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

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:

Case Nos. 25548, 25547, 25899,
25900, 25547, 25548, 25899,
25900, 25900, 25547, 25548,
25899, 25899, 25547, 25548,
25900, 25801, 25746, 25818,
25819, 25820, 25819, 25818,
25820, 25820, 25818, 25819,
25851, 25852, 25852, 25851,
25854, 25860, 25862, 25863,
25862, 25860, 25863, 25863,
25860, 25862, 25886, 25887,
25887, 25886, 25888, 25890,
25878, 25893, 25896, 25897,
25709, 25708, 25770, 25894,
25895, 25804.

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HEARING

DATE: Thursday, February 26, 2026
TIME: 8:54 a.m.
BEFORE: Hearing Examiner Gregory Chakalian
LOCATION: Remote Proceeding
Santa Fe, NM 87501
REPORTED BY: Gerald Aragon
JOB NO.: 7791221

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A P P E A R A N C E S

ON BEHALF OF SELECT WATER SOLUTIONS, MILESTONE ENVIRONMENTAL SERVICES, MEWBOURNE OIL, PERMIAN RESOURCES, SPUR ENERGY PARTNERS, COG OPERATING, POWDERHORN OPERATING, PBEX OPERATIONS, EGL RESOURCES, AND ADMIRAL PERMIAN OPERATING:

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

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

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

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Conservation Division (by videoconference)
John Garcia, Technical Examiner, New Mexico Oil
Conservation Division (by videoconference)
Stacy Sandoval, Technical Examiner, New Mexico
Oil Conservation Division (by videoconference)

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

ALSO PRESENT:

Shelbi McKee, Area Commercial and Land Manager,
Outliers New Mexico, Deltex, Joint Interest (by
videoconference)

Paul Brown, Senior Geoscience Advisor and Joint
Interest Lead, ExxonMobil (by videoconference)

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I N D E X

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

NO.	DESCRIPTION	ID/EVD
Case 25893:		
WPX:		
Exhibit		
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Exhibit A-1	C-102 Forms	78/78
Exhibit		
Amended A-2	Ownership and Sectional Map	78/78
Exhibit A-3	Well Proposal Letters and AFEs	78/78
Exhibit A-4	Chronology of Contacts with Uncommitted Owners	78/78
Exhibit		
Amended A-5	Notice Provided to Uncommitted Owners	78/78
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Exhibit B-2	Stratigraphic Cross Section	78/78
Exhibit B-3	Gross Isochore	78/78
Exhibit B-4	Gun Barrel View	78/78

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NO.	DESCRIPTION	ID/EVD
Case 25893:		
WPX:		
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Exhibit Amended C	Amended Self-Affirmed Statement of Notice, William E. Zimsky	78/78
Exhibit C-1	Notice Letters	78/78
Exhibit Amended C-2	Mailing List	78/78
Exhibit C-3	Affidavit of Publication	78/78
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WPX:		
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Exhibit Amended A-2	Ownership and Sectional Map	79/79

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case 25896:		
4	WPX:		
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6		AFEs	79/79
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8		Uncommitted Owners	79/79
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11		Uncommitted Owners	79/79
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19		Trajectory	79/79
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21	Amended C	Amended Self-Affirmed	
22		Statement of Notice, William	
23		E. Zimsky	79/79
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E X H I B I T S (Cont'd)		
NO.	DESCRIPTION	ID/EVD
3	Case 25896:	
4	WPX:	
5	Exhibit	
6	Amended C-2	Mailing List 79/79
7	Exhibit C-3	Affidavit of Publication 79/79
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NO.	DESCRIPTION	ID/EVD
10	Case 25897:	
11	WPX:	
12	Exhibit	
13	Amended A	Amended Self-Affirmed
14		Statement of Tim Prout,
15		Landman 79/79
16	Exhibit A-1	C-102 Forms 79/79
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24	Amended A-5	Notice Provided to
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1	E X H I B I T S (Cont'd)		
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4	WPX:		
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8	Exhibit B-2	Stratigraphic Cross Section	79/79
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10	Exhibit B-4	Gun Barrel View	79/79
11	Exhibit B-5	Cross-Section with Well	
12		Trajectory	79/79
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14	Amended C	Amended Self-Affirmed	
15		Statement of Notice, William	
16		E. Zimsky	79/79
17	Exhibit C-1	Notice Letters	79/79
18	Exhibit		
19	Amended C-2	Mailing List	79/79
20	Exhibit C-3	Affidavit of Publication	79/79
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1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case 25894:		
4	OCD:		
5	Exhibit 1	Curriculum Vitae for Cory	
6		Smith	100/100
7	Exhibit 2	Direct Testimony of Cory	
8		Smith	100/100
9	Exhibit 3	Resume of Brittany Hall	100/100
10	Exhibit 4	Direct Testimony of Brittany	
11		Hall	100/100
12	Exhibit 5	Curriculum Vitae of Rosa	
13		Romero	100/100
14	Exhibit 6	[Reserved]	100/100
15	Exhibit 7	OCD Docket Notice Case 25894	100/100
16	Exhibit 8	Notice of Violation, April 3,	
17		2025	100/100
18	Exhibit 9	Civil Penalty Calculation,	
19		April 3, 2025	100/100
20	Exhibit 10	August 2019 Workplan and	
21		Denial	100/100
22	Exhibit 11	OCD Permitting Incident	
23		Details page #nKL1625134663	100/100
24	Exhibit 12	February 2024 Extension	
25		Request	100/100

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case 25894:		
4	OCD:		
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6	Exhibit 14	September 2024 OCD Status	
7		Request and Notification	100/100
8	Exhibit 15	October 2024 Correspondence	100/100
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11		and Denial	100/100
12	Exhibit 18	Incident nOY1813152090	
13		initial C-141	100/100
14	Exhibit 19	Incident nOY1813152090	
15		Details Page	100/100
16	Exhibit 20	[Reserved]	100/100
17	Exhibit 21	September 2023 Remediation	
18		Plan and Denial	100/100
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20		Request and Approval	100/100
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22		and Denial	100/100
23	Exhibit 24	April 2025 Operator Update re	
24		Open Incidents Referenced in	
25		NOV	100/100

E X H I B I T S (Cont'd)		
NO.	DESCRIPTION	ID/EVD
Case 25894:		
OCD:		
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Exhibit 26	C-141 Release Notification Guidance	100/100
Exhibit 27	Incident Timeline Demonstrative	100/100
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XTO:		
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6		XTO and Longfellow Re: Draft
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11		Holdings, LLC 156/156
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14		Paul Brown 156/156
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17		Unit 156/156
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20		Facilities Cost to Other
21		Operators 156/156
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23		Chronology of Contacts	157/157
24	Exhibit A-6	Status of Owners	157/157
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1	E X H I B I T S (Cont'd)		
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6		Surrounding Development	157/157
7	Exhibit B	Self-Affirmed Statement of	
8		Geologist Jacob DeHamer	157/157
9	Exhibit B-1	Location Map	157/157
10	Exhibit B-2	Subsea Structure Map	157/157
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14	Exhibit B-6	Yeso Isopach with Landing	
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16	Exhibit C	Self-Affirmed Statement of	
17		Engineer David Mitchell	157/157
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1	E X H I B I T S (Cont'd)		
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P R O C E E D I N G S

THE HEARING EXAMINER: My name is Gregory Chakalian. It is February 26, 8:54 a.m. This is our second scheduled regular docket. Normally we hear only status conferences today, but we had a few other matters of business to attend to.

Let's begin with Select Water Solutions. I'm going to call three of the four cases separately. 25548, 25547, 25900. Entries of appearance, please?

MS. HARDY: Good morning, Mr. Examiner. Dana Hardy with Hardy McLean, for Select.

THE HEARING EXAMINER: Good morning, Ms. Hardy.

MR. SUAZO: Good morning, Mr. Examiner. Miguel Suazo with Beatty & Wozniak, appearing on behalf of Pilot Water.

THE HEARING EXAMINER: Thank you, Mr. Suazo.

MS. VANCE: Good morning, Mr. Hearing Examiner. Paula Vance with the Santa Fe office of Holland & Hart, on behalf of Devon Energy Production. And we are no longer objecting to these cases. We have reached an agreement with Select, and I do really like the new art look you are going with, with the

1 black and white screen.

2 THE HEARING EXAMINER: Thank you, Ms.
3 Vance.

4 MS. HATLEY: Good morning, Mr.
5 Examiner. Keri Hatley entering her appearance on
6 behalf of COG operating. We have withdrawn our
7 objections in this case.

8 THE HEARING EXAMINER: Perfect. Thank
9 you, Ms. Hatley.

10 MR. SAYER: Mr. Examiner, Matthias
11 Sayer on behalf of Desert Ram. And you know where we
12 stand on this and I, so I -- we may or may not be a
13 party. I don't think we're a party, but we're here
14 nevertheless, paying attention.

15 THE HEARING EXAMINER: You're welcome,
16 Mr. Sayer, thank you.

17 MR. SAYER: Thank you, sir.

18 THE HEARING EXAMINER: And, Mr. Suazo,
19 I trust you got the order on your motion to
20 reconsider. I appreciate your arguments. I carefully
21 considered them before I issued that order. As you
22 know, you always have the right to appeal.

23 MR. SUAZO: Understood, Mr. Examiner,
24 and we appreciate that. Just wanted to appear for the
25 record today and reiterate our objection and

1 opposition to these cases, but we certainly understand
2 your decision and we'll assess what our next steps are
3 once the final order is issued.

4 THE HEARING EXAMINER: Perfect. Thank
5 you, Mr. Suazo.

6 Ms. Hardy, it's my understanding that
7 the technical team, the UIC team, requested additional
8 information from you. Has that been submitted?

9 MS. HARDY: Yes, Mr. Examiner, it has.

10 THE HEARING EXAMINER: All right.
11 Let's get the technical team on the screen. I see Mr.
12 Harris.

13 MS. SANDOVAL: Can you see me? Stacy
14 Sandoval. I'll be the one speaking to you.

15 THE HEARING EXAMINER: Ah, good
16 morning, Ms. Sandoval.

17 MS. SANDOVAL: Good morning.

18 THE HEARING EXAMINER: Did you get a
19 chance to review the additional information?

20 MS. SANDOVAL: Yes. So we reviewed the
21 supplemental exhibit packages and the information
22 provided is sufficient, so these three cases can be
23 taken under advisement.

24 THE HEARING EXAMINER: Excellent.
25 Thank you.

1 MS. SANDOVAL: One thing I would like
2 to ask Ms. Hardy is to follow up with an email on the
3 delivery status to McCombs Energy, Ltd. for case
4 25900.

5 MS. HARDY: I can do that.

6 THE HEARING EXAMINER: Is that all, Ms.
7 Sandoval?

8 MS. SANDOVAL: Yes.

9 THE HEARING EXAMINER: Thank you. Ms.
10 Sandoval, are you going to be the technical examiner
11 for the next case, 25899?

12 MS. SANDOVAL: I believe so. Me and
13 Tony Harris.

14 THE HEARING EXAMINER: Okay. All
15 right. Sounds good. All right, so, Ms. Hardy,
16 congratulations. And we're off the record in those
17 three cases.

18 MS. HARDY: Thank you very much.

19 THE HEARING EXAMINER: Let's move on to
20 case 4 on our docket 25899, Select Water Solutions.

21 MS. HARDY: Thank you, Mr. Examiner.
22 Dana Hardy for Select.

23 THE HEARING EXAMINER: Okay.

24 MS. BENNETT: Good morning, Mr.
25 Examiner. Deana Bennett on behalf of Coterra Energy

1 Operating, and we have objected to --

2 THE HEARING EXAMINER: Sorry, Ms.
3 Bennett. Unmute yourself, please.

4 MS. BENNETT: I am. I have unmuted
5 myself, so perhaps Freya might need to unmute me.

6 THE HEARING EXAMINER: Ms. Bennett,
7 it's -- I can't hear you. So would you make your
8 microphone louder or get closer or shout? Whatever
9 you need to do.

10 MS. BENNETT: Is that any better? I'm
11 shouting, literally.

12 THE HEARING EXAMINER: So-so.

13 MS. BENNETT: Okay. I will try between
14 now and the next case to make my microphone louder.
15 But Deana Bennett on behalf of Coterra Energy
16 Operating, and we objected to this case proceeding by
17 affidavit.

18 THE HEARING EXAMINER: Perfect. Thank
19 you, Ms. Bennett.

20 MR. SUAZO: Miguel Suazo with Beatty &
21 Wozniak, appearing on behalf of Pilot to renew
22 verbally our objection to this proceeding by
23 affidavit.

24 THE HEARING EXAMINER: Thank you, Mr.
25 Suazo.

1 MS. VANCE: Good morning, Mr. Hearing
2 Examiner. Paula Vance with the Santa Fe office of
3 Holland & Hart, on behalf of Devon Energy Production.
4 And similarly, we are not objecting, just entry of
5 appearance, and we've reached an agreement with
6 Select.

7 THE HEARING EXAMINER: Thank you, Ms.
8 Vance.

9 MS. HATLEY: Good morning, Mr.
10 Examiner. Keri Hatley entering her appearance on
11 behalf of COG Operating, monitoring only.

12 THE HEARING EXAMINER: Thank you, Ms.
13 Hatley.

14 MR. SAYER: Mr. Examiner, Matthias
15 Sayer on behalf of Desert Ram.

16 THE HEARING EXAMINER: Thank you, Mr.
17 Sayer.

18 Okay. So, Ms. Hardy, when do you want
19 this case to be heard?

20 MS. HARDY: I know that Coterra and
21 Select are talking. I think we would request that
22 this be set on the May 12th date to give the parties
23 time.

24 THE HEARING EXAMINER: I didn't
25 understand you. You're requesting what?

1 MS. HARDY: A hearing, a contested
2 hearing on May 12th.

3 THE HEARING EXAMINER: Oh, May 12th.
4 Okay.

5 MS. HARDY: Yes.

6 THE HEARING EXAMINER: Freya, is that a
7 date that you sent out?

8 MS. TSCHANTZ: It's not a date that I
9 sent out, but I think, I believe Ms. Hardy requested
10 some later dates as options and I provided that date.

11 THE HEARING EXAMINER: Ms. Hardy, when
12 was this case filed?

13 MS. HARDY: This case was filed, let me
14 just double check, this application was filed January
15 6th.

16 THE HEARING EXAMINER: Oh, okay. All
17 right. Ms. Bennett?

18 MS. BENNETT: Mr. Hearing Examiner, you
19 had -- the division had already set this case for a
20 contested hearing on March 24th.

21 THE HEARING EXAMINER: Oh.

22 MS. BENNETT: And I have been
23 coordinating with Coterra and they are available that
24 date. I'm not suggesting that they would not prefer a
25 later date. I just have not had a chance to

1 coordinate with them about any later dates.

2 So I would, I'm again, I'm imagining
3 that all parties would benefit from a later hearing
4 date, but I haven't had a chance to even address that
5 with them because I was under the impression that the
6 case was set for March 24th.

7 THE HEARING EXAMINER: Ms. Hardy?

8 MS. HARDY: So this application has not
9 been set for hearing previously. We had a prior
10 iteration of this application that was dismissed and
11 then this was refiled to change the well location. So
12 this one has not been previously set, I don't believe.
13 But I think the may date would allow the parties to
14 communicate and potentially resolve the matter. The
15 March date does not work for Select.

16 THE HEARING EXAMINER: Okay. Well,
17 thank you, Ms. Bennett.

18 Thank you, Ms. Hardy. So, Ms. Hardy,
19 if we set this out to May 12th, that'll be the final
20 setting.

21 MS. HARDY: That's fine. Understood.

22 THE HEARING EXAMINER: There won't be
23 any continuances.

24 MS. HARDY: Okay. That's fine.

25 THE HEARING EXAMINER: All right. So,

1 Freya, do you have any information about a pre-hearing
2 order from March 24?

3 MS. TSCHANTZ: I don't see that we set
4 a contested hearing on March 24. I'm looking in
5 imaging.

6 MS. BENNETT: Mr. Hearing Examiner?

7 THE HEARING EXAMINER: Yes.

8 MS. BENNETT: This is Deana Bennett.
9 At the last hearing, there was an email that said the
10 expectation was that this case would be set for March
11 24th. And I'm, like I said, I'm fine with, I mean,
12 initially fine with it being set for May 12th. But if
13 my witnesses aren't available for May 12th, I would
14 hope that that would not be prejudicial and we would
15 be able to work on a different hearing date because --

16 THE HEARING EXAMINER: Of course.

17 MS. BENNETT: -- I have coordinated
18 extensively with Coterra about the March 24th hearing
19 date.

20 THE HEARING EXAMINER: All right, Ms.
21 Bennett, that's fair. So, Freya, wasn't there a date
22 in April also that you had available?

23 MS. TSCHANTZ: It was April 25th.
24 Sorry, April 21st.

25 THE HEARING EXAMINER: All right. So

1 here's what we'll do, Ms. Hardy. I'll honor your May
2 12 request. But if Ms. Bennett's witnesses are not
3 available for May 12, then we're going to offer you
4 the alternative, which is what you just heard, April
5 21st.

6 MS. HARDY: That is fine. Thank you.

7 THE HEARING EXAMINER: All right. So,
8 Ms. Bennett, when will you be able to let the Division
9 know?

10 MS. BENNETT: I'm emailing Coterra
11 right now.

12 THE HEARING EXAMINER: Sure.

13 MS. BENNETT: But they do have quite a
14 technical team that's going to be involved. And so it
15 may take a couple of days to find out the information.
16 So I'd like through, at least through Monday or
17 Tuesday of next week to confirm.

18 THE HEARING EXAMINER: Ms. Hardy,
19 Tuesday the close of business. You can confer with
20 Ms. Bennett and either agree on May 12 or April 21st?

21 MS. HARDY: That's fine. And I thought
22 the date in April was the 24th. Is it the 21st?

23 THE HEARING EXAMINER: I don't know.
24 Freya?

25 MS. TSCHANTZ: Let me just make sure I

1 have the date right.

2 MS. HARDY: It's the 21st.

3 MS. TSCHANTZ: Twenty-first. Okay.

4 Thank you.

5 THE HEARING EXAMINER: Okay. So,
6 Freya, will you do a calendar reminder for Tuesday
7 close of business so that we can issue a pre-hearing
8 order for either May 12th, that's the first option,
9 and a backup would be April 21st?

10 MS. TSCHANTZ: Yes.

11 THE HEARING EXAMINER: All right.
12 Anything further, Ms. Bennett?

13 MS. BENNETT: No, thank you.

14 THE HEARING EXAMINER: All right.
15 Thank you.

16 Ms. Hardy?

17 MS. HARDY: No, thank you very much.

18 THE HEARING EXAMINER: All right,
19 sounds good. Ms. Sandoval, I don't know if you're
20 still on, but if you are, do you have any other
21 questions for Ms. Hardy at this time?

22 MS. SANDOVAL: No, I do not.

23 THE HEARING EXAMINER: All right.
24 Okay. We're off the record in this case. Thank you.
25 Let's move on to Milestone Environmental Services,

1 25801.

2 MS. HARDY: Mr. Examiner, Dana Hardy
3 for Milestone.

4 THE HEARING EXAMINER: Thank you.

5 MS. HATLEY: Mr. Examiner, Keri Hatley
6 entering appearance for COG. And we have objected in
7 this case.

8 THE HEARING EXAMINER: You said you
9 have objected?

10 MS. HATLEY: Yes. COG Operating --

11 THE HEARING EXAMINER: Okay, perfect.

12 MS. HATLEY: -- and we have entered an
13 objection.

14 THE HEARING EXAMINER: Excellent. Is
15 there a nature of your objection?

16 MS. HATLEY: We have concerns about the
17 increased injection rate, and we're working with
18 Milestone on an agreement, but we haven't come to
19 acceptable terms yet. But we hope to.

