
16 applications and development plan.

17 Thank you.

18 THE HEARING EXAMINER: Okay. Thank  
19 you. Let's get your witnesses sworn in. And are they  
20 all qualified as experts before this Division?

21 MR. SAVAGE: Yes.

22 THE HEARING EXAMINER: And who are  
23 they?

24 MR. SAVAGE: So we have Mr. Jordan Shaw  
25 as the landman, and then we have Mr. Mike Burke, or I

1 think he goes by Stephen Burke, as the geologist.

2 THE HEARING EXAMINER: Okay, I see  
3 Mr. Shaw, and I'm waiting to see the other witness.

4 MR. SAVAGE: The other witness is  
5 present in person.

6 THE HEARING EXAMINER: Oh, he's here in  
7 person. Sir, would you come on up to the witness  
8 stand and turn on the microphone?

9 And you pressed the little button to  
10 turn on the microphone? There you are. You're on,  
11 sir.

12 Okay. Mr. Shaw, would you state and  
13 spell your name for the record?

14 MR. SHAW: Yes, sir. It is Jordan  
15 Shaw, spelled J-O-R-D-A-N, last name S-H-A-W.

16 THE HEARING EXAMINER: Thank you, sir.  
17 And you, sir, would you state and spell  
18 your name?

19 MR. BURKE: I'm -- I'm Stephen Burke.  
20 Stephen B-U-R-K-E.

21 THE HEARING EXAMINER: And how do you  
22 spell Stephen?

23 MR. BURKE: S-T-E-P-H-E-N.

24 THE HEARING EXAMINER: Perfect. And I  
25 need you to get closer to the microphone so that we

1 really pick up your voice. Okay?

2 Okay. So would you both raise your  
3 right hands, please.

4 Okay. I've heard affirmation from both  
5 witnesses.

6 Okay. So Mr. Shaw, what area of  
7 expertise have you been previously recognized before  
8 this Division?

9 MR. SHAW: As a landman.

10 THE HEARING EXAMINER: Landman. Okay.  
11 Very good.

12 And, Mr. Burke?

13 MR. BURKE: I -- I've been -- testified  
14 before the Commission as a geologist, and I have been  
15 admitted to some minor amount of reservoir  
16 calculations in the role of a petroleum engineer, but  
17 I've not done that in a contested hearing, so it was  
18 uncontested --

19 THE HEARING EXAMINER: Are you seeking  
20 to be admitted as an expert in both geology and  
21 petroleum engineering?

22 MR. SAVAGE: May I --

23 THE HEARING EXAMINER: Yes.

24 MR. SAVAGE: -- answer that question.

25 So Mr. Burke is, you know, obviously seeking to be an

1 expert witness in geology. Because he has been  
2 accepted as an expert witness in reservoir engineering  
3 in certain circumstances before the OCD, I am asking  
4 that he be provided some latitude to comment and point  
5 out items on Permian's engineering exhibits for the  
6 OCD to consider. If Permian feels like he's drawing  
7 conclusions that are outside the scope of his  
8 expertise, they can certainly object. The OCD can  
9 monitor that. But I think it would be useful for him,  
10 since he's already been qualified.

11 THE HEARING EXAMINER: Okay. So,  
12 Mr. Savage, the way this works is that if you want  
13 this witness's testimony to have any weight and to be,  
14 you know, reliable in some sense, then he has to be  
15 qualified as an expert in that field that he's going  
16 to opine on. Otherwise, he's just a lay witness in  
17 that field and his testimony won't have any weight.  
18 So how do you want to proceed?

19 MR. SAVAGE: Let's proceed that he has  
20 been accepted previously as an expert witness in  
21 reservoir engineering, and then, you know, let the OCD  
22 decide with respect to how Permian responds.

23 THE HEARING EXAMINER: Okay. So,  
24 Mr. Burke, under oath, have you been admitted  
25 previously as an expert as a geologist?



1 MR. BURKE: Yes.

2 THE HEARING EXAMINER: Very good. Have  
3 you been admitted as an expert in petroleum  
4 engineering?

5 MR. BURKE: As it pertains to  
6 calculation of reserves, yes.

7 THE HEARING EXAMINER: Would you say  
8 that a little louder and a little clearer?

9 MR. BURKE: As it pertains to the  
10 calculation of reserves.

11 THE HEARING EXAMINER: Calculation of  
12 reserves.

13 MR. BURKE: Yes.

14 THE HEARING EXAMINER: Okay. Very  
15 good. Okay. Then that's how you'll be recognized  
16 today.

17 Mr. Savage, please proceed. Who do you  
18 want to question first?

19 MR. SAVAGE: Let's question the landman  
20 initially.

21 THE HEARING EXAMINER: Okay. Now,  
22 please remember that all of the exhibits have been  
23 admitted under stipulation. Please don't repeat  
24 things that have already been admitted into writing.  
25 What I would like you to do is have this witness adopt

1 their written testimony and their exhibits under oath,  
2 make any corrections necessary, and if they need to  
3 add something to what they've already submitted, fine.  
4 Otherwise, let them be cross-examined, and we'll go  
5 from there.

6 MR. SAVAGE: Okay.

7 THE HEARING EXAMINER: Okay.

8 MR. SAVAGE: So if there's an area  
9 that -- yeah.

10 THE HEARING EXAMINER: Obviously,  
11 you've heard witnesses from Permian.

12 MR. SAVAGE: It's very truncated.

13 THE HEARING EXAMINER: If you need  
14 to -- well, no. I'm not saying that. I'm not telling  
15 you that you need to truncate your case, but I am  
16 saying that if you've heard something from Permian's  
17 witnesses that you want your witness to expand upon,  
18 please, this is the opportunity to do so. But I just  
19 don't want him to repeat what he's already written and  
20 submitted as pre-filed testimony.

21 MR. SAVAGE: Okay. Thank you.

22 THE HEARING EXAMINER: So, Mr. Shaw?

23 MR. SAVAGE: Yep.

24 MR. SHAW: Yes, sir.

25 THE HEARING EXAMINER: Very good.

1 WHEREUPON,

2 JORDAN SHAW,

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

6 DIRECT EXAMINATION

7 BY MR. SAVAGE:

8 Q Mr. Shaw, for the record, please state your  
9 full name and your position with V-F Petroleum.

10 A Yes, sir. My full name is Robert Jordan  
11 John Shaw, and I'm a landman with V-F Petroleum.

12 Q Are your self-affirmed statements provided  
13 as Exhibit A along with the sub-exhibits in the cases  
14 24994, 24995, 25115, 25116, and 25117?

15 A Yes, sir.

16 Q And you are familiar with all of these  
17 exhibits. Is that correct?

18 A Yes, sir, I am.

19 Q And to the best of your knowledge, your  
20 statements and sub-exhibits are correct and accurate  
21 subject to any possible addressing a revision to the  
22 best of your knowledge?

23 A Yes, sir. Subject to revision. Yes, sir.  
24 Absolutely.

25 Q Okay. So I would like to direct your

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1 attention to the paragraph 22 in which you point out  
2 overlapping unit, the Tamano Federal Com. I'd like to  
3 clarify an item here. Did you provide notification to  
4 the affected parties of this overlapping unit?

5 A Yes, sir. I provided notice to Mewbourne  
6 Operating Company, who's the operator of the well.  
7 Oh, sorry. Mewbourne Oil Company, as the operator of  
8 the well, and then also to the BLM since the wells --

9 Q And it looks like Exhibits A-1 through A-5  
10 are your standard landman exhibits. You have  
11 Exhibits A-6 through A-9. Is there anything in there  
12 that you would like to address for clarification or  
13 revision or correction?

14 A Not through A-6 through A-9. No, sir.

15 Q Okay. In the ownership exhibit, that's A-3,  
16 are there any revisions or corrections you need to  
17 address on ownership?

18 A Yes, sir, there is. And this would pertain  
19 to every single one of these cases. So it'll pertain  
20 to case number 24994, case 24995, case 25115, 25116,  
21 and 25117. So in reviewing the exhibits I noticed  
22 that there was a scrivener's error on our report  
23 covering tract -- I guess it would be the southwest  
24 quarter of the northeast quarter of section 15 wherein  
25 we believe that there was a depth severance due to the

1 well that was drilled in there, which is the Tamano 15  
2 Federal Com number 2, which is situated on a 40-acre  
3 spacing in the southwest quarter of the northeast  
4 quarter of section 15 --

5 THE HEARING EXAMINER: Mr. Shaw?

6 THE WITNESS: Yes, sir.

7 THE HEARING EXAMINER: Which exhibit  
8 are you speaking of? Give us an exhibit number.

9 THE WITNESS: This is Exhibit -- this  
10 is Exhibit A-3 in -- in every one of those cases.

11 THE HEARING EXAMINER: Perfect. Thank  
12 you. That's what I need to know. Thank you.

13 THE WITNESS: Sorry. Yes, sir.

14 So the -- the interest in -- in that  
15 tract in particular, we showed a pew [ph] at the base  
16 of the Second Bone Spring 'cause that well is  
17 producing from the Second Bone Spring and, in  
18 actuality, the pew [ph] is down in the Morrow  
19 formation 'cause that well was initially drilled down  
20 to the Morrow and the -- the pew [ph] language in the  
21 term assignment that was granted there said below  
22 deepest depth drilled, not deepest producing  
23 formation. So that -- that was a mistake that we  
24 didn't catch. But we -- we have now since caught it.  
25 And then, as it pertains to a term

1 assignment that is likely -- you know, this is not the  
2 right forum to challenge title, but likely being  
3 perpetuated by the Tamano Federal Com number 1  
4 situated in -- in the northwest quarter of section 15.  
5 So the -- that interest, for purposes of today's  
6 hearing, we'll say is vested with Permian Resources.

7 THE HEARING EXAMINER: So what is the  
8 correction?

9 THE WITNESS: So the correction --

10 MR. SAVAGE: The correction --

11 THE WITNESS: The correction -- sorry.  
12 Yes. The correction is as it pertains to Delmar  
13 Hudson Lewis's living trust interest. I represent in  
14 every Exhibit A-3 that that interest is still vested  
15 with them, when in actuality that interest should --  
16 should be represented as being held by Permian  
17 Resources.

18 THE HEARING EXAMINER: By Permian. And  
19 what is that percentage of interest?

20 THE WITNESS: It -- it varies from  
21 7.4375 percent. It varies from tract to tract. It --  
22 I do -- I do now have that rolled up, and when I'll be  
23 speaking about Permian's interest, that -- that  
24 interest will be represented.

25 THE HEARING EXAMINER: But in your

1 Exhibit A-3 -- and by the way, Mr. Shaw, we can barely  
2 hear you, so do something to speak louder or get  
3 closer to your microphone. So in your Exhibit A-3,  
4 you never assigned that interest to V-F?

5 THE WITNESS: No, sir. No.

6 THE HEARING EXAMINER: Okay.

7 THE WITNESS: That -- that interest was  
8 always held by Delmar Hudson Living Trust.

9 THE HEARING EXAMINER: Okay. But now  
10 you're attributing that interest to Permian Resources.

11 THE WITNESS: Yes, sir.

12 THE HEARING EXAMINER: Okay. Very  
13 good.

14 Are there any other, Mr. Savage?

15 MR. SAVAGE: And we would ask leave to  
16 amend that and submit it -- the hearing packet.

17 BY MR. SAVAGE:

18 Q Mr. Shaw, based on the revision, could you  
19 give a general amount of working interest in  
20 comparison that V-F Petroleum has now and overall and  
21 compared to Permian's overall working interest?

22 A So as it pertains to case 24994, which is  
23 the Ranier 16 15 Federal Com 221H and 231H, V-F  
24 Petroleum has a 32.895834 percent working interest,  
25 while Permian Resources has a 23.9375 percent working

1 interest in that horizontal spacing unit.

2 As it pertains to case 24995 regarding the  
3 Rainier 16 15 Fed Com 222H and 232H, V-F Petroleum has  
4 a 32.895834 percent working interest; Permian  
5 Resources has a 23.9375 percent working interest.

6 As it pertains to case 25116 regarding the  
7 Ranier 16 15 Fed Com 223H, V-F Petroleum has a  
8 44.458334 percent working interest, while Permian  
9 Resources has a 32.453125 percent working interest.

10 As it pertains to case 25117 regarding the  
11 Rainier 16 15 Fed Com 223H, again, V-F Petroleum has a  
12 44.458334 percent working interest, and we show  
13 Permian as having a 32.453125 percent working  
14 interest.

15 And then, lastly, as it pertains to -- looks  
16 like it will be case number 25115 in regards to the  
17 Rainer 16 15 Fed Com 234H, we're showing that V-F  
18 Petroleum has a 12.5 percent working interest, while  
19 Permian Resources has a 42.480468 percent working  
20 interest.

21 Q And, Mr. Shaw, do you have numbers for  
22 overall the working interests including all the units  
23 for V-F Petroleum and compared to Permian Resources?

24 A Are you referring to do I have numbers for  
25 what Permian and V-F's working interest would be in



1 Permian's proposals?

2 Q Yeah. A comparison -- and taking all the  
3 units into account and taking the whole -- into  
4 account.

5 A Yes, I do. Yes. For V-F's development  
6 plan, yes.

7 Q Okay. Can you provide that for the record?

8 A Yes, sir. That -- that is the -- I just  
9 provided that. That's -- that's the -- that I just  
10 went through.

11 MR. SAVAGE: So that will conclude my  
12 direct, and I render Mr. Shaw, expert witness in  
13 landman matters, for cross-examination.

14 THE HEARING EXAMINER: Thank you,  
15 Mr. Savage.

16 MR. SAVAGE: Ms. Vance?

17 MS. VANCE: Yes. Thank you.

18 CROSS-EXAMINATION

19 BY MS. VANCE:

20 Q Good morning, Mr. Shaw. Thank you so much  
21 for being here today. So I'm going to start out just  
22 kind of asking a couple of questions about your  
23 background. So are you a full-time employee at V-F?

24 A No, ma'am, I am not. I'm a contract  
25 employee, but I exclusively contract with V-F

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1       Petroleum.

2               Q       Okay.  And you're a landman.  Correct?

3               A       Yes, ma'am.  I'm a landman who has a law  
4 degree, but I'm only licensed to practice in the state  
5 of Texas.

6               Q       Okay.  And you just said that -- so you have  
7 a law degree, and you did provide some background in  
8 your testimony.  You also have a undergraduate degree  
9 in political science.  Is that correct?

10              A       Yes, ma'am.

11              Q       Okay.  So your area of expertise, you're a  
12 landman, you deal with ownership.  Correct?  Land  
13 negotiations?

14              A       Yes, ma'am.  Yes, ma'am.

15              Q       Okay.  Land deals and well proposals?  Is  
16 that correct?

17              A       Yes, ma'am.

18              Q       And you do not have a degree in engineering.

19              A       No, ma'am, I do not.

20              Q       So it's fair to say that an opinion you  
21 might provide on any kind of technical expertise  
22 having to do with well density is not based on an  
23 engineering degree or engineering technical  
24 background.  Is that correct?

25              A       I do not have a engineering degree, so any

1 comments that I may have made with regards to any type  
2 of well spacing or density would just simply be an  
3 observation that I made as being a landman and, you  
4 know, having been in New Mexico for three and a half  
5 years and -- and looking at well density and space  
6 patterns in the Bone Spring formation.

7 Q Okay. So it's based off of observations,  
8 any of the opinions you offered, and it's your limited  
9 experience working in New Mexico. Three years.  
10 Correct?

11 A Yeah. Three and a half years. Yes, ma'am.

12 Q Okay. Now, we're here, we're doing oil and  
13 gas. Do you believe that this is a science-based  
14 industry and field of work?

15 A Yes. As -- as it pertains to other --  
16 other -- you know, other fields. But as far as -- you  
17 know, as far as what I do, it's pretty much, you know,  
18 land related. It's not -- you know, there's no  
19 barrier to entry necessarily to become a landman.  
20 Anyone can kind of become a landman and teach  
21 themselves how to become a landman, so I wouldn't say  
22 the entirety of it. But yes, there -- there is a lot  
23 of technical aspects to oil and gas industry.

24 Q But the industry itself, oil and gas, it is  
25 science based?

1           A     Yes, ma'am.  It is science based.  
2     Absolutely.

3           Q     Okay.  And would you agree that we, as an  
4     industry, as a science-based industry, we have evolved  
5     from vertical to horizontal drilling?

6           A     As a -- as a general statement, the oil and  
7     gas industry as a whole or in -- in this particular  
8     area?

9           Q     Just as a whole, that predominantly we have  
10    gone from vertical drilling to horizontal drilling?

11          A     Yes, yes.  In the United States, yes.

12          Q     Okay.  I think you have all seen, and we've  
13    discussed a little bit today, we've gone from 1-mile  
14    to 2-mile and now we're seeing some 3-mile  
15    development?

16          A     Yes, ma'am.

17          Q     Okay.  And we've kind of changed  
18    configurations as we have evolved as a science-based  
19    industry.  We now have winerack, for example?

20          A     Yes, ma'am.  Some have been better than  
21    others, but yeah -- yes.

22          Q     But you agree that the industry itself has  
23    evolved over time?

24          A     Yes, ma'am.  I mean, yes.

25          Q     The industry has followed the science.

1 A Yes, ma'am.

2 Q Okay. So then you would probably agree that  
3 as we're following the science, since it's a  
4 science-based industry, that we have done things to  
5 further increase production and avoid underground  
6 waste. Correct?

7 A Yes.

8 Q And that furthering the industry through  
9 these different technical and science-based practices  
10 to increase production protects correlative rights.

11 A That's such a -- such a broad question. It  
12 can if it's successful, but it can also hurt  
13 correlative rights if -- if unsuccessful. And so yes,  
14 if -- if it's a -- if it becomes proven -- a pilot  
15 project becomes proven in an area and then is  
16 implemented, then -- then absolutely that -- that  
17 would protect correlative rights. But if a pilot  
18 project is unsuccessful but still is implemented in --  
19 in an area, then -- then it would not protect  
20 correlative rights. It result in additional economic  
21 waste, at least.

22 Q But you agree that, as the industry has  
23 evolved, we produce more today than we have, you know,  
24 20, 30 years ago. Correct?

25 A Yes, ma'am.

1 Q And that's based off of the evolution of the  
2 industry itself?

3 A Yes, ma'am.

4 Q Okay. Thank you. Okay. I am going to  
5 share my screen because I want to talk about some of  
6 your exhibits. So I have up, just for your knowledge,  
7 for the Division's knowledge, and opposing counsel, so  
8 this is the hearing packet for case 24994, and it's  
9 your statement, and I have highlighted here -- those  
10 are your words. Correct? "All working interest  
11 owners were locatable and noticed"?

12 A Yes, ma'am.

13 Q Okay. And then I'm going to skip here and  
14 go to page 30. So this is Exhibit A-3, and here you  
15 have Permian highlighted. Correct?

16 A Yes, ma'am.

17 Q Okay. And I'm going to go to page 89, and  
18 I'm going to scroll in so we can all see. This is the  
19 notice list you provided to your counsel. Is that  
20 correct?

21 A Can you blow that up a little bit so I can  
22 just see it?

23 Q Sure. Absolutely. I'm going to go up  
24 because I'm mainly looking at these parties right  
25 here.

1 A Okay.

2 Q This is the notice list that was attached to  
3 the hearing packet. Now, do you see Permian Resources  
4 here?

5 A No, ma'am, I do not.

6 Q Okay. And then I'm going to go to the NOP,  
7 the notice of publication.

8 MR. SAVAGE: Mr. Hearing Examiner, can  
9 we clarify what unit?

10 THE HEARING EXAMINER: Ms. Vance?

11 MS. VANCE: This is case 24994.

12 THE HEARING EXAMINER: And what is the  
13 point you're trying to make?

14 THE WITNESS: 24994. Hold on.

15 THE HEARING EXAMINER: Mr. Shaw, can  
16 you hold on just a minute, please?

17 THE WITNESS: Yes -- yes, sir.

18 MS. VANCE: One, counsel for V-F has  
19 made notice an issue, and I do want to point out that  
20 we have yet to have received notice ourselves. Also,  
21 this drives home the point that I was trying to make  
22 regarding V-F as an operator and why they're not  
23 suited to be the operator in this case. And, you  
24 know, that they are sort of knee-jerk reaction going  
25 through the motions of this contested hearing process.

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1 THE HEARING EXAMINER: Okay.

2 MR. SAVAGE: Mr. Examiner, if I'm  
3 looking at this correctly, I'm looking at our  
4 Exhibit A-3. I don't see Permian Resources as an  
5 owner. Permian Resources is an owner, yes. Okay.  
6 Thank you.

7 MS. VANCE: May I continue?

8 THE HEARING EXAMINER: Yes, please.

9 MS. VANCE: Okay.

10 BY MS. VANCE:

11 Q And, Mr. Shaw, we're looking at the notice  
12 of publication, and please take whatever time you  
13 need, but can you just confirm, do you see Permian  
14 Resources on the notice of publication?

15 A And this is in regards to 24994, you said?

16 Q Yes. This is still the same exact case.  
17 Same hearing packet.

18 A Okay. So Permian Resources -- okay, I see  
19 this now. Sorry. I'm getting my bearings. Permian  
20 Resources, in this instance, when we proposed these  
21 wells, which was September --

22 Q Mr. Shaw, can I just stop you right there?

23 A Okay.

24 Q I'm just asking a question of whether or not  
25 you see Permian Resources --



1 MR. SAVAGE: Objection. Could you let  
2 him answer the question?

3 MS. VANCE: I did ask my question,  
4 which is whether or not he saw Permian Resources  
5 listed in the notice of publication.

6 THE HEARING EXAMINER: Okay. And  
7 what's the objection?

8 MR. SAVAGE: To let the witness answer.  
9 The witness was in the process of answering the  
10 question, and she interrupted him, and I think he  
11 should be allowed to finish.

12 THE HEARING EXAMINER: Okay.

13 MS. VANCE: It appeared that Mr. Shaw  
14 was pulling up some other stuff and --

15 THE HEARING EXAMINER: Okay.

16 MS. VANCE: I just want to make sure  
17 that -- it really is just a yes or no answer.

18 THE HEARING EXAMINER: That's fine.  
19 But you asked a question to Mr. Shaw.

20 Mr. Shaw, have you answered this  
21 question yet?

22 THE WITNESS: No, I -- I have not yet.

23 THE HEARING EXAMINER: Okay. Would you  
24 please?

25 THE WITNESS: Permian's predecessor in

1 interest is listed in there, yes.

2 BY MS. VANCE:

3 Q But again, I'm asking the question, is  
4 Permian Resources Operating listed?

5 A Permian Resources operating is not listed.  
6 The predecessor in title is listed. Or predecessors  
7 in title are listed.

8 Q Again, can you provide a yes or no of  
9 whether or not you see Permian listed?

10 A Permian is not listed.

11 Q Okay. And then when were these applications  
12 filed?

13 A I believe -- 24994. It looks like on or  
14 about November 19, 2024.

15 Q Okay. And at this time you were aware that  
16 Permian was the interest holder and not Mewbourne.  
17 Correct?

18 A Yes, ma'am. That is correct.

19 Q Okay. Thank you. So now we're going to go  
20 through, and I hate to be redundant, but we're going  
21 to go through the same in case 24995. So I'm looking  
22 at case 24995, and I'm going to go to paragraph 11.

23 MR. SAVAGE: Mr. Hearing Examiner, if  
24 this occurs across the board in all the cases, and my  
25 witness agrees to that, could we move on?

1 THE HEARING EXAMINER: Ms. Vance, is  
2 there a way to ask your question and to incorporate  
3 all the cases that you were not noticed?

4 MS. VANCE: So it would just be this  
5 one additional case where --

6 THE HEARING EXAMINER: Oh, okay.

7 MS. VANCE: -- it's the same exact  
8 thing. And I'm happy if Mr. Shaw wants to agree that  
9 Permian was not noticed in this case, that's fine.

10 BY MS. VANCE:

11 Q So, Mr. Shaw, was Permian Resources noticed  
12 in case 24995?

13 A No, ma'am, they were not.

14 Q And V-F is trying to pool them in this case.  
15 Correct?

16 A Yes, ma'am.

17 Q Okay. That's fine. Now, I do have another  
18 notice issue, but it's not related to Permian. I'm  
19 going to go to case 25115, and I want to go to the  
20 notice of publication. Mr. Shaw, is the State Land  
21 Office listed on the notice of publication?

22 A No, ma'am.

23 Q Okay. And then I'm going to go to page 56,  
24 and I will scroll in for you.

25 A Thank you.

1 Q Is the State Land Office listed in the  
2 parties that your notice went to?

3 A No, ma'am.

4 Q Okay. And again, go to page 14, scroll out.  
5 And again, you're stating in your statement that you  
6 provided a notice list to your counsel and that they  
7 completed notice. You state that in your testimony.  
8 Correct?

9 A Yes, ma'am.

10 Q All right. Now I'm looking at your pooling  
11 exhibit, Exhibit A-3. And I'm looking down right here  
12 where you have the interest broken out on a tract  
13 basis, and for the north half of the northwest quarter  
14 of 16, that that's unleased mineral interest of the  
15 State Land Office. Correct?

16 A That's correct. Yes, ma'am.

17 Q Okay. And based on this, and I'm going to  
18 scroll down to page 26 of 74, you've got this  
19 highlighted, and that highlighting means that you're  
20 attempting to pool unleased state minerals. Is that  
21 correct?

22 A No, ma'am. The -- the highlighting just  
23 simply denotes that they are not committed. We are --  
24 we are not attempting to pool the State of New Mexico.

25 Q Is that what it says in your statement, that

1 they're uncommitted, or that the highlighting denotes  
2 pooling?

3 A It may -- let me see what the statute says.

4 THE HEARING EXAMINER: Ms. Vance, are  
5 you waiting for an answer?

6 MS. VANCE: I am.

7 THE WITNESS: Oh, I guess -- are you  
8 talking about paragraph 9 in the landman statement  
9 that reads: "The parties being pooled, the nature of  
10 their interest, and their last known addresses are  
11 listed on Exhibit A-3. Exhibit A-3 includes  
12 information regarding working interest owners  
13 overriding royalty interest owners or royalty interest  
14 owners"?

15 BY MS. VANCE:

16 Q I believe so. I believe you've done a  
17 number of pooling cases. Typically the highlighting  
18 denotes the interests that are being pooled. Correct?

19 A No. I wouldn't necessarily say that. It's  
20 just for me to -- all I was denoting was the  
21 difference between those interest owners that were  
22 committed and those were not -- who were not --

23 Q So then how is the Division supposed to know  
24 which parties you're pooling?

25 A Because that's who we send the notice of the

1 applications to. I mean, that's what we just went  
2 through just a second ago, so the State of -- State of  
3 New Mexico didn't receive an application to pool.

4 MR. SAVAGE: Please --

5 THE HEARING EXAMINER: Okay. Mr. Shaw,  
6 hold on a second, please. I think there's an  
7 objection.

8 Yes, sir?

9 MR. SAVAGE: No. I would just like to  
10 clarify. I mean, I think we can point to in the  
11 exhibit where the answer to this question is.

12 THE HEARING EXAMINER: Is this  
13 Mr. Shaw's exhibit?

14 MR. SAVAGE: Mr. Shaw's exhibit.

15 THE HEARING EXAMINER: Doesn't he know  
16 where it is? The answer?

17 MR. SAVAGE: I'm not sure if he  
18 realizes at this point.

19 THE HEARING EXAMINER: Did Mr. Shaw  
20 draft the exhibit?

21 MR. SAVAGE: He did.

22 THE WITNESS: Yes.

23 THE HEARING EXAMINER: Okay. All  
24 right.

25 MS. VANCE: Can I ask a question?

1 THE HEARING EXAMINER: Well, you asked  
2 a question, he was answering a question. What was the  
3 question that you asked, Ms. Vance?

4 MS. VANCE: How is the Division  
5 supposed to know who you're pooling?

6 THE HEARING EXAMINER: Right. And did  
7 you get an answer?

8 MS. VANCE: I don't think I did.

9 THE WITNESS: Yeah. I said 'cause  
10 that's who we sent the applications for pooling to,  
11 and that notice of applications were -- were to  
12 parties that we're pooling.

13 BY MS. VANCE:

14 Q So then I guess I'm confused because also in  
15 here I believe you have some of the interest owners  
16 who are not highlighted, and you also have the Bureau  
17 of Land Management, and I don't believe you can pool  
18 the federal government.

19 A No, ma'am. I agree with that. Sorry.  
20 Here. So at the back -- I'm just seeing this now. At  
21 the back of Exhibit A-3 it says "list of all  
22 uncommitted working interest owners to be pooled," and  
23 then it says "list of all uncommitted overriding  
24 royalty interest owners to be pooled." So on the back  
25 of Exhibit A-3, the very -- very last page, it states

1 who's being pooled and who's not being pooled. Sorry.  
2 It took me a second to recall that.

3 Q So to me, I'm looking at what you have, and  
4 it just says uncommitted working interest owners. So  
5 I'm confused. What is it? Who is being pooled?

6 A -- to be pooled.

7 THE HEARING EXAMINER: Mr. Shaw, we  
8 can't pick up your voice. First of all, the  
9 microphone is not so good. Second of all, please  
10 don't talk over the attorney. Wait till she's done  
11 with her question.

12 Ms. Vance --

13 THE WITNESS: I apologize.

14 THE HEARING EXAMINER: No, it's fine,  
15 Mr. Shaw.

16 Ms. Vance, would you ask your question  
17 again?

18 BY MS. VANCE:

19 Q So I'm a little confused because there --  
20 let me ask this. Is there a key anywhere in any of  
21 your exhibits that provides information or direction  
22 to the Division as to what that highlight means?

23 A It -- it simply is denoting the difference  
24 between parties who are uncommitted and those who are  
25 being -- those are -- who are -- you know, the



1 difference between those who are uncommitted and those  
2 who are committed. So -- and then at the very end of  
3 Exhibit A-3, we list all of the uncommitted working  
4 interest owners to be pooled, and then we also sum up  
5 a list of all uncommitted overriding royalty owners to  
6 be pooled.

7 THE HEARING EXAMINER: Okay. So can  
8 you show us that? Would you scroll to that --

9 THE WITNESS: Yes. It's -- it's right  
10 there on -- looks like page 27 there. Right where  
11 the -- the scroll is. So that list --

12 THE HEARING EXAMINER: Can you make it  
13 a little bigger so we can read it?

14 MS. VANCE: I can. Because I also want  
15 to point out that the unleased is also under pooled.

16 BY MS. VANCE:

17 Q So I want to go back to my question of is  
18 there a key anywhere that tells the Division what that  
19 highlight means on any of your exhibits? Is it  
20 explained anywhere in your testimony or in  
21 Exhibit A-3?

22 A No, ma'am, it is not. It is not clearly  
23 stated, no.

24 Q Okay. And then where you were pointing to,  
25 the list of uncommitted working interest owners to be

1 pooled, it says unleased there. Correct?

2 A Yes, ma'am.

3 Q Okay. All right. Let's move on from that.  
4 I'm going to go to page 29. Okay. This is your  
5 chronology of contacts, and it's one page, just  
6 page 29. Can you tell me if the State Land Office is  
7 listed here?

8 A No, ma'am. They are not.

9 Q Okay. Has V-F discussed its proposals for  
10 this unleased acreage -- unleased state minerals?  
11 Have you discussed that with the State Land Office and  
12 that V-F is attempting to pool their unleased minerals  
13 based on your exhibits?

14 A No, ma'am. We are under the impression at  
15 the moment that the state is not currently leasing or  
16 accepting nominations in this area, so we have not  
17 made any overtures to the state in order to lease this  
18 interest. But once -- once we get the understanding  
19 that there -- there will be leases issued in this  
20 area, we will be nominating this tract.

21 Q So have you had any communication with the  
22 State Land Office regarding those unleased minerals?

23 A No, ma'am.

24 Q Okay. Now, this section 16, the State Land  
25 Office, they own the minerals. Correct? They're the

1 mineral --

2 A Yes ma'am.

3 Q Okay. And are they the surface owner? Are  
4 they owner of the surface estate as well?

5 A Yes, ma'am.

6 Q Okay. And where are the surface hole  
7 location for V-F's proposals? Are they all on  
8 section 16?

9 A Yes, ma'am.

10 Q Okay. Has V-F filed for a business lease  
11 with the State Land Office?

12 A No, ma'am. Not as of yet.

13 Q And has V-F prepared or submitted com  
14 agreements regarding its proposals to the State Land  
15 Office?

16 A No, ma'am.

17 Q All right. Let's switch gears and let's  
18 talk about section 15 for a second. So section 15,  
19 those are federal minerals. Correct?

20 A Yes, ma'am.

21 Q Okay. Has V-F filed federal APDs or done  
22 any federal permitting?

23 A No, ma'am. We don't own an interest in  
24 every tract.

25 Q Okay. You answered my next question. Are

1 you aware of the timeline for approvals for federal  
2 APDs? The approximate --

3 A Yes, ma'am.

4 Q Okay. And would you say it it's about two  
5 years? Is that sort of correct? I think the industry  
6 understands it's about two and a half years to get APD  
7 approval. Would you say that's accurate?

8 A No, ma'am.

9 Q What would you say is the timeline for  
10 federal approval?

11 A We are anecdotally aware of companies who  
12 have received them within eight to ten months,  
13 depending on, obviously, your NRS agent and -- and  
14 other circumstances. You know, quality of the packet  
15 submitted. Things of that nature.

16 Q And how old is that anecdotal information?

17 A We're involved in a -- in a project right  
18 now where I believe that it was under a year that the  
19 operator obtained federal APDs --

20 Q But as you alluded to, that's anecdotal.  
21 That's actually not the norm as of right now. It's  
22 taking the federal government a lot longer to turn  
23 around permits. More than a year.

24 A I -- I mean we've submitted eight federal  
25 permits, and the -- the federal government seems to be

1 quite responsive at the moment in regards to those  
2 federal permits. And -- and we have asked for status  
3 updates through our agent, and it seems like the  
4 process is moving relatively quickly in comparison to,  
5 you know, other permits that this individual has  
6 processed in the past. So I can't -- I can't say that  
7 category, no.

8 Q But again, it's, you know, going back to  
9 that's anecdotal. Correct?

10 A Yes, ma'am.

11 Q That was your terminology? Okay. And you  
12 sort of alluded to the fact that it does take some  
13 time. Right?

14 MR. SAVAGE: Objection.

15 A Yes. Absolutely.

16 THE HEARING EXAMINER: What's the  
17 objection?

18 Hold on, Mr. Shaw.

19 MR. SAVAGE: The objection is that this  
20 has been asked a number of times and answered a number  
21 of times.

22 THE HEARING EXAMINER: I agree,  
23 Ms. Vance, so I'm going to sustain the objection.

24 Mr. Shaw, if you hear the word  
25 objection, please stop speaking. You're an attorney,

1 you know that. Thank you.

2 Please proceed, Ms. Vance.

3 BY MS. VANCE:

4 Q Okay. So your State Land Office lease that  
5 you have for section 14, that expires in about a year.  
6 Is that right?

7 A Are you -- you said section 14. Do you mean  
8 section 16?

9 Q I'm sorry, yes. Section 16. I apologize.

10 A Yes. It -- yes. It expires, I believe,  
11 January 31, 2026.

12 Q Yes. And you need to drill in order to  
13 maintain that lease. Correct?

14 A Yes, ma'am.

15 Q Okay. So you guys have not filed for  
16 federal permitting as of yet?

17 MR. SAVAGE: Objection.

18 THE HEARING EXAMINER: What's the  
19 objection?

20 MS. VANCE: I haven't even finished the  
21 question.

22 MR. SAVAGE: Excuse me, Mr. Hearing  
23 Examiner. It thought that was the question that she  
24 was asking again and --

25 THE HEARING EXAMINER: Okay.

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1 MR. SAVAGE: I'll withdraw.

2 THE HEARING EXAMINER: Please proceed,  
3 Ms. Vance.

4 MS. VANCE: Sorry. I lost my place  
5 there for a second. Well, that's fine. He's already  
6 answered it. I'll move on.

7 BY MS. VANCE:

8 Q So can you maybe just explain how you're  
9 going to meet those timelines for your lease  
10 expirations since you have not started any  
11 conversations with the State Land Office regarding the  
12 unleased minerals or filed for business leases with  
13 the State Land Office or filed for federal APDs?

14 A Well, the way that we've structured this is  
15 that we've filed for several, obviously, 320-acre  
16 horizontal spacing units. The -- one obviously being  
17 in the south half/south half of sections 16 and 15  
18 comprising for Rainier 16 15 Fed Com 221 and 231H  
19 wells. And so the unleased mineral interest in the  
20 north half/northwest quarter only affects case 25115,  
21 being for the Rainier 16 15 Fed Com 234H. The rest or  
22 remainder we have -- there are leases on the entirety  
23 of those lands and we're not in the process of  
24 attempting to get -- get the coms situated so that  
25 then we can file for the federal APDs.

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1           We've done a lot of the surveying work for  
2     staking out pads, well locations, CTBs, and really,  
3     with us being on state lands, that helps greatly  
4     expedite this process being that you don't need to do  
5     a federal on-site to commence that work. So a lot of  
6     the work that is needed in order to file a federal APD  
7     we already have in hand. So upon the -- you know, the  
8     conclusion of this case, we would be able to file it  
9     and -- and get to -- get the APDs.

10          Q     And this case is going to conclude in  
11     February, and it's most likely -- you know, obviously,  
12     you've appeared before the Division, it takes time for  
13     orders to be turned around, and you're saying that you  
14     would start filing for federal APDs after the case is  
15     completed in February and after an order is issued at  
16     some unknown date in the future?

17          A     Yes, ma'am. Yes. We would have -- we would  
18     have all the work basically ready to go so that if --  
19     if V-F Petroleum were to prevail, that we would then  
20     be able to immediately file for federal APDs.

21          Q     Several months from now.

22          A     However long it takes the record -- the --  
23     the order. Yes, ma'am.

24          Q     Mr. Shaw, have you done any on-sites with  
25     the BLM?



1 A Yes, ma'am.

2 Q And when did you do those?

3 A Are you -- are you referring to in this case  
4 or just generally?

5 Q In this case. In these cases.

6 A Since we're on state surface, an on-site  
7 that the BLM is not required. And we spoke to the BLM  
8 about that, and -- and got their opinion and -- and  
9 they said the same.

10 Q Okay. Let's move on here. Now, I looked at  
11 your negotiations, your chronology of contacts. Now,  
12 based on those chronology of contacts, you haven't  
13 communicated with at least four of those working  
14 interest owners in about a year, and specifically I'm  
15 looking at cases 24994 and 24995. Is that correct?

16 A Pull that up. 24994. Can you repeat the  
17 question? I'm -- I'm here now.

18 Q Sure. And I'll just state this so it's  
19 clear for the Division. So it's basically pages 32  
20 and 33, and the same right about for -- between case  
21 numbers 24994 and 24995. So just to be clear, I'm  
22 looking at these chronology of contacts, and it looks  
23 like it's been about a year since V-F has had any  
24 engagement with some of these interest owners?

25 A Yes, ma'am. So going through all this, you

1 know, we had extensive conversations early on  
2 regarding -- you know, when we made these proposals,  
3 we also proposed a joint operating agreement. It's  
4 V-F's preference to attempt to obtain joinder  
5 vis-a-vis the operating agreement. We're reasonably  
6 flexible on those terms. And if we can't come to an  
7 agreement or if the party doesn't want to participate  
8 in our wells, then -- then what we do is we extend an  
9 offer. And so I've had several conversations with  
10 these parties early on when these wells were initially  
11 proposed, and essentially a lot -- you know, a lot of  
12 these parties said, you know, we -- we don't want to  
13 participate under the joint operating agreement and  
14 we're not interested in accepting an offer, and once  
15 you get this interest pooled, we'll make a decision on  
16 whether or not to participate under the order.  
17 That's -- that's a very general statement. That's --  
18 that's what happened with a lot of these parties.