20 THE HEARING EXAMINER: Oh, so you're
21 negotiating now. Okay.

22 Ms. Hardy?

23 MS. HARDY: Mr. Examiner, because the
24 parties are working out these technical issues, it's
25 an injection well, and I think I'm optimistic

1 cautiously that the issues can be resolved, I would
2 propose to set this case for another status conference
3 on March 19th.

4 THE HEARING EXAMINER: Okay. I don't
5 have a problem with that. By that time, though, I'll
6 be looking to set it for a hearing or something, or
7 maybe withdrawal of objection if that's appropriate.

8 MS. HARDY: Understood. Thank you.

9 THE HEARING EXAMINER: All right.
10 Anything else, Ms. Hatley?

11 MS. HATLEY: Nope. Thank you, sir.

12 THE HEARING EXAMINER: Ms. Hardy?

13 MS. HARDY: Nope. Thank you.

14 THE HEARING EXAMINER: Off the record,
15 in case number 5 on our docket.

16 Let's move to 6 on our docket,
17 Mewbourne Oil, 25746.

18 MS. HARDY: Dana Hardy on behalf of
19 Mewbourne.

20 THE HEARING EXAMINER: Thank you.

21 MS. BENNETT: This is Deana. I'm
22 trying to join by my phone so you can hear me better.

23 THE HEARING EXAMINER: I can hear you.
24 So Deana Bennett?

25 MS. BENNETT: Yes. I'm here on behalf

1 of Avant.

2 THE HEARING EXAMINER: And did you
3 object?

4 MS. BENNETT: Yes. Avant originally
5 objected to this case proceeding by affidavit, but
6 it's my understanding that the parties are in
7 discussions and those discussions have been fruitful
8 or are being fruitful. I have not withdrawn my
9 objection yet, but I am hopeful that Ms. Hardy has a
10 little more information to provide on that, the status
11 of the negotiations.

12 THE HEARING EXAMINER: All right.
13 Thank you, Ms. Bennett.

14 MS. HATLEY: Mr. Examiner, Keri Hatley
15 entering her appearance on behalf of Marathon Oil
16 Permian. And we are just monitoring.

17 THE HEARING EXAMINER: Monitoring.
18 Thank you.

19 So, Ms. Hardy, what do you know about
20 the negotiations?

21 MS. HARDY: I know that there are
22 negotiations occurring. Mewbourne has requested or
23 would like to request this case go ahead and be set
24 for a contested hearing on March 24th. I think
25 hopefully the issues can be resolved by then, but if

1 not, they're prepared to proceed.

2 THE HEARING EXAMINER: Okay. Do you
3 know what the nature of the objection is?

4 MS. BENNETT: I do, Mr. Examiner, if
5 you're -- I can help with that.

6 THE HEARING EXAMINER: Ms. Hardy, do
7 you mind?

8 MS. HARDY: No, that's fine.

9 THE HEARING EXAMINER: Go ahead, Ms.
10 Bennett.

11 MS. BENNETT: Avant has planned or was
12 planning to counter propose, and so they would be
13 proposing their own development across portions of the
14 acreage that Mewbourne is proposing to develop.

15 THE HEARING EXAMINER: Do you know what
16 percentage of interest Avant owns in this area?

17 MS. BENNETT: I don't.

18 THE HEARING EXAMINER: Ms. Hardy, do
19 you know how much ownership Mewbourne has?

20 MS. HARDY: I don't know that I do. I
21 could get that, but it would take me a few minutes.

22 THE HEARING EXAMINER: That's okay.
23 Okay, I understand.

24 So, Ms. Bennett, are you saying that
25 Avant is preparing proposals, well proposals?

1 MS. BENNETT: They were, but I was
2 under the impression that the negotiations with
3 Mewbourne had proceeded much further along than Ms.
4 Hardy is. And so I was actually thinking that Avant
5 was almost going to be in a place where they could
6 withdraw their objection and the case not even go to a
7 contested hearing.

8 So I'm, frankly, a bit taken aback by
9 the fact that Mewbourne would want to set this for a
10 contested hearing when that is not what I understood
11 at all. You know, Avant was, perhaps is much more
12 optimistic than Mewbourne is at the moment and does
13 not think that there is any need to set this for a
14 contested hearing, much less a contested hearing on
15 March 24th.

16 At best, Avant would, and I understand
17 that you will give preference to Mewbourne in this,
18 but if the negotiations are not as far along as Ms.
19 Hardy is anticipating, then Avant would need to
20 counter propose and we would need to file competing
21 applications. So March 24th is not workable for a
22 contested hearing.

23 THE HEARING EXAMINER: Right. Okay.
24 How about we do this. Since the parties don't seem to
25 be certain on several key issues here, I'd like to

1 come back to this case and go and recess on this case
2 until after we hear the NOV's on line 26, but before
3 the Longfellow Energy case on line 27.

4 So I'm going to recall this case to
5 give Ms. Hardy and Ms. Bennett sometime to communicate
6 with their clients and give me some more information.
7 I would like to know the ownership interest for both
8 parties in this affected lands, and I'd like to know
9 how far along, how positive these negotiations are.

10 MS. BENNETT: Sounds good. Thank you
11 very much for that.

12 THE HEARING EXAMINER: All right. So
13 we're in recess on this case, but we are going to come
14 back to that case.

15 Let's move on to number 7 on the
16 docket. This is Permian Resources. It looks like
17 it's joined with several cases, 25818, 19, and 20.

18 Entries of appearance, please?

19 MS. HARDY: Dana Hardy on behalf of
20 Permian Resources.

21 THE HEARING EXAMINER: Thank you.

22 MS. BENNETT: Good morning, Mr.
23 Examiner. Deana Bennett on behalf of Coterra Energy
24 Operating.

25 THE HEARING EXAMINER: Thank you.

1 MS. BENNETT: And we have objected to
2 the cases proceeding by affidavit.

3 THE HEARING EXAMINER: Perfect. Thank
4 you.

5 MS. VANCE: Good morning, Mr. Hearing
6 Examiner. Paula Vance with the Santa Fe office of
7 Holland & Hart, on behalf of MRC Permian Company, and
8 we are just monitoring.

9 THE HEARING EXAMINER: Oh, thank you.
10 Thank you, Ms. Vance. So --

11 MS. HATLEY: Good morning, Mr.
12 Examiner. One more entry, please.

13 THE HEARING EXAMINER: Yeah.

14 MS. HATLEY: Keri Hatley entering her
15 appearance on behalf of Marathon Oil Permian. I'm
16 entering it orally for now, but we'll file it today
17 and I will be monitoring only.

18 THE HEARING EXAMINER: Monitoring only.
19 Thank you, Ms. Hatley.

20 Back to you, Ms. Bennett, representing
21 Coterra. You've objected. Do you know why?

22 MS. BENNETT: Yes, Mr. Hearing
23 Examiner. Coterra is objecting because Permian's
24 proposal development plan proposes to develop acreage
25 that is under a JOA that is controlled by Coterra.

1 And so this is a case where Coterra has the desire to
2 develop its own acreage and feels strongly that it
3 should be allowed to without interference from
4 Permian.

5 And also this case is currently set for
6 a contested hearing on May 12th. So I looked back
7 through the transcript to see why we were coming back
8 for a status conference today, and it wasn't
9 immediately clear to me, but this case is set for a
10 contested hearing on May 12th.

11 THE HEARING EXAMINER: Good. That's
12 helpful. Thank you, Ms. Bennett.

13 Ms. Hardy?

14 MS. HARDY: Thank you. The case is set
15 for contested hearing on May 12th, and at this point
16 we would just plan to proceed to hearing on that date.

17 THE HEARING EXAMINER: Okay. All
18 right. So we won't have any further status
19 conferences unless the parties let the Division know
20 that they've, that they don't want the contested
21 hearing on May 12th and that they want to have a
22 hearing by affidavit or they're dismissing their
23 cases.

24 So anything further, Ms. Bennett?

25 MS. BENNETT: Nothing further from me.

1 Thank you very much.

2 THE HEARING EXAMINER: All right. Ms.
3 Hardy?

4 MS. HARDY: No, thank you.

5 THE HEARING EXAMINER: All right. And,
6 Ms. Hardy, before I go, move on from these three
7 cases, you said this case is set. Did you mean these
8 cases are set?

9 MS. HARDY: Yes, thank you. All three
10 of them.

11 THE HEARING EXAMINER: Just wanted to
12 make sure I was following the conversation. Thank
13 you. Okay. We're off the record in those cases.

14 Let's move on to mu Mewbourne Oil. It
15 looks like there's two cases here, 25851 and 52.

16 MR. BRUCE: Mr. Examiner, Jim Bruce
17 representing Mewbourne.

18 THE HEARING EXAMINER: Thank you.

19 MR. HOLLIDAY: Good morning, Mr.
20 Examiner. Ben Holliday entering appearance on behalf
21 of COG Operating and Concho Oil and Gas.

22 THE HEARING EXAMINER: Good morning,
23 Mr. Holliday. Did you object?

24 MR. HOLLIDAY: Yes. We object in this
25 case.

1 THE HEARING EXAMINER: Why?

2 MR. HOLLIDAY: Competing development
3 plans. We intend to file competing applications
4 probably this week.

5 THE HEARING EXAMINER: Oh, so you've
6 already sent out the proposals a few weeks ago?

7 MR. HOLLIDAY: I believe so. Yes, sir.

8 THE HEARING EXAMINER: Okay, perfect.
9 And you're representing ConocoPhillips?

10 MR. HOLLIDAY: Yes, through their
11 entities, COG Operating in Concho Oil and Gas.

12 THE HEARING EXAMINER: Okay, very good.
13 I understand. All right. Thank you, Mr. Holliday.

14 Mr. Bruce?

15 MR. BRUCE: I think the matters just
16 need to be set for a contested hearing. I'm not sure
17 what's available, but sometime in May.

18 THE HEARING EXAMINER: Okay. Well,
19 let's check. I'm going to give you preference, Mr.
20 Bruce, since they're your case is filed earlier than
21 Mr. Holliday's, but is that the soonest you want to
22 have it is May?

23 MR. BRUCE: Or April.

24 THE HEARING EXAMINER: Okay. April or
25 May.

1 Freya, is it April 21st or May 12th?
2 Are those our dates in May, in April and May?

3 MS. TSCHANTZ: It's April 21st. We can
4 also do April 28th.

5 THE HEARING EXAMINER: Oh, okay. And
6 then May 12th?

7 MS. TSCHANTZ: Correct.

8 THE HEARING EXAMINER: All right, very
9 good.

10 Mr. Holliday, a preference for you?

11 MR. HOLLIDAY: I think we prefer the
12 later date, although I'm looking at the calendar.
13 That 12th and 13th might not work because I know
14 myself and Ms. Ryan will be involved in the Foundation
15 for Energy Law Conference there. We'll be in Santa
16 Fe.

17 THE HEARING EXAMINER: Right.

18 MR. HOLLIDAY: But might be a little
19 tied up doing that thing. So I would say maybe I need
20 to confer with Ms. Hatley, but for now I would say the
21 28th would probably be the best.

22 THE HEARING EXAMINER: Right. Okay.
23 And then when you say Ms. Hatley, do you mean Mr.
24 Bruce?

25 MR. HOLLIDAY: I mean, sorry, Ms.

1 Hatley on behalf -- to gauge COG's availability for
2 the 28th date.

3 THE HEARING EXAMINER: Okay. Well, Mr.
4 Bruce, does the 28th of April work for you?

5 MR. BRUCE: Yeah. I will check today
6 with availability.

7 THE HEARING EXAMINER: I'd like Mr.
8 Holliday and Mr. Bruce to check now with their clients
9 and whoever else they need to check with, and we'll
10 come back at the end of our docket and find out do you
11 prefer the 28th or maybe even the 21st. But those are
12 the three dates we can offer you, April 21, 28, or May
13 12.

14 And I understand why May 12 is not the
15 best for you, Mr. Holliday, because I'll be at that
16 conference as well. So we're going to come back to
17 these two cases to get the availability. So we're in
18 recess on those two cases.

19 Let's go to Spur Energy Partners,
20 25854.

21 MS. HARDY: Dana Hardy with Hardy
22 McLean on behalf of Spur.

23 THE HEARING EXAMINER: Thank you.

24 MR. SUAZO: Good morning, Mr.

25 Examiner --

1 MS. KESSLER: Good morning -- oh, go
2 ahead.

3 MR. SUAZO: Miguel Suazo with Beatty &
4 Wozniak, appearing on behalf of Hilcorp Energy.

5 THE HEARING EXAMINER: Okay. And did
6 you object?

7 MR. SUAZO: We did.

8 THE HEARING EXAMINER: Okay. Why?

9 MR. SUAZO: As I understand it, the
10 wells that are being proposed are horizontal, and
11 Hilcorp has some vertical wells in the vicinity that
12 they're concerned may be impacted.

13 THE HEARING EXAMINER: So that sounds
14 like a negotiation that's ongoing to fix that; right?

15 MR. SUAZO: That's correct. The
16 parties have confirmed that they are in discussions.
17 I don't think they've quite reached any sort of
18 agreement just yet. Hilcorp is not going to be
19 submitting competing applications. So I'm hopeful
20 that we're going to be able to resolve this otherwise.

21 THE HEARING EXAMINER: Okay. And, Ms.
22 Kessler?

23 MS. KESSLER: Good morning, Mr.
24 Examiner. Jordan Kessler on behalf of EOG Resources,
25 and we are just monitoring.

1 THE HEARING EXAMINER: Thank you, Ms.
2 Kessler.

3 So, Ms. Hardy, it sounds like this
4 sounds like something that can be negotiated. Do you
5 agree?

6 MS. HARDY: I know the parties are
7 negotiating. We do have a contested hearing set on
8 March 24th. So at this point we would like to keep
9 that hearing date.

10 THE HEARING EXAMINER: Right. Okay.

11 MS. HARDY: And of course if the
12 parties reach an agreement, we will not need it.

13 THE HEARING EXAMINER: Right. Anything
14 further, Mr. Suazo?

15 MR. SUAZO: No, thank you.

16 THE HEARING EXAMINER: Thank you.
17 Ms. Hardy?

18 MS. HARDY: No, thank you.

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

21 Mewbourne Oil cases 25860, 62, 63?

22 MS. STARNES: Yes. Good morning, Mr.
23 Hearing Examiner. Raylee Starnes with the Santa Fe
24 office of Holland & Hart, on behalf of Mewbourne Oil.

25 THE HEARING EXAMINER: Good morning,

1 Ms. Starnes.

2 MR. SAVAGE: Good morning, Mr. Hearing
3 Examiner. Darin Savage with Abadie & Schill,
4 appearing on behalf of WPX Energy Permian, LLC.

5 THE HEARING EXAMINER: Good morning,
6 Mr. Savage. Can you tell me if you objected?

7 MR. SAVAGE: We did entry of appearance
8 and we're currently in negotiations, but we plan to
9 file competing applications.

10 THE HEARING EXAMINER: Oh, so you
11 definitely objected?

12 MR. SAVAGE: Well, technically we
13 didn't object because Permian Resources objected, as I
14 understand. But we do object to this if --

15 THE HEARING EXAMINER: Okay. And
16 you're considering competing applications? In other
17 words, have you sent out proposals?

18 MR. SAVAGE: We sent our proposal, new
19 proposal on February 9th.

20 THE HEARING EXAMINER: Oh.

21 MR. SAVAGE: And yeah, we're -- we'll
22 be drafting applications and filing those. We would
23 like to set a contested hearing date.

24 THE HEARING EXAMINER: Okay.
25 Understood.

1 And do we have Ms. Hardy?

2 MS. HARDY: Mr. Examiner, yes, for
3 Permian Resources.

4 THE HEARING EXAMINER: Thank you. Did
5 you object?

6 MS. HARDY: We did object.

7 THE HEARING EXAMINER: What's the
8 purpose of your objection?

9 MS. HARDY: Permian Resources and
10 Mewbourne are in discussions regarding this acreage
11 and working on negotiated terms. We would be fine
12 with another status conference in March, which is what
13 I had discussed with Ms. Starnes. But I wasn't aware
14 that WPX was filing competing applications.

15 THE HEARING EXAMINER: Okay. Let's go
16 back to Ms. Starnes. When did you file these cases?

17 MS. STARNES: We filed these cases, I
18 believe either in December or January.

19 THE HEARING EXAMINER: Can you look for
20 me?

21 MS. STARNES: Yes, sir. Let me do that
22 right now.

23 THE HEARING EXAMINER: Thank you

24 MR. SAVAGE: Mr. Examiner, if I may
25 add.

1 THE HEARING EXAMINER: Yes.

2 MR. SAVAGE: We would be happy with
3 another status conference while we're preparing for
4 our competing applications and also negotiating with
5 the parties.

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

8 MS. STARNES: Okay. Actually, it looks
9 like we filed these in November.

10 THE HEARING EXAMINER: In November.
11 All right.

12 MS. STARNES: Yes, sir.

13 THE HEARING EXAMINER: Okay. So, Ms.
14 Starnes, I'm okay with setting these for another
15 status conference in March, but I'm going to keep
16 these on somewhat of a short leash. So you should be
17 prepared to come to a contested hearing, if
18 negotiations aren't finished by March, you should be
19 prepared. And I would say that you have some dates
20 here to consider. You have April 21st, you have April
21 28, and you have May 12. And those are some dates to
22 consider.

23 MS. STARNES: Okay, perfect. I will
24 speak with Mewbourne about that and hopefully we will
25 have some fruitful updates in March.

1 THE HEARING EXAMINER: All right. So
2 let's see. Status conference in March and then dates
3 April, May. Anything else, Mr. Savage?

4 MR. SAVAGE: Yes. So we did our well
5 proposal on February 9th. We will need the 30 days
6 for negotiation and file the application somewhere
7 around March 11th. And then we need 20 days for
8 notice. So that March 12th looks like the ideal date
9 for us to satisfy all the filing and the notice
10 requirements for the competing applications.

11 MS. STARNES: Do you mean May 12th?

12 THE HEARING EXAMINER: Okay. Hold on,
13 Ms. Starnes. I want to make sure I understand Mr.
14 Savage.

15 Would you repeat that, Mr. Savage?

16 MR. SAVAGE: Yes, sir. Our well
17 proposals went out February 9th. Guidelines of the
18 OCD is that they prefer a 30-day grace period before
19 we're allowed to file the applications. That would be
20 somewhere around March 11th to meet the deadline for
21 the applications.

22 Then after the applications are filed,
23 we would need sufficient time for notice letters and
24 notice publication. So it looks like the May 12th
25 would be the ideal date to satisfy all those criteria.

1 THE HEARING EXAMINER: Okay. Well, I'm
2 just throwing out some dates for Ms. Starnes and you
3 to negotiate over if your other negotiations are not
4 fruitful, so that when we come back in March for a
5 status conference you can tell me May 12th or April 28
6 or whatever you want.

7 MR. SAVAGE: Okay.

8 THE HEARING EXAMINER: But I do
9 understand your timing, Mr. Savage. Thank you.

10 MR. SAVAGE: Okay. Thank you. I just
11 wanted to get that noted. Thank you.

12 THE HEARING EXAMINER: Okay. Ms.
13 Starnes, anything further?

14 MS. STARNES: Nope.

15 THE HEARING EXAMINER: All right. So,
16 Ms. Starnes, our second date, our second date in
17 March -- Freya, when is the status conference docket
18 in March?

19 MS. TSCHANTZ: On the 19th.

20 THE HEARING EXAMINER: 19th. So, Ms.
21 Starnes, would you continue your cases for the 19th of
22 March?

23 MS. STARNES: Yes, absolutely.

24 THE HEARING EXAMINER: All right,
25 perfect.

1 Ms. Hardy, was there anything?

2 MS. HARDY: No, thank you.

3 THE HEARING EXAMINER: All right,
4 you're welcome. Okay, thank you. We're off the
5 record in those three cases.

6 Let's move on now to Tap Rock
7 Operating, 25886, 25887.

8 MR. SUAZO: Good morning, Mr. Examiner.
9 Miguel Suazo with Beatty & Wozniak, appearing on
10 behalf of Tap Rock Operating.