19 Q But you did send out supplemental proposals.  
20 Correct?

21 A Yes, ma'am.

22 Q And I'm just going to go to one of those, so  
23 I'm scrolling down here. And same for both of these  
24 two cases. So this Exhibit A-5, this is your initial  
25 proposal marked in September 2023, and the sticker

1 price here is 13 million. Is that correct? For both  
2 of these, right about there, 13 million.

3 A Yes, ma'am.

4 Q For each of the wells. And then you did  
5 send a supplement, which is also part of that same  
6 exhibit, just recently, January 21, 2025. So about a  
7 week ago you sent out supplemental proposals.

8 A Yes, ma'am.

9 Q Okay. And it's quite a drop in price. We  
10 went from 13 million to 8 million for the well costs.

11 A Yes, ma'am. So just as a general rule, when  
12 V-F Petroleum initially proposes wells and those  
13 wells, such as this situation, are on federal lands  
14 and we know that there's going to be a delay between  
15 when we make the initial proposal and when we actually  
16 go about drilling the wells, what we attempt to do is  
17 provide the worst -- what we can envision as worst  
18 case scenario estimate on what our drilling and  
19 completion costs would be. And as it gets closer in  
20 time, what we like to do is then submit a  
21 supplemental, because it's always easier, you know, if  
22 you get someone joined up and costs go up, opposed to  
23 go down, that's always -- whether it's emotional or --  
24 or causes financial aches, it's a -- it's a lot easier  
25 to explain it if -- if the price goes down. So as --

1 as we get nearer in term, which we are obviously  
2 getting nearer in term, as you've stated, we do have  
3 expirations, and so this is a top priority for us, we  
4 went back and sharpened our AFE and now we have a good  
5 understanding of what it's going to cost here in order  
6 to drill these wells in the next two, three, four  
7 months.

8 Q Okay. So you said that you're getting  
9 sharper with the prices and that this is closer to  
10 what actually would be the cost for these wells. And  
11 you said that this is worst case scenario, that  
12 13 million. Do you explain that at all in this letter  
13 to the -- in your supplemental proposal, do you  
14 explain any of what you just stated to those interest  
15 owners so they know what is going on and why there's  
16 this huge jump in price between 13 million and  
17 8 million?

18 A No, ma'am. I mean, as a matter of industry  
19 practice, you know, we -- we see these all the time  
20 where, when -- when a well's initially proposed, the  
21 operator will send that out -- send that out to  
22 parties and -- you know, and then as it gets closer,  
23 you -- you receive a supplemental, and a lot of these  
24 parties -- actually all of these parties I believe are  
25 sophisticated owners, so I don't -- I don't think I

1 had to necessarily spell that out.

2 Q And they're sophisticated enough to  
3 understand a \$5 million reduction in price without  
4 further explanation in the letter.

5 A Yes, ma'am. Yes. It's -- it's industry  
6 practice. Absolutely. As -- as you get closer, you  
7 sharpen your pencils, and -- and you get a more  
8 accurate AFE as you get closer to the drill.

9 Q So what you're saying is it's normal  
10 industry practice to have these deep discounted cuts  
11 in the initial proposals vice what you actually plan  
12 to do.

13 A Yes, ma'am. And you'll see in our rebuttal  
14 exhibits, I -- I give an example of that where Permian  
15 proposed a well to us -- pull this up. Permian  
16 proposed a Lajitas 54 State Com wells, the 121, 122,  
17 123, 124, 131, 132, 133, and 134. The initial  
18 proposals on those wells were dated January 16, '24,  
19 and those wells came in on the Second Bone wells for  
20 \$12,441,256. And then on the Third Bone wells, same  
21 date, you know, obviously January 16, 2024, was  
22 \$12,985,967. And then on 9/11 we received updated  
23 proposals for those wells, and those proposals showed  
24 that the Second Bone wells were \$9,405,555.04 and then  
25 the Third Bones were \$9,779,073 -- or 73 cents. So

1 again, probably up close to a \$3 million cut there  
2 being approximately 75, 74 percent. So the initial --  
3 the initial -- or the these 9/11/2024 well proposals  
4 are -- are about three-quarters of what the original  
5 proposals were.

6 So yeah, it's industry -- I would say it's a  
7 pretty industry customary. And like I said, the  
8 expectations are, you know, you provide your worst  
9 case scenario of what you think it's going to cost and  
10 you come back later and -- and get a more accurate  
11 cost as you get closer to the drill.

12 Q And did you have a conversation with Permian  
13 regarding the updated proposals that you just  
14 discussed?

15 A Have I had a conversation with Permian since  
16 I --

17 Q Regarding the updated proposals that you  
18 just discussed. You got one set of proposals, then a  
19 supplement. Did you have a conversation with Permian  
20 about those updated proposals?

21 A No, ma'am. I have not -- I have not spoken  
22 to Permian since sending those proposals. The -- the  
23 January '24 proposals.

24 Q No. What I'm asking is, you just talked  
25 about proposals. I think it was the Lajitas. Is that

1 it?

2 A Yes. Yes, ma'am.

3 Q You just talked about, you know, gave an  
4 example -- and I'm not sure, is that in your rebuttal  
5 exhibits?

6 A Yes, ma'am. That would be rebuttal  
7 Exhibit -- I think it's rebuttal Exhibit 5. Yes.  
8 Rebuttal Exhibit 5. I have a -- a summation of those  
9 proposals, and then I have the actual proposals  
10 themselves attached --

11 Q Okay. And since you brought it up, what I  
12 was asking is have you had a discussion with Permian  
13 about those supplemental proposals?

14 A No, no. I have not had a conversation with  
15 Permian explicitly about those supplemental proposals.

16 Q All right. But you would agree that  
17 5 million is different than \$3 million difference?

18 A I mean there's a million behind the number.  
19 I mean, it's -- they're both big numbers.

20 Q But one is less than the other. Correct?

21 A Yes, ma'am.

22 Q Thank you. All right. So V-F has ten wells  
23 that it operates in Eddy County. Is that right?

24 A No, ma'am.

25 Q How many wells does it operate in Eddy

1 County? Let me rephrase --

2 A In Eddy -- in Eddy County -- sorry. Go  
3 ahead.

4 Q Because I think I know what the confusion  
5 might be. V-F operates ten horizontal wells in Eddy  
6 County.

7 A Yes, ma'am.

8 Q Okay. Thank you. And eight of those are  
9 1-mile horizontal wells.

10 A No, ma'am.

11 Q So how many horizontal wells does V-F  
12 operate in Eddy County that are 1-mile?

13 A One-mile? Six.

14 Q Okay. And then how many 2-mile wells does  
15 V-F operate?

16 A In Eddy County? Two.

17 Q Okay. So the total number of wells that V-F  
18 operates in Eddy county is eight. Is that --

19 A No, ma'am.

20 Q Eight horizontal wells.

21 A No, ma'am.

22 Q Okay. So let's just --

23 A You want me to -- yeah. I'll help you. So  
24 we -- we have six 1-mile wells, then we have two  
25 mile-and-a-half wells, 7,500 footers, and then two



1 10,000 horizontal -- 10,000-foot horizontal wells, so  
2 for ten total wells in Eddy County.

3 Q Okay. So I just want to be clear, so I'm  
4 not trying to repeat myself here, but I just want to  
5 know. So it's six 1-mile wells, two  
6 one-and-a-half-mile wells, and then two two-mile wells  
7 for a total of ten horizontal wells in Eddy County.

8 A Yes, ma'am.

9 Q Okay. Based off of those numbers, it's fair  
10 to say that V-F has more experience operating 1-mile  
11 wells versus 2-mile wells. Correct? You have  
12 more --

13 A In Eddy -- I mean, in Eddy County, yes.

14 Q In Eddy County. In Eddy County.

15 A Well, the total amount of wells that are  
16 horizontal, no. But in Eddy County, yes.

17 Q Okay.

18 A The most number of wells that we have are  
19 7500-footers, and that is what we operate the most.  
20 We have ten of those in total.

21 Q And you're saying that throughout New  
22 Mexico?

23 A Yes, ma'am.

24 Q Okay. That's fine. Now, you agree that  
25 regarding the contested acreage, which is in

1 section 15, Permian has more working interest control  
2 than V-F does. Correct? Over the spread of  
3 section 16, Permian has a greater working interest  
4 control.

5 A Over 16, no.

6 Q Fifteen. I said 15. I'm sorry if I  
7 misspoke. Fifteen.

8 A In 15, yes, Permian has -- has the largest  
9 working interest in -- in the two -- yes.

10 Q And it's over 50 percent. Correct?

11 A In some tracts, yes. In some tracts, no.

12 Q So just over all of section 15, they have --

13 A If you add it up over the entirety of  
14 section 15?

15 Q Yes.

16 A Is that what you're asking?

17 Q It's more than 50 percent. Correct?

18 A Let me -- let me look here. Yeah. It  
19 appears that it may be slightly over 50 percent, yes.

20 Q So just to be helpful, we have provided some  
21 rebuttal exhibits, and this outlines the difference in  
22 percentage ownership per tract, but you can also see  
23 that --

24 MR. SAVAGE: Objection. Those rebuttal  
25 exhibits have not been admitted yet, and they have not

1       been reviewed, and she is bringing them up. I think  
2       that is not appropriate. They should not --

3                       THE HEARING EXAMINER: I'm confused,  
4       Mr. Savage. I thought that we did admit the rebuttal  
5       exhibits.

6                       MR. SAVAGE: I'm sorry. Did we? I  
7       apologize. I was thinking of the previous hearing --

8                       THE HEARING EXAMINER: All right. So  
9       do you want to withdraw the objection?

10                      MR. SAVAGE: Withdraw the objection and  
11       just clarify. All the exhibits have been admitted and  
12       they're all --

13                      THE HEARING EXAMINER: From both  
14       parties.

15                      MR. SAVAGE: -- fair for questioning.  
16       Thank you.

17                      THE HEARING EXAMINER: For both  
18       parties, they are.

19                      And you know, it's now noon. I think  
20       we should take a break. That way everyone can kind of  
21       gather their thoughts and maybe --

22                      MS. VANCE: But that's fine. I was  
23       going to say I'm close to finishing with Mr. --

24                      THE HEARING EXAMINER: How close?

25                      MS. VANCE: Okay. We'll do a break.

1 Sorry.

2 THE HEARING EXAMINER: You sure?

3 MS. VANCE: Yeah. It's fine.

4 THE HEARING EXAMINER: Because if you  
5 only had a few more questions, I was going to say  
6 that's fine. But it's okay with you?

7 MS. VANCE: Yeah. That's fine.

8 THE HEARING EXAMINER: Very good.

9 So, Mr. Shaw, we're going to take a  
10 break. We're going to take a lunch break. Okay? So  
11 Mr. Shaw and Mr. -- I forgot your name. Burke, is it?

12 MR. BURKE: Yes.

13 THE HEARING EXAMINER: Very good.

14 We're going to take a break now. So thank you for  
15 being patient and sitting there, but we will get to  
16 you after lunch.

17 It's noon now. Why don't we come back  
18 at one o'clock? Does that work for everyone? Okay.

19 Mr. Savage, is that okay?

20 MR. SAVAGE: Yes. Thank you. And I  
21 think I was getting a little lightheaded there.

22 THE HEARING EXAMINER: Yes. I thought  
23 so.

24 MR. SAVAGE: I appreciate the --

25 THE HEARING EXAMINER: It's a good time

1 for a break.

2 MR. SAVAGE: I appreciate the break.

3 THE HEARING EXAMINER: Okay. We're off  
4 the record. Thank you.

5 (Off the record.)

6 THE HEARING EXAMINER: All right. It  
7 is 1:04 p.m., the 28th of January.

8 Mr. McClure, are you ready to proceed?

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

11 THE HEARING EXAMINER: Ms. Vance?

12 MS. VANCE: Can I have just one moment?  
13 Sorry. I'm trying to get my stuff set up here.

14 THE HEARING EXAMINER: Are you going to  
15 be sharing your screen?

16 MS. VANCE: Yes.

17 THE HEARING EXAMINER: You are.

18 MS. VANCE: That's why.

19 THE HEARING EXAMINER: And do we have  
20 Mr. Shaw? You ready? All right, I remind you you're  
21 still under oath.

22 BY MS. VANCE:

23 Q Mr. Shaw, sorry about that. So I just  
24 wanted to come back to a line of questioning that we  
25 went through before lunch and just follow up on a

1 couple of things, you know, specifically related to  
2 V-F's timelines and their ability to actually go  
3 through with this development. Now, with section 16,  
4 where there is unleased minerals, so based on your  
5 testimony, what you were saying is you would be able  
6 to move forward with the cases that V-F has applied  
7 for with the exception of that one case because of the  
8 unleased minerals. Correct?

9 A And to a degree we'd be able to move forward  
10 with that one case, and that case would be case 25115,  
11 which is the Rainier 16 15 Fed Com 234H, which is that  
12 north half/north half of sections 16 and 15. And what  
13 we would -- what we would do in the event that we  
14 would prevail in this situation is we would have a com  
15 established, then once we are able to nominate the  
16 tract in the north half/northwest quarter, we would  
17 then have to open up the case again in order to --  
18 well, one, if -- if we acquire it, obviously we would  
19 just be able to go ahead and start development on that  
20 horizontal spacing unit.

21 If another company developed it, we are very  
22 amenable. We're -- we're not difficult to work with  
23 when it comes time to signing JOAs. We just want  
24 partners committed and if -- you know, barring the  
25 inability to be able to negotiate with the party, then

1 obviously we would have open up that case.

2 But as it pertains to leases VC 838 and  
3 VC 837, and then also our term assignments and  
4 Permian's term assignments, the way that we've gone  
5 about establishing our coms, you know, basically set  
6 up on 320-acre spacing, so you're slicing four -- four  
7 ways -- you know, four ways across, we would be able  
8 to still move forward with development on those  
9 tracts, which would then perpetuate those -- those  
10 leases and those term assignments without even having  
11 to -- to deal with the north half/north half.

12 Q And I'm just, you know, listening to your  
13 answer. You can develop this other acreage, but when  
14 it comes to the north half/north half, you are asking  
15 the Division for an order to pool where you cannot  
16 actually develop. Correct?

17 A At this -- at this time, yes ma'am. And  
18 then we would -- we would go back in and open it back  
19 up and -- and -- if necessary, if we weren't able to  
20 obtain voluntary joinder or we didn't require the  
21 tract ourself.

22 Q So it's going to require additional  
23 administrative process for that case.

24 A Not necessarily. If we acquire the -- the  
25 lease, then we wouldn't need to do anything. We --

1 we'd obviously have it under the joint operating  
2 agreement. If a third party acquired the lease and  
3 voluntarily agreed to join in a -- in a joint  
4 operating agreement, that wouldn't require additional  
5 administrative --

6 Q But there's potential for that to not  
7 happen. Correct?

8 A Yes, ma'am. Absolutely. Yes, ma'am.

9 Q Okay. Now, I do want to talk about the  
10 interests. I know before you got started with your  
11 testimony, you went through -- and I didn't catch all  
12 of the numbers. It sounds like you might be providing  
13 some correction to your Exhibit A-3 that will show a  
14 more accurate representation of the ownership  
15 breakdown. Is that correct?

16 A Yes, ma'am. It -- it affects just one  
17 interest owner.

18 Q Okay. Now, this has already been admitted  
19 into the record, and I have this up. Let me see. I  
20 don't think I'm sharing my screen yet. I apologize.  
21 I have to --

22 MS. VANCE: Mr. Hearing Examiner, I'm  
23 not on the Webex, so if you'll give me just one  
24 moment.

25 There we go. Okay. Sorry.



1 BY MS. VANCE:

2 Q Now, first I just want to be clear that the  
3 exhibits you provided in A-3, they go through a  
4 breakdown of the interest on a spacing unit basis. Is  
5 that correct? In your testimony?

6 A Could you repeat the question? Sorry.

7 Q Sure. Not a problem. So in your testimony,  
8 Exhibit A-3, that breaks down the interests on a  
9 spacing unit basis. Correct?

10 A Yes, ma'am.

11 Q Okay. And so what I have up here is our  
12 rebuttal Exhibit 1 that provides an outline of the  
13 interest between Permian and V-F as it applies to each  
14 of the three sections involved, section 14, 15, and  
15 16. And do you see here, section 15 where I'm  
16 highlighting with my cursor?

17 A Yes, ma'am.

18 Q And you agree, obviously, this is where the  
19 contested acreage is?

20 A Yes, ma'am.

21 Q Okay. Where the overlap is? Would you  
22 agree that Permian owns approximately 60 percent of  
23 the working interest control in section 15?

24 A You know, obviously, I -- I don't look at it  
25 in that way, but, I mean, just off the top of my head,

1 looking at this, I would say they would be pretty  
2 close if not 60 percent. I mean it's -- well, I -- I  
3 look at it from a, you know, horizontal space unit  
4 standpoint. So --

5 Q But you agree --

6 A Some tracts they have -- yeah. They have --  
7 some tracts Permian has the predominant interest and  
8 in other tracts they -- they're a minority interest,  
9 but over two-thirds, close to three-quarters, they do  
10 have the overwhelming amount of working interest in  
11 section 15. I would agree with that.

12 Q Okay. So you agree then, 60 percent,  
13 they're the majority working interest owner.

14 A I can't say percentile, but I do -- I do see  
15 a lot of tracts where they own 85, 78, 79, and then  
16 there's a few tracts in there where they own  
17 10 percent, 10.6, 10.7. So if you balance that out,  
18 they -- they would definitely have over 50 percent. I  
19 don't know about 60 percent, but, yes, I would say  
20 closer to two-thirds, three-fourths they have the  
21 majority interest.

22 Q Okay. And then you agree that V-F owns  
23 about 9 percent of the interest in this overlapping  
24 section 15. Correct?

25 A No, ma'am. There's -- on our rebuttal

1 exhibit -- let me pull this up. And I let Permian  
2 know this. I think it's rebuttal Exhibit -- V-F  
3 rebuttal Exhibit number 3. And I also sent an email  
4 to Permian. We -- we have a -- a affidavit of fact,  
5 we -- acquired the interest of Warren Shelton in  
6 certain tracts, so we have in some cases more than  
7 what's being represented on that rebuttal Exhibit  
8 number 1. We have not been able to locate Mr. Paul  
9 Moore to get him to resend the originals so we can go  
10 ahead and file it. He did send it. We did obviously  
11 pay the consideration on Exhibit A to that affidavit  
12 in fact. You'll see the offer letter that we have  
13 signed by him. It's obviously redacted for the  
14 consideration, but all remainder of the terms and  
15 conditions kind of are in there. And then filed as  
16 Exhibit B to that affidavit in fact is the actual  
17 memorandum of term assignment. So V-F's interest is  
18 slightly more in some of these tracts than the  
19 9 percent showing here but --

20 Q Okay. And you said "slightly increased."  
21 How much does that increase the overall interest of  
22 V-F in section 15?

23 A I'll pull that up. So for instance in the  
24 south half/southeast quarter, what are you showing  
25 there? 14.2 percent? I'm showing 21.6667.

1 Q Can you repeat that one more time?

2 A Yes. Yes, ma'am. Basically the -- the  
3 southeast quarter, you're showing us as having  
4 14.2 percent. Our interest is actually 21.667. Let  
5 me see if that carries through to the -- yes. And  
6 then in the southeast quarter and northeast quarter,  
7 you're showing us as 14.2 percent, and there we have  
8 21.6667. And then -- and then it looks like the rest  
9 of that looks pretty accurate to me. And then the  
10 rest of that looks pretty accurate.

11 Q Okay.

12 A So that's basically the southeast quarter  
13 and then the southeast quarter/northeast quarter we  
14 would have 21.6667 in those tracts.