11 THE HEARING EXAMINER: Thank you.

12 MS. HARDY: And, Mr. Examiner, Dana
13 Hardy with Hardy McLean, on behalf of COG Operating.

14 THE HEARING EXAMINER: And your
15 position?

16 MS. HARDY: We have objected to these
17 cases and are planning to file competing applications.

18 THE HEARING EXAMINER: Oh, okay. When
19 were the proposals sent out?

20 MS. HARDY: Proposals have gone out
21 this week, is my understanding. And so we would then
22 file our applications in time for the May docket --

23 THE HEARING EXAMINER: Okay.

24 MS. HARDY: -- docket. So I would
25 propose a contested hearing on the May 12th date.

1 THE HEARING EXAMINER: Okay. I
2 understand. Anything further, Ms. Hardy?

3 MS. HARDY: No, thank you.

4 THE HEARING EXAMINER: All right. Mr.
5 Suazo, how do you want to proceed now that you know
6 what's going on?

7 MR. SUAZO: Sure. Well, we haven't
8 received the proposals yet, but we'll be on the
9 lookout for them. But otherwise, Tap Rock does not
10 have any objection to the May date for the contested
11 hearing.

12 THE HEARING EXAMINER: All right. All
13 right. So what we'll do is we will do a May 12
14 pre-hearing order for contested hearing.

15 And, Ms. Hardy, once you do file your,
16 you know, the usual, please let us know so we can
17 consolidate.

18 MS. HARDY: Yes, thank you. I will do
19 that.

20 THE HEARING EXAMINER: Now, would the
21 parties think maybe an April, and I'm not saying you
22 need to, but would the parties want an April status
23 conference or do you want just advise the Division if
24 things change?

25 MR. SUAZO: I think I'd be okay with an

1 April status conference. If anything changes,
2 obviously we can update the Division, but I think that
3 could be helpful under the circumstances, especially
4 because we have not yet seen the proposals and
5 applications, and so I think it might be wise to get
6 something on the calendar.

7 THE HEARING EXAMINER: Okay. Ms.
8 Hardy?

9 MS. HARDY: That's fine with me, Mr.
10 Examiner.

11 THE HEARING EXAMINER: All right. All
12 right. So then, Freya, when is the April status
13 conference docket?

14 MS. TSCHANTZ: On April 16th.

15 THE HEARING EXAMINER: April 16. All
16 right, thank you. All right, so, Ms. Hardy, if you
17 would continue these cases to April 16 for a final
18 status conference, we'll issue a pre-hearing order for
19 May 12.

20 MS. HARDY: Thank you. And since these
21 are Mr., these are actually Tap Rock's cases, I
22 suppose they would file the motion for continuance and
23 then we would --

24 THE HEARING EXAMINER: That's what I
25 meant. Thank you.

1 MR. SUAZO: We can do that.

2 THE HEARING EXAMINER: Ms. Hardy,
3 you've had so many cases so far. I'm just used to
4 your filing the continuances, but thank you for
5 correcting me.

6 MS. HARDY: It's a busy day.

7 THE HEARING EXAMINER: I apologize, Mr.
8 Suazo. Anything further, Mr. Suazo?

9 MR. SUAZO: No, Mr. Examiner. Thank
10 you.

11 THE HEARING EXAMINER: All right.
12 We're off the record in those two cases.

13 Let's move on to Powderhorn Operating,
14 25888.

15 MS. HARDY: Mr. Examiner, Dana Hardy
16 with Hardy McLean for Powderhorn.

17 THE HEARING EXAMINER: Thank you.

18 MR. SAYER: Hi, Mr. Examiner. Matthias
19 Sayer on behalf of EOG.

20 THE HEARING EXAMINER: Thank you.

21 MR. SAYER: I should note, we did
22 object to the cases moving forward by affidavit.

23 THE HEARING EXAMINER: And what's your,
24 what's the purpose of the objection?

25 MR. SAYER: EOG, it has a number of

1 concerns, but most prominent is concern about stranded
2 acreage. And that's their primary concern. You know,
3 the secondary concern, they do have a well in the
4 vicinity and so some concern about --

5 THE HEARING EXAMINER: Do you think
6 those concerns could be negotiated?

7 MR. SAYER: Yeah, that is the hope and
8 intent.

9 THE HEARING EXAMINER: Okay. I thought
10 so. All right. Thank you.

11 MS. LUCK: Kaitlyn Luck appearing for
12 Waterloo Resources and WR Non-Op.

13 THE HEARING EXAMINER: Okay. Good
14 morning. Did you object?

15 MS. LUCK: Yes, Mr. Examiner. We
16 objected on the basis that Waterloo did send out
17 competing well proposals. We dismissed our
18 application in the hopes of working out a deal, but
19 there's still concerns that we have about Powderhorn's
20 development plans at this point in time.

21 THE HEARING EXAMINER: So is that
22 something that can be negotiated?

23 MS. LUCK: It's something that Waterloo
24 is continuing to work on currently.

25 THE HEARING EXAMINER: Okay. And then,

1 Ms. Vance?

2 MS. VANCE: Oh, I am so sorry. I did
3 not realize we were already on the Powderhorn case, so
4 my apologies.

5 THE HEARING EXAMINER: We're moving
6 along, Ms. Vance.

7 MS. VANCE: Yeah, moving very quickly,
8 moving at a clip. Okay. So good morning, Mr. Hearing
9 Examiner. Paula Vance with the Santa Fe office of
10 Holland & Hart, on behalf of OXY Y-1 Company. And
11 we've just entered an appearance and just observing
12 for OXY.

13 And then also for MRC Delaware
14 Resources, LLC, and we have entered an appearance and
15 objected. And I did just send Ms. Hardy an email this
16 morning regarding Matador's position, or you know, to
17 provide some color on the objection. So happy to
18 share that if everyone else has gone. Okay.

19 THE HEARING EXAMINER: Yes, please.

20 MS. VANCE: So, okay. So Matador would
21 like to request another status conference. That being
22 said, they, Matador, is preparing counter proposals
23 and they have not sent those out yet, but are planning
24 to do so. So again, the thought is to start with
25 another status conference and see where things go from

1 there. It is my understanding that Matador and
2 Powderhorn have been in discussions and they may need
3 some additional time, so.

4 THE HEARING EXAMINER: Okay. Ms.
5 Hardy?

6 MS. HARDY: Mr. Examiner, Powderhorn
7 controls more than 50 percent of the interest in this
8 acreage and sent out its proposals in November. Would
9 like to proceed with its development, and would
10 request a contested hearing date as soon as possible.

11 THE HEARING EXAMINER: Okay. I'll give
12 you a contested hearing as soon as possible, but with
13 Matador's counter proposals, when will they be sent
14 out, Ms. Vance?

15 MS. VANCE: So my understanding is that
16 they're being prepared right now. Hopefully they
17 would go out, and I can touch base with Matador, but I
18 believe, you know, maybe within the next week or so.
19 Which means even if we sent them out today, we
20 wouldn't be -- the case, their case, would not be ripe
21 until the end of April.

22 So I think that the May 12th date that
23 was previously floated, in terms of contested hearing
24 dates, would be the soonest we'd be ready, or the
25 cases would be, case would be ripe.

1 THE HEARING EXAMINER: And by that
2 point, Powderhorn's case is six months old at that
3 point. And you know, I do get concerned when parties
4 wait that long to send out counter proposals. But you
5 know, I don't have the authority to do anything about
6 that. It's just disappointing.

7 So, Ms. Hardy, if you want, what I can
8 do is issue a pre-hearing order for this case for May
9 12. I don't know what else I can do for you.

10 MS. HARDY: Mr. Examiner, would it be
11 possible, well, just thinking through the dates, I
12 mean, Matador may not need to wait the full 30 days to
13 file its pooling application after it sends the
14 proposals. Seems like that could be an option in
15 terms of a setting in late April. That's one
16 possibility I would raise.

17 THE HEARING EXAMINER: I mean, I can
18 save you a few days by doing that, but it's not, I
19 mean, April 28 is, I guess, two weeks before,
20 approximately. If that would help you out, then I can
21 do April 28 for you and we won't use the full 30 days.

22 Ms. Vance?

23 MS. VANCE: I mean, obviously we would
24 like to make sure that we're fulfilling the
25 requirements under the rules. I do understand there's

1 a little bit of room on the, you know, the time
2 between sending out proposals and filing our
3 application.

4 But you know, again, we're -- I am not
5 sure exactly when our proposals are going to go out.
6 I don't want to, you know, give a false impression
7 here. So our comfort really is with the May 12th
8 date, so.

9 THE HEARING EXAMINER: Well, it's Ms.
10 Hardy's case, as you know. And you know, this case
11 has been filed in November, which means that your
12 client got the proposals a month before,
13 approximately. I'm not sure what the delay is.

14 MS. HARDY: Mr. Examiner, I think I
15 actually have a conflict with the April 28th date. So
16 I could do April 21st or May 12th.

17 MS. VANCE: We definitely would, yeah,
18 the May 12th. We don't want to go the other
19 direction.

20 THE HEARING EXAMINER: Right.

21 MR. SAYER: Mr. Examiner, quick
22 question. Were these filed in November or January?

23 THE HEARING EXAMINER: I don't know.
24 Ms. Hardy said November. I don't know.

25 MS. VANCE: Yeah, I was going to say

1 they were filed May 5th -- or January 5th.

2 MS. HARDY: Right. The proposals, the
3 proposals were sent --

4 THE HEARING EXAMINER: Ah.

5 MS. HARDY: -- application filed in
6 January. That's correct.

7 MR. SAYER: Okay. Because my, just
8 comment on that is, while EOG is not intending to, you
9 know, file proposals, we hoped to have meaningful
10 conversations with Powderhorn, but to date have heard
11 very little from Powderhorn. So for what it's worth,
12 if we're looking at contested cases, we would prefer
13 the May date as well.

14 THE HEARING EXAMINER: Yeah. So, Ms.
15 Hardy, knowing that these were filed just last month
16 makes me feel much better about May 12. So we'll
17 issue a pre-hearing order for May 12. Good luck with
18 the negotiations and the counter proposals.

19 And, Ms. Vance, if you do file
20 applications, please let the Division know so we can
21 consolidate.

22 MS. VANCE: Perfect. Thank you.

23 THE HEARING EXAMINER: You're welcome.
24 We're off the record in that case.

25 Let's move on to Avant Operating,

1 25890.

2 MS. LUCK: Morning, Mr. Examiner.
3 Kaitlyn Luck, appearing for Avant Operating.

4 THE HEARING EXAMINER: Good morning.

5 MR. SAYER: Mr. Examiner, Matthias
6 Sayer on behalf of EOG. And we did file --

7 THE HEARING EXAMINER: Could you tell
8 me of your position?

9 MR. SAYER: Yeah. And we did file an
10 objection.

11 THE HEARING EXAMINER: Okay.

12 MR. SAYER: EOG has concerns. In this
13 case we do have a well in the section and have
14 legitimate concerns about collision. And so would,
15 you know, that's the nature of our objection.

16 THE HEARING EXAMINER: Okay. All
17 right. Ms. Luck, when was this filed?

18 MS. LUCK: Sorry, let me pull it up.
19 This was one that was filed by Ms. Bennett's office.

20 MR. SAYER: Sure.

21 MS. LUCK: It looks like it was filed
22 on January 5th.

23 THE HEARING EXAMINER: January 6th.
24 Perfect. Thank you.

25 MS. LUCK: Excuse me, fifth.

1 THE HEARING EXAMINER: -- how do you
2 want to proceed?

3 MS. LUCK: Avant would like to have a
4 contested hearing scheduled at this point in time. If
5 the April 21st hearing date is available, that would
6 be great. But if there's a later date, that's also
7 fine.

8 THE HEARING EXAMINER: I think the
9 April 21st date is available.

10 Mr. Sayer, does that give your client
11 enough time to negotiate?

12 MR. SAYER: In conversations with my
13 client, they would definitely prefer the May date.

14 THE HEARING EXAMINER: Okay. I do give
15 the applicant the benefit of the doubt when it comes
16 to dates. I guess if your client and Ms. Luck's
17 client, you know, reach an agreement, you can let us
18 know if you need time to reduce that to her writing.
19 But I'm going to honor Ms. Luck's request for April
20 21st at this time.

21 Anything further, Ms. Luck?

22 MS. LUCK: No, thank you.

23 THE HEARING EXAMINER: All right.
24 We're off the record in that case.

25 Let's take a five-minute break before

1 we go on to Chevron USA. We're off the record. Thank
2 you.

3 (Off the record.)

4 THE HEARING EXAMINER: And I'm calling
5 Chevron USA, 25878.

6 MS. BENNETT: Good morning, Mr.
7 Examiner. Deana Bennett on behalf of Chevron USA.

8 THE HEARING EXAMINER: Thank you, Ms.
9 Bennett.

10 MS. HARDY: Mr. Examiner, Dana Hardy on
11 behalf of PBEX and EGL.

12 THE HEARING EXAMINER: Thank you, Ms.
13 Hardy.

14 So we were set for a motion hearing and
15 status conference. And, Ms. Bennett, I assume you're
16 standing in for Mr. DeBrine?

17 MS. BENNETT: I am. Thank you.

18 THE HEARING EXAMINER: All right,
19 perfect. Did you receive the order that was issued?

20 MS. BENNETT: I did. Thank you very
21 much.

22 THE HEARING EXAMINER: All right.
23 Okay. So I'd like to set this for an evidentiary
24 hearing. And as it is your case, Ms. Bennett, when
25 would you like to do that?

1 MS. BENNETT: Thank you. I saw that
2 the proposed dates are March 24th and April 21st. And
3 I've emailed Chevron about both of those dates and
4 I've heard back from one person on the team, but not
5 the full team yet, that either of those dates work.

6 But I still do need to hear back from
7 the whole team. So I just sent another email, hoping
8 to get more information for you. But as of this
9 particular moment, both dates appear to work for
10 Chevron.

11 THE HEARING EXAMINER: All right. And,
12 Ms. Hardy?

13 MS. HARDY: Mr. Examiner, we are going
14 to need to conduct discovery.

15 THE HEARING EXAMINER: Okay.

16 MS. HARDY: -- need to subpoena from
17 Chevron based on --

18 THE HEARING EXAMINER: Okay.

19 MS. HARDY: -- well proposals they've
20 received under orders for the past three years,
21 proposals sent out for the past three years. We may
22 need to take depositions. So I think they're saying
23 they didn't understand they needed to pay well costs.
24 I think that's fair game, given the issues they've
25 raised and they submitted additional documents with

1 their response that we haven't seen before.

2 So I think that's going to be critical,
3 given the issues in this case. So once we receive
4 that information, I would like to file a motion for
5 summary judgment on waiver, because I think that by
6 electing to participate, they waived arguments
7 regarding estimated well cost and the proposal letter.

8 And I know the Division issued an order
9 yesterday in an XTO case, denying reopening a case on
10 the ground electing to participate was a waiver of
11 hearing notice. So at least that's my understanding
12 and part of that ruling. So if that's the case, then
13 certainly electing to participate under a proposal
14 letter -- any objection to -- and so that's another
15 legal motion I would like to file.

16 And I think it's important for the
17 Division because the implications in this case are
18 really significant. I think, you know, allowing
19 operators to reopen pooling orders because they failed
20 to elect to participate -- because they, once they've
21 elected to participate and then just didn't pay their
22 well cost, that's a slippery slope that's going to
23 involve many, many, many pooling orders.

24 So I think it needs to be thoroughly
25 vetted and considered by the Division. And so I would

1 request at the earliest, a contested hearing on the
2 May 12th docket.

3 THE HEARING EXAMINER: So let me think
4 about what you've said, before I go back to Ms.
5 Bennett. In the order that was issued yesterday in
6 the XTO Riley matters, three of the four, the issue
7 was notice and whether sufficient notice was given to
8 XTO.

9 And I found that it had been, in part
10 based on the election, but that wasn't the critical
11 issue for me. It was part of the issue, but it wasn't
12 the critical issue for me.

13 I see this case as a different case, as
14 all cases are different based on the facts, and we
15 don't know a lot of the facts yet. What we do know is
16 that I believe, I agree with Chevron that it has
17 standing to move forward with the case to a contested
18 hearing.

19 Now you're talking about additional
20 discovery and depositions. And I want to, I think
21 it's important for us to agree on what are the issues
22 to be heard at the contested hearing. Maybe today is
23 not the day for that. If there is going to be a
24 full-blown argument about the issues at the hearing, I
25 think we need to do this at a later date after the

1 parties discuss things a little further.

2 Ms. Bennett, that's my thinking so far.
3 What do you have to say?

4 MS. BENNETT: Thank you, Mr. Examiner.
5 I, obviously I disagree with Ms. Hardy that additional
6 discovery is required. This is about a issue between
7 Chevron and PBEX. And PBEX and EGL have plenty of
8 examples, I'm sure, of proposal letters that they
9 could refer to without undertaking additional
10 discovery.

11 But I do agree with you that at this
12 particular moment, either we should set a contested
13 hearing on the dates that you proposed or we should
14 come back for a status conference on March 19th after
15 Ms. Hardy and we have had a chance to outline the
16 issues and then set a contested hearing date for that.

17 I would strongly disagree to any
18 further motion practice, though. Ms. Hardy or PBEX
19 had its opportunity to challenge Chevron's ability to
20 proceed in this case, and they have not done so other
21 than to challenge Chevron's standing. And this seems
22 like if we're caught in a loop of motion practice,
23 we're never going to get to the fundamental issues
24 here.

25 And whether waiver occurred or not,

1 which I disagree with, can be an issue that's
2 addressed at the, at the hearing on the merits. So
3 bottom line, I think we should either set it for a
4 contested hearing today, or as a approach to
5 streamline the issues for the Division, set it for a
6 status conference on March 19th with this contested
7 hearing to come shortly thereafter.

8 THE HEARING EXAMINER: So what I'd like
9 to do is this. I think it's fundamental to understand
10 what the issues are moving forward. I thought I
11 understood the issues, Ms. Hardy, but I'm not sure I
12 do after what you said a moment ago. And I want both
13 parties to have a full and fair opportunity to present
14 their case.

15 That's the part of the rationale behind
16 the argument, behind the case law that supports
17 standing for Chevron. But it's also, you know, I
18 don't want to cut off Ms. Hardy's ability to present a
19 full and fair case.

20 So that being said, I don't want to
21 wait until March 19 to understand the issues. I
22 should understand the issues now, or in the very near
23 future, because if I understand the issues more
24 clearly and if parties are able to agree on the
25 issues, then discovery or any additional discovery

1 will be self-evident and will be easy and we don't
2 have to fight over and every little thing in
3 discovery.

4 So here's what I'd like to do. I want
5 to look at a calendar now, and with Freya's help and
6 Ms. Hardy and Ms. Bennett, I want to set a, we can
7 call it a status conference, that's fine, or a
8 scheduling conference. Maybe we'll call it a
9 scheduling conference. Where we can lay out the
10 timeline between the resolution of the issues to the
11 contested hearing. So let's call it a scheduling
12 conference.

13 And I want the parties to have time to
14 talk amongst themselves as well. I think that's the
15 best way to get to a resolution on at least the
16 issues. When would be the soonest date, I'm going to
17 go with you, Ms. Bennett, because it's your case and I
18 know you want to hearing sooner than later, when is
19 the soonest you feel like the parties can confer on
20 the issues alone and possibly discovery, the scope of
21 discovery. What date can we come back for a
22 scheduling conference?

23 MS. BENNETT: Would March 9th be a
24 possibility?

25 THE HEARING EXAMINER: Well, the

1 10th -- no. March 9th. March 9th is difficult for
2 me, but I would be willing to do it because I think
3 this case needs to move forward.