15 Q Sorry. It's a little hard to hear you. Can  
16 you say the --

17 A Sorry. Yeah. I'll -- I'll speak up. It --  
18 it basically looks like in the southeast quarter and  
19 then the southeast quarter of the northeast quarter we  
20 would have a 21.6667 interest in those tracts. And it  
21 looks like the rest and remainder that is highlighted  
22 in orange look accurate.

23 Q Okay. And so based on those changes, would  
24 you say that increases V-F's overall interest in  
25 section 15 by, what, like 2 percent maybe? Or about

1 how much would you say?

2 A Off the top of my head, I wouldn't -- I  
3 wouldn't know it. I would have to sit down and see  
4 what --

5 Q But --

6 A -- 7 percent increase in a quarter of a --  
7 quarter of a -- or just over a quarter of a section  
8 would -- would equate to when you use 640 acres as  
9 your denominator. Off the top of my head, I wouldn't  
10 be able to say, but it's not -- it's not a massive  
11 increase, but it -- it is an increase. And all these  
12 little crumbs can make a cake, as you can see when --  
13 when we do the -- in the horizontal spacing units.

14 Even though Permian has the overwhelming,  
15 you know, majority in that -- in those orange blocks,  
16 you know, outside of the southeast quarter of  
17 section 15 and the southeast quarter of the northeast  
18 quarter, yet they are still not the majority -- you  
19 know, they still don't have the -- the great working  
20 interest in each one of our proposed horizontal  
21 spacing units.

22 Q Okay. And I think in there you answered  
23 this, but I just want to be sure because I want to --

24 THE HEARING EXAMINER: Ms. Vance, we  
25 we're spending a lot of time on something that's

1 either mathematically true or false, and I'd like to  
2 move this along a little bit faster than this. Okay?  
3 So let's get some sort of a summation and move on from  
4 these interest ownerships.

5 MS. VANCE: Absolutely.

6 MR. SAVAGE: Mr. Hearing Examiner, can  
7 we ask Mr. Shaw to -- his microphone --

8 THE HEARING EXAMINER: Speak louder?  
9 Yeah, of course.

10 MR. SAVAGE: Speak louder.

11 THE HEARING EXAMINER: He's your  
12 witness.

13 MR. SAVAGE: Mr. Shaw, I don't know if  
14 you can adjust the volume or, you know, position  
15 yourself, but it trails off and it's hard to hear at  
16 times. So if you could speak louder, that'd be great.  
17 Thank you.

18 THE WITNESS: What did you all hear? I  
19 don't mind going back through it.

20 THE HEARING EXAMINER: No, Mr. Shaw.  
21 We don't need you to go back through. We just need  
22 you to speak up and answer the question. Ms. Vance is  
23 going to continue. We're going to move this along.  
24 Okay?

25 THE WITNESS: Yes, sir.

1 BY MS. VANCE:

2 Q I think that I just have one last question  
3 here. And based on everything that you have just  
4 stated, that still means that V-F is the minority  
5 working interest owner and that Permian is the  
6 majority working interest owner in section 15.  
7 Correct? Or has the --

8 A If you were just -- if you're -- if  
9 you're -- you're saying if you just take section 15  
10 alone, as a standalone section, you're asking if  
11 Permian has the majority of the working interest in  
12 section 15? Is that kind of a -- a good restatement  
13 of your question?

14 Q Yes. Does Permian --

15 A Yes.

16 Q -- even with your updates -- yes. Okay.  
17 Thank you.

18 MS. VANCE: That's all I have.

19 THE HEARING EXAMINER: Okay.

20 Mr. McClure, did you have any questions  
21 for this witness?

22 MR. MCCLURE: Yes, I do, Mr. Hearing  
23 Examiner.

24 THE HEARING EXAMINER: Please. And  
25 then I'm going to come to you Ms. Luck, if you have

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1 any questions. You don't? Okay.

2 CROSS-EXAMINATION

3 BY MR. MCCLURE:

4 Q Mr. Shaw, earlier under question by  
5 Mr. Savage, I believe it was, you referenced that V-F  
6 had acquired some additional interest and that your  
7 Exhibit A-3 needs to be corrected. Is that correct?

8 A No, sir. What had happened -- what had  
9 happened is that I had incorrectly located a pew [ph],  
10 and V-F's interest was not affected in that situation.

11 Q Okay. So then that's a separate issue from  
12 what you were just talking about with Ms. Vance  
13 regarding the southeast quarter of section 15, then.  
14 Is that correct?

15 A Yes, sir.

16 Q So does your Exhibit A-3s, do they represent  
17 the increased V-F interest from that acquisition,  
18 then?

19 A Yes, sir.

20 Q Okay. With that acquisition, was Permian's  
21 interest effected at all?

22 A No, sir.

23 Q Earlier when Ms. Vance was questioning you,  
24 did I hear correctly that your summary of contacts may  
25 be missing some communications?

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1 A Yes, sir.

2 Q Okay.

3 A Wait. Sorry. Can you -- can you restate  
4 that? Sorry. I may have misunderstood what you said.  
5 My summary of contacts?

6 Q Yeah. Your summary --

7 A -- Exhibit A-4s?

8 Q Yes. Your Exhibit A-4, is it correct that  
9 there's some additional communication that needs to be  
10 included there?

11 A No, sir. No. That -- the summation of that  
12 was, I believe, Permian was asking me, you know, that  
13 there -- there's been some passage of time between my  
14 contacts with some of these working interest owners  
15 and, you know, it's been a -- it had been a, a period  
16 of time since -- since I've spoken to them. But my  
17 answer to that was simply, you know, we proposed --  
18 you know, when we proposed the wells, I also proposed  
19 a JOA as a kind of a modus operandi. It's just a way  
20 of getting things moving quicker, and -- and as I  
21 said, V-F -- V-F's main goal is to obtain voluntary  
22 joiner, and -- and in the event that the parties don't  
23 wish to participate for whatever reason, then my  
24 immediate next step is to extend a formal offer.

25 And what I attempt to do after that is I'll

1 follow up at least one or two additional times, and if  
2 a party tells me, which most of these parties did tell  
3 me, no, we don't want to sign your joint operating  
4 agreement, and, no, we don't want to accept an offer,  
5 go ahead and pool us, and then, upon receiving the  
6 order, we'll make a decision on what to do at that  
7 juncture. So at that point in time, I typically --  
8 you know, I don't want to badger somebody. If  
9 someone, you know, tells you no, I -- I -- you know,  
10 unless there's a -- a reason, unless there -- unless  
11 I -- I know of a situational change with that party,  
12 whether it's financial or whether we have some common  
13 interests elsewhere or -- you know, I don't want  
14 badger them and -- and just continue reaching out for  
15 the sake of just reaching out.

16 Q Okay. So all of those communications you  
17 just referenced, they are included here in your  
18 Exhibit A-4, then. Is that correct?

19 A Yes, sir.

20 Q Are you familiar with where vertically  
21 Permian is stating the depth severance is occurring  
22 between the Bone Spring Two and Bone Spring Three?

23 A So, yes, sir, I am. Let me pull that up.

24 Q Well, I guess my question to you is -- well,  
25 my next question is, is both V-F and Permian in

1 agreement as to whether that depth severance is  
2 occurring?

3 A So that -- that depth severance is -- yeah.  
4 Yes and no. So yes, we recognize -- let me pull this  
5 up. The depth severance that we were alluding to on  
6 our cross, there's -- there's actually several depth  
7 severances, and it's in the Third Bone Spring sand,  
8 and our geologist, Mike Burke will speak more on this  
9 matter. But in my cursory -- and keep in mind this is  
10 my cursory review -- title review of section -- yes --  
11 14. V-F does not have any ownership in 14 and the  
12 proposals do not go into section 14.

13 So we only attempted to ascertain, really,  
14 the ownership interest of Permian Resources for  
15 purposes of seeing what their working interest was in  
16 their proposals. So when we initially did our  
17 research into that section, V-F found that there were  
18 a series of assignment bill of sales, mostly  
19 pertaining -- mostly occurring in the northeast  
20 quarter or -- or sorry, mostly occurring in the  
21 northwest quarter, and they create several depth  
22 severances that Permian has not stated whatsoever  
23 in -- in their case or anywhere whatsoever.

24 And so the first depth severance that we're  
25 seeing is a -- is a depth severance that is occurring

1 approximately around 9 -- 9,290 feet. Okay?  
2 That's -- again, the geologist will be able to speak  
3 about this in more specificity. But there's -- that  
4 creates a depth severance between the top of the --  
5 what we're calling, and I believe what Permian has  
6 also stated in -- in their filings, the top of the  
7 Bone Spring sand. It -- creates a depth severance  
8 just below the top of the Bone Springs sand, and I'll  
9 let Mike Burke talk more about that.

10 Then, this is -- and this is probably a  
11 scrivener's error, but still it follows through in  
12 title -- in the chain of title. There is a subsequent  
13 depth severance that Permian fails to reference at --  
14 I believe it's at 9 -- 9,293 feet. So there's a  
15 3-foot interval between the depth severance created in  
16 assignment bill of sale or an assignment of operating  
17 rights recorded at book 71, page 382, and in the  
18 assignment of operating rights recorded at book 113,  
19 page 701.

20 That is likely a scrivener's error, but  
21 nonetheless this runs with the title of the lands, and  
22 this would be something that Permian would have to  
23 likely cure before they obtain production. It's not  
24 necessary for them to drill. I believe they own an  
25 interest in that tract, so they can definitely drill

1 and complete a well in there. But accounting for that  
2 3 percent depth severance is a problem.

3 Then Permian -- and this is where we kind  
4 of -- kind of got caught off guard a little bit  
5 here -- you know, in their -- in their cases,  
6 they're -- when they proposed these -- they proposed  
7 to try to pool the entire Bone Spring. So that would  
8 be case number 25145, I believe, 25146, 25147, and  
9 25148. The proposals purported to pool the entirety  
10 of the Bone Spring and so did -- so did what their  
11 application for pooling, and it's only in Travis  
12 Macha's statement -- self-affirmed statement in  
13 paragraph 4 that they state that -- or sorry,  
14 paragraph --

15 THE HEARING EXAMINER: Mr. Shaw, will  
16 you hold on, please?

17 THE WITNESS: -- 7, that he --

18 THE HEARING EXAMINER: Mr. McClure, did  
19 you ask a question that required an answer of this  
20 length?

21 MR. MCCLURE: I think what my question  
22 was is whether they were in agreement on where the  
23 depth severance was, and I guess the answer would be  
24 no, they're not in agreement.

25 THE HEARING EXAMINER: Thank you.

1 MR. MCCLURE: I guess is the --

2 THE WITNESS: -- yes and part no. Yes.  
3 We are -- we are in agreement to the depth severance  
4 at 9,397 feet. As to the other depth severances I  
5 referenced, I don't know that we are in agreement with  
6 that or not. I -- I don't know. Sorry.

7 BY MR. MCCLURE:

8 Q And this occurs in the northwest quarter of  
9 section 14. Is that correct?

10 A Yes, sir. From what I can ascertain, yes,  
11 sir. That -- that is the -- the depth severances I  
12 found. The depth severance at 9,397 feet appears to  
13 occur in the southeast quarter of the southwest  
14 quarter of section 14. Again --

15 Q Can you say that one more time? The  
16 southwest quarter is where it's occurring?

17 A Yes, sir. The southeast quarter of the  
18 southwest quarter is where the depth severance at  
19 9,397 feet is occurring.

20 Q Okay. In V-F's case 25115, what is the  
21 vertical extent that V-F is asking to pool in that  
22 case?

23 A Let me pull that up. 25115. Correct?

24 Q That is correct.

25 A Okay. That is the Rainier 16 15 Fed Com

1 234H, and we are only requesting to pool the third  
2 Bone Spring formation.

3 Q Now, if there is no depth severance there,  
4 why are you asking to only pool the Third Bone Spring?

5 A Because there is a well situated in the  
6 north half/north half of section 15, which is a Second  
7 Bone Spring horizontal well drilled by Mewbourne.  
8 That was where we had to send notice to -- for the  
9 overlapping spacing unit in this case. And so we  
10 would be restricted to 1-mile development in the event  
11 that we were to drill a Second Bone Spring in the  
12 north half/north half, so we wanted to ensure that we  
13 didn't get a comingling, I guess, of the interest in  
14 the second in with third and the lateral legs being  
15 different lengths and having to account for that  
16 difference. So in this case we're just pooling from  
17 the top of the Bone -- the Third Bone Spring down to  
18 the base of the Third Bone Spring.

19 Q Is it accurate to state that in the south  
20 half of the north half that V-F has also separated out  
21 their cases --

22 A Yes, sir. That is correct.

23 Q Oh, go ahead sir.

24 A No. Go ahead. My apologies.

25 Q I was going to do give you some more

1 context. I was just going to say that 25116 being the  
2 First and Second Bone Spring and case 25117 being the  
3 Third Bone Spring. Is that accurate?

4 A 25116 being the Second and 25117 being the  
5 Third. Yes, sir.

6 Q What is the reason for splitting these out  
7 if there's no depth severance.

8 A So in case 25116, that was a Second Bone  
9 Spring well proposal, and Permian -- that was  
10 initially -- was -- the initial contest was in the  
11 Second Bone Spring. So the -- the rationale that we  
12 used was, where we were currently uncontested in the  
13 Third Bone Spring, so what we wanted to do was form a  
14 Second Bone Spring Com where we would be under contest  
15 for operatorship, obviously, in the overlapping  
16 section 15, and then would be unopposed in the Third  
17 Bone Spring, being that Permian didn't have and we  
18 didn't know whether or not -- we didn't think that  
19 Permian would propose Third Bone Spring wells. So we  
20 would be uncontested in the Third.

21 Q So then is it accurate to say that the only  
22 reason that that north -- the south half of the north  
23 half is split is due to Permian's cases, then? Is  
24 that correct?

25 A Yes, sir. We were contested in the Second,



1 not contested in the Third.

2 Q Is it accurate to say that the V-F cases in  
3 the south half are asking to pool the entirety of the  
4 Bone Spring?

5 A Yes, sir.

6 Q Permian's competing case, isn't it only  
7 asking to pool the First and Second Bone Spring?

8 A They're -- I believe they're cases 24941 and  
9 24942. I believe that is correct. It was the First  
10 and Second Bone Spring. And that's why we filed  
11 separate cases for 25116 and 25117, because we were  
12 thinking that we would be unopposed in the Third, that  
13 Permian didn't have any interest in pursuing Third  
14 Bone development, and in that case would be --

15 Q Why didn't you split out your 24995 and  
16 24994, then?

17 A We didn't think about it, I guess, before.  
18 I mean, we proposed them together, and the proposal  
19 letter said that we were forming a pool of the entire  
20 Third Bone Spring, so since we made that  
21 representation to the working interest owners, we just  
22 went ahead with what we said we were going to do.

23 Q Now, was that you that had provided the list  
24 of interest owners to Mr. Savage to provide notice of  
25 these applications?

1           A     Yes, sir.  Yes.

2           Q     For case 25115, that being the one that has  
3     the unleased state minerals, is it your belief that  
4     the State Land Office needs to be notified of this  
5     application?  If you don't know the answer, feel  
6     free --

7           A     Yeah.  It's -- it's a -- yeah.  See my  
8     rationale -- and this is my rationale, it's not  
9     anybody else's -- is that since you can't pool state  
10    minerals, there's no reason to necessarily notice.  
11    You know, that -- that's kind of the way I think about  
12    it.  I'm sure the state would like to know and they  
13    always want to know what's going on their state  
14    minerals.  So I'm sure -- I'm sure there's a -- I mean  
15    you can go either way on that, to be honest.

16          Q     Are you familiar with Ms. Beall's interest?

17          A     Vaguely.

18          Q     In V-F's rebuttal exhibits, are you the one  
19    that had either put that together or was it put  
20    together under your guidance?

21          A     I put that together for the land portion of  
22    it.

23          Q     Does it include a description of Ms. Beall's  
24    interest?

25          A     I'd have to look.

1 MS. LUCK: And, Mr. McClure, I would  
2 just offer that we can provide that after this  
3 hearing, if necessary. I was just retained yesterday,  
4 so I hadn't had the opportunity to put together any  
5 kind of summary of her interest, but we're happy to  
6 submit that to the Division if need be.

7 MR. MCCLURE: I assume we're going to  
8 hear about that on the 13th, I assume, but if Mr. Shaw  
9 is familiar with it.

10 BY MR. MCCLURE:

11 Q Did you say you were, Mr. Shaw?

12 A I -- I mean, I am not familiar with it in  
13 the sense that I've done kind of research pertaining  
14 to Ms. Beall's interest, but I do see her as -- in --  
15 in the list of assignees on Exhibit A, of assignment  
16 bill of sale or assignment operating rights recorded  
17 at book 71, page 382, and she does also appear in  
18 assignment of operating rights reported at book 113,  
19 page 701.

20 But this is not to say that this is the  
21 entirety of the interest that she owns because I did  
22 come across other assignments into her from the  
23 Charles B. Read Trust and some other documents that I  
24 can just remember off the top of my head from doing my  
25 title research on Permian's interest in this tract,

1 trying to ascertain what Permian owns since they are  
2 the predecessor or the -- sorry -- successor in  
3 interest to Read & Stevens in section 14.

4 Q Based solely upon what you have here, is it  
5 your belief that Ms. Beall owns interest above  
6 9,290 feet and not below it?

7 A Yes, sir.

8 Q And based upon this, what you have in your  
9 rebuttal exhibits, does all that interest occur in the  
10 northwest quarter of section 14?

11 A To be honest, I can't -- I can't tell you.  
12 I can't remember what tract that Charles B. Read  
13 interest was assigning to. And then she obtained  
14 another interest, it looked like, from somebody who  
15 was assigned an interest from Read & Stevens as well.  
16 So that -- to be honest, I can't tell you. I guess my  
17 guess would be she may own another tract as well.

18 MR. MCCLURE: Okay. Thank you,  
19 Mr. Shaw.

20 Thank you, Mr. Hearing Examiner, I have  
21 no further questions for this expert.

22 THE HEARING EXAMINER: All right.  
23 Thank you, Mr. McClure.

24 Mr. Savage, any redirect?

25 MR. SAVAGE: Yes, Mr. Hearing Examiner,

1 if you don't mind.

2 MR. RANKIN: Mr. Examiner, XTO has a  
3 few questions.

4 THE HEARING EXAMINER: XTO.

5 MR. RANKIN: Yeah. Of Mr. Shaw.

6 THE HEARING EXAMINER: Okay. So excuse  
7 me, Mr. Savage.

8 MR. RANKIN: I apologize.

9 THE HEARING EXAMINER: I didn't  
10 realize. Go ahead, Mr. --

11 MR. RANKIN: Thank you.

12 CROSS-EXAMINATION

13 BY MR. RANKIN:

14 Q Mr. Shaw, good afternoon.

15 A Good afternoon.

16 Q I'm representing XTO Holdings in this case,  
17 and I know that V-F has had discussions with XTO over  
18 potential participation in V-F's proposed spacing  
19 units. Is that correct?

20 A Yes, sir.

21 Q Okay. And just so I'm clear, I want to make  
22 sure I have the record straight. XTO is only in four  
23 out of the five cases that V-F is seeking to pool. Is  
24 that right? I think, Mr. Shaw, that XTO's not being  
25 pooled in case 25115, which is, I think, the north

1 half/north half case. Is that correct? I know you're  
2 getting to your notes. I was trying to help you a  
3 little bit.

4 A XTO does not appear to be pool -- or being  
5 pooled in the north half/north half, which would be  
6 case 25115.

7 Q Okay. But it is identified as a pooled  
8 party in the other four cases. Correct?

9 A Yes, sir.

10 Q Okay. So now, you've had some discussions  
11 with XTO. Based on your chronology of contacts, I  
12 think it's the same for each of the cases in which XTO  
13 is being pooled, and that chronology of contacts is  
14 your Exhibit A-4. Correct?

15 A Yes, sir.

16 Q And it's the same chronology of contacts as  
17 to XTO for each of the four cases?

18 A Appears to be. Yes, sir.

19 Q Okay. Now, in the chronology of contacts,  
20 XTO first got the well proposal, it looks like, on  
21 9/13/2023. Correct?