4 Ms. Hardy, March 9, does that work for
5 you?

6 MS. HARDY: That would work for me, or
7 we could do it on March 10th because we do have the
8 contested hearing docket on March 10th. I have a case
9 on that docket, so I will be present.

10 THE HEARING EXAMINER: Ms. Bennett,
11 does that work for you, Ms. Bennett?

12 MS. BENNETT: Yes. March 10th is
13 totally fine. I was just trying to pick a date --

14 THE HEARING EXAMINER: Perfect.

15 MS. BENNETT: -- that was far enough
16 out but was not too far out.

17 THE HEARING EXAMINER: Okay. So we're
18 going to hold a scheduling conference March 10. We're
19 going to do it at the very beginning. It's going to
20 be the first case that we hear that day, because I
21 don't expect that it's going to take very long to at
22 least understand the issues for the contested hearing
23 and then any additional discovery that the parties
24 feel like they need.

25 Now whether they need a subpoena or

1 not, we don't know yet. But at least let's agree on
2 what the issues are moving forward. So, Ms. Bennett,
3 it is your case. Please continue it.

4 Now I don't know, Freya, do you -- no,
5 we already have a docket that day, March 10. So it's
6 easy to continue it to that day.

7 MS. BENNETT: Sounds good. I'll do
8 that.

9 THE HEARING EXAMINER: All right,
10 sounds good.

11 Ms. Hardy, does that work for you?

12 MS. HARDY: It does. And, Mr.
13 Examiner, I was planning to send out a subpoena
14 request to, well, I would submit it, of course, to the
15 Division and then to Chevron next week. So I just
16 wanted to mention that. I could wait until the status
17 conference.

18 THE HEARING EXAMINER: I think it'd be
19 helpful, Ms. Hardy, because by narrowing down the
20 issues at the hearing, it also narrows down the
21 discovery that's necessary.

22 MS. HARDY: Okay. Thank you.

23 THE HEARING EXAMINER: Anything else,
24 Ms. Hardy?

25 MS. HARDY: No, thank you.

1 THE HEARING EXAMINER: Okay. Anything
2 else, Ms. Bennett?

3 MS. BENNETT: No, thank you very much.

4 THE HEARING EXAMINER: All right,
5 sounds good. Well, thank you, both. We're off the
6 record in that case.

7 Let's move on to the WPX Energy Permian
8 cases. We have John Garcia, who is our technical
9 examiner today. These are case numbers 25893, 96, 97.

10 MR. ZIMSKY: Yes, Your Honor. William
11 Zimsky with Abadie & Schill, on behalf of WPX Energy
12 Permian, LLC.

13 THE HEARING EXAMINER: Good morning,
14 Mr. Zimsky. Please proceed.

15 MR. ZIMSKY: Yes. Today with me are
16 WPX's landman, Tim Prout, who has testified previously
17 before the Division. His credentials have been
18 accepted as an expert witness in petroleum land
19 matters. Also with me is WPX's geologist, Russell
20 Goodin, who has testified previously before the
21 Division as an expert witness in geology, and his
22 credentials have been accepted as a matter of record.

23 In case number 25893, WPX seeks a
24 pooling order for all uncommitted interest in the Bone
25 Spring Formation, designated as an oil pool,

1 underlying a standard 430.41 acre, more or less,
2 spacing unit comprised of the east half of Sections 26
3 and 35 Township 26 South, Range 29 East in Eddy
4 County. The unit will be dedicated to the Steel
5 Guitar 26-35 Fed COM wells as three initial wells.

6 Now, WPX previously pulled and received
7 a pooling order for the proposed horizontal spacing
8 unit in case number 25611. And WPX is now seeking a
9 new pooling order to supplement and replace order
10 number 24068. WPX has changed its development plan to
11 propose two U-turn wells, the 324H and the 334H, in
12 addition to the standard lateral for the 333H well.

13 In case number 25611, WPX proposed the
14 324H, the 325H, the 333H, the 334H, and the 335H
15 wells. In this case, the 333H well is essentially the
16 same as the 333H well proposed in case number 25611.

17 The new well, the new one U-turn well,
18 is the 324H U-turn well in this case. And that
19 replaces the 324H well and the 325H well proposed in
20 case number 25611. And the new 334 U-turn well
21 replaces the 334H and the 335H also proposed in case
22 number 25611.

23 Orientation of the wells and unit are
24 standup north to south. Now the location of the steel
25 guitar 333H well is non-standard. The division has

1 approved the non-standard location for this well on
2 January 26, 2026, by administrative order NSL9175.

3 Mr. Prout's Exhibit A for this case
4 includes his landman self-affirmed statement, three
5 C102 forms in ownership breakdown. Well proposed
6 letter with AFE, the chronology of contacts, and the
7 notice provided to the uncommitted owners.

8 Mr. Goodins's Exhibit B for this case
9 includes his self-affirmed statement along with five
10 standard geology exhibits showing the potential for
11 development of the unit as described in his statement.

12 Exhibit C provides the -- my
13 self-affirmed statement for notice of mailings and
14 publication notice. Notice was timely mailed on
15 January 13, 2026. Notice by publication was timely
16 published by, on January 15, 2026 to account for any
17 unforeseen circumstances.

18 We did amend the hearing packet to send
19 out letters to seven parties who had not received them
20 when this case was first scheduled. And we amended
21 the landman statement to refer to exhibit, revised
22 amended Exhibits A-2 and A-5. Amended Exhibit A-2
23 updates the addresses of the seven parties. Amended
24 Exhibit A-5 states the notice that is originally
25 mailed on January 13, 2026, were again mailed on

1 February 10, 2026, to seven parties with updated
2 addresses and to one party whose letter was lost in
3 the mail.

4 And the amended Exhibit C reflects that
5 same information. Amended Exhibit C-2 includes
6 information on the second notice hearing mailed to the
7 seven parties with updated addresses and the one party
8 whose letter had been lost.

9 At this time, I move for that Exhibits
10 A, B, and C and all sub exhibits be admitted into the
11 record for case 25893 and that the case be taken under
12 advisement. Myself and the witnesses are available
13 for questions. Thank you.

14 THE HEARING EXAMINER: Admitted without
15 exception.

16 (Case 25893 Exhibits WPX Amended A,
17 A-1, Amended A-2, A-3, A-4, Amended
18 A-5, B, B-1 through B-5, Amended C,
19 C-1, Amended C-2, and C-3 were marked
20 for identification and received into
21 evidence.)

22 THE HEARING EXAMINER: Mr. Garcia, do
23 you have questions for any of the witnesses?

24 MR. GARCIA: No questions.

25 THE HEARING EXAMINER: Okay. Can we

1 take them under advisement?

2 MR. GARCIA: We can.

3 THE HEARING EXAMINER: Thank you, Mr.
4 Zimsky.

5 MR. ZIMSKY: Okay. Now in case 25896,
6 WPX seeks an order pulling all uncommitted interest in
7 the Wolfcamp Formation designated as a gas pool --

8 THE HEARING EXAMINER: Mr. Zimsky?

9 MR. ZIMSKY: Yes.

10 THE HEARING EXAMINER: Let me interrupt
11 you just for a moment. I'm admitting all exhibits in
12 all three cases into evidence. I'm going to ask Mr.
13 Garcia.

14 (Case 25896 Exhibits WPX Amended A,
15 A-1, Amended A-2, A-3, A-4, Amended
16 A-5, B, B-1 through B-5, Amended C,
17 C-1, Amended C-2, and C-3 were marked
18 for identification and received into
19 evidence.)

20 (Case 25897 Exhibits WPX Amended A,
21 A-1, Amended A-2, A-3, A-4, Amended
22 A-5, B, B-1 through B-5, Amended C,
23 C-1, Amended C-2, and C-3 were marked
24 for identification and received into
25 evidence.)

1 THE HEARING EXAMINER: Mr. Garcia, do
2 you have any questions on any of the three cases?

3 MR. GARCIA: I do not.

4 THE HEARING EXAMINER: That's what I
5 thought. So, Mr. Zimsky, all three cases are taken
6 under advisement.

7 MR. ZIMSKY: Okay. Mr. Hearing
8 Examiner, WPX is trying to get these wells drilled as
9 quickly as possible. I think that's in the OCD public
10 policy to produce oil and gas as, you know, as quickly
11 as possible. They have the rig scheduled for March
12 20th.

13 And I would ask the indulgence of the
14 Division, I know you have, you guys are slammed and
15 you're very busy, but it would be really appreciated
16 if this, these orders, could issue, since we've
17 already had the orders issued previously, that they
18 could be issued a little bit more expeditiously than
19 normal. And I understand, you know, I'm begging the
20 indulgence of the Division in this request.

21 THE HEARING EXAMINER: All right, Mr.
22 Zimsky, we'll take it under advisement.

23 MR. ZIMSKY: Thank you.

24 THE HEARING EXAMINER: Thank you, sir.
25 We're off the record in those three cases.

1 Let's go to Admiral Permian Operating,
2 25709.

3 MS. HARDY: Mr. Examiner, Dana Hardy
4 for Admiral.

5 THE HEARING EXAMINER: Thank you.

6 MS. VANCE: Good morning, Mr. Hearing
7 Examiner. Paula Vance with the Santa Fe office of
8 Holland & Hart, on behalf of MRC Permian Company. And
9 we are just monitoring. We previously had an
10 objection in one of the cases, well, both of the
11 cases, and we have since withdrawn those.

12 THE HEARING EXAMINER: Okay. Thank
13 you, Ms. Vance.

14 MS. HATLEY: Good morning, Mr.
15 Examiner. Keri Hatley entering her appearance on
16 behalf of ConocoPhillips. Monitoring only.

17 THE HEARING EXAMINER: Perfect. Thank
18 you, Ms. Hatley.

19 Okay, Ms. Hardy. Go right ahead.

20 MS. HARDY: Thank you. This case was
21 heard on the February 5th docket and we're back for
22 supplemental information. We did file that timely,
23 and unless there are questions, I would request that
24 our supplemental exhibits be admitted into the record
25 and that the case be taken under advisement.

1 THE HEARING EXAMINER: Perfect. Thank
2 you, Ms. Hardy. Your exhibits are admitted without
3 exception. And I know Mr. Garcia has questions. I'm
4 not sure which witness.

5 MR. GARCIA: The landman.

6 THE HEARING EXAMINER: Landman. Ms.
7 Hardy, would you call your landman?

8 MS. HARDY: Yes. Let me see if Mr.
9 Hall, Mr. Hall is traveling and so if he's not, I
10 don't know if he's available or if he's on. If he's
11 not, we have Travis Hut [ph].

12 MR. HALL: Dana.

13 THE HEARING EXAMINER: Are you on, Mr.
14 Hall?

15 MR. HALL: Dana, I'm available. I'm
16 just at baggage claim, but I'm in quiet place. I just
17 can't turn my video on, if that's okay.

18 THE HEARING EXAMINER: Perfect. So,
19 Mr. Hall, would you virtually raise your right hand?

20 MR. HALL: Yes.

21 WHEREUPON,

22 HUNTER HALL,
23 called as a witness and having been first duly sworn
24 to tell the truth, the whole truth, and nothing but
25 the truth, was examined and testified as follows:

1 THE HEARING EXAMINER: All right,
2 perfect. Mr. Hall, have you been previously qualified
3 by this Division as an expert?

4 MR. HALL: I have.

5 THE HEARING EXAMINER: In what field?

6 MR. HALL: Petroleum land matters.

7 THE HEARING EXAMINER: All right,
8 perfect.

9 Mr. Garcia?

10 MR. GARCIA: Good morning, Hunter. I
11 was looking at your Exhibit A-7, which is PDF page 38,
12 and I noticed Anthracite wasn't provided notice. You
13 have them marked as committed, and executed election
14 letter is the reasoning. I was curious why they
15 weren't noticed, but other parties who have the
16 similar statuses were provided notice.

17 MR. HALL: I'm -- I'm unsure. Dana, we
18 might check if -- if that notice didn't go out. But
19 we've -- we've had dialogues with Anthracite, you
20 know, prior to this hearing. And since they've
21 executed elections, I think that we would assume that
22 that's sufficient notice, but unsure.

23 MR. GARCIA: Yeah, because like
24 Traverse Exploration has similar status, but they were
25 given notice. I guess that leads me to my second

1 question, is could you explain how an executed
2 election letter would waive their right to notice?
3 Like typically OCD accepts JOAs as waiving rights, but
4 how would an election letter do that?

5 MR. HALL: I think for the most part we
6 just consider them a committed party. They -- both of
7 those parties own working interest in multiple other
8 projects with us, and we have no concern about them
9 executing the JOA, nor are we -- nor are we compulsory
10 pulling their interest in this hearing.

11 So I'm -- I'm unsure if there's any
12 necessary damage that would occur. If -- if we didn't
13 properly notice them I, again, I would defer to Ms.
14 Hardy on our notices.

15 MR. GARCIA: Okay. Anthracite's aware
16 of this hearing then, to your knowledge?

17 MR. HALL: They are.

18 MR. GARCIA: And then the last question
19 I had on the same exhibit is ConocoPhillips, you have
20 them listed as committed, and it says type of
21 commitment, it's N/A, not applicable.

22 Do you know how they committed?

23 MR. HALL: They have verbally expressed
24 support. We are not -- we are not pooling their
25 interest as -- as a part of this hearing, as we

1 continue to work on either executing a JOA or a
2 transaction. But we're -- we're not pooling them for
3 that reason.

4 MR. GARCIA: I see they --

5 MR. HALL: We list -- we list them as
6 committed, but it is administrative in the sense of
7 we're not -- we're not pooling them on the pooled
8 party list.

9 MR. GARCIA: Okay. I believe that's
10 all my questions.

11 THE HEARING EXAMINER: All right, thank
12 you, Mr. Garcia.

13 Ms. Hardy, was there any redirect?

14 MS. HARDY: No. I just wanted to
15 clarify that the Division has required notice to
16 uncommitted parties. And so if parties are listed as
17 committed, it's my understanding under the rules that
18 they are not required to be noticed.

19 MR. GARCIA: I agree. But it depends
20 on how they're being committed, I would say.

21 THE HEARING EXAMINER: Well, let's end
22 that discussion here. Can this case be taken under
23 advisement?

24 MR. GARCIA: It can.

25 THE HEARING EXAMINER: All right,

1 wonderful. So thank you, Ms. Hardy.

2 Thank you, Mr. Hall.

3 MS. HARDY: Thank you.

4 THE HEARING EXAMINER: Happy trails
5 wherever you're headed.

6 MR. HALL: Thank you for understanding.

7 THE HEARING EXAMINER: Of course. I'm
8 going to recall some cases that we called earlier
9 before we hit these NOV's. This is Mewbourne Oil, case
10 25746. We had Ms. Hardy, Ms. Bennett, and Ms. Hatley,
11 and we were dealing with a pre-hearing order date.

12 MS. HARDY: And, Mr. Examiner, thank
13 you. I did consult with Mewbourne and with Ms.
14 Bennett, and our clients consulted with each other.
15 And we are fine to set this case for another status
16 conference on March 19th.

17 THE HEARING EXAMINER: Okay. But this
18 case is getting old. So when are we setting it for a
19 contested hearing?

20 MS. HARDY: Well, I think we could set
21 it for a hearing in April if the Division wants to set
22 a contested hearing, but I think the parties are okay
23 with setting just another status conference.

24 THE HEARING EXAMINER: Can you tell me
25 the date this case was filed?

1 MS. HARDY: Yes. It was filed in
2 December, late December.

3 THE HEARING EXAMINER: Okay. All
4 right. So, Ms. Hardy, I'll honor your request, but
5 it'll be a final status conference.

6 MS. HARDY: Understood. Thank you.

7 THE HEARING EXAMINER: So, Freya, will
8 you put a note in the hearing module that this will be
9 a final status conference?

10 MS. TSCHANTZ: I will.

11 THE HEARING EXAMINER: All right.
12 Thank you.

13 And, Ms. Hardy, you do have dates.
14 We've talked about many dates in April and May for a
15 contested hearing. So please be prepared to give me a
16 date that your client is available.

17 And, Ms. Bennett, obviously I think you
18 were consulting with your client as well?

19 MS. BENNETT: Yes, I was. And they
20 agree that a March 19th status conference is the best
21 path forward.

22 THE HEARING EXAMINER: Great. Then
23 that's what we'll do. Thank you. I'm going to now,
24 we're off the record in that case.

25 I'm going to recall Mewbourne Oil

1 cases, these are Mr. Bruce's case, 25851 and 52.

2 MR. HOLLIDAY: Good morning, Mr.
3 Examiner. Ben Holliday on behalf of COG and Concho
4 Oil and Gas.

5 THE HEARING EXAMINER: Okay. Mr.
6 Holliday, Mr. Bruce, did you work out a date?

7 MR. HOLLIDAY: I'm not sure that he's
8 still on. I have not spoken to Mr. Bruce, but I did
9 confirm with COG Concho that the April 28th date will
10 work. If Mr. Bruce is still agreeable to it,
11 obviously.

12 THE HEARING EXAMINER: Right. Thank
13 you, Mr. Holliday.

14 Mr. Bruce, are you there?

15 Freya, can you call Mr. Bruce?

16 MS. TSCHANTZ: I can.

17 THE HEARING EXAMINER: Can you call Mr.
18 Bruce and we'll come back with him on the line?

19 MS. TSCHANTZ: Okay.

20 THE HEARING EXAMINER: I want him to
21 agree to the April 28th date or not so that we can
22 issue a pre-hearing order. So we're still in recess
23 on these two cases. Thank you, Mr. Holliday. We'll
24 see if that date works for Mr. Bruce.

25 Let's call the first of the two Oil

1 Conservation Division's NOV cases. This is 258, let's
2 go with 25895 because I believe the parties want to
3 continue this case. This is number 26 on our docket.

4 MR. TREMAINE: Thank you, Mr. Hearing
5 Examiner. This is Jesse Tremaine for the Oil
6 Conservation Division. That was going to be my
7 recommendation as well.

8 THE HEARING EXAMINER: Okay. Where is
9 the other party?

10 MR. LYON: Good morning, Mr. Examiner.
11 Frank Lyon for Grand Banks Energy.

12 THE HEARING EXAMINER: I see you, Mr.
13 Lyon.

14 MR. LYON: Oh, yes. I mean, I agree
15 with Mr. Tremaine. Yes, we're here to ask for a
16 continuance so --

17 THE HEARING EXAMINER: So, Mr. Lyon,
18 can you first, well first of all, it's very hard to
19 hear you, so you may have to yell, I don't know. But
20 would you please enter an appearance?

21 MR. LYON: Oh, yes. Frank Lyon for
22 Grand Banks Energy.

23 THE HEARING EXAMINER: Okay, perfect.
24 So, Mr. Lyon, since you are representing the
25 respondent in this case, what is your desire?

1 MR. LYON: Our request is to continue
2 this for a short period of time so that we can
3 finalize the terms of the settlement that Mr. Tremaine
4 and I have worked out.

5 THE HEARING EXAMINER: Okay. So you
6 have an agreement in principle?

7 MR. LYON: We do.

8 THE HEARING EXAMINER: All right. Mr.
9 Tremaine, does that accurately reflect the situation?

10 MR. TREMAINE: That is correct. I
11 agree with everything that Mr. Lyon stated. I would
12 make one note, which is that we have an agreement in
13 principle and have agreed to the continuance. I put
14 in the motion to continue, proposed a specific date.
15 Did that very late in the day yesterday, because of
16 the intent to request a short continuance. I did not
17 specifically request availability of Mr. Lyon and his
18 client for March 12th. It's just an initial proposal,
19 so.

20 THE HEARING EXAMINER: All right. Mr.
21 Lyon, does March 12th work for you in case you don't
22 iron out an agreement?