22 A No, sir.

23 Q Okay. Tell me the --

24 A I believe it looks like nine -- looks they  
25 received it 9/8/23.

1 Q Okay. All right. I see for three of the  
2 cases you've got 9/8/23 and two of the cases you have  
3 9/13/23. Is that right?

4 A That's when I emailed -- 9/8/23 is when I  
5 sent the JOA, and 9/13 it looks like I emailed Chad  
6 Smith and he asked me to resend the JOA for, it would  
7 be, cases 24994 and 24995. And then I -- in that same  
8 conversation I extended an offer to acquire all of his  
9 interest in -- in section 16.

10 Q Okay. I see now that some of them have  
11 slightly different chronologies. Thank you for  
12 helping me realize that. But yeah. Okay. So there's  
13 slightly different chronologies. You sent JOAs to  
14 Mr. Smith, who is XTO's landman, at different dates  
15 depending on the case, it seems like. Right?

16 A Yes, sir. That's -- so like I said, V-F's  
17 modus operandi is to send out JOAs and our proposals.  
18 So that would -- that would coincide with what we sent  
19 the proposals and all --

20 Q Okay. Now, since that time, XTO and V-F  
21 have been in discussions over XTO's participation in  
22 these proposed space units. Correct?

23 A Yes, sir.

24 Q Okay. And do you have an understanding that  
25 XTO prefers to enter into a JOA and participate in any

1 wells rather than be force pooled in these cases?

2 A So can you -- can you rephrase that? Sorry.  
3 I -- I just -- I'm not understanding what you're  
4 saying.

5 Q Sure. Do you have an understanding whether  
6 XTO prefers to enter into a JOA with V-F rather than  
7 be force pooled?

8 A Yes. Chad and I have had actually several  
9 conversations about that, and I've received -- you  
10 know, in a telephone conversation, actually, that --  
11 this happened recently -- he stated that he was  
12 getting close to sending me the JOA that we had spoken  
13 about putting together, but I have not received either  
14 a markup of the JOA that I proposed or a new XTO JOA  
15 that they would be fine with operating -- you know,  
16 with V-F operating their interest under. So --

17 Q Okay. So there's some back and forth right  
18 now on the form of the JOA?

19 A Yes, sir. As recently as a few days ago.

20 Q Now, on your chronology of contacts, you say  
21 that on 1/14/25, so that would just be about two weeks  
22 ago, you received a call from Mr. Smith requesting  
23 additional information and note that the parties are  
24 continuing to negotiate. Did you provide the  
25 additional information that Mr. Smith requested?



1           A       Yes, sir. He was asking if we would waive  
2 the initial well requirement under the joint operating  
3 agreement, and -- and we said we would. And that  
4 was -- I think that was the extent the conversation.  
5 He said that he would have a JOA over to me that week.

6           Q       Now, whether V-F is awarded operatorship for  
7 its proposed 2-mile developments here depends on the  
8 outcome of this contested case with Permian Resources.  
9 Agree?

10          A       Yes, sir.

11          Q       And at this point, then, is it a little  
12 premature to sign onto a JOA for a 2-mile development  
13 when the results of this contested proceeding remain  
14 undetermined?

15          A       Can you -- can you rephrase that question,  
16 please?

17          Q       Sorry. Yeah. So in other words, whether or  
18 not V-F is awarded operatorship for a 2-mile  
19 development as it's proposing, it depends on the  
20 outcome of these contested cases. Correct?

21          A       Under the order, yes, sir.

22          Q       Right? So V-F would only be awarded  
23 operatorship if it prevails in these contested cases.  
24 Agree?

25          A       Yes, sir.

1 Q Okay. So my question just is, is it a  
2 little premature at this point to sign a JOA while the  
3 operatorship is still pending?

4 A No, sir. Permian's, you know, made  
5 statements in their landman self-affirmed statement  
6 that they're still working on -- or they have verbal  
7 commitment from a party to -- to sign a joint  
8 operating agreement. They haven't been awarded  
9 operatorship over these lands. I mean, I think it's  
10 prudent for -- for parties to continue attempting to  
11 obtain voluntary joinder opposed to coming to hearings  
12 such as this whenever it's feasible to do so, whenever  
13 like-minded people can -- can enter into contracts.  
14 And if we're not awarded the operatorship of these  
15 lands, then obviously, you know, the -- the JOA by its  
16 mere contract area would be, you know, null and void,  
17 and I imagine any inroads that Permian would make with  
18 the parties that -- the party that they say that they  
19 have verbal joinder on a JOA -- would do the same if  
20 they were not operatorship as well. So --

21 Q Fair enough. Okay. So your point is that,  
22 in the event V-F fails to win operatorship, then any  
23 signed JOAs are basically meaningless, right, at that  
24 point? Okay.

25 A Yeah. Absolutely. Yeah. 'Cause you're not

1 awarded by the OCD as -- as the operator, so you  
2 can't -- necessity that -- that contract's void  
3 because you can't be the operator.

4 Q So, Mr. Shaw, I'll just represent to you  
5 that XTO has instructed us to inform the Division that  
6 XTO's going to remain neutral in these competing cases  
7 until the award of operatorship is determined. I'll  
8 represent to you that we did file a notice of entry of  
9 appearance and objection on behalf of XTO. We'll  
10 withdraw the objection, so we'll remain neutral. XTO  
11 will remain neutral going forward. So I just want you  
12 make that clear for the record, Mr. Examiner and  
13 Mr. Shaw.

14 Based on, I understand, your testimony  
15 Mr. Shaw, where you stated that V-F just wants  
16 partners to be committed to their development plans,  
17 would you commit to allow XTO to sign a JOA with V-F  
18 in the event that V-F is awarded operatorship, for XTO  
19 to sign on a JOA at that time?

20 A Yes, sir. We allow parties to sign the JOA  
21 all the way up to spot. So even though we may have an  
22 order in place, we still -- it's -- a preferable  
23 method of operating is under a joint operating  
24 agreement. It's not through an order. We -- we like  
25 the terms of the 89 horizontal model form, and we like

1 to work things out. You know, we're -- we want to  
2 work amicably with working interest owners every which  
3 way we possibly can because we're non-operators in a  
4 lot of stuff too and we don't like it when people try  
5 to jam unmarketable terms on our throat, so we -- we  
6 live by the Golden Rule, which is treat others the way  
7 that you want to be treated.

8 Q Okay. Yeah. Just to be clear, in the event  
9 V-F is awarded operatorship and receives a pooling  
10 order, it commits to continue to work in good faith  
11 with XTO towards a JOA. Agree?

12 A Yes, sir. And -- and any other party as  
13 well.

14 MR. RANKIN: Okay. I don't think I  
15 have any other questions at this time for Mr. Shaw.  
16 Thank you, Mr. Examiner.

17 THE HEARING EXAMINER: Before we go to  
18 redirect, I want the parties to understand that we  
19 will not be continuing tomorrow. Next time we will  
20 reconvene on this case will be February 13th to allow  
21 anyone else to enter an appearance and enter evidence.

22 So it's two o'clock now. Freya, you  
23 can let the court reporter know what we decided, and  
24 we can go up to five o'clock today. So we have about  
25 three hours left.

1 Mr. Savage?

2 MR. SAVAGE: Thank you.

3 REDIRECT EXAMINATION

4 BY MR. SAVAGE:

5 Q Mr. Shaw, let's begin with Ms. Vance's  
6 treatise on science and engineering that she talked  
7 about the evolution of science and engineering and the  
8 movement from vertical wells, apparently, to  
9 horizontal wells. First, do you view, like, for  
10 example, the oil and gas industry, geology in  
11 particular, as only a science, or do you consider,  
12 like, say, geology being a science and an art?

13 A Yes, both.

14 Q And have you read some history about the oil  
15 and gas industry?

16 A Yes, sir.

17 Q Okay. Can you just mention a few things,  
18 maybe, that you have looked at?

19 A Yeah. Interestingly enough, the first  
20 commercial oil and gas well was not even in the United  
21 States; it was in southwestern Ontario, Canada, and  
22 that predated the first oil and gas well that was  
23 drilled in the United States outside of Bradford,  
24 Pennsylvania, in the late 1880s --

25 Q So, Mr. Shaw, you're familiar with the

1 trajectory and history of evolution of the oil and gas  
2 industry?

3 A Yes, sir. Absolutely.

4 Q So when the oil and gas industry advances  
5 from vertical well to 1-mile to 2-mile to 3-mile, does  
6 that mean that you have to do, for example, a 3-mile  
7 at --

8 A No, sir.

9 Q So all those tools, 1-mile vertical, 2-mile,  
10 those are all options that an operator could use --

11 A Yes, sir.

12 Q -- for current development. Can you give  
13 some examples where vertical wells are still useful  
14 and economical?

15 A Oh, yes, sir. Absolutely. V-F actually is  
16 in the process of commencing a -- a conventional oil  
17 and gas Wildcat play in Texas, and we'll be drilling  
18 vertical wells and then moving into a secondary  
19 recovery utilizing either a water flood or some --  
20 some other lifting mechanism in order to enhance  
21 what's otherwise a low-energy formation that we're --  
22 we're going to be targeting. So we have that  
23 scheduled for Q2 -- early Q2 of 2025.

24 And we're -- we're really excited about that  
25 because the cost, you know, unlike with what we're

1 seeing here in the horizontal development, we're --  
2 you know, we're -- we're -- you know, we're saying,  
3 well, \$3 million is not really a lot of money compared  
4 to \$5 million. You know, our total D&C AFE on those  
5 wells are less than \$900,000, and -- and we -- the  
6 economics of those wells proportionate to the cost  
7 that it takes to drill it way -- way outperforms the  
8 horizontal oil and gas market to -- especially to our  
9 offset. We've seen some of these wells -- two hundred  
10 fifty, three hundred thousand barrels, and you're  
11 talking about a -- a small vertical well in comparison  
12 to some of these horizontal wells.

13 Q So, Mr. Shaw, it sounds like V-F is pretty  
14 flexible and very agile in how it approaches its  
15 development.

16 A Yes, sir. So you know, we're -- we're a  
17 small outfit, small privately held outfit. We -- we  
18 like to take a sniper rifle to stuff opposed to a  
19 shotgun. So when we pick a prospect, it's because  
20 we -- we really like it. You know, we're not -- we're  
21 not just going to do it just because we have acreage  
22 there. A lot of times, you know, geology doesn't  
23 allow for it or, you know, instances where there may  
24 be another operator better suited to operate that  
25 prospect. You know, we don't have the pride where we

1 have to operate everything. So yeah. We're -- we're  
2 extremely flexible and, yeah, we're -- we like to --  
3 we like to target stuff that -- that makes sense, that  
4 makes money.

5 Q And is that how and why you identified the  
6 subject plans 15 and 16?

7 A Yes, sir. That was our previous geologist.  
8 He -- he actually sourced this opportunity and  
9 nominated these tracts based on the geology that he  
10 saw in section 16 specifically. I can't speak to  
11 whether or not he looked at sections 15 because I  
12 don't know that at that time. But -- then when we  
13 actually were awarded the -- you know, lease, BC 838  
14 and VC 837, we started looking at, you know, which way  
15 to go with that, and we could see the development  
16 pattern from the west coming to the east, and it  
17 looked -- it looked like it was going to lay out just  
18 as it has. So I think we kind of zeroed in on  
19 section 15 and -- and then, once we got what I think  
20 is a good enough grasp to justify going out there and  
21 acquiring some interest, we -- we went ahead and made  
22 some proposals and -- and here we are now.

23 Q And how would you describe the behavior of a  
24 larger company like Permian Resources in regard to how  
25 it wants to do certain things regarding using longer,



1 for example, horizontal wells?

2 A In certain areas I think it -- it makes  
3 perfect sense. We're -- we're involved in a project  
4 right now where it's going shelf where -- and we're --  
5 we're trying to take good rock and mix it with rock  
6 where it may not be as good and putting that rock at  
7 the toe. So there's -- there's certain areas that  
8 definitely justify longer laterals, but then there's  
9 certain areas that definitely justify sticking to the  
10 development plan that's already established in the  
11 area.

12 Q So it sounds like, based on the flexibility  
13 you have in terms of the strategies you can choose,  
14 V-F could actually, in a targeted manner, prevent  
15 waste and protect correlative rights better than a  
16 company like Permian Resources? Mr. Shaw?

17 A Yeah, sorry. Yeah. I'm just thinking about  
18 the question. When we get all-in on a project, we're  
19 all in. You know, we don't -- we don't have  
20 hundreds -- we're not drilling hundreds and hundreds,  
21 you know, of wells a year. You know, as Permian has  
22 pointed out, V-F Petroleum has drilled 18 -- well,  
23 they're trying to limit it to ten horizontal wells in  
24 Eddy County. The total is 18 total. But we -- we  
25 really do like to choose the locations and be -- be

1 thoughtful about where we're drilling, for sure,  
2 because it is private money. I mean, if you drill  
3 a -- you drill marginal acreage, it -- it can  
4 definitely hurt you financially.

5 Q I'd like to move to your Exhibit A-3, and  
6 this -- I believe it's case 24998. I believe  
7 Ms. Vance talked about Permian Resources not being  
8 listed on the ownership report, but you did list the  
9 predecessor on that ownership report.

10 A Yes, sir. I believe so.

11 Q Okay. So Permian Resources, that was an  
12 oversight?

13 A Yes, sir. Absolutely. I -- I would never  
14 do anything to -- to attempt to hide the ball or gain  
15 some sort of advantage by -- by incorrectly proposing  
16 to a predecessor in title. That --

17 Q And that oversight was made after you made a  
18 good-faith effort to send out notice letters and  
19 notice publication?

20 A Yes, sir. Yes. And it actually -- we sat  
21 down or I sat down with Permian and attempted to come  
22 up with a solution prior to us even filing pooling  
23 applications. It was upon my receipt in late August  
24 that I -- I sat down with Permian and attempted to  
25 come up with an amicable solution to work for both us.

1 And we've had several discussions. They -- they  
2 didn't like that proposal, so I made a subsequent  
3 proposal in an attempt to -- to come up with an  
4 amicable solution so that we can -- we can both get  
5 this acreage developed.

6 Q And if you had the opportunity to amend the  
7 application of the landman exhibits, which I  
8 understand you will be doing that to address that  
9 change in ownership, you would also address this  
10 oversight as well.

11 A Absolutely.

12 Q Let's move to discussing the north  
13 half/northwest of section 16. Your understanding of  
14 open state land is that you cannot pool state land.  
15 Would that be accurate statement?

16 A That's correct.

17 Q So you had no intention of pooling -- or did  
18 you have intention or did you not have intention of  
19 pooling when you described that land in the exhibit?

20 A It -- it was a scrivener's error. I had no  
21 intention of pooling that tract.

22 Q And that also would be something that you  
23 would address in a revised hearing packet?

24 A Yes, sir.

25 Q Did you describe during your answers how you

1 would address that open interest already? You've  
2 described that and addressed that already. Is that  
3 correct?

4 A Yes, sir, I have.

5 Q Okay. Permian Resources asked you a number  
6 of questions about the timeline on applying for an APD  
7 or a permit with the BLM.

8 A Yes, sir.

9 Q You included C-102s in your hearing packet?

10 A Yes, sir.

11 Q Are those C-102s signed and certified by an  
12 official surveyor? It looks like at Exhibit A-1.

13 A Yes. Yeah. They're -- yeah. Exhibit A-1  
14 and A-2. Yes, they are.

15 Q Okay. And so C-102s are ready to be  
16 included in an APD packet to the BLM.

17 A Yes, sir. We -- we've also surveyed our pad  
18 locations, our central tank battery, we've had  
19 conversations with disposal companies in and around  
20 the area looking to source electricity possibly in and  
21 around the area. The nice thing is that we're off  
22 222, so there's a lot of infrastructure right where  
23 we're at. And we're on state land, so, as I stated in  
24 cross, you know, we don't have to do --

25 MS. VANCE: Mr. Hearing Examiner, I'm

1 going to object. This is not redirect. I did not ask  
2 any questions about C-102s during cross-examination.

3 THE HEARING EXAMINER: Mr. Savage?

4 MR. SAVAGE: So she brought up the  
5 whole subject of whether or not the APDs -- how long  
6 it would take for the APDs, implying and suggesting  
7 that it would be two years and V-F's leases would be  
8 subject to expiration, and she pointed out that  
9 Permian Resources had already filed their APDs and  
10 that they're ready to go, and I want to explore this.  
11 I would like to explore this because I will show you  
12 that they have not filed a sufficient packet of APDs  
13 to qualify to be approved, and that basically the two  
14 parties are on par, if possibly V-F being ahead of the  
15 game. So I think this is an area that really needs to  
16 be explored because Ms. Vance brought the whole  
17 subject matter up of APDs.

18 THE HEARING EXAMINER: Okay.

19 Ms. Vance, I remember your line of questions to this  
20 subject matter, so I'm going to overrule your  
21 objection.

22 But, Mr. Savage, we don't need a  
23 hundred questions to understand this. A few questions  
24 will bring out this information. So try to ask  
25 pointed questions and let's move this along.

1 MR. SAVAGE: Okay. Yes. Yes,  
2 Mr. Hearing Examiner. So my intention was to go step  
3 by step and show the deficiencies, but in this case I  
4 will describe --

5 THE HEARING EXAMINER: Fine.

6 BY MR. SAVAGE:

7 Q Okay. So, Mr. Shaw, you're familiar with  
8 Permian Resources' C-102s?

9 A Yes, sir, I am.

10 Q And do you agree that they are not certified  
11 or signed by a surveyor and they're listed as a  
12 preliminary C-102?

13 A Yes, sir. They're preliminary, and then the  
14 plats on the back look to be like cartoons.

15 Q And you're familiar with the regulations  
16 that govern submission of APD packets?

17 A Yes, sir.

18 Q Okay. So would those C-102s -- first of  
19 all, C-102s are required to be part of the APD packet.  
20 Is that correct?

21 A Yes, sir. You -- you need to have a C-102  
22 that's stamped by a surveyor, and then you have to --  
23 have to have an actual survey in order for -- in order  
24 for it to be reviewed -- even reviewed by the -- the  
25 BLM.

1 Q And looking at those C-102s that Permian has  
2 in their pack, they would not qualify to be part of a  
3 APD packet. Do you agree? Is that a fair --

4 A Yeah. From looking at the information  
5 that's on this, you know, I can't -- you can't tell  
6 the -- you can't tell the distance between, you know,  
7 the surface hole location to the kickoff point, and  
8 then it doesn't tell you the -- the distance, you  
9 know, from -- you know, in one tract or another, and  
10 it has to kind of identify all of this information and  
11 just, it's not -- doesn't look like a -- an actual  
12 survey. It looks -- looks like a cartoon.

13 Q So, Mr. Shaw, did you review and are you  
14 familiar with Permian's support letters?

15 A Yes, sir, I am.

16 Q Did you see in those support letters that  
17 they represented to the owners that they submitted  
18 APDs?

19 A To answer your question, yes. There was a  
20 statement in -- here it is. Okay. Yes. So  
21 they're -- they're dated December 5, 2024, and they  
22 say "applications for permit to drill." As the second  
23 bullet point, it says "Permian has conducted several  
24 on on-sites with the BLM, surface locations approved,  
25 and has APD submitted."

1           Q     So that's a quote: "Has APD submitted." So  
2 if you received that letter, as a reasonable landman,  
3 would you look at that statement and feel that an  
4 actual completed packet has been submitted? "Has APD  
5 submitted." Would that lead you to believe that  
6 Permian Resources has accomplished the submission of a  
7 completed packet?

8           A     Yes, sir.

9           Q     But based on Permian's documentation, what  
10 is the status of their APD packet or possible packet?

11          A     Well, I don't -- I don't have any type of  
12 intrinsic knowledge on what APD has or has not  
13 submitted to the BLM. What I do know is if those  
14 C-102s were in fact submitted to the BLM, that that  
15 would not be deemed to be a complete packet because it  
16 fails to have the stamp and it's not an actual survey.