23 MR. LYON: It does. I was just double
24 checking my calendar. It does, yes.

25 THE HEARING EXAMINER: All right. Mr.

1 Lyon, do you anticipate presenting witnesses?

2 MR. LYON: If I do, it'll be very short
3 and just one person.

4 THE HEARING EXAMINER: One person.
5 Okay. Would that be the respondent?

6 MR. LYON: That would be a
7 representative from Grand Banks, yes.

8 THE HEARING EXAMINER: All right,
9 perfect. Mr. Lyon, what is the issue in this case?

10 MR. LYON: These notices of violations
11 involve some of the wells that Grand Banks operates,
12 but there are other remediation issues pending. And
13 basically the issue here is that Grand Banks doesn't
14 have the money to pay for all the remediation.

15 And what we have talked about is having
16 Grand Banks basically tender all the money that it has
17 after payment of some taxes and things that need to be
18 paid, and agreeing that the wells, that Grand Banks
19 will give up its right to serve, to be an operator.

20 THE HEARING EXAMINER: I see. Okay,
21 Mr. Lyon.

22 And, Mr. Tremaine, it sounds like March
23 12 will work if you are not able to get an agreement
24 in writing in place.

25 MR. TREMAINE: Yes, that is correct.

1 That's the date we proposed. We will be ready to
2 proceed if it goes to hearing on that date and rely on
3 the previously filed pre-hearing statement and witness
4 list.

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

7 MR. TREMAINE: Three.

8 THE HEARING EXAMINER: Three witnesses.
9 All right.

10 Okay. Mr. Lyons, anything else?

11 MR. LYON: No, sir.

12 THE HEARING EXAMINER: All right.
13 Well, good luck, Mr. Lyon, in coming to a final signed
14 agreement.

15 Mr. Tremaine, anything further in this
16 case?

17 MR. TREMAINE: Nothing further. I will
18 follow up with, assuming we execute a settlement
19 agreement, with a motion to dismiss the case and
20 submit a copy of the settlement agreement.

21 THE HEARING EXAMINER: Perfect. All
22 right. Okay. And I know I didn't see your motion and
23 proposed order before the hearing, but I'll sign the
24 order after the hearing and we'll enter it into the
25 record. And Freya will move this case to the March 12

1 docket just to hold its place. We're off the record
2 in this case.

3 Let's move on to, now I saw a little
4 message here, so hold on a minute. Let me check the
5 messages here. All right. So let me recall case
6 numbers 25851 and 52. Mr. Holliday, we got a message
7 from Mr. Bruce that April 28 does work for him as
8 well.

9 MR. HOLLIDAY: Perfect.

10 THE HEARING EXAMINER: All right. So
11 we will issue a pre-hearing order for April 28, and
12 it's up to Mr. Bruce if he wants to continue these two
13 cases for another status conference. But otherwise,
14 we'll be prepared on April 28th.

15 MR. HOLLIDAY: Yes, sir, thank you.

16 THE HEARING EXAMINER: Okay, thank you.

17 All right. Now let's move on to the
18 second notice of violation issued by the Oil
19 Conservation Division in case number 25894 with
20 Respondent Buckeye Disposal. Enter your appearance,
21 please.

22 MR. TREMAINE: Mr. Hearing Officer,
23 this is Jesse Tremaine for the Oil Conservation
24 Division.

25 THE HEARING EXAMINER: Thank you.

1 MR. MOELLENBERG: Mr. Hearing Examiner,
2 this is Dal Moellenberg, on behalf of Buckeye
3 Disposal.

4 THE HEARING EXAMINER: Mr. Moellenberg,
5 I think you were sitting behind me on the way to
6 Dallas last week.

7 MR. MOELLENBERG: That could have been,
8 I was -- Saturday, perhaps?

9 THE HEARING EXAMINER: No, it was
10 Wednesday. You were traveling to Tampa. I happened
11 to overhear.

12 MR. MOELLENBERG: Oh, oh, okay.
13 Actually, that was my neighbor in the seat that was
14 traveling to Tampa. I was traveling to New York City
15 and was lucky to get out of there on Saturday.

16 THE HEARING EXAMINER: All right.
17 Well, I heard what sounded like it was you behind me
18 and I didn't introduce myself, but I thought I would
19 mention it. Okay. So, Mr. --

20 MR. MOELLENBERG: Well, I should have
21 recognized you.

22 THE HEARING EXAMINER: So, Mr.
23 Moellenberg, who are you representing?

24 MR. MOELLENBERG: Mr. Hearing Examiner,
25 I'm here on behalf of Buckeye Disposal.

1 THE HEARING EXAMINER: All right,
2 perfect. And are you prepared to move forward with
3 the merits hearing?

4 MR. MOELLENBERG: Yes. Yes, we are. I
5 think we probably would be interested in seeing if we
6 can get to some resolution afterward, but I think
7 we're prepared to go ahead with the merits hearing and
8 we'll deal with that after, after this concludes.

9 THE HEARING EXAMINER: All right. And
10 how many witnesses will you have?

11 MR. MOELLENBERG: We do not have any
12 witnesses. I'm just here to ask some questions of the
13 Division's witnesses.

14 THE HEARING EXAMINER: Perfect. Okay.
15 I'm going to give Mr. Tremaine an opportunity to
16 provide a brief opening statement so that I can
17 understand the issues in the case. Are you going to
18 want to also make an opening statement?

19 MR. MOELLENBERG: I can make a very
20 brief opening statement if it pleases you. Thank you.

21 THE HEARING EXAMINER: All right. Mr.
22 Tremaine, it's your case. Would you tell me how many
23 witnesses do you have?

24 MR. GARCIA: We have three witnesses,
25 and for the most part my opening will be a roadmap of

1 how we intend to present them. This is the first,
2 part 29 release notice of violation that we've taken a
3 hearing. All of our others have settled.

4 So our first witness, Mr. Smith, is
5 going to basically provide a part 29 requirements
6 roadmap and 101 course. Our primary witness is
7 Brittany Hall, and she will present, you know, the
8 factual basis and the allegations in the NOV and civil
9 penalty calculator primarily.

10 And bating cleanup is Rosa Romero, our
11 environmental bureau chief. He's going to talk about
12 the informal resolution process, and to a minimal
13 extent, and OCD's positions and decision making
14 process regarding which violations were alleged,
15 decisions regarding the civil penalty calculation, et
16 cetera.

17 So I think Mr. Smith may go about half
18 an hour. Ms. Hall could be, I'm hoping less than an
19 hour, but depending on questions that could go quite
20 long. These are long fact patterns. Just historical
21 releases, et cetera. And then Ms. Romero should be
22 fairly short.

23 I would just note in terms of, just as
24 a matter of courtesy, I know that Mr. Moellenberg was
25 in Pecos Hall in the other matter this morning and is

1 in transit back to his office. So I'm flexible in
2 terms of timing of starting the hearing to facilitate
3 that, his participation. But we're prepared to
4 proceed as the hearing officer wishes.

5 THE HEARING EXAMINER: All right.

6 MR. MOELLENBERG: Mr. Examiner, just to
7 comment on that, and I was hoping perhaps this would
8 run a little bit shorter and we are occupying Pacos
9 Hall with the Environmental Improvement Board hearing.
10 This has sort of been a worst-case scenario for me in
11 terms of timing.

12 We are actually presenting our
13 witnesses now through my partners, but I'm just trying
14 to think how to deal with that. I'd certainly like to
15 return to that hearing, but I expect that's going to
16 run for another hour, hour and a half.

17 THE HEARING EXAMINER: At least.

18 MR. MOELLENBERG: So yeah.

19 THE HEARING EXAMINER: Yes. I know the
20 rule makings, how they go. Yeah, I'd like to move
21 forward.

22 Now, let me ask you a question, Mr.
23 Tremaine. These three witnesses, Smith, Hall, and
24 Romero, I know Ms. Romero is an employee of the Oil
25 Conservation Division. Is that the same with Smith

1 and Hall?

2 MR. TREMAINE: That's correct. Mr.
3 Smith is the special projects team supervisor. He's
4 an environmental scientist supervisor who reports
5 directly to Ms. Romero. And Ms. Hall is a supervising
6 environmental specialist.

7 THE HEARING EXAMINER: Okay. Now, did
8 you file CVs with their, with your pre-hearing
9 statement?

10 MR. TREMAINE: Yes, we filed a CV for
11 Mr. Smith. We do intend to proffer Mr. Smith as an
12 expert in limited subject matters. Ms. Hall is
13 presented as a fact witness, but we have provided her
14 resume. And Ms. Romero, we've also provided a resume
15 as Exhibit 5.

16 I will, if it's helpful, we elected to
17 file written direct testimony as Exhibit 2 for Mr.
18 Smith, and written direct testimony as Exhibit 4 for
19 Ms. Hall. My intent is to have those witnesses adopt
20 that and then take a more summary approach. Just the
21 scope of the subject matter and needing to make sure
22 we have our bases covered. There's a wide range of
23 how long that presentation and cross-examination could
24 proceed. So that's my conservative approach to the
25 time estimates.

1 THE HEARING EXAMINER: All right. Mr.
2 Moellenberg, have you had a chance to review the
3 exhibits and the pre-hearing statement?

4 MR. MOELLENBERG: Yes, I have, Mr.
5 Hearing Examiner. And I have no objection to the
6 process of admitting the, adopting and admitting the
7 written testimony and shortening the need for the oral
8 hearing, if that's how you would like to go.

9 THE HEARING EXAMINER: That is how I'd
10 like to go, unless Mr. Tremaine objects to that
11 approach. Mr. Tremaine, Mr. Moellenberg has reviewed
12 the full written transcript and maybe a short summary,
13 ten minutes, possibly 15, should do it; don't you
14 think so?

15 MR. TREMAINE: I think I can certainly
16 narrow that down and jump to the meat of the
17 questions. I never know if there's going to be an
18 objection, so we were prepared to go all the way
19 through.

20 THE HEARING EXAMINER: Right.

21 MR. TREMAINE: I think the most
22 important distinction here is, you know, whether there
23 are any exhibits to which Mr. Moellenberg would
24 object. I know he just referenced the direct. It can
25 be quite time intensive to get Ms. Hall to lay the

1 foundation for 20-some exhibits. So if there's no
2 objection to those and the other exhibits can be
3 admitted, that will save us quite a bit of time.

4 THE HEARING EXAMINER: It certainly
5 would.

6 And, Mr. Moellenberg, I know that
7 you're in a car. However, you're parked; aren't you?

8 MR. MOELLENBERG: I am parked. I'm
9 sitting outside of the building here.

10 THE HEARING EXAMINER: Yeah, I figured
11 you were right outside the building, and it's a
12 beautiful day outside. So with the windows open, you
13 should be comfortable. Are there any objections to
14 any of the exhibits that the Oil Conservation Division
15 has filed in this case?

16 MR. MOELLENBERG: No objections.

17 THE HEARING EXAMINER: That's what I
18 thought. Mr. Tremaine, all your exhibits are admitted
19 into evidence.

20 (Case 25894 Exhibits OCD 1 through 28
21 were marked for identification and
22 received into evidence.)

23 THE HEARING EXAMINER: The only thing I
24 would like to hear from your witnesses is that they
25 adopt them under oath, and if there are any

1 corrections that need to be made, I'd like to hear
2 about those corrections upfront. And then maybe a
3 five-minute summary of what they're, what these
4 exhibits are showing, would be helpful to me before we
5 go to cross-examination and then redirect if
6 necessary. So why don't you go right ahead.

7 MR. TREMAINE: Great. Well, we're
8 talking about a notice of violation today that relates
9 to two historical releases initially occurring in 2016
10 and 2018. As we've discussed at some length, the fact
11 patterns are quite extensive. Our OCD exhibit binder
12 as close to 600 pages. We really went belt and
13 suspenders with that. So we're going to be, try to be
14 very circumspect here.

15 But one note real quickly, the OCD
16 ultimately determined after a series of environmental
17 bureau interactions with the operator that an NOV was
18 necessary, and that was issued in November -- sorry,
19 April 3, 2025. Respondent Buckeye was served in
20 accepted receipt of that NOV and the parties have been
21 in informal resolution since April 2025. On and off,
22 primarily technical discussions.

23 We've kept an informal resolution open
24 that long, in hopes that Buckeye would be able to
25 complete the necessary remediation activities. But we

1 have seen a shift in OCD's approach to the NOV around
2 the time of docketing, because in December OCD became
3 informally aware that Buckeye was not expecting to be
4 able to complete the required activity under Part 29,
5 which I believe is now acknowledged formally in
6 Respondent's pre-hearing statement.

7 So given that posture and operator's
8 inability to complete the remediation activities, OCD
9 prepared the presentation today, intends to present
10 those facts, and request an order finding that Buckeye
11 is in violation of the referenced rule sections,
12 imposing the civil penalties as proposed, and granting
13 OCD authority to complete all of the necessary
14 plugging, remediation, and reclamation.

15 That's notable. We usually do not,
16 would not ask for plugging orders on the basis of an
17 environmental remediation violation, but with the
18 awareness that Buckeye expects to be incapable of
19 completing that remediation, that becomes necessary.
20 And OCD would expect as a result of an order or
21 settlement agreement in this case, if that is to
22 happen, that OCD would be utilizing the reclamation
23 fund to complete any plugging and associated
24 remediation reclamation activities. So that is a
25 distinction to make about this and noting the specific

1 both sanctions and remedies requested.

2 With that, I would call Cory Smith as
3 our first witness.

4 THE HEARING EXAMINER: Can we have all
5 three of your witnesses on the screen at the same
6 time? I'm going to get them all sworn in.

7 MR. TREMAINE: I believe all three are
8 available. Is Brittany Hall -- okay. And, Rosa
9 Romero, can you please pop on?

10 MS. ROMERO: I'm here.

11 THE HEARING EXAMINER: Okay. Good
12 morning, Mr. Smith, Ms. Hall, and, Ms. Romero. Would
13 you please raise your right hand?

14 Do you swear or affirm under penalty of
15 perjury that the testimony you're about to give is the
16 truth, the whole truth, and nothing but the truth?

17 MS. ROMERO: I do.

18 MR. SMITH: I do.

19 MS. HALL: I do.

20 THE HEARING EXAMINER: Okay. I heard
21 three I dos.

22 Mr. Smith, would you spell your name?

23 MR. SMITH: Cory Smith, C-O-R-Y,
24 S-M-I-T-H.

25 THE HEARING EXAMINER: Okay. And, Ms.

1 Hall?

2 MS. HALL: Brittany Hall,
3 B-R-I-T-T-A-N-Y, H-A-L-L.

4 THE HEARING EXAMINER: Thank you. And,
5 Ms. Romero?

6 MS. ROMERO: Rosa Romero, R-O-S-A,
7 R-O-M-E-R-O.

8 THE HEARING EXAMINER: Okay, thank you.
9 I'm going to continue now with Mr. Smith.

10 So, Mr. Tremaine, you said you would
11 like to have Mr. Smith qualified as an expert in a
12 certain subject matter. Can you tell me more about
13 that?

14 MR. TREMAINE: Yes. Mr. Smith has
15 extensive experience in the oil and gas field
16 generally as an environmental specialist, and as
17 supervisor of the special projects groups overseeing
18 the work of environmental specialists. So we're
19 offering Mr. Smith as an expert in the areas of
20 administrative implementation of part 29 and the OCD
21 incidents system.

22 Mr. Smith was primarily responsible for
23 structuring a host of updates to that system and is
24 extremely knowledgeable in both the administrative
25 requirements of Part 29, and specifically how

1 operators are expected to and are able to provide
2 updates regarding incidents through OCD's electronic
3 permitting system. That's largely the subject --

4 THE HEARING EXAMINER: Now Mr. --

5 MR. TREMAINE: Go ahead.

6 THE HEARING EXAMINER: Thank you, Mr.
7 Tremaine. Which document am I looking at to find his
8 CV? Because I see three documents filed on the 20th,
9 one on the 19th. Which is it?

10 MR. TREMAINE: I'm not sure about those
11 dates. But in the OCD exhibit binder for this case,
12 Mr. Smith's CV is Exhibit 1.

13 MR. GARCIA: It's the middle, it's the
14 middle image, Gregory. Second from the right.

15 THE HEARING EXAMINER: Thank you.
16 Second from the right. Thank you. Okay, I see it.

17 MR. GARCIA: That's the entire OCD
18 exhibit packet.

19 THE HEARING EXAMINER: Thank you, Mr.
20 Garcia.

21 Okay, Mr. Smith. Let me just review
22 your CV.

23 Mr. Moellenberg, have you seen the CV?

24 MR. MOELLENBERG: Yes, I have, Mr.
25 Hearing Examiner.

1 THE HEARING EXAMINER: Okay. Is there
2 any objection to qualifying him as a limited expert in
3 these fields?

4 MR. MOELLENBERG: No objection.

5 THE HEARING EXAMINER: No objection.
6 All right. I see relevant experience going all the
7 way back to 2004, and I'm not going to go through it.
8 There's no objection to Mr. Smith being admitted as an
9 expert in the fields that Mr. Tremaine just listed.
10 And I see substantial evidence that would lead me to
11 qualify him in any event. So that's granted, Mr.
12 Tremaine.

13 So do you want to go on now with a
14 summary? I do see Mr. Smith's direct testimony in
15 here. He is sworn in. So do you want to go on?

16 MR. TREMAINE: I will. Thank you, Mr.
17 Hearing Officer.

18 WHEREUPON,

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

23 DIRECT EXAMINATION

24 BY MR. TREMAINE:

25 MR. TREMAINE: Mr. Smith, you prepared

1 direct testimony in preparation for this hearing,
2 which is listed as OCD Exhibit Number 2; correct?

3 MR. SMITH: I did.

4 MR. TREMAINE: Today, are there any
5 corrections that are necessary to make to that direct
6 testimony, to the best of your knowledge?

7 MR. SMITH: Not that I'm aware of.

8 MR. TREMAINE: Okay. And do you adopt
9 that written direct testimony as your sworn testimony
10 today?

11 MR. SMITH: I do.

12 MR. TREMAINE: Okay, great. We've
13 already admitted all of the exhibits. So, Mr. Smith,
14 I'm just going to jump right to referencing Exhibit
15 Number 26, 27, and 28. I'm going to take these out of
16 order.

17 And, Mr. Hearing Examiner, I'd like to
18 share screen here. I'm going to share OCD Exhibit
19 Number 27.

20 BY MR. TREMAINE:

21 MR. TREMAINE: Mr. Smith, could you
22 please describe for the hearing examiner and the
23 parties, the information that's contained on this
24 slide and the significance of this information?

25 MR. SMITH: So this is essentially just

1 a visual representation of the incident timeline that
2 generally happens with incidents that are related to
3 Part 29. So moving left to right at the very top,
4 generally speaking, incidents are discovered and
5 they're generated with a date of release or a DOR.

6 And then the first major, the first box
7 there is operators need to make a decision if this is
8 a major or minor release based on volumes, or if the
9 incident is a -- has a fire or potentially a -- and
10 there's a waterway, other hazard, right, so they need
11 to define if it's a major or minor release.

12 Because the difference is, is that if it's a
13 major release, they need to provide notice to the OCD
14 within 24 hours of the date of the discovery. And if
15 it's a minor release, then they just need to fill out
16 the initial C-141 within 15 days.

17 MR. TREMAINE: Mr. Smith, let me
18 interject with a question there. What is the
19 volumetric threshold for a major and minor release
20 respectively?

21 MR. SMITH: So a major release is any
22 release that is more than 25 barrels of a substance,
23 or 500 MCF gases; and a minor release is five barrels
24 and 25 MCF -- or excuse me, 50 MCF.

25 MR. TREMAINE: So please proceed with

1 describing the content of this timeline as it applies
2 to major or minor releases.

3 MR. SMITH: Right. And so what I'm
4 trying to just show here is that there's essentially
5 the first step, the first requirement is that you have
6 to, one, provide notice to OCD either within 24 hours,
7 and then within 15 days by submitting an initial C-
8 141.

9 After that, the operator essentially has two
10 different choices. They have essentially 90 days from
11 the date of discovery to either do the top path, which
12 is a formal delineation. That's where operators
13 perform site delineation vertically and horizontally
14 under 19.15.29.11. And then they submit a remediation
15 plan for review to the OCD.

16 The reason that the bottom right-hand part
17 where it says variable timeframes for both of these
18 steps is because when you submit a formal delineation,
19 you're allowed to ask for additional time. So it's
20 not necessarily just 90 days, but the remediation plan
21 has a requirement that the operator provides the OCD a
22 proposed timeline for approval.

23 If they choose the bottom path, which is
24 generally the path that most operators go for smaller
25 sites, they complete site characterization, they

1 complete the remediation plan, and the remediation
2 within 90 days and submit that to the OCD for
3 approval.

4 Once -- moving left to right, once those are
5 approved and remediation is complete, the next step is
6 site reclamation. That generally involves the,
7 meeting the reclamation requirements of 19.15.29.13,
8 which is in the top four feet. Again, why this is
9 variable is because some parts of a release may not be
10 reclaimed until the -- until the PNA -- or sorry,
11 excuse me, until the well is P&A'd, which could be
12 decades, as we all know, because those areas may be
13 reasonably needed for subsequent drilling or work over
14 activities.

15 Once the site's been reclaimed, the next
16 step is revegetation. Again, the requirement is, is
17 that it's re-vegetated in the next favorable growing
18 season after it's been reclaimed. As you all are
19 aware, we live in the southwest part of the United
20 States, and sometimes the weather is not favorable for
21 growing and it can also take long periods of time. So
22 that is also a variable timeframe.

23 Once the operator completes revegetation,
24 the OCD considers the incident to be restored, and
25 restoration is complete and there's no further action

1 needed.

2 MR. TREMAINE: Okay. Mr. Smith, I've
3 got, oh, sorry, I've got a couple clarifying questions
4 while you're at that. The first, in terms of the
5 timelines, is it fair to summarize that the default
6 deadline to complete a remediation is 90 days?

7 MR. SMITH: Yes.

8 MR. TREMAINE: Okay. And that deadline
9 would apply in the absence of an approved remediation
10 plan submitted by the operator; is that correct?

11 MR. SMITH: Yes.

12 MR. TREMAINE: Okay. And just
13 clarifying here, connecting some terminology, you
14 indicated that a notice may be required for major
15 releases within 24 hours. Is that, in the upper left
16 here, is that what's referred to as an NOR?

17 MR. SMITH: Yes.

18 MR. TREMAINE: Okay. And how is an NOR
19 submitted to the Oil Conservation Division?

20 MR. SMITH: NOR is submitted through
21 the NOR application on the OCD permitting website.

22 MR. TREMAINE: Okay. And the
23 subsequent submission or report notification to OCD
24 for a minor, is that what's referred to here as the
25 initial C-141?

1 MR. SMITH: Yes, sir.

2 MR. TREMAINE: Okay. I just want to
3 make sure we're connecting the dots to the form types.
4 Is that also submitted through the OCD permitting
5 system?

6 MR. SMITH: Yes, sir.

7 MR. TREMAINE: Okay. Any other
8 clarifications that are necessary, in your opinion, on
9 those form types or process?

10 MR. SMITH: Just for Mr. Hearing
11 Examiner, each application that's submitted through
12 OCD permitting gets a unique application ID number and
13 it's displayed in the incident timeline and the
14 incident details.

15 MR. TREMAINE: So, Mr. Smith, jumping
16 forward, as we're talking through this timeline, if
17 OCD were to allege a violation of an initial
18 notification requirement, are we referring to that 24-
19 hour NOR or notice of release?

20 MR. SMITH: Can you repeat your
21 question, Mr. Tremaine?

22 MR. TREMAINE: Yeah so, so in the event
23 that the OCD alleges that an operator violated the
24 requirement to submit a 24-hour notification, is that
25 that notice of release that we just discussed?

1 MR. SMITH: Yes, sir.

2 MR. TREMAINE: Okay. And if OCD
3 alleges a violation that an operator failed to submit
4 a subsequent report of a release, does that refer to
5 the C-141 that we've discussed?

6 MR. SMITH: Yes, sir.

7 MR. TREMAINE: Okay. I jumped in with
8 clarifying questions. Was there any other information
9 that you wanted to share with the hearing officer from
10 this slide?

11 MR. SMITH: The -- the bottom section
12 is just overview of the different statuses, based upon
13 the different type of C-141s that are submitted. So
14 the C-141 has multiple choices, and it's all based
15 upon how the answers, the operator answers the
16 questions, as to what type of C-141 it is.

17 And the bottom boxes down there kind of tell
18 you which one that is and which status those incidents
19 are in as you move left to right.

20 MR. TREMAINE: Great, thank you. I
21 think we've covered that slide, so I will move on to
22 OCD Exhibit Number 28.

23 Mr. Smith, what is OCD Exhibit 28?

24 MR. SMITH: OCD Exhibit 28 is just a
25 PowerPoint, essentially showing the major release

1 notification example that the OCD receives when we --
2 when the operator completes the NOR application. This
3 is just an example of what we see and who it goes to.

4 So it goes to the environmental bureau
5 chief, the incident, environmental incident
6 supervisor. It also goes to the environmental field
7 compliance supervisor. And the major notice, it has
8 the application ID, the operator's OGRID, the incident
9 number, and allows us to quickly follow up if we need
10 to.

11 THE HEARING EXAMINER: Mr. Smith, let
12 me interrupt you for a moment.

13 Mr. Tremaine, I wonder if this wouldn't
14 be more streamlined if we found out what the
15 respondent was challenging. I understand why you're
16 doing this and it's not wrong, but I wonder if we need
17 to spend time on this if the respondent's not
18 challenging.

19 So, Mr. Moellenberg, what part of this
20 case is your client challenging?

21 MR. MOELLENBERG: Thank you, Mr.
22 Hearing Officer. My client's not challenging the
23 overall case. We do think there are some important
24 factors that are involved in terms of the,
25 particularly the penalty assessment, including

1 evidence of historic incidents or releases that
2 preceded the incidents that have led to the NOV,
3 including by prior operators and operators of other
4 facilities in the vicinity.

5 A factor in this particular case is
6 that the State Land Office is involved as the site is
7 under a state lease. So there's sort of two tracks to
8 this matter. There's one issue in particular, I think
9 related to the penalty assessment, which is a period
10 of time where communications were interrupted by the
11 COVID incident. This is a pretty longstanding matter.

12 THE HEARING EXAMINER: So, Mr.
13 Moellenberg, let me interrupt you for a moment.

14 MR. MOELLENBERG: Yes.

15 THE HEARING EXAMINER: I think I
16 understand where you're going here and I think,
17 correct me if I'm wrong, your client is not
18 challenging whether there was a violation. Your
19 client is admitting there was a violation?

20 MR. MOELLENBERG: That's a little bit
21 of a complex question under a complex set of
22 circumstances. So probably sounds like I'm kind of
23 dodging that question.

24 But I would concede that there is
25 evidence that the timelines specified in Part 29 were

1 not met during certain periods. Now of course there
2 is the COVID piece, there's a time where I think the
3 record shows that communications were interrupted, and
4 that does factor into a penalty assessment here, I
5 think, given we're running penalty assessments over
6 some of that timeframe. That's a matter.

7 But the heart of the matter here is, as
8 Mr. Tremaine indicated, Buckeye Disposal for some time
9 attempted to and has done a lot of site
10 characterization work. As sometimes happens with site
11 characterization work, you collect soil samples. That
12 indicates that maybe things are more than were
13 originally anticipated or there are contaminant
14 sources other than the incidents being addressed.

15 And along with that, Buckeye Disposal
16 was submitting proposed remediation plans, which it
17 hoped to have the means to carry out. But essentially
18 as this case progressed, Buckeye no longer has
19 sufficient resources to complete characterization and
20 to conduct remediation within the scope of what the
21 Division believes is necessary.

22 So that's a summary of where we're at.
23 I don't know if that clarified the issues or muddied
24 the waters for you, Mr. Hearing Officer, but that's
25 essentially the narrative that I would present here.

1 THE HEARING EXAMINER: It sounds like
2 what you're saying, and I'm going to go to you in a
3 moment, Mr. Tremaine, I've seen your hand up. It
4 sounds like what you're saying to me, Mr. Moellenberg,
5 is my client's willing to accept a certain amount of
6 responsibility, but we feel like the penalty is too
7 high.

8 MR. MOELLENBERG: I think that's a fair
9 assessment.

10 THE HEARING EXAMINER: Okay. Mr.
11 Tremaine, what were you going to say?

12 MR. TREMAINE: Well, I was going to say
13 that, yeah, without knowing ahead of time that,
14 whether there was a dispute regarding the specific
15 timelines, because these various timelines attached
16 all the way back to 2018, we've prepared this
17 presentation. If that's not necessary, I can move on.

18 Ms. Hall can talk to, can, is able to
19 speak to the particular status of site
20 characterization work, incident statuses at those two
21 sites. We're going to use both her and Ms. Romero to
22 talk about the civil penalty calculation.

23 I'd ask for a moment of grace and
24 patience because I'm asking my witnesses to move
25 through their presentations out of order, but I can

1 move to Ms. Hall to address those two questions. I'd
2 ask her to adopt her direct testimony and then provide
3 a summary of the incident, and then we can get into
4 those two questions, if that pleases the hearing
5 officer.

6 THE HEARING EXAMINER: Let's do this.
7 So, Mr. Moellenberg, Mr. Smith has adopted his written
8 testimony under oath, made no corrections to it. Do
9 you have any questions for Mr. Smith?

10 MR. MOELLENBERG: I do not have any
11 questions for Mr. Smith. I understand he is the
12 witness that's kind of presenting the Part 29 Prius,
13 so to speak, and not so much the particular site
14 issues.

15 THE HEARING EXAMINER: I understood
16 that too, and I felt like you probably didn't have any
17 issue with his testimony and you weren't going to be
18 cross-examining him. And so we didn't need to spend a
19 bunch of time, since we've already gotten his
20 information in evidence, with your stipulation.

21 So, Mr. Smith, thank you for your
22 participation. Mr. Tremaine may recall you, I don't
23 know what's going to happen, but thank you for your
24 work in this case.

25 MR. SMITH: Thank you.

1 THE HEARING EXAMINER: Okay, Ms. Hall.
2 Mr. Tremaine was addressing you.

3 MR. TREMAINE: Thank you. I think you
4 indicated this, Mr. Hearing Officer, but that would be
5 my only stipulation with moving on, is that if there's
6 a clarification on those process requirements and
7 deadlines, I may need to go back to Mr. Smith. I
8 don't expect there to be.

9 WHEREUPON,

10 BRITTANY HALL,
11 called as a witness and having been first duly sworn
12 to tell the truth, the whole truth, and nothing but
13 the truth, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. TREMAINE:

16 MR. TREMAINE: Ms. Hall, we've entered
17 the exhibits, but I just want to direct you to OCD
18 Exhibit Number 4.

19 Did you prepare, sorry, OCD Exhibit
20 Number 3, is that your resume in which you prepared in
21 preparation for this hearing?

22 MS. HALL: Yes.

23 MR. TREMAINE: No corrections are
24 necessary to that exhibit; are there?

25 MS. HALL: No.

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1 MR. TREMAINE: Okay. And did you
2 prepare written direct testimony, which is OCD Exhibit
3 Number 4?

4 MS. HALL: Yes.

5 MR. TREMAINE: Does your direct
6 testimony require any corrections or changes today?

7 MS. HALL: No.

8 MR. TREMAINE: Is the information that
9 you provided in your direct testimony true and
10 accurate, to the best of your knowledge?

11 MS. HALL: Yes.

12 MR. TREMAINE: And do you adopt your
13 written direct testimony, Exhibit 4, as your sworn
14 testimony today?

15 MS. HALL: Yes.

16 MR. TREMAINE: Okay. I'm going to jump
17 right to asking you, so I think to be clear, there's
18 two incidents that are referenced with proposed
19 violations in the NOV; correct?

20 MS. HALL: Correct.

21 MR. TREMAINE: Could you please provide
22 us with a brief summary of the nature of the releases
23 and their current statuses?

24 MS. HALL: So both releases were
25 reported at the state AF number 3 by Buckeye Disposal.

1 They're historic in nature, just simply meaning that
2 they were discovered in 2018 or prior to 2018, and
3 they're still actively open in the OCD's system.

4 The incident event notes, state, that both
5 of the releases were actually discovered by state
6 regulatory bodies and not the operator themselves.
7 But they also indicate on the C-141 that was submitted
8 by the operator, that they both occurred within the
9 dike of the line tank battery. As of right now,
10 there's not enough information for OCD to determine if
11 they overlapped each other or not.

12 MR. TREMAINE: Ms. Hall, did you hear
13 the discussion earlier regarding the suggestion that
14 Buckeye has completed some substantial site
15 characterization work at the site?

16 MS. HALL: I did.

17 MR. TREMAINE: Okay. I'd like you to
18 summarize OCD's response to that and just give an
19 outline or briefing for us on what delineation and
20 characterization records or information does OCD have
21 regarding those two incidents. That was a little
22 compound.

23 Do you understand my question?

24 MS. HALL: Kind of, but can we break it
25 down into separate --

1 MR. TREMAINE: Yeah, let me rephrase.
2 So we referred to the site characterization work.

3 So what's the status of the delineation
4 stage at each incident?

5 MS. HALL: So each incident, I would
6 say delineation is not complete. Buckeye Disposal has
7 completed some soil sampling and an EM or
8 electromagnetic survey of the sites, indicating that
9 there is contamination in the ground that is above
10 OCD's closure criteria.

11 But as of this hearing, OCD has not
12 received complete vertical delineation of the site.
13 And that would include --

14 MR. TREMAINE: Okay. So -- go ahead.

15 MS. HALL: I was just going to say that
16 would include information for both incidents.

17 MR. TREMAINE: Okay. So what specific
18 information is, in your opinion, missing from the
19 delineation reports that have been submitted?

20 MS. HALL: The specific information
21 that I would say is missing is full delineation of the
22 site. We would need vertical delineation for, I
23 believe, just petroleum hydrocarbons, and we would
24 also need a remediation plan that we could approve
25 based on that delineation.

1 MR. TREMAINE: Okay. So I asked you
2 about delineation. Is site characterization work
3 complete? What's the status of that?

4 MS. HALL: The site characterization
5 work includes the delineation, so it is not complete.

6 MR. TREMAINE: Okay. Anything about
7 site characterization specifically that's missing or
8 required under Part 29 which we did not already
9 discuss as part of the delineation?

10 MS. HALL: I don't believe so.

11 MR. TREMAINE: Okay. You did reference
12 an approvable remediation plan. What's the status of
13 Buckeye's, any remediation plan submitted by Buckeye?

14 MS. HALL: So in the remediation plan
15 that Buckeye has -- has submitted recently, I would
16 say like within 20, like the year of 2025, they are
17 proposing to either excavate at one point just the
18 upper four feet or excavate down to five and a half
19 feet and place a clay liner.

20 The location of the releases have
21 sensitive setbacks that would put the operator into
22 needing to remediate to the most stringent closure
23 criteria. And the upper, you know, four and five
24 feet, unfortunately, aren't the only strata of soil
25 that are contaminated.

1 MR. TREMAINE: Okay. So is it fair to
2 say that the issues with the remediation plans are the
3 Part 29 remediation standards?

4 MS. HALL: I would say that's fair.

5 MR. TREMAINE: Okay. Buckeye is
6 proposing to remediate to the least stringent
7 standard, but OCD is requiring Buckeye to remediate to
8 the most stringent standard?

9 MS. HALL: At one point, Buckeye was
10 proposing to remediate to the least stringent closure
11 criteria based on depths of water in the area. Depths
12 of water in the area is over 100 feet, but they're
13 within 1,000 foot of a water well, which automatically
14 puts them in the most stringent closure criteria, as
15 well as there's a freshwater pond just south of the
16 site. And so they're within the setbacks of that as
17 well, just based on some delineation points that they
18 have.

19 The issue with only remediating the
20 upper four to five and a half feet is that would
21 require a variance and the OCD would -- does not
22 approve a variance without full delineation.

23 MR. TREMAINE: Thank you. Is there
24 anything else regarding the status of these two
25 incidents that we need to discuss that I haven't asked

1 you about related to the site, referenced site
2 characterization work generally?

3 MS. HALL: I don't believe so.

4 MR. TREMAINE: Okay. So I'd like to
5 move along and talk through OCD Exhibit Number 10.
6 This is the civil penalty calculator. This has been
7 admitted, and I'm going to share screen. These are
8 very wide documents so I'm going to try to get this on
9 the screen here.

10 All right. So, Ms. Hall, were you
11 directly responsible for preparing the draft NOV and
12 civil penalty calculator?

13 MS. HALL: I was.

14 MR. TREMAINE: Okay. And to clarify,
15 is that NOV subject to, and civil penalty calculator,
16 subject to approval by your supervisors and OCD
17 leadership?

18 MS. HALL: It is.

19 MR. TREMAINE: I want to run through
20 here and just ask you to connect the dots between the
21 line items in the civil penalty calculator and the
22 violations that are alleged in the NOV. So, and I'd
23 like, let's start with the first line here, the
24 29.8(A) violation.

25 I believe that you heard Mr.

1 Moellenberg's statement regarding violations that have
2 been assessed at different periods of time, you know,
3 preceding periods of time.

4 Is it consistent with your
5 understanding that Part 29 and Part 5, the enforcement
6 rule, have been updated after these two incidents
7 initially occurred?

8 MS. HALL: Yes.

9 MR. TREMAINE: Okay. So here on this
10 first line we've cited -- proposed a violation, a
11 single-day violation, for a prohibited minor release.

12 Could you please describe why OCD
13 proposed a minor release violation?

14 MS. HALL: So we proposed the minor
15 released violation, we proposed it as a minor due to
16 the fact that when Buckeye submitted their initial C-
17 141s for each of the incidents, they indicated that
18 the release did not exceed 25 barrels. And so that
19 would put it in the minor category. We also proposed
20 it as a one-day violation because the -- the well has
21 been plugged, I believe it was plugged in April of
22 2023, but since the release has not been remediated
23 yet, we imposed a -- a one-day fine.

24 MR. TREMAINE: And would you agree with
25 me -- well, strike that.

1 So that release, when was that release
2 reported to have occurred initially?

3 MS. HALL: Are you asking the date of
4 discovery?

5 MR. TREMAINE: The date of discovery,
6 yes.

7 MS. HALL: So there's -- there's two
8 separate releases on -- on the civil penalty
9 calculator. The first release was discovered in 2016,
10 I can't remember the month, and then the second
11 release was discovered in 2018.

12 MR. TREMAINE: Okay. And that release,
13 that first release, 2016, I believe you already
14 testified that it is not yet remediated; correct?

15 MS. HALL: Correct.

16 MR. TREMAINE: Okay. And would you
17 agree with me if I said that in 2016, OCD did not have
18 civil penalty authority or the -- had not prohibited
19 major or minor releases?

20 MS. HALL: Yes, I would agree with
21 that.

22 MR. TREMAINE: Okay. Does OCD consider
23 this to be an ongoing violation?

24 MS. HALL: Yes.

25 MR. TREMAINE: Okay. Would the fact

1 that the incident is not remediated, would that be
2 adequate grounds for proposing a different violation
3 for failing to remediate a release under another
4 section of Part 29?

5 MS. HALL: Can you repeat that?

6 MR. TREMAINE: Yes. Alternatively to
7 proposing a minor release violation, could OCD have
8 proposed a violation for failing to remediate the
9 release?

10 MS. HALL: Yes.

11 MR. TREMAINE: Okay. And that
12 violation, could that have been proposed as a multi-
13 day, an ongoing violation?

14 MS. HALL: Yes.

15 MR. TREMAINE: Okay. I want to move on
16 to the second one. Again, we're on the first incident
17 here, 2016, the 29.11.