17          Q     In your judgment, would you say that those  
18 letters are misleading in regards to what they state  
19 about "has APD submitted"?

20          A     Again, I don't -- I don't know what they  
21 have and have not done. I don't -- I don't know that,  
22 so I don't -- don't feel comfortable saying what they  
23 have and haven't done. But what I do feel comfortable  
24 in saying is if those are the C-102s, that would be  
25 deemed to be an incomplete package and would not be



1 reviewed by the BLM.

2 Q Okay. After you submit a complete packet  
3 that includes the completed, signed C-102s, are you  
4 familiar with how long it takes for the BLM to approve  
5 the APDs after submission?

6 A Yes, sir. As I stated in cross,  
7 anecdotally, you know, and we're -- we're involved as  
8 a non-op in this, but we've -- we've seen it as quick  
9 as, you know, eight, nine months and, in some  
10 instances, you know, less than a year. So it kind  
11 of -- it's all dependent on your NRS agent, you know,  
12 and who that NRS agent has. You know, if they have an  
13 extremely active operator and they're just inundated  
14 with federal permits and if you just happen to have  
15 the unlucky draw, drawing that NRS agent, then it can  
16 take -- it can take a while. V-F is fortunate that  
17 the NRS agent that we have is -- is a newer NRS agent  
18 and has been assigned smaller operators to --

19 Q Mr. Shaw, would it surprise you -- I'm  
20 sorry. I don't mean to interrupt with you, but would  
21 it surprise you that under the regs it takes only  
22 30 days for the BLM to approve an APD once the  
23 completed packet is submitted?

24 A Yeah. That would surprise me. Yes, sir.

25 MR. SAVAGE: Mr. Hearing Examiner, may

1 I show where the regs show that it's 30 days?

2 THE HEARING EXAMINER: What's the  
3 point?

4 MR. SAVAGE: The point would be that  
5 that V-F is positioned with completed C-102s and other  
6 documentations that, once they submit that, that would  
7 counter what Ms. Vance has been arguing that it would  
8 take nine months, two years. But the point is, under  
9 the BLM regs, the OCD should know that it would only  
10 take 30 days for approval.

11 THE HEARING EXAMINER: Okay. We'll  
12 take administrative notice of the BLM regs.

13 MR. SAVAGE: Thank you, sir.

14 THE HEARING EXAMINER: Are there any  
15 more questions for this witness on redirect?

16 MR. SAVAGE: Yes, sir. Yes, sir. If  
17 you don't mind.

18 THE HEARING EXAMINER: Go ahead.

19 MR. SAVAGE: Thank you.

20 BY MR. SAVAGE:

21 Q So Permian Resources pointed out that you  
22 changed your AFE giving different amounts that differ  
23 by as much as, you know, 5 million, 4 million,  
24 3 million. Can you describe the nature of an AFE very  
25 quickly and whether it changes under the industry

1 standard?

2 A Yeah. An AFE is just -- it's exactly what  
3 it is. It's a -- it's an estimate, and your -- your  
4 goal is to try to ascertain at that time what you  
5 think would be -- what your cost would be of drilling  
6 a -- or taking on a future -- a future project.

7 Q And the last question I think I have here,  
8 Mr. Rankin brought up the questions regarding XTO and  
9 whether or not they could enter or negotiate for a  
10 JOA. In your experience with pooling, can a JOA be  
11 entered before, during a pooling, and even after a  
12 pooling where the JOA would supplant the pooling  
13 order?

14 A Yes, sir. Absolutely. And it's our  
15 preferable method of obtaining joinder of working  
16 interest owners. So even when we have obtained  
17 pooling orders in the past, it is much more preferable  
18 to get joinder under an operating agreement. It's  
19 just a -- it has all the terms and conditions, it  
20 contains, you know, the -- and some of the other  
21 things, and so it's just -- it's just a much easier  
22 dichotomy to operate under than -- than the pooling  
23 order.

24 Q So all the questioning about whether or not  
25 a JOA is premature prior to an order, would you agree

1 that that's irrelevant considering that a JOA can be  
2 entered any time during the process, even well after a  
3 pooling order is issued?

4 A Yes, sir. I think what Mr. Rankin's  
5 statement was about was whether or not his client  
6 would be bound by the operating agreement should V-F  
7 not prevail. And obviously, due to the fact that if  
8 operator -- if V-F would not be the operator, then it  
9 couldn't fulfill its role under the operating  
10 agreement, then that operating agreement would then  
11 become null and void.

12 Q And, Mr. Shaw, you had a discussion with  
13 Ms. Vance about ownership in tracts in section 15  
14 versus ownership in units. From a production point of  
15 view and drilling and the operation and management of  
16 the drilling operations in the unit, what do you  
17 believe is more important in terms of working  
18 interest?

19 A What your actual working interest is in the  
20 spacing unit. Because that's how -- that's how costs  
21 and that's how production gets allocated.

22 Q And can you just real quickly point out  
23 where V-F prevails in those units in that regard?

24 A Yes, sir. Yes, sir. So it would be  
25 case 24994, V-F would have three 2.895834 percent,

1 Permian Resources would have 23.9375 percent. In case  
2 24995, V-F would have 32.895834 percent, Permian  
3 Resources would have 23.9375 percent. In case 25116,  
4 V-F would have 44.458334 percent and Permian Resources  
5 would have 32.453125 percent. In case 25117, V-F  
6 would have, again, identical interest. So in four out  
7 of five cases, V-F would have the largest working --  
8 would be the largest working interest owner in the  
9 horizontal spacing unit and V-F's interest would be  
10 greater than Permian's.

11 MR. SAVAGE: Thank you, Mr. Shaw. That  
12 concludes my questioning.

13 THE HEARING EXAMINER: Mr. McClure, are  
14 there any questions on those redirect questions?

15 THE WITNESS: Mr. Hearing Examiner, I  
16 have one quick follow-up on that very last question  
17 from Mr. Savage.

18 THE HEARING EXAMINER: Go ahead.

19 RECROSS-EXAMINATION

20 BY MR. MCCLURE:

21 Q Mr. Shaw, when you're referencing Permian's  
22 ownership, you're only comparing Permian's ownership  
23 in the HSU that V-F is proposing. Is that correct?

24 A Yes, sir.

25 Q And you are not comparing that to the

1 competing case that we're actually comparing here. Is  
2 that correct?

3 A Yes, sir.

4 MR. MCCLURE: Okay. Thank you,  
5 Mr. Shaw.

6 No further the questions, Mr. Hearing  
7 Examiner.

8 THE HEARING EXAMINER: Ms. Vance?

9 MS. VANCE: Yes. Just a couple of  
10 questions. I had a treatise question, but I will  
11 forego that and move along.

12 RE CROSS-EXAMINATION

13 BY MS. VANCE:

14 Q So, Mr. Shaw, you mentioned that you do not  
15 hide the ball, but I did want to ask a question. Now,  
16 you know that Permian acquired Mewbourne's interest,  
17 correct, in section 15?

18 A Yes, ma'am. It acquired -- yeah. It was  
19 Mewbourne, but it was also -- it was a few other  
20 Mewbourne-related entities such as CWM 2000-B dash  
21 [sic] II, Limited, 3MG Corporation, and Mewbourne  
22 Development. The only way I know that they're related  
23 is that they have the same address as Mewbourne's  
24 corporate office in Tyler -- Mewbourne Oil Company's  
25 corporate address in Tyler. I'm having to make a

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1 guess, but --

2 Q And you were aware of that acquisition  
3 before these contested hearing cases. Correct?

4 A Yes, ma'am.

5 Q Okay. And you sent a proposal to Mewbourne  
6 initially. Correct?

7 A So you're referring to in cases --

8 Q 24994 and 24995, I believe.

9 A Yes, ma'am. That -- so when I made those  
10 proposals, yes, Mewbourne was the owner at that time.

11 Q Okay. And you said that you were aware that  
12 Permian acquired that interest. Did you follow up  
13 with Permian to provide them a copy of that proposal  
14 after knowing that they had acquired that interest in  
15 section 15?

16 A Can you restate that question? Sorry.

17 Q Knowing that Permian had acquired  
18 Mewbourne's interest, did you then send them a copy of  
19 the proposal that you had previously given to  
20 Mewbourne?

21 A I believe Travis reached out to me, and I  
22 ended up sending it vis-a-vis email to him. I can't  
23 remember the -- the timeline on that.

24 Q And you sent it around December. Right?  
25 After filing applications.

1           A     I don't -- I don't know that, but I'll --  
2     I'll take the word for it.

3           Q     Okay.  Now, one last brief question here.  
4     Mr. Savage brought up a series of questions related to  
5     the C-102s in our hearing packet.  Do you know if  
6     these are the same C-102s that were submitted with  
7     Permian's APDs?

8           A     No, I -- I don't, but I wouldn't -- I don't  
9     know why that they would submit something here that's  
10    now what they submitted there.  But no, I don't.

11          Q     You don't.  Okay.

12                     MS. VANCE:  Thank you.

13                     THE HEARING EXAMINER:  Thank you.

14                     Mr. Rankin?

15                     MR. RANKIN:  Nothing further.

16                     THE HEARING EXAMINER:  All right.

17     Thank you.  This witness may be excused.

18                     Okay.  Mr. -- is it Burke?  Okay.

19     Thank you.  Now, remember, put your microphone on,  
20     please pull it forward on your desk so we can hear  
21     you.

22                     Mr. Savage, your direct examination of  
23     Mr. Burke?

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



1 WHEREUPON,

2 STEPHEN BURKE,

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

6 DIRECT EXAMINATION

7 BY MR. SAVAGE:

8 Q Mr. Burke, for the record, please state your  
9 full name. We already did that. Excuse me. And then  
10 you've been qualify as an expert witness. Are your  
11 self-affirmed statements provided as Exhibit B along  
12 with your sub-exhibits in case 24994, 24995, 25115,  
13 25116, and 25117?

14 A Yes, sir.

15 Q Have you reviewed these?

16 A Yes, I have.

17 Q And the statements and sub-exhibits in these  
18 cases are correct and accurate to the best of your  
19 knowledge.

20 A Yes.

21 Q And, Mr. Burke, are there any edits or  
22 revisions or corrections that you need to do in any of  
23 these?

24 A Not that I'm aware of.

25 Q Okay. And you have a submitted five geology

1 exhibits in each case, B-1 through B-5. These are  
2 your standard, as I would view, these are your  
3 standards geology exhibits?

4 A Yes.

5 MR. SAVAGE: I tender Mr. Burke as an  
6 expert witness in geology and make him available for  
7 cross-examination.

8 THE HEARING EXAMINER: Thank you.

9 Mr. Rankin?

10 MR. RANKIN: Thank you, Mr. Examiner.  
11 I'm just getting my screen set up so I can share.  
12 Sorry. One moment, Mr. Examiner. Okay.

13 CROSS-EXAMINATION

14 BY MR. RANKIN:

15 Q Okay. Mr. Burke, just so I'm clear, your  
16 background here, you are a petroleum geologist.  
17 Correct?

18 A Yes.

19 Q And I understand from Mr. Savage that you're  
20 going to be testifying to some extent on some  
21 engineering type issues. Is that right?

22 A Yes. I -- I've testified many times before  
23 this in the Railroad Commission and the Louisiana  
24 Department of Conservation. I have been allowed by  
25 this body and the Railroad Commission to testify to

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1 the calculation of reserves on uncontested cases.

2 Q What goes into calculation of reserves?

3 A It's typically volumetrics. You know,  
4 material balance and volumetrics calculations,  
5 sometimes oil in place, but water saturations, and  
6 then it can be a decline curve analysis also.

7 Q Okay. So have you performed any of that  
8 work in your direct testimony?

9 A No.

10 Q And have you performed any of that work in  
11 any rebuttal testimony?

12 A No.

13 Q Okay. Will you be offering any opinions  
14 that relate to testimony around calculation of  
15 reserves?

16 A I -- I have discussed my opinions of -- of  
17 the exhibits that were presented to us in this case  
18 with our -- our company and our attorney, so I -- I've  
19 offered them my opinions on things.

20 MR. RANKIN: Okay. Mr. Examiner, I  
21 think at this time I would reserve the right to do a  
22 voir dire of the witness at the time when his  
23 testimony calls into question the expertise, but at  
24 this point I don't think it's worth going into it  
25 because I don't know what his opinion's going to be.

1 THE HEARING EXAMINER: Okay.

2 MR. RANKIN: Okay.

3 BY MR. RANKIN:

4 Q So just to be clear Mr. Burke, your  
5 testimony is, I think, attached as Exhibit B in each  
6 of the five cases that V-F has submitted. Is that  
7 right? B as in boy.

8 A I'm sorry. I didn't understand that  
9 question.

10 Q Your self-affirmed statement that you  
11 submitted in support of V-F's applications are marked  
12 as Exhibit B in each of the five cases. Is that  
13 correct?

14 A Yes.

15 Q Okay. And in your testimony you're  
16 evaluating the appropriateness of the geology for  
17 development by horizontal wells. Correct?

18 A Yes.

19 Q And you're testifying that you have not  
20 identified any impediments to drilling horizontal  
21 wells as V-F has proposed. Correct?

22 A Yes.

23 Q Okay. I'm going to direct your attention.  
24 I'm going to share my screen here as soon as I manage  
25 to do so. Once I get it up on the screen, let me know

1 when you can see it. It should show up on the screen  
2 in front of you. Do I have a copy of your  
3 self-affirmed statement from Exhibit B in case 25115  
4 in front of you?

5 A It appears so.

6 Q Okay. Now, in your testimony here, I'm  
7 going to skip down to Exhibit B-3. I think, as I  
8 understand, this is an isopach map representative of  
9 the two sections that V-F Petroleum is seeking to  
10 develop. Is that right?

11 A Yes, sir.

12 Q Okay. And that isopach map has contour  
13 intervals of -- what are the contour intervals there?

14 A They're 50-foot contour intervals.

15 Q I'm sorry. They're what?

16 A Fifty-foot contour intervals.

17 Q Fifty foot? Okay. Why did you choose  
18 50-foot contour intervals for this isopach map?

19 A That is adequate to display the distribution  
20 of the sand across this area.

21 Q Okay. And what's the purpose of this  
22 isopach map?

23 A The purpose is to show that across this  
24 area, for this particular sand, which I believe that  
25 is the Third Bone Spring sand there, that it's -- that

1 it's distributed across the area, there are no severe  
2 thins or severe thicks, that it's -- that it's  
3 distributed across the entire area in question here.

4 Q When you say "no severe thins or no severe  
5 thicks," what do you mean by that?

6 A Well, for example, it looks like most of  
7 this acreage here -- here has, if you look at the blue  
8 numbers, those of the actual values. Mora County here  
9 is just the height of the package that the sand is  
10 contained in. So this one for the Third Bone Spring  
11 would be from the top of the Third Bone Springs to the  
12 base of the Third Bone Spring. It's just a  
13 measurement of that distance.

14 Q Okay. So I believe you said that this case  
15 is for the Third Bone Spring, but you've done a  
16 similar map for each of the cases, whether it's the  
17 Third Bone Spring or Second Bone Spring.

18 A The second also.

19 Q Right. So this one here, I'm showing your  
20 B-3 in this case, 25116, would be for the Second Bone  
21 Spring?

22 A I believe that's the Second Bone Springs,  
23 yes.

24 Q Okay. And it's 50-foot contour intervals  
25 here as well?

1           A     Yeah.  If you'll scroll down just a little  
2 bit, you can look in that title block down there at  
3 the lower right-hand corner of it, it says CI, that's  
4 the contour interval, it's -- I tried to display that  
5 there.

6           Q     Okay.  So 50-foot contour intervals for the  
7 Third Bone Spring.  And again, it's your opinion that  
8 that 50-foot contour intervals is adequate to  
9 demonstrate the --

10          A     Distribution of the sand across the area.

11          Q     Okay.  The distribution of the sand across  
12 the area.  Right?  And whether it's the Second Bone  
13 Spring or Third Bone Spring, it's the same map, right,  
14 for each of these cases?  In other words it's the same  
15 Third Bone Spring isopach map that you present for  
16 each of the Third Bone Spring cases?

17          A     That's correct.

18          Q     And it's the same Second Bone Spring isopach  
19 map for each of the Second Bone Spring --

20          A     All these cases --

21          Q     So I don't have to go through each of them.  
22 Right?

23          A     No one time is good enough.

24          Q     Got it.  Okay.  So now we've got 50-foot  
25 contour intervals, and, as I understand from your

1 testimony, this is a gross isopach map. Right?

2 A Right.

3 Q Okay. And tell me what you mean by a gross  
4 isopach map.

5 A It -- it is -- it is the gross interval that  
6 contains the sand. So to be exact, on the  
7 cross-section you'll see marked top of the Third Bone  
8 Spring sand, and there's a depth associated with that.  
9 And then at the bottom of it, it says base of the  
10 Third Bone Spring sand. That height, if you count it  
11 up on the log, you know, is 350 feet or whatever it  
12 is. It's strictly a height calculation.

13 Q Okay. So that's the full amount of that  
14 Third Bone Spring from top to bottom.

15 A It's -- it's all of it. How thick it is.

16 Q And in each of your statements -- I'll  
17 scroll up -- you state that you rely on your  
18 Exhibits B-1 through B-5 to make the following  
19 conclusions under paragraph 10. Correct?

20 A Right.

21 Q And one of those conclusions I've  
22 highlighted here is that each quarter/quarter section  
23 in the unit will contribute more or less equally to  
24 production. Correct?

25 A -- each quarter section in the unit will



1 contribute more or less equally to the production.

2 Based on this map, yes.

3 Q Okay. So in other words, based on your  
4 representation that the isopach demonstrates that the  
5 sands have adequate distribution across the proposed  
6 interval, your testimony is that each quarter/quarter  
7 section will contribute more or less equally to  
8 production. Correct?

9 A Without any further investigation, that's  
10 correct.

11 Q Okay. Very good. Now, you also prepared  
12 rebuttal slides. Correct?

13 A Yes.

14 Q And in your rebuttal slides, you prepared a  
15 net isopach map. Correct?

16 A Yes. Correct.

17 Q Okay. I'm going to pull that up because I  
18 want to understand the difference between the two,  
19 okay, and whether it changes your opinion. Now, I  
20 believe this is rebuttal Exhibit 10. Is that correct?

21 A You believe what?

22 Q This net isopach map that you prepared for  
23 rebuttal is marked as rebuttal Exhibit 10. Is that  
24 correct?

25 A Right. It's for rebuttal, yes.

1 Q That's correct? Okay. Now I want to ask  
2 you some questions about this. This also is an  
3 isopach map. Correct?

4 A Yes.

5 Q But the difference between this one and what  
6 was included in your Exhibit B-3 in your direct is  
7 that this is a net isopach map. Correct?

8 A That's correct.

9 Q Can you explain to me the difference? What  
10 is a net isopach map and how is it different from a  
11 gross isopach map?

12 A I -- I would happy to. This is to attempt  
13 to more clearly understand the quality of the  
14 reservoir within the thing that I have already mapped  
15 in a gross interval. In other words, this is a --  
16 would be a map that would be used by the geologist and  
17 the engineer in an area working it to try to determine  
18 which areas are better prospective to find better sand  
19 than accumulations of gas or oil, you know, in the  
20 area, because -- 'cause they represent areas with --  
21 it depicts the quality of the sand within that gross  
22 interval, where the gross interval doesn't depict  
23 quality. This -- this is a simplified version of  
24 doing that.

25 Q Okay. So as I understand, the gross isopach

1 is simply from top to bottom. Third Bone Spring from  
2 top to bottom.

3 A Right.

4 Q Whereas the net isopach map is an attempt to  
5 identify, in your opinion, where the higher quality  
6 rock is located or higher quality sand is located.  
7 Correct?

8 A That's correct.

9 Q Okay. So on this map I'm going to have some  
10 questions for you, but basically, as I understand, and  
11 I may need to scroll down -- please direct me to zoom  
12 in or, you know, do what I need to do here. I don't  
13 see a key here, but I presume that the redder colors,  
14 the warmer colors show a higher net isopach. Is that  
15 correct?

16 A That's correct. That's correct.

17 Q So that would be a higher quality rock.  
18 Correct?

19 A Yes, that's correct.

20 Q Okay. Now, I want to ask you some questions  
21 about how you came to create this map. Okay? How you  
22 determine quality based on what you derive from the  
23 logs, well logs and so forth. Okay? How do you go  
24 about creating a net isopach map?

25 A Well, on these, these particular maps, I --

1 I used the -- the raw image logs and interpreted all  
2 those logs. And what I did was I used a porosity  
3 cutoff of 8 percent. So I basically said everything  
4 over 8 percent porosity qualifies as pay. Everything  
5 below 8 percent porosity does not qualify as pay. So  
6 that's a -- that is a cutoff of porosity. Some people  
7 use 6 percent, some people use 10 percent. I use  
8 8 percent. And it's -- and it's a pretty standard for  
9 this area. And it -- it is a map that can be done  
10 without claiming any proprietary data or secret  
11 methods or anything like that. It is what it is.  
12 And --

13 Q And -- oh, I'm sorry. Go ahead. I didn't  
14 mean to cut you off.

15 A And then I have a second cutoff. I have a  
16 cutoff for gamma ray. And gamma ray has got to be  
17 hotter than to be pay. With the 8 percent porosity,  
18 it's got to be hotter than 60 API units. And what --  
19 what you observe in this particular area is, once you  
20 begin to get cleaner or colder than 60 API units,  
21 you're -- you have a large concentration of limestone.  
22 So -- so the 60 API unit identifies the lithology in a  
23 rough way as being either sand or a sandy shale  
24 that -- that could have a -- a high degree of -- of  
25 TOCs in it, but it's not limestone.

1 Q Just to be clear, TOC means total organic  
2 carbon?

3 A Total -- total organic carbon, yes.

4 Q My brain's going. TOC is total organic  
5 common [sic], and that equates with potential for  
6 hydrocarbons. Right?

7 A Yes.

8 Q Okay. So just to be clear, in summation,  
9 then, you use gamma ray as a second cutoff, and your  
10 cutoff is anything above 60 API units indicates pay.  
11 Correct?

12 A Sixty API units and above 8 percent  
13 porosity.

14 Q And above 8 percent porosity. Because  
15 anything smaller than 60 API is indicative of  
16 limestone. Correct?

17 A Higher concentration of limestone.

18 Q Higher concentration of limestone. Okay.  
19 So those are your two cutoffs. Are those are the only  
20 two cutoffs that you employed to create this map?

21 A -- cutoffs on these maps.

22 Q On the porosity, what kind of -- I mean, I  
23 understand there's different types of porosity  
24 readings from logs. Is it a density porosity? What  
25 was the type of porosity?

1           A       Yes.  If you look at that title block down  
2 there, you zoom in on it there, it explains -- but I  
3 will explain it.  I -- I use the cutoff -- most of the  
4 logs that were run out here in this area are -- are  
5 dated.  They were run, you know, ten-plus years ago.  
6 Most of these horizontal wells do not have -- have  
7 logs run on them at all as far as case -- you know,  
8 open-hole logs.  Most of these wells were Morrow wells  
9 or Old Bone Spring wells that were drilled from about  
10 2010 and earlier.  And once the horizontal drilling  
11 began, due the cost and the mechanical risk of logging  
12 a well -- a wire line down a lateral hole and people  
13 getting stuck and losing a lot of money and all that,  
14 they -- they got away from that.

15                       Plus, you know, these are a measurement  
16 of -- you go straight through the formation logging it  
17 so you get a good idea of the thickness of the  
18 different formations at all.  Whereas, when you turn  
19 the corner, you're reading the same thing over and  
20 over again.  So if you drill a well in the Second Bone  
21 Spring, you don't -- you don't even have the  
22 opportunity to log the Third Bone Springs 'cause you  
23 don't get to it, you know.

24                       So most of these are dated logs.  I forgot  
25 where I was going with this.  Most of these are -- are

1 dated logs, but it's good quality logs.

2 Q Yeah. I guess the question is about the  
3 type of porosity that you are using to calculate your  
4 net pay.

5 A Oh. And -- and most of these logs, by far  
6 and away, ran a density neutronics -- is a standard  
7 log that was run in this area on a limestone matrix to  
8 evaluate these areas. Many of the older logs, though,  
9 or usually before 1960 or so when -- where they really  
10 perfected really well the density neutron tool, may  
11 only have a sonic porosity on there. And if that's  
12 the case, I -- and they didn't have a density neutron,  
13 I used the sonic porosity with a -- with a cutoff that  
14 is 64 microseconds or slower, which equates to about  
15 an 8 percent density based on some sensitivities that  
16 I've done over the years comparing the two when you  
17 had both of the logs on a well and you compared what  
18 sonic reading would relate well to the density neutron  
19 reading.

20 Q Okay. So some of the logs in here are sonic  
21 porosity logs?

22 A Yes.

23 Q And some are density neutron logs?

24 A Yes.

25 Q Okay. And in order to derive your porosity

1 cutoff, you're having to make interpretations about  
2 transforming or transferring your sonic porosity  
3 evaluation into a same sort of calculation as your  
4 density porosity. Right? You're having to make some  
5 determinations about how to align those.

6 A Typically, no. I -- on the density neutron  
7 log, you know, that's a direct reading of the density  
8 of the -- of the rock. It's -- it's run on a matrix  
9 because different rocks have different matrixes, and  
10 to make the calculation you got to compensate for that  
11 matrix.

12 So for example, a density neutron log run on  
13 a limestone matrix, just due to the math on it, really  
14 actually has about 6 percent porosity. If you were  
15 to -- if you were to make the calculation and run the  
16 density neutron on a sandstone matrix, where it would  
17 run 8 percent on a limestone matrix, on a sandstone  
18 matrix it'd be down to 6 percent just because the  
19 densities of the matrix material, lime versus sand, is  
20 different and it goes to different end of the  
21 equation. That's -- that's run as the log's being run  
22 and displayed for you.

23 So really, a 6 percent is -- is a pretty  
24 good number for the density neutron. If you had a  
25 bulk density log, which didn't compensate for the



1 matrix, and eight -- the 8 percent cutoff I use on  
2 these density neutrons is -- is essentially  
3 equivalent. And like I said, the sonic logs, I use  
4 that 64-microsecond cutoff because I've studied over  
5 the last 30 years, you know, comparing sonic  
6 porosities to density neutron porosities when both  
7 logs were available in sandstones, and then the last  
8 ten years particularly the Bone Spring sandstones, and  
9 that 64-microsecond cutoff equates well to a 8 percent  
10 cutoff on a density neutron log. So --

11 Q Okay. But all that's based on your  
12 experience, and another geologist may come to  
13 different conclusions about how to align those.  
14 Right?

15 A Yes, yes.

16 Q And so, you know, net isopach maps do  
17 involve some interpretation. As you yourself said,  
18 you're interpreting the logs --

19 A Yes. Interpreting the logs.

20 Q Right. And you're coming up with your  
21 assessment of what the net isopach should look like  
22 based on your interpretation of the logs. Right?

23 A Correct.

24 Q Okay. And now coming back to my question  
25 that I asked earlier, and I understand that the hotter

1 colors, the redder colors, in are indicative here of a  
2 higher pay, higher quality rock. Agree?

3 A Yes.

4 Q And although it's a little hard to read on  
5 this map, just so I'm clear, the section here that I'm  
6 trying to highlight with my cursor, with the hottest  
7 color, that's section 15. Correct?

8 A That is correct.

9 Q Okay. And to the west here, immediately to  
10 the west, is section 15. Correct?

11 A That's correct.

12 Q I'm sorry.

13 A Sixteen.

14 Q Section 16. Correct?

15 A Yes.

16 Q Okay. So the hottest, highest quality rock  
17 is in section 15, according to your interpretation.

18 A That's --

19 Q And section 16 is somewhat lower quality  
20 rock. Agree?

21 A Yes.

22 Q Okay. Now, in V-F's land statement -- and  
23 you were here for Mr. Shaw's testimony, were you not?

24 A Yes.

25 Q Did you hear Mr. Shaw testify that in

1 section 15 Permian Resources owns the overwhelming  
2 majority of interest?

3 A Yes.

4 Q Okay. So Permian owns the overwhelming  
5 majority of interest in section 15, but V-F is  
6 nevertheless seeking to develop Permian's interests,  
7 which has the best quality rick. Agree?

8 A Yes.

9 Q Based on your analysis on the isopach map,  
10 which has a substantial difference between the quality  
11 of the rock in section 15 and section 16, is it still  
12 your opinion that each quarter/quarter section in the  
13 unit will contribute more or less equally to  
14 production under V-F's proposed development?

15 A Based on this -- this look -- this second  
16 look at it, no. I would -- I would qualify that some  
17 sections are -- and quarter sections are clearly  
18 better than the others based on the net pay.

19 MR. RANKIN: No further questions.

20 THE HEARING EXAMINER: Ms. Vance?

21 MS. VANCE: No questions.

22 THE HEARING EXAMINER: Mr. McClure?

23 MR. MCCLURE: Thank you, Mr. Hearing  
24 Examiner. I just have a few clarifying questions.

25 //

1 CROSS-EXAMINATION

2 BY MR. MCCLURE:

3 Q Mr. Burke, if I can draw your attention  
4 to --

5 MR. MCCLURE: Do you still have it up  
6 there, Mr. Rankin? Available, maybe?

7 MR. RANKIN: I can do that. Give me  
8 one moment.

9 MR. MCCLURE: Thank you, sir. I was  
10 looking -- yeah -- on V-F's rebuttal exhibits. Well,  
11 I guess those are the case. If you go to the rebuttal  
12 exhibits, please, on the cross-sections on page 126.

13 MR. RANKIN: Maybe the next one up.  
14 You mean this one? Let's see.

15 MR. MCCLURE: That one right there.

16 MR. RANKIN: Okay.

17 BY MR. MCCLURE:

18 Q Yeah. Maybe I'm looking at a different file  
19 than you are but, Mr. Burke, do you see the  
20 cross-section I'm referring to?

21 A You're talking about this cross-section,  
22 yes, sir, that's on the screen?

23 Q Yeah. And it looks like you have, like, the  
24 net pay highlighted in yellow? Is that correct?

25 A Yes, yes. That is the net pay.

1 Q The underlying cross-section that you got  
2 the net pay highlighted on, is this the same  
3 cross-section from your Exhibit B in the normal  
4 exhibit packets?

5 A Yes. It is the same cross-section, same  
6 wells. The -- the cross-section that I did for the  
7 original testimony on the hearings was I colored brown  
8 the interval that I isopached for the -- the gross  
9 isopach. This, where you see it's shaded yellow, is  
10 where I've interpreted net pay, and overlaying that on  
11 top of the -- the interval so you can see the  
12 distribution of the net pay within the overall  
13 package. Does that make sense?

14 Q Yes --

15 A So the isopach map is -- is the adding up of  
16 all of the yellow within that interval. The -- the  
17 net isopach. The gross isopach is the whole interval.

18 MR. MCCLURE: Mr. Rankin, if I could  
19 get you to put it to -- well, mine is page 17. It's  
20 the cross-section that's towards the beginning of the  
21 rebuttal exhibits. Yeah. There we go. Thank you,  
22 Mr. Rankin.

23 BY MR. MCCLURE:

24 Q Mr. Burke, is this also that same  
25 cross-section or is this a different cross-section?

1           A       That's the same cross-section. The -- V-F  
2       asked me to put that together and to demonstrate where  
3       the depth of the vertical severance -- or the  
4       horizontal severance is in -- in the area that we've  
5       been arguing about all afternoon, you know, or  
6       morning. That -- that red line down there that's  
7       about a third of the way from the top of the Wolfcamp  
8       or two-thirds of the way from the top of the Third  
9       Bone Springs is that depth where that's coming into  
10      question.

11          Q       And that depth severance, that red line  
12      that's illustrated there, that is just less than  
13      9400 feet. Is that correct?

14          A       That -- that --

15          Q       I can't make it out.

16          A       Yeah. I think -- I think so. Let me -- I  
17      can pull it up a little closer on my screen. But  
18      yeah, that sounds correct. I -- I don't -- I don't  
19      have on my -- I didn't know I was going to be asked  
20      about the -- the rebuttal cross-sections, so I -- all  
21      I can see is on this. I don't have it on my tablet  
22      over here. So yeah. If you say it's 9400, that  
23      sounds about right.

24          Q       Well, I guess that's my question to you.  
25      Because this cross-section that we have here is kind

1 of low resolution, and I'm trying to make it out --

2 A That's the cross -- that's the cross-section  
3 I made, and it looks like that number is, like -- that  
4 line is at like 9400. Yeah. That -- that looks very  
5 close. Maybe -- maybe a little bit shallow of that.  
6 Maybe 9395 or something. And that -- that well that I  
7 put it on there is -- is the -- is the Mewbourne well  
8 that's referred to over and over again by Permian  
9 as -- as kind of a type log to the area that they like  
10 to tie their tops back to.

11 Q And the C-2 here is the same C-2 as all the  
12 other cross-sections because it's the same underlying  
13 cross-section.

14 A Yes, sir.

15 Q Okay.

16 A I tried to tie it all together where it  
17 makes sense.

18 MR. MCCLURE: Okay. Thank you, sir.

19 Thank you, Mr. Hearing examiner. I  
20 have no further questions for this expert.

21 THE HEARING EXAMINER: Mr. Savage, any  
22 follow up on those questions?

23 MR. SAVAGE: I just have one. I think  
24 that would do it.

25 //

1 REDIRECT EXAMINATION

2 BY MR. SAVAGE:

3 Q So, Mr. Burke, you heard Mr. Shaw's  
4 testimony when he went through each proposed unit and  
5 showed how -- and then section 15 -- and showed how  
6 that V-F had higher working interest in each unit.  
7 You're familiar with that?

8 A I know there's an argument about it. I kind  
9 of got lost in the weeds, so I'll take y'all's word  
10 for who owns most of it. I can just tell you that  
11 geologically it's the best looking section around in  
12 the Second Bone Spring.

13 Q So it would it be fair to say that if you  
14 had a unit in which V-F as a party had higher working  
15 interest in that unit, it would be appropriate for  
16 that party to develop that interest in that unit at  
17 the geologic --

18 A All -- all things being considered, that  
19 sounds like a reasonable statement.

20 MR. SAVAGE: That's all I have,  
21 Mr. Hearing Examiner.

22 THE HEARING EXAMINER: Thank you.  
23 Okay. Thank you for appearing in  
24 person.

25 All right. Let's talk about how we're



1 going to proceed with these cases from here on in.

2 So, Ms. Vance, it's your cases that  
3 originally caused the notice issue which require us to  
4 go to February 13th. First of all, do we need to do  
5 anything between now and February 13 in your mind?

6 MS. VANCE: Yeah, yeah, yeah. That's  
7 right. We'll provide updated revised hearing packet  
8 once we get our notice of publication and our tracking  
9 report with the notice information, with the notice  
10 that went out for the cases that were just filed in  
11 January.

12 THE HEARING EXAMINER: Okay. So right  
13 now you have two packets. You have basically an  
14 amended exhibit packet and you have a rebuttal packet.

15 MS. VANCE: Correct. We did not file  
16 the rebuttal packet yet. We just circulated that, and  
17 we will file after the hearing today.

18 THE HEARING EXAMINER: Okay. We were  
19 talking about that. I think we sent an email to your  
20 assistant asking the assistant to file them properly,  
21 but if they didn't, you'll do it today sometime.  
22 Okay. So this updated exhibit packet will be  
23 basically a second amended exhibit packet.

24 MS. VANCE: Correct.

25 THE HEARING EXAMINER: Okay. With

1 cover letter to describe both revisions, because we're  
2 going to toss out the first amended.

3 MS. VANCE: Absolutely.

4 THE HEARING EXAMINER: Okay. And it  
5 will have updated notice exhibits?

6 MS. VANCE: Yes.

7 THE HEARING EXAMINER: Okay. And an  
8 affidavit?

9 MS. VANCE: Yes.

10 THE HEARING EXAMINER: From you?

11 MS. VANCE: Yes.

12 THE HEARING EXAMINER: Okay.

13 MS. VANCE: So updated self-affirmed  
14 statement, and then the notice for cases 25145 through  
15 25148.

16 THE HEARING EXAMINER: Right. I'm just  
17 making some notes here. When do you think you will  
18 file that?

19 MS. VANCE: I would have to talk with  
20 my legal assistant to see when that went out and when  
21 she expects to get things back. Sometimes it's -- I  
22 mean, who knows with the newspaper. We're sort of at  
23 their mercy.

24 THE HEARING EXAMINER: Sure. So if  
25 you're talking about the newspaper, then you're

1 talking at least ten days before February 13th.

2 MS. VANCE: Yes. Correct.

3 THE HEARING EXAMINER: Okay. So then  
4 at least a week before February 13 you'll be filing  
5 the second amended packet. Right?

6 MS. VANCE: That sounds right.

7 THE HEARING EXAMINER: Because that  
8 will give you plenty of time to get the affidavit from  
9 the newspaper.

10 MS. VANCE: That sounds right.  
11 Correct.

12 THE HEARING EXAMINER: Mr. Rankin, you  
13 don't see anything wrong with that, do you?

14 MR. RANKIN: I don't. I don't.

15 THE HEARING EXAMINER: Okay. So then  
16 we'll give you a deadline of February 6. The rules  
17 themselves give you a deadline of -- well, I think it  
18 would be the prehearing order that would control here,  
19 so that would be four working days before the 13th,  
20 but I'm going to give you a deadline of the 6th. That  
21 way it gives Mr. Savage and Ms. Luck time to review  
22 this exhibits. Okay.

23 Are there going to be any other  
24 amendments that you heard today that require changing?

25 MS. VANCE: Just to put V-F's counsel

1 at ease, we'll provide the updated C-102s that show  
2 that the surveyor did review the C-102s.

3 THE HEARING EXAMINER: Okay. Perfect.  
4 When you say "updated C-02s" [sic], because I know  
5 that there were some questions about the C-102s, how  
6 they seemed to be, I guess, and I'm paraphrasing, in  
7 preliminary state. They weren't sort of --

8 MS. VANCE: The ones that -- I'm sorry,  
9 I didn't mean to cut you off. Yes. The ones we filed  
10 were the preliminary ones, but actual C-102s that have  
11 been signed off by a surveyor were submitted with the  
12 APD, and we're happy to file those.

13 THE HEARING EXAMINER: Okay. Great.  
14 So those are two major changes from the current  
15 amended exhibit packet.

16 MS. VANCE: Yes.

17 THE HEARING EXAMINER: The notice and  
18 the C-102s.

19 MS. VANCE: Yes.

20 THE HEARING EXAMINER: Okay. Great.  
21 Which witnesses will you have on February 13?

22 MS. VANCE: We will have all of our  
23 witnesses available, but Travis Macha, who is our  
24 landman, will be available for cross-examination since  
25 he wasn't able to be here today.

1 THE HEARING EXAMINER: And his name is  
2 familiar. I know he's been qualified as an expert  
3 before.

4 MS. VANCE: Correct.

5 THE HEARING EXAMINER: As I mentioned,  
6 we will call these set of cases last on the docket.  
7 It will be listed as last on the February 13th hearing  
8 by affidavit docket. That way we can run until the  
9 end of the day if we need to. Hopefully, we won't.

10 MS. VANCE: That works for us. Thank  
11 you.

12 THE HEARING EXAMINER: Yes. Witness.

13 Okay. Is there anything else that you  
14 feel you need to do to be prepared for the February 13  
15 hearing?

16 MS. VANCE: Just to confirm that it'll  
17 be a -- well, they're going to do cross. Other than  
18 cross-examination of Mr. Macha, it's just going to be  
19 rebuttal. Correct?