18 Which violation is, does this relate
19 to?

20 MS. HALL: I believe that's failure to
21 submit site characterization, but it's pretty small.

22 MR. TREMAINE: And is that one of the
23 C-141s that we've referenced through Mr. Smith's
24 testimony?

25 MS. HALL: Yes, it is a portion of the

1 remediation plan C-141.

2 MR. TREMAINE: Okay. I specifically
3 want to ask you if there's any clarifications that you
4 need to make in terms of how OCD proposed this line
5 item civil penalty?

6 MS. HALL: Yes, there is. So the day
7 of violations for that particular violation that we
8 are talking about is listed at 2,250 days. I
9 calculated that violation based on the transitional
10 clause of 19.15.29, which essentially gave the
11 operators 90 days to submit a remediation plan with
12 site characterization after the new rule came into
13 effect.

14 The days penalized in the orange column
15 is incorrect. That should be a penalty, days
16 penalized should be 252 days, which would be the date
17 from the last extension request due date that Buckeye
18 submitted.

19 MR. TREMAINE: Okay. So to clarify,
20 this days in violation, that total number of days,
21 that goes back to 2018; correct?

22 MS. HALL: Correct.

23 MR. TREMAINE: Okay. We've covered
24 this, but in 2018, OCD didn't have civil penalty
25 authority under Part 5; right?

1 MS. HALL: Correct.

2 MR. TREMAINE: Okay. So if we changed
3 this to 252, what event or deadline does that 252-day
4 calculation relate to?

5 MS. HALL: I'm sorry, I didn't
6 understand that question.

7 MR. TREMAINE: You indicated in answer
8 to my previous question, that 2,000 and, 2,250 days
9 penalized should be 252 days.

10 What is that 252 days attached to?

11 MS. HALL: That is attached to the last
12 due date that the OCD gave as an extension request.

13 MR. TREMAINE: So this second line item
14 in the civil penalty calculator maxes out at the
15 \$200,000.

16 If we update the civil penalty
17 calculator in the days penalized column to 252, does
18 that change the total proposed civil penalty in this
19 total column?

20 MS. HALL: It does not.

21 MR. TREMAINE: Okay. There are a
22 number, before we get into just connecting the dots on
23 specific violations, there's a number of these 2,250
24 days in here.

25 Does the same analysis apply to those

1 other, to those other line items?

2 MS. HALL: It does.

3 MR. TREMAINE: Okay. If we update
4 those other line of items to violations only occurring
5 in 2023 through 2025, in that time period, does that
6 change the total calculated civil penalty?

7 MS. HALL: It does not.

8 MR. TREMAINE: Okay. And did you test
9 that assumption or run new civil penalties in
10 preparation for the hearing?

11 MS. HALL: I did.

12 MR. TREMAINE: Okay. All right. So
13 after you changed those days, penalized dates, do you
14 still get a proposed civil penalty of \$1,604,500?

15 MS. HALL: Yes.

16 MR. TREMAINE: Okay. Thank you.

17 So that, Mr. Hearing examiner, I think
18 that that is going to cover our direct portion
19 regarding the clarifications on the civil penalty
20 calculator. If necessary, I'm happy to walk through
21 and talk about the nature of the violation in each
22 line item, but I'm expecting that the concerns with
23 the civil, proposed civil penalty and the calculators
24 relate to the specific items that I brought up.

25 THE HEARING EXAMINER: Okay. So you

1 offering Ms. Hall for cross-examination?

2 MR. TREMAINE: In order to expedite
3 this process, yes. If there's questions about the
4 nature of the other violations, I'd like to come back,
5 but I think good faith effort to move this forward.

6 THE HEARING EXAMINER: Perfect.

7 Mr. Moellenberg?

8 MR. MOELLENBERG: Thank you, Mr.
9 Hearing Officer.

10 CROSS-EXAMINATION

11 BY MR. MOELLENBERG:

12 MR. MOELLENBERG: Good morning, Ms.
13 Hall. Thank you for your testimony here today. I
14 have just a couple of questions.

15 In the chart that you presented, is
16 there a period of time covered by the history there
17 that was during the COVID epidemic?

18 MS. HALL: So I believe with the 2,250
19 days in that penalized column, it probably would cover
20 a portion of the COVID epidemic. But again, we're
21 changing, you know, that was a typo. It's incorrect.
22 The 252 days actually is calculated from May 2, 2024,
23 I believe. I know it's May 2024. I can't -- I can't
24 remember if it's the second or the first.

25 MR. MOELLENBERG: Okay. Thank you for

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1 that. And aside from that original 2,000 and such day
2 period, is there any other portion of the timeline
3 covered by the proposed civil penalty that was during
4 the COVID period of roughly March of 2020 until
5 probably sometime in 2022 when everything was fully up
6 and running again?

7 MS. HALL: No.

8 MR. MOELLENBERG: Okay. Thank you.
9 Ms. Hall, earlier in your summary, and I know you've
10 given a very abbreviated summary, you mentioned
11 electromagnetic survey work performed by Buckeye
12 Disposal.

13 Do you recall that?

14 MS. HALL: Yes, sir.

15 MR. MOELLENBERG: Has Buckeye Disposal
16 also completed a number of soil borings, obtained
17 samples for analysis, and provided the results of the
18 analytical sampling?

19 MS. HALL: I believe so. I think there
20 may be one set of samplings that wasn't submitted with
21 the remediation plan due to the NOV, but I can't
22 recall off the top of my head if that one was
23 submitted or not.

24 MR. MOELLENBERG: Okay. And I believe
25 you've included Buckeye Disposal's proposed plans and

1 reports in the record. That additional work that I'm
2 mentioning would be shown in there?

3 MS. HALL: Correct.

4 MR. MOELLENBERG: Okay. Would you
5 agree with me that in Buckeye Disposal's various plans
6 that it identified issues that indicated that there
7 may have been historic releases at this site that
8 preceded the incidents that you've identified as the
9 basis for the NOV?

10 MS. HALL: I wouldn't be able to speak
11 to that since no other releases has been reported to
12 the OCD by separate operators.

13 MR. MOELLENBERG: Is it your
14 understanding that there were and may continue to be
15 other operators operating at or in the vicinity of
16 this site?

17 MS. HALL: Yes.

18 MR. MOELLENBERG: And as to my earlier
19 question, any such information regarding other
20 potential historic releases reported or not reported
21 would be indicated in the Buckeye Disposal written
22 submissions to OCD?

23 MS. HALL: I would say yes, I agree
24 that Buckeye has indicated that other operators may
25 have had releases in the vicinity.

1 MR. MOELLENBERG: Thank you, Ms. Hall.
2 That's all I have.

3 MS. HALL: Thank you.

4 THE HEARING EXAMINER: So I'm going to
5 ask Mr. Garcia, our technical examiner, if he has any
6 questions for Ms. Hall.

7 MR. GARCIA: I believe I have two,
8 maybe.

9 Ms. Hall, Mr. Moellenberg was kind of
10 asking about COVID, you stated that 252 days is before
11 COVID or after COVID. I guess my question is even in
12 regards to COVID, did the division issue any
13 clarifications for spills during the COVID timeline?

14 MS. HALL: I was not a part of the
15 division during the COVID timeline, so I'm not sure,
16 other than I believe at some point in time that all
17 submissions were moved to electronic submissions
18 during COVID.

19 MR. GARCIA: Do you know if any other
20 witnesses would be able to answer that question?

21 MS. HALL: Potentially Cory Smith,
22 since I believe he was here during the COVID timeline.

23 MR. GARCIA: Okay. I can reserve my
24 question.

25 Mr. Moellenberg kind of also, if I

1 understand his question correct, I believe he was
2 saying these sites have spills from prior operators.
3 I guess my question to you is, when operators buy
4 assets, wells, locations, et cetera, what is the
5 responsibility of those spills? Do they transfer with
6 purchases?

7 MS. HALL: They do.

8 MR. TREMAINE: Okay. I believe that's
9 all of my questions, Mr. Examiner.

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

12 MR. TREMAINE: No, I think we can cover
13 everything else with Ms. Romero.

14 THE HEARING EXAMINER: Okay, sounds
15 good.

16 So, Ms. Hall, you're excused, but
17 please stay available in case Mr. Tremaine needs you.

18 MS. HALL: Thank you.

19 THE HEARING EXAMINER: All right, thank
20 you.

21 Ms. Romero, I remind you that you're
22 still under oath.

23 Mr. Tremaine, go right ahead.

24 MR. TREMAINE: Thank you.

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ROSA ROMERO,

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

DIRECT EXAMINATION

BY MR. TREMAINE:

MR. TREMAINE: Ms. Romero, when did you start with the Oil Conservation Division?

MS. ROMERO: April of 2022.

MR. TREMAINE: Okay. Are you able to answer Mr. Garcia's question about guidance during the COVID period or would we need to refer to someone else or some other record for that?

MS. ROMERO: I was not here in that time, but I am aware that what Ms. Hall said was correct. There was no exemptions for spills and reporting, but we did move to a more digital format to -- for COVID precaution reasons.

MR. TREMAINE: If there are any questions regarding the process of submitting C-141s or other documents related to incidents, would you refer back to Mr. Smith's testimony and exhibits?

MS. ROMERO: I can probably answer some, but Cory would be the expert in that.

MR. TREMAINE: Okay. I'm going to

1 share my screen again and ask you some questions about
2 the civil penalty calculator.

3 So just to clarify, building off Ms.
4 Hall's testimony, is it, and to clarify, this days in
5 violation, when OCD calculates a violation, is like
6 this column, the days in violation, is that the total
7 number of days that OCD believes a violation occurred?

8 MS. ROMERO: That is the total number,
9 yes.

10 MR. TREMAINE: Okay. Is that the same
11 thing or is that different from the number of days
12 that OCD may propose to calculate a civil penalty
13 based on?

14 MS. ROMERO: So in this circumstance, I
15 did instruct Brittany to draft this on the total
16 number of days penalized. However, the civil
17 penalties themselves were not calculated until the
18 2024 date in which the last extension expired and we
19 had still not received them.

20 So from 2024 date until now, it
21 received its cap, the max capacity for that particular
22 violation. And so that if even recalculated to date
23 from the NOV, would still remain the same number. So
24 I did not see it necessary to recalculate them again.

25 MR. TREMAINE: Okay. And specifically

1 on this, you answered part of this, but the days
2 penalized number here, if we amend this according to
3 Ms. Hall's testimony, is it accurate to say that the
4 entirety of those days penalized for violations
5 occurred in 2024?

6 MS. ROMERO: Yes.

7 MR. TREMAINE: Okay. I want to ask you
8 about the major and minor release violations, we
9 talked about this with Ms. Hall, and invite you to
10 explain why OCD chose to propose prohibited major or
11 minor release violation for related to historic
12 releases.

13 MS. ROMERO: In this scenario, the --
14 the options were to utilize this particular violation
15 or to utilize a failure to remediate. And in an
16 effort to be reasonable and -- we selected a single
17 day violation. If we would've opted for failed to
18 remediate the -- it would've been a multi-day
19 violation and increased our civil penalty calculator.
20 So OCD did so as -- as a discretion authority.

21 MR. TREMAINE: Okay. Is there anything
22 else that you wish to clarify or explain regarding
23 this civil penalty calculator which I have not asked
24 you?

25 MS. ROMERO: I don't believe so.

1 MR. TREMAINE: Okay. And we've kind of
2 jumped ahead to shorten this, but you supervise both
3 of the other witnesses in this case and their actions
4 and work product related to this NOV and civil penalty
5 calculator; correct?

6 MS. ROMERO: Yes.

7 MR. TREMAINE: Okay. And you've heard
8 that, you are aware of the fact that both of these
9 incidents have been open since 2016 and 2018,
10 respectfully; correct?

11 MS. ROMERO: I'm aware.

12 MR. TREMAINE: Great. How would you
13 characterize the amount of review and work that OCD,
14 that's necessary for OCD to put in reviewing filings
15 in matters like this?

16 MS. ROMERO: There's a significant time
17 commitment involved in every submission. In cases
18 like this, there have been, especially since the NOV
19 was issued, multiple meetings and discussions on as
20 far as providing technical assistance as to what OCD's
21 Part 29 actually requires, was provided to -- to
22 Buckeye in this scenario.

23 And so we have spent a significant
24 amount of time attempting to resolve this situation,
25 and that would've been without any penalties had it

1 been resolved prior to the -- to the NOV.

2 MR. TREMAINE: And would you agree with
3 the statement that if the OCD is granted the order
4 that we're requesting, or in the case of a potential
5 settlement, it is likely that OCD will become
6 responsible for completing the remediation of these
7 two incidents and any others that are associated with
8 Buckeye Disposal?

9 MS. ROMERO: I would agree with that.

10 MR. TREMAINE: And are you able to
11 characterize the commitment or amount of work, in
12 terms of like financial or otherwise, that would be
13 associated with that remediation?

14 MS. ROMERO: Aside from the financial,
15 you know, the civil penalty calculator probably does
16 not encompass what we know would likely be the total
17 cost of what these remediations would cost just in, in
18 sheer financial obligation. But that also would
19 require OCD to continue to work as project managers to
20 oversee that, and so significant employee costs as
21 well.

22 MR. TREMAINE: And is it your
23 expectation that OCD would utilize either the
24 reclamation fund or the BIL grant funds to complete
25 the remediation?

1 MS. ROMERO: Yes.

2 MR. TREMAINE: Given the clarifications
3 that we've discussed on the particular civil penalties
4 and what you've described as OCD's approach to the
5 prohibited minor release violation and the history of
6 these sites, is it yours and OCD's opinion that the
7 cumulative proposed civil penalties are fair and
8 reasonable?

9 MS. ROMERO: I believe they are fair
10 and reasonable. Should we have gone back and
11 recalculate them, they would have increased.

12 MR. TREMAINE: Okay. And specifically
13 on that, after OCD issued the notice of violation and
14 required specific compliance actions, would Buckeye's
15 failure to complete the required steps constitute an
16 ongoing violation?

17 MS. ROMERO: Yes.

18 MR. TREMAINE: And I believe this is
19 what you just referred to, but is this, did OCD elect
20 to update the civil penalty calculation after issuance
21 of the NOV or continue with the initial proposed civil
22 penalty calculation?

23 MS. ROMERO: We opted to continue with
24 the initial proposed calculation.

25 MR. TREMAINE: Great. I think that

1 takes care of all of my questions, Mr. Hearing
2 Officer, and tender Ms. Romero for cross-examination.

3 THE HEARING EXAMINER: Mr. Tremaine,
4 before we do that, did Ms. Romero submit any written
5 testimony?

6 MR. TREMAINE: No direct from Ms.
7 Romero. No written direct.

8 THE HEARING EXAMINER: Were there any
9 exhibits that came in through her?

10 MR. TREMAINE: Actually, there's only
11 her resume. Only her resume. And then let me just
12 double check everything. 8 through 25, that's
13 not -- that's not correct. 24.

14 Ms. Romero is the, provides the
15 authentication for Exhibit 25. That was the October
16 2025 email with, where OCD outlined a final set of
17 deadlines that Buckeye needed to comply with, which
18 predicated our informal discussions in December, where
19 after which we were operating under the belief that
20 Buckeye was not able to complete the remediation steps
21 outlined in that email. So that's her email.

22 And the remainder of those Exhibit 26
23 through 28 are attached to Mr. Smith. So just Exhibit
24 5 and exhibit 25.

25 THE HEARING EXAMINER: Do you want to

1 ask this witness if she adopts, under oath, her
2 exhibits and if there are any changes?

3 MR. TREMAINE: Sure. I think she
4 didn't do direct so there's, I thought they were
5 admitted. But yeah.

6 BY MR. TREMAINE:

7 MR. TREMAINE: Ms. Romero, are there
8 any necessary corrections to either your resume or the
9 Exhibit 25 email to Buckeye?

10 MS. ROMERO: There are not.

11 MR. TREMAINE: Perfect.

12 THE HEARING EXAMINER: All right. Mr.
13 Moellenberg?

14 MR. MOELLENBERG: Thank you, Mr.
15 Hearing Officer. I have no questions for this
16 witness. And I guess that's that.

17 THE HEARING EXAMINER: Mr. Garcia?

18 MR. GARCIA: No questions of the
19 witness, but potentially Counsel.

20 THE HEARING EXAMINER: Sounds good.
21 And then, Mr. Garcia, did you have a question for Mr.
22 Cory Smith?

23 MR. GARCIA: I did earlier, and I think
24 Rosa alluded to it in the beginning of her testimony.
25 I guess I can clarify for the record.

1 Ms. Romero, I had asked Ms. Hall about
2 basically the Division's policy or stance on spills
3 and how that occurred during COVID. Do you know how
4 that was affected?

5 MS. ROMERO: Timelines were not
6 changed. However, we did move to a digital format.

7 MR. GARCIA: So if a spill occurred
8 prior or during COVID, it just followed the, as the
9 rule said, other than the submittal process?

10 MS. ROMERO: Yes.

11 MR. GARCIA: That's all my questions,
12 Mr. Examiner.

13 THE HEARING EXAMINER: All right. So
14 then we don't need to recall Mr. Smith?

15 MR. GARCIA: No.

16 THE HEARING EXAMINER: Okay. Very
17 good. Okay. Is there any redirect, Mr. Tremaine?

18 MR. TREMAINE: Only one question.

19 REDIRECT EXAMINATION

20 BY MR. TREMAINE:

21 MR. TREMAINE: Ms. Romero, I certainly
22 understand the questions about the COVID period, but I
23 just want to put a nail in this. Is OCD proposing any
24 civil penalties for violations that would've occurred
25 during or shortly after the COVID pandemic period?

1 MS. ROMERO: No, the -- the proposed
2 civil penalties are all from the 2024 date, the last
3 extension.

4 MR. TREMAINE: Okay. Nothing further.

5 THE HEARING EXAMINER: All right. Let
6 me see if I have any questions. Hold on one moment.

7 Mr. Tremaine, would you please bring up
8 the exhibit that shows the penalty days calculation?

9 MR. TREMAINE: Yes. This is OCD
10 Exhibit Number, let me get it right because they're
11 different, 9.

12 THE HEARING EXAMINER: All right. Let
13 me see if I can make this bigger, because these
14 numbers are so small it's hard for me to -- ah, there
15 we go.

16 In column number, well, I don't know
17 what column number it is, but in the one with the
18 heading that says "days in violation," rows 2 and 3
19 and further down, say 2,250. Is that correct?

20 MS. ROMERO: No, no. Brittany did
21 bring this up. Ms. Hall brought this up when she
22 spoke. That was the total days they were in
23 violation. The correction did need to be made under
24 days penalized that it should be 252 days instead of
25 the -- the 2,000-some-odd days that are there. Sorry,

1 I can't read it either. However, should we make that
2 correction, it makes no changes in the total amount.

3 THE HEARING EXAMINER: Right. So, Mr.
4 Tremaine, can this exhibit be amended to fix that?

5 MR. TREMAINE: Yes, it may. I believe
6 we actually already have that completed, but we caught
7 those 2,250 days in the, even though that wasn't OCD's
8 intent, we caught that after the preparation of the
9 pre-hearing statement.

10 If it's helpful, a brief proffer. All
11 of the fields in green here are manual text entries.
12 The blue are dropdowns that automatically change the
13 content that displays in the beige. And then the
14 orange is the one. So what we put here is this
15 changes the calculator, whereas the, what's put here
16 in this column in the green does not change the
17 calculation.

18 So the legal argument here is that the
19 same requirement existed, reinstatement of OCD's civil
20 penalty authority, and this was carried over because
21 any, basically any reasonable number we put in there
22 resulted in the same result. We should have caught
23 that and corrected it. I didn't catch it before. So
24 we're happy to provide that, provide that update.

25 THE HEARING EXAMINER: Okay. Mr.

1 Moellenberg, your position?

2 MR. MOELLENBERG: I'm fine if the
3 Division would like to update the exhibit.

4 THE HEARING EXAMINER: Okay. All
5 right. Mr. Moellenberg, the state has presented its
6 three witnesses. And you said you don't have
7 witnesses. So you don't have a case in chief; is that
8 right?

9 MR. MOELLENBERG: That's correct.

10 THE HEARING EXAMINER: All right. Do
11 you have a rebuttal case?

12 MR. MOELLENBERG: No, we do not.

13 THE HEARING EXAMINER: All right. Mr.
14 Tremaine, do you rest your case in chief?

15 MR. TREMAINE: Yes, we do.

16 THE HEARING EXAMINER: Okay. How do
17 the parties want to proceed from here? It sounds like
18 Mr. Moellenberg wants to continue negotiations.

19 Is that right, Mr. Moellenberg?

20 MR. MOELLENBERG: Yes. I would like to
21 have some discussions. I would imagine you would take
22 this matter under advisement and we can let you know
23 if we succeed with anything. I don't know what the
24 timeframe would be for a decision, but I can discuss
25 that with Mr. Tremaine.

1 THE HEARING EXAMINER: All right.
2 Well, Mr. Moellenberg, you're well aware that the
3 standard of evidence is preponderance and that, you
4 know, I can only consider relevant and reliable
5 evidence in the order.

6 Mr. Tremaine, how do you want to
7 proceed?

8 MR. TREMAINE: I think that if Mr.
9 Moellenberg wants to talk, I think we could set this
10 for a status with the other case on March 12th, if Mr.
11 Moellenberg's available, as a placeholder. I suspect
12 we will -- to be candid, OCD has very limited options
13 in how to settle a case in this posture. The other
14 matter that was continued from today is in a very
15 similar posture. That operator was able to, we
16 believe, meet our terms.

17 So I believe I will know very quickly
18 if settlement's possible, and then we could come back
19 on a status on the 12th and issue my -- prepare for
20 relief if we're unable to settle.

21 THE HEARING EXAMINER: So, as Mr.
22 Tremaine said, it's going to be --

23 MR. GARCIA: Mr. Examiner, while you
24 think on that, could I ask Counsel one question?

25 THE HEARING EXAMINER: Yes, go ahead.

1 MR. GARCIA: Mr. Tremaine, one question
2 I have for you, and I think you're the right one to
3 address it. In your application, your opening
4 statement seemed to hint at certain requests that you
5 were seeking for the Division in an order. I don't
6 know if I saw in the exhibits, like a bullet pointed
7 list of this is what we seek in an order.

8 Is that something you could provide to
9 us? Of like civil penalty blank, you know, XYZ?
10 Because I believe you hinted at some orphan statuses,
11 which caught me off guard a little.

12 MR. TREMAINE: Yeah, that's a good
13 question, Mr. Garcia. So this one was one where we
14 had every reasonable belief that Buckeye was not able
15 to complete the remediation activities under Part 29.
16 But that wasn't formally documented, so we did not
17 amend the notice of violation.

18 In terms of the sanctions, we're asking
19 for the sanctions as proposed in the NOV. But I'm
20 happy to provide a bulleted list of those along with
21 the updated civil penalty calculator. The only change
22 is that because we've become formally aware that
23 Buckeye does not have the ability to complete the
24 remediation, these sites are going to inevitably fall
25 on OCD to remediate.

1 So we have covered that to some extent
2 with Ms. Ramero, but I think based on the Buckeye's
3 filings, the record is clear that OCD us going to have
4 to do that. So on that basis, that admission alone,
5 OCD believes that the remedy of authorizing OCD to
6 complete plugging and remediation is appropriate under
7 the circumstances.

8 Buckeye has implicitly acknowledged
9 that the incidents and any associated facilities will
10 be -- if they don't have the ability to complete the
11 remediation, they're not going to have the ability to
12 complete the remediation and complete any plugging and
13 abandonment activities.

14 So I think the record is clear that
15 that remedy is appropriate. That's the only thing
16 that we've changed from the NOV in the pre-hearing
17 statement or our presentation today. Did that answer
18 your question?

19 MR. GARCIA: Yes, it did. And I would
20 take you up on getting a bullet point list. It makes
21 things easier with the number of cases we hear on a
22 daily basis. When we come back to it, we know what's
23 being sought after.

24 MR. TREMAINE: If we get to that point,
25 I'm more than happy to provide both that list, along

1 with the civil, revised civil penalty calculator and a
2 proposed order.

3 MR. GARCIA: Yeah. And that request is
4 dependent on Mr. Examiner's decision, I guess, on your
5 status conference possibility. But I defer to him.

6 THE HEARING EXAMINER: Okay. So Mr.
7 Tremaine, Mr. Moellenberg, it sounds like giving you
8 two more weeks is more than enough time to figure out
9 whether you're going to make some dent in this civil
10 penalty calculator or not. And at that time, Mr.
11 Tremaine, whatever happens, if it's a settlement
12 agreement, please let me know. Otherwise, if it's an
13 order that is required, then let's discuss who's going
14 to draft it.

15 All right. Anything further on this
16 case, Mr. Moellenberg?

17 MR. MOELLENBERG: Nothing further.
18 Thank you, Mr. Hearing Officer.

19 THE HEARING EXAMINER: All right, thank
20 you, sir.

21 Anything further, Mr. Tremaine?

22 MR. TREMAINE: Nothing further.

23 THE HEARING EXAMINER: We're off the
24 record in this case.

25 That leaves us with one case today, and

1 this is Longfellow Energy, 25804. Entries of
2 appearance, please?

3 MS. SHAHEEN: Good morning, Mr.
4 Examiners. Sharon Shaheen on behalf of Longfellow
5 Energy.

6 THE HEARING EXAMINER: Good morning.

7 MS. MCLEAN: And good morning. Jackie
8 McLean on behalf of XTO.

9 THE HEARING EXAMINER: Good morning,
10 Ms. McLean. What I thought we could do is, there's a
11 little time before lunch, and what I thought we could
12 do is at least just get some of the housekeeping out
13 of the way before we take a break for lunch. However
14 long the parties want. We're virtual. It's really, I
15 don't know how much time the parties want. I could
16 have as little as 15 minutes, but you know, I also
17 have Mr. Garcia to think about as well. But let's try
18 to get some of the foundational stuff out of the way.

19 Now, parties have submitted, thank you,
20 Mr. Garcia, the parties have submitted exhibits,
21 pre-hearing statements. I've reviewed those. I think
22 I know what the issues are here, and I'll go over that
23 with the parties in a minute to make sure that we're
24 all on the same page. There have been some rebuttal
25 exhibits submitted as well.

1 I'm not sure, Ms. McLean, if you've
2 seen, there have been several, it looks like several
3 rebuttal. So I'm a little confused, Ms. McLean, and
4 hopefully you'll help me out here. Okay. So I see
5 here, let's start with the basics here, for XTO, Ms.
6 McLean, I see one filing on the 20th. It has 34
7 pages. Are these all of your exhibits?

8 MS. MCLEAN: We have that and then we
9 filed rebuttal exhibits on the 25th.

10 THE HEARING EXAMINER: I wonder why I
11 don't see those. Hold on a second. You said the
12 25th?

13 MS. MCLEAN: Yes, they're posted, it's
14 the second-to-last document in --

15 THE HEARING EXAMINER: I see it.

16 MS. MCLEAN: -- the case file.

17 THE HEARING EXAMINER: I wasn't sure
18 which party this was for. It didn't say on the cover
19 page. I couldn't tell whose it was, but now I
20 understand it's XTO's.

21 MS. MCLEAN: Yes.

22 THE HEARING EXAMINER: Okay, very good.
23 So this is a six-page document?

24 MS. MCLEAN: This one is, yes, six
25 pages.

1 THE HEARING EXAMINER: All right,
2 fantastic. So I have a 34-page document and a
3 six-page document. Let's begin by asking Ms. Shaheen.

4 Ms. Shaheen, have you had a chance to
5 review these two submissions?

6 MS. SHAHEEN: Yes, I have.

7 THE HEARING EXAMINER: Excellent.

8 MS. SHAHEEN: And the only --

9 THE HEARING EXAMINER: What is your
10 position?

11 MS. SHAHEEN: Yes. The only exhibits
12 we object to, and I'm looking for my notes here to
13 make sure I get it right, are Rebuttal Exhibit A-8 and
14 Rebuttal Exhibit B-7.

15 THE HEARING EXAMINER: Let me see if I
16 heard you correctly. You said A as in apple, 8, and B
17 as in boy, 7?

18 MS. SHAHEEN: Yes, I believe that's
19 correct.

20 THE HEARING EXAMINER: You are
21 objecting to those two?

22 MS. SHAHEEN: Yes.

23 THE HEARING EXAMINER: Okay, fantastic.
24 So then all the other exhibits can come in through
25 stipulation.

1 MS. SHAHEEN: That is correct.

2 THE HEARING EXAMINER: Good. I wanted
3 to make sure I understood you. Okay.

4 So, Ms. McLean, did you catch that?

5 MS. MCLEAN: I did. A-8 and B-7.

6 THE HEARING EXAMINER: Exactly. Okay.
7 So for the court reporter, let me just be very clear.
8 Longfellow has stipulated to XTO Holding's Exhibits A,
9 A-1 through A-7, B, B-1 through B-4, and then the
10 Rebuttal Exhibits B-5 and B-6. There is an objection
11 to A-8 and B-7 at this time, and we'll deal with that
12 when we get there.

13 (Case 25804 Exhibits XTO A, A-1 through
14 A-7, B, B-1 through B-4, Rebuttal B-5,
15 and Rebuttal B-6 were marked for
16 identification and received into
17 evidence.)

18 THE HEARING EXAMINER: Let's go to
19 Longfellow. Now, I want to make sure I'm looking at
20 the right documents.

21 So, Ms. Shaheen, I think the
22 foundational document came in on the 20th. It's 136
23 pages?

24 MS. SHAHEEN: Yes.

25 THE HEARING EXAMINER: All right,

1 fantastic. Let me just start with that document.

2 Ms. McLean, have you reviewed these
3 exhibits?

4 MS. MCLEAN: Yes, I have.

5 THE HEARING EXAMINER: Fantastic.

6 MS. MCLEAN: No objections to their
7 initial exhibit packet.

8 THE HEARING EXAMINER: Very good. So
9 let me just be very clear. So we have exhibits, I
10 think we have tabs, okay. So we have a compulsory
11 pooling checklist, tab 1; we have an application, tab
12 2. Then we have under tab 3, Exhibit A, A-1 through
13 A-7; B as in boy, B-1 through B-6; C, C-1 through C-8;
14 and D, D-1 through D-5. And there's no objection to
15 any of those exhibits?

16 MS. MCLEAN: No objection.

17 THE HEARING EXAMINER: Fantastic, thank
18 you. They're admitted into evidence.

19 (Case 25804 Exhibits Longfellow A, A-1
20 through A-7, B, B-1 through B-6, C, C-1
21 through C-8, and D, D-1 through D-5
22 were marked for identification and
23 received into evidence.)

24 THE HEARING EXAMINER: Okay. Now I
25 have another document here. This was submitted on the

1 24th. It's 32 pages. Oh, these are rebuttal
2 exhibits. Okay. This is Rebuttal Exhibit 1, and it
3 looks like emails.

4 Is that what this is, Ms. Shaheen?

5 MS. SHAHEEN: Yes, it is.

6 THE HEARING EXAMINER: All right, very
7 good.

8 MS. SHAHEEN: These are the emails from
9 2025 between the parties. I believe XTO offered as a
10 direct exhibit, emails from 2026 between the parties,
11 and we're just supplementing the communications with
12 the 2025 emails.

13 THE HEARING EXAMINER: Okay. So this
14 is Rebuttal Exhibit 1 for Longfellow.

15 Ms. McLean, your position?

16 MS. MCLEAN: We object to Rebuttal
17 Exhibit Number 1.

18 THE HEARING EXAMINER: Okay. Let me
19 write this down. Rebuttal. I don't care why right
20 now. The point is that you just are objecting. All
21 right.

22 MS. MCLEAN: Yes.

23 THE HEARING EXAMINER: So that's not
24 going anywhere right now. Then we also have here, I
25 think, okay, these are yours. We have a two-page

1 exhibit. It looks like it's Rebuttal Exhibit 2.

2 And your position on Longfellow
3 Rebuttal Exhibit 2, Ms. McLean?

4 MS. MCLEAN: No objection on Rebuttal
5 Exhibit 2.

6 THE HEARING EXAMINER: Very good. So
7 that exhibit comes into evidence.

8 (Case 25804 Exhibit Longfellow Rebuttal
9 2 was marked for identification and
10 received into evidence.)

11 THE HEARING EXAMINER: Am I missing
12 anything, Ms. Shaheen?

13 MS. SHAHEEN: No, that's it.

14 THE HEARING EXAMINER: All right, very
15 good. All right. So we've dealt with the exhibits
16 through stipulation. There are three that are not
17 coming in at this time.

18 Which party wants to go first?

19 MS. SHAHEEN: I was assuming we would
20 go first because we have the only application.

21 THE HEARING EXAMINER: Okay. That's a
22 good assumption, but I don't want to tie anyone's
23 hands at this point.

24 Ms. McLean, you're okay with that?

25 MS. MCLEAN: Yes, that was what I was

1 thinking would happen as well.

2 THE HEARING EXAMINER: All right,
3 perfect. Let me just go over my review of the
4 exhibits and what I think are the real issues here. I
5 did have a conversation with Mr. Garcia this morning
6 about this case, but I've had some time to look
7 through the exhibits. If I'm wrong about these
8 issues, you can tell me afterward, but I'm just going
9 to tell you what I see and maybe that'll help, maybe
10 that'll help focus us on what's going on here.

11 Number one, I see the first issue here
12 is the prudence and the efficiency of the development
13 plan. And the only plan we have is Longfellow's, so
14 that's what I mean when I say that. It looks like
15 there's a technical dispute about how best to develop
16 this 320-acre spacing unit in the Yeso Formation.

17 It looks like Longfellow's position is
18 that it proposes a full horizontal development plan
19 consisting of eight one-mile wells. Longfellow argues
20 that it's the most efficient way to drain the
21 reservoir, estimating a 14.9 percent recovery factor
22 compared to 4.9 percent for vertical wells.

23 XTO's position is a little different.
24 They contend that eight wells per half section is
25 overly dense and not warranted for this specific area.

1 They argue for extended laterals, 1.5 miles or more,
2 across adjacent sections 32, 33, and 34 to reduce
3 surface locations and increase capital efficiency. So
4 that's the first main issue I see here.

5 Do the parties agree with what I've
6 said so far?

7 MS. SHAHEEN: I'll go first. I agree
8 that those are issues, but I believe that there are a
9 number of other issues that are important here.

10 THE HEARING EXAMINER: Right. I'm only
11 going one issue at a time. So I agree with you, there
12 are more issues.

13 MS. SHAHEEN: Oh, okay.

14 THE HEARING EXAMINER: But my
15 characterization, my summation of that one issue, do
16 you take offense to any of that?

17 MS. SHAHEEN: No, I think you've
18 accurately captured some of the arguments of the
19 parties.

20 THE HEARING EXAMINER: Okay. And Ms.
21 McLean?

22 MS. MCLEAN: I agree with Ms. Shaheen.

23 THE HEARING EXAMINER: All right, thank
24 you. All right. Let's go to the second issue I see,
25 is the reasonableness of the estimated well costs.

1 There's a significant disagreement here
2 over the financial requirements to participate in this
3 project. I see Longfellow's position as the AFE
4 estimated costs at approximately 6.1 million per well
5 for pad development and 7.57 million for the initial
6 single well phase. They argue that costs reflect
7 their high fluid loading simulation strategy, which
8 they claim yield superior production results.

9 XTO's position states that Longfellow's
10 costs are not fair or reasonable, and they're
11 significantly higher per foot of lateral length than
12 other operators in the Yeso. XTO also points to a 22
13 percent cost overrun on Longfellow's recent Ozzy
14 project as evidence of capital inefficiency.

15 Ms. McLean, does that accurately
16 outline the reasonableness of the estimated well cost?

17 MS. MCLEAN: Yes, I believe so. I
18 think that's a good summation of what our argument is.
19 And then we'll, you know, intend to present more as
20 well.

21 THE HEARING EXAMINER: Right. This
22 analysis that I conducted was really just for me and
23 Mr. Garcia, to help orient ourselves to the real main
24 issues here. Because this is one of the problems with
25 these contested cases, is we don't meet beforehand and

1 sort of outline what are the issues here. So it's up
2 to us to figure it out from the exhibits, which puts
3 us at a disadvantage.

4 Ms. Shaheen, did I accurately capture a
5 summary of your estimated well cost issue?

6 MS. SHAHEEN: I believe so. We will,
7 of course, offer additional evidence.

8 THE HEARING EXAMINER: Of course you
9 will. Okay. I have three more issues that I spot.
10 Maybe there are more, but this is what I spot.

11 The lease expiration and imminent risk.
12 It looks like there's a July 1st termination deadline
13 for the underlying federal leases. Longfellow's
14 position, because of the current shallow unit
15 operator, Acacia, is in bankruptcy and production has
16 ceased, they must drill immediately to hold the leases
17 for all parties.

18 XTO claims Longfellow has no active
19 rigs in New Mexico and is unlikely to establish
20 production by the deadline anyway. XTO suggests they
21 could preserve the lease via their own vertical well
22 or by coordinating with another operator such as Mack
23 Energy to penetrate the leasehold.

24 Is that fair? Okay.

25 MS. MCLEAN: You read all of our

1 exhibits very, very well.

2 THE HEARING EXAMINER: I have time
3 during the status conferences and I came in early this
4 morning, so. I wanted to be prepared. Number 4,
5 preservation of waste and protection of correlative
6 rights. Both parties invoke these regulatory mandates
7 to support opposing outcomes.

8 Waste. Longfellow argues that vertical
9 development would leave millions of barrels of oil in
10 the ground and cause a 533 percent increase in surface
11 disturbance. XTO argues Longfellow's plan involves
12 monetary waste due to unproductive lateral length and
13 unnecessary well density.

14 Environmental constraints. Longfellow
15 provides evidence that Section 33 contains desert
16 sagebrush lizard habitat, making vertical drilling on
17 XTO's acreage environmentally challenging, whereas
18 their horizontal plan avoids these areas.

19 Finally, we have our good faith
20 negotiations, which always is an area for lots of
21 extraneous evidence. But it's a factor, so we
22 entertain it. Good faith negotiations and title
23 status.

24 Negotiations. XTO alleges that
25 Longfellow has not negotiated in good faith, claiming

1 Longfellow threatened to let XTO's lease expire unless
2 XTO agreed to term assignment of an unrelated lease.
3 Longfellow denies this, outlining multiple deal
4 structures offered over five months.

5 And then we finally have the title
6 status. Longfellow taking evidence to show XTO's
7 record title position is currently incomplete and in
8 flux, which they argue undermines XTO's claim that
9 it's ready to independently develop the acreage. So
10 those are the issues that I spot.

11 Are there any other major issues that I
12 have missed?

13 MS. SHAHEEN: I'm looking at my notes
14 real quickly here.

15 MS. MCLEAN: I think from XTO's
16 perspective, you've hit pretty much all the high
17 notes.

18 THE HEARING EXAMINER: Okay, thank you.

19 MS. SHAHEEN: I agree. I mean, there's
20 seven factors and you identified six of them. So I
21 mean, we'll address the seventh factor as well, and I
22 think that probably relates to geology. So we'll just
23 offer our evidence and we'll see whether you have any,
24 whether you believe that's an issue here.

25 THE HEARING EXAMINER: Perfect. All

1 right. So, Ms. Shaheen, since you're going first, I'm
2 not sure we need an opening statement here because I
3 just sort of went through the positions of the parties
4 as I saw it, and both of you have agreed it's a good
5 generalized statement issue by issue.

6 How many witnesses do you have?

7 MS