20 THE HEARING EXAMINER: I feel like  
21 we've been doing rebuttal throughout the day today.

22 MS. VANCE: That's fair.

23 THE HEARING EXAMINER: I've heard  
24 parties discuss -- but anything is fair game.

25 MS. VANCE: Okay.

1 THE HEARING EXAMINER: If a rebuttal  
2 exhibit comes up on the 13th, it's fair game,

3 MS. VANCE: That sounds -- that works.

4 THE HEARING EXAMINER: Does that answer  
5 your question?

6 MS. VANCE: Yes.

7 THE HEARING EXAMINER: All right. Very  
8 good.

9 Mr. Savage, so first what do you need  
10 to file on or before February 6, which is also your  
11 deadline, for your exhibits?

12 MR. SAVAGE: So we have --

13 MR. MCCLURE: Your microphone's turned  
14 off, Mr. Savage.

15 MR. SAVAGE: Yes, sir. We have some  
16 revisions to do on the working interests to updated  
17 that, and then we have, I think, some ownership lists  
18 that we need to revise. So we have an amended hearing  
19 packet that would be due for the Division.

20 And then, if it's possible, if we can  
21 get our reservoir engineer in and have him provide  
22 some exhibits, we would be interested in submitting  
23 those to the Division for review to address certain  
24 reservoir engineering questions that have been raised  
25 today. Is that something that would be allowable

1 to --

2 THE HEARING EXAMINER: Okay. Let's  
3 deal first with the first question I asked you, then  
4 let's deal with that subject separately.

5 MR. SAVAGE: Okay.

6 THE HEARING EXAMINER: So when it came  
7 to the revised exhibits, you're going to have  
8 revisions to your working interest owners lists and  
9 your ownership lists. Those are two separate?

10 MR. SAVAGE: They can -- yeah, they  
11 overlap. They overlap.

12 THE HEARING EXAMINER: They overlap,  
13 but they're also separate.

14 MR. SAVAGE: There's separate stuff in  
15 there.

16 THE HEARING EXAMINER: Are those the  
17 only other corrections you're making?

18 MR. SAVAGE: No. I think we need to  
19 address some clarifications on that state tract that's  
20 unleased. You know, we had no intention to pool that.  
21 That that needs to be clarified. We need a revision  
22 that would give the pathway -- if the Division decided  
23 in our favor, the pathway that the Division will be  
24 looking at to make sure that that is included in the  
25 unit.

1 THE HEARING EXAMINER: All right. Let  
2 me go to Ms. Vance first to find out if there's any  
3 objections to any of these things.

4 MS. VANCE: Yes. So the prehearing  
5 order specifically states when testimony is due. Now,  
6 it's fine if Mr. Savage wants to present reservoir  
7 engineering for rebuttal, but as far as including new  
8 testimony, that seems like it's outside of what's been  
9 allowed in the prehearing order and I -- yeah.

10 THE HEARING EXAMINER: Okay. All  
11 right. So, Mr. Savage, there's an objection to  
12 something that I haven't even written down yet, which  
13 is the second issue that you brought up. I'm still  
14 dealing with making sure -- because I don't want there  
15 to be any confusion.

16 MR. SAVAGE: Yes, sir.

17 THE HEARING EXAMINER: Because when we  
18 come back on the 13th, all the proper evidence needs  
19 to be in the record so that we can close up the  
20 hearing, if possible, on that day and let the Division  
21 make a decision.

22 MR. SAVAGE: If I could just point out,  
23 for example, there are certain exceptions that can be  
24 made. Mr. Macha, the prehearing order required him to  
25 be here and to present, and he was not able to. The



1     OCD would have benefited from his presentation, but  
2     now we have to delay it and have it at a different  
3     date. I think given the complexity of this case,  
4     especially in that Third Bone Spring regarding the  
5     depth severances, I think the OCD could benefit from  
6     additional reservoir data -- engineering data.

7                     THE HEARING EXAMINER: Okay. Let me  
8     deal with what you said because you keep mixing things  
9     together and I'm trying to be --

10                    MR. SAVAGE: Yes, sir. I --

11                    THE HEARING EXAMINER: -- to be clear  
12     about things and you keep mixing things in.

13                    MR. SAVAGE: That's how my mind works.

14                    THE HEARING EXAMINER: Well, mine  
15     doesn't, and so that's why we're --

16                    MR. SAVAGE: I know. I'm trying to  
17     reciprocate, trying to adapt.

18                    THE HEARING EXAMINER: That's nice.

19                    So anyway, back to the exhibits, and  
20     then we'll deal with the witnesses in just a moment.  
21     We talked about revisions to working interest owners.  
22     We talked about separate and overlapping ownership  
23     interests that you need to fix. We talked about your  
24     exhibits needing to deal with the state tract that  
25     you're not seeking to pool. Okay?

1 MR. SAVAGE: Yes, sir.

2 THE HEARING EXAMINER: So that's going  
3 to be your amended exhibit packet. Now, my question  
4 to you is, in this last go-around a week ago, our  
5 hearing clerk went crazy because you filed a bunch of  
6 documents incorrectly. Now, we can't do that again.  
7 You have to file the correct document package for each  
8 case that's yours.

9 MR. SAVAGE: Yes, sir. And I apologize  
10 for that. Since we had the individual hearing packets  
11 for the -- case, but they also addressed all the  
12 others and, you know, it was 1:00 a.m. at night and we  
13 were trying to figure out the best way to do that, and  
14 we erred on the side of filing more, unfortunately.  
15 And I've talked to Ms. Tschantz about that. But  
16 that's --

17 THE HEARING EXAMINER: Thank you for  
18 apologizing. So this won't happen, then, for this  
19 next round.

20 MR. SAVAGE: So for example --

21 THE HEARING EXAMINER: Yes.

22 MR. SAVAGE: I'd like to clarify. So I  
23 filed objections, and it was in all the cases.

24 THE HEARING EXAMINER: I saw that.

25 MR. SAVAGE: Okay. And I had talked to

1 my assistant Kaiya, and I was like do we file these in  
2 all the cases or -- and then we decided yes. But we  
3 were concerned. We were like, we don't want to  
4 overload Ms. Tschantz by, you know, filing objections  
5 in cases where the objections may not apply.

6 THE HEARING EXAMINER: Right.

7 MR. SAVAGE: So as I understand this,  
8 if we do a pleading and in the caption we have all the  
9 cases that we believe --

10 THE HEARING EXAMINER: Right.

11 MR. SAVAGE: -- it would be appropriate  
12 to file those in all. But if we have a hearing packet  
13 that is specific to --

14 THE HEARING EXAMINER: Right.

15 MR. SAVAGE: Yes. Thank you.

16 THE HEARING EXAMINER: Then it goes  
17 into that case.

18 MR. SAVAGE: Yes.

19 THE HEARING EXAMINER: I don't want to  
20 forget that Mr. McClure has some asks of, I think,  
21 both parties. So we'll get to that in just a minute.  
22 But we need to clarify this.

23 So on or before February 6 by close of  
24 business, Mr. Savage --

25 MR. SAVAGE: Yes.

1 THE HEARING EXAMINER: -- you will file  
2 an amended exhibit packet in each of your cases as to  
3 the three issues we've already discussed.

4 MR. SAVAGE: Yes.

5 THE HEARING EXAMINER: Okay. Now,  
6 let's talk about the witness issue. Now, you want to  
7 bring your reservoir engineer, and why wasn't that  
8 reservoir engineer here today?

9 MR. SAVAGE: Well, as I understand, V-F  
10 inquired about it and it was just not possible within  
11 the timeframe to do that, but I'm not sure --

12 THE HEARING EXAMINER: Hold on. That's  
13 not an answer. It's definitely not an answer. So  
14 what do you mean there wasn't time to do it? What do  
15 you mean by that?

16 MR. SAVAGE: Well, as I understand, the  
17 initial inquiry with the reservoir engineer was at a  
18 time when he could not provide the exhibits in a  
19 timely manner, and I believe that was perhaps  
20 January 14th. I remember the date. Okay. So then I  
21 guess the plans were to go forward with the landman  
22 and geology. And then, when we saw the extent of the  
23 reservoir engineering exhibits from PR, you know, I  
24 brought up that, you know, it really would have  
25 benefited the Division to have some information from

1 our side on the reservoir engineering, and I asked is  
2 it too late to do that. You know, we don't know if it  
3 would be possible, but we would like the opportunity,  
4 if that is possible, to do that.

5 THE HEARING EXAMINER: Okay. You  
6 didn't really answer my question, but I get the point.  
7 So I'll tell you what we'll do. There is an objection  
8 by Ms. Vance, and I think she's correct that, you  
9 know, you had a deadline, there was an evidentiary  
10 deadline, there's an order. We're not going to ignore  
11 the order. However, you can frame your reservoir  
12 engineer exhibits and testimony to be rebuttal to what  
13 you heard here today or even to their initial exhibit  
14 packet, because that was really what it would be  
15 rebuttal to. You also have the benefit of a whole  
16 day's worth of testimony, and so do your witnesses.  
17 You can file a rebuttal exhibit packet for your  
18 reservoir engineer and have him available for  
19 cross-examination on the 13th of February. Does that  
20 seem fair to you?

21 MR. SAVAGE: That seems like a good  
22 splitting of Solomon's baby. I thank you. It's  
23 reasonable.

24 THE HEARING EXAMINER: Okay. Now, you  
25 were mentioning their witness. Now, their witness

1 filed testimony, they filed exhibits. That witness,  
2 the landman, Mr. Macha, was not here for  
3 cross-examination, but you'll have a full and fair  
4 opportunity. So I'm not sure how that comports with  
5 your situation. So we'll leave that part alone since  
6 that's not really an objection.

7 Okay. Now, we've dealt with the  
8 witness issue. So you're going to have Mr. Macha and  
9 you're going to have -- what is his name? Do you know  
10 the name of your reservoir engineer?

11 MR. SAVAGE: I do not.

12 THE HEARING EXAMINER: Okay. We're  
13 just going to call him witness X.

14 MR. SAVAGE: Mr. X.

15 THE HEARING EXAMINER: Yes. Mr. X.  
16 Reservoir engineer, rebuttal only. Okay. Very good.

17 And obviously you'll have an  
18 opportunity -- if you see something that you don't  
19 feel is rebuttal you can make an objection. I'm  
20 reminding you, though, that it says in the prehearing  
21 order evidentiary objections must be made 48 hours in  
22 advance. This is going to be filed no later than  
23 February 6, giving you a whole week to review the  
24 testimony and to make an objection if you feel it's  
25 necessary for that reason.

1 MS. VANCE: Yes. And I just want to  
2 confirm that we can also have rebuttal to anything.

3 THE HEARING EXAMINER: Of course.  
4 That's the way it rolls here.

5 All right. Now, Mr. McClure, you have  
6 a list for each party. Why don't you start with  
7 Permian? Or do you have nothing for Permian?

8 MR. MCCLURE: Thank you, Mr. Hearing  
9 Examiner. Yes, I do for Permian.

10 Ms. Vance, if we could get a gun-barrel  
11 diagram created and submitted with your amended  
12 exhibit packet. In addition to that, if we could  
13 amend one of the cross-sections to include a depiction  
14 of the depth severance or add a new cross-section to  
15 show it. I guess it's your discretion there.

16 Additionally, if we could be prepared  
17 to either testify about it or provide some sort of  
18 documentation regarding it, and that is the joint  
19 operating agreement or the status thereof of  
20 Occidental signing on with Permian. Do you understand  
21 everything I was asking Ms. Vance?

22 MS. VANCE: Yes.

23 THE HEARING EXAMINER: Perfect. Thank  
24 you, Mr. McClure.

25 And now for Mr. Savage?

1 MR. MCCLURE: Yeah. Mr. Savage, on all  
2 three pooling administrative checklists, are you  
3 familiar with the field that references depth  
4 severance?

5 MR. SAVAGE: Yes, sir.

6 MR. MCCLURE: I believe on two of the  
7 cases you actually do say no, but I believe on the  
8 other three cases you have -- some of them got like  
9 miscellaneous stuff wrote in there, some's got like  
10 half a sentence wrote in there. If we can clarify --  
11 for each of them that does not say no, if you can  
12 change that to no based upon Mr. Shaw's testimony  
13 today at least.

14 MR. SAVAGE: Yes. And as I explained,  
15 there's no depth severance within the Third Bone  
16 Spring interval, so that would be a no, even though  
17 there's a depth severance between the Second and the  
18 Third, possibly.

19 MR. MCCLURE: Well, according to  
20 Mr. Shaw there isn't --

21 MR. SAVAGE: Right. That's right. He  
22 did say that, yes. Okay. So --

23 MR. MCCLURE: Yeah. So if you could  
24 clarify that so there can be no mistake, I guess, that  
25 you're not trying to say there isn't a depth severance



1 in what you're asking to pool, but that there is no  
2 depths severance in the Bone Spring.

3 MR. SAVAGE: Yes, sir. That's great.

4 MR. MCCLURE: And I think a simple no  
5 should suffice for that.

6 MR. SAVAGE: Okay.

7 MR. MCCLURE: In addition to that, it  
8 sounds like you're already amending your Exhibit A-3.

9 MR. SAVAGE: Yes.

10 MR. MCCLURE: Was it your intent to  
11 clear up the highlighting question, I guess?

12 MR. SAVAGE: Yes. And we went the  
13 extra mile to list specifically the parties being  
14 pooled, and we'll clarify that, and we'll clarify the  
15 highlight.

16 MR. MCCLURE: Thank you, Mr. Savage.  
17 That's all I had.

18 THE HEARING EXAMINER: And,  
19 Mr. McClure, do you have any exhibits that you want  
20 from Ms. Luck's client?

21 MR. MCCLURE: Well, I believe  
22 Ms. Luck -- I mean it would be nice if Ms. Luck did  
23 provide all the interests of Ms. Beall, but I'm going  
24 to assume she already intends upon that.

25 THE HEARING EXAMINER: I don't want to

1 assume anything.

2 MR. MCCLURE: Well, I mean, it would be  
3 nice if Ms. Luck provided us with all the interest  
4 that Ms. Beall testifies she has, I guess.

5 MS. LUCK: Yeah. Absolutely. I'll  
6 provide that. And what I was planning on asking to  
7 file would be a motion related to the prior case where  
8 her interests were pooled and ask the Division for an  
9 allocation formula as between where those interests  
10 were pooled in the upper portions of the Bone Spring  
11 and the lower portion of Bone Spring where we feel  
12 that there's communication and a common source of  
13 production that affects her interest.

14 So we're happy to provide a reflection  
15 of her interests, but it's my understanding her  
16 interests were previously pooled in the case  
17 referenced by Ms. Vance, the 24939. I might have  
18 misquoted that number. But the point being that it  
19 was already pooled by an order issued in December, so  
20 we really need an allocation formula as between that  
21 portion of the Bone Spring where her interest is  
22 pooled and this lower portion of the Bone Spring where  
23 there may be communication. And that's why I think  
24 that we're going to get the reservoir engineer  
25 question.

1 THE HEARING EXAMINER: Does that  
2 request from the Division require, A, the Division to  
3 award the compulsory pooling order to one or the other  
4 parties?

5 MS. LUCK: No. But I do think it has  
6 bearing on whichever operator is chosen by the  
7 Division, and we would ask that the Division recognize  
8 that there may be some communication in the Bone  
9 Spring here that affects her interest in the upper  
10 Bone Spring.

11 THE HEARING EXAMINER: Mr. McClure,  
12 your thoughts?

13 MR. MCCLURE: Well, Ms. Beall's  
14 interest, is it only in section 14? Is that correct,  
15 Ms. Luck?

16 MS. LUCK: I believe that's correct,  
17 but I will confirm with her in writing with the  
18 Division, if I may.

19 MR. MCCLURE: Assuming that's so, then  
20 it only affects Permian's cases, then. If so. Is  
21 that correct?

22 MS. LUCK: That would be correct, yes.  
23 But I would still just like to confirm with her that  
24 her interests are only in section 14 and I'm not  
25 excluding her from any other interests that she may

1 have in 15 or 16.

2 THE HEARING EXAMINER: Okay. So  
3 Ms. Luck, I'm going to order that you file a notice of  
4 ownership interest in all of these cases. Well, the  
5 cases that affect or possibly affect your client's  
6 ownership interest. Which cases are those? Just the  
7 new ones?

8 MS. LUCK: Yes, Mr. Hearing Examiner.  
9 The --

10 THE HEARING EXAMINER: Forty-five  
11 through 48?

12 MS. LUCK: Yes, sir.

13 THE HEARING EXAMINER: Okay. So I'm  
14 ordering you that by February 6th, 5 p.m., you'll file  
15 a notice of ownership interest in those four cases.  
16 And if you want something from the Division and you  
17 want to file a motion, file a motion. But I don't  
18 know that we're going to deal with it at the hearing.

19 MS. LUCK: And that's fine, but I would  
20 just like to preserve my client's rights here.

21 THE HEARING EXAMINER: That's  
22 understandable.

23 Okay. Mr. McClure, anything else?

24 MR. MCCLURE: Nothing from me,  
25 Mr. Hearing Examiner.

1 THE HEARING EXAMINER: All right. Now,  
2 Mr. McClure, when this hearing does end, and I assume  
3 it will be the February 13, are you going to want any  
4 post-hearing submissions?

5 MR. MCCLURE: No. I don't want any  
6 post-hearing submissions.

7 THE HEARING EXAMINER: Perfect. Okay.  
8 So no closing arguments, no proposed findings of fact  
9 or conclusions of law?

10 MR. MCCLURE: Well, considering they've  
11 already had several weeks here, I hope they're able to  
12 provide us all their arguments, I guess, on the 13th.

13 THE HEARING EXAMINER: Well, when you  
14 say there "they're arguments," normally we don't do  
15 closing arguments. Are you going to want verbal  
16 closing arguments?

17 MR. MCCLURE: I apologize, Mr. Hearing  
18 Examiner. I mean I think they should be able to get  
19 their cases wrapped up, how many shots at it we're  
20 getting here. So I don't believe we need closing  
21 arguments is what I'm trying to say.

22 THE HEARING EXAMINER: Yeah. I'm just  
23 asking what would be helpful for you once the hearing  
24 closes and you have to make a decision. I just want  
25 whatever you think will be helpful.

1 MR. MCCLURE: I don't think I'll need  
2 anything.

3 THE HEARING EXAMINER: Okay. Perfect.  
4 Thank you. That's what I want to know.

5 Okay. Was there something else,  
6 Ms. Vance?

7 MS. VANCE: Yeah. I just wanted to  
8 clarify that for rebuttal it's going to be live  
9 witnesses.

10 THE HEARING EXAMINER: It can be.  
11 Sure.

12 MS. VANCE: Okay.

13 THE HEARING EXAMINER: I mean, rebuttal  
14 can be just exhibits if you want them to be, but I  
15 think it has more weight if you have a live witness.

16 MS. VANCE: That's fine. Just wanted  
17 to confirm. Thank you.

18 THE HEARING EXAMINER: Yeah.  
19 Anything else, Mr. Savage?

20 MR. SAVAGE: Yes, Mr. Hearing Examiner.  
21 It seems like it would benefit the Division to have  
22 oral overview of some, you know, arguments that should  
23 be in the forefront.

24 THE HEARING EXAMINER: Okay. Why don't  
25 we do this? We'll give each party 15 minutes at the

1 end of the hearing to make an oral closing argument.  
2 That way you can sum up your case and let the  
3 technical examiner and myself know what you think is  
4 important and why you win.

5 MS. VANCE: I think that sounds great.

6 THE HEARING EXAMINER: Mr. McClure, you  
7 okay with that?

8 MR. MCCLURE: Yeah. I'm fine with  
9 that, Mr. Hearing Examiner.

10 THE HEARING EXAMINER: Okay. I don't  
11 hear anything else. So we are off the record for now.  
12 We are on recess in these cases until February 13.  
13 Thank you.

14 (Whereupon, at 3:20 p.m., the  
15 proceeding was concluded.)  
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CERTIFICATE

I, JAMES COGSWELL, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action. February 10, 2025



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



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I, MARY ANN BURKE, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

February 10, 2025



MARY ANN BURKE

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[commercial - conservation]

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[cursory - density]

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[difference - drained]

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[draining - engineer]

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[perfect - petroleum]

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[petroleum - porosity]

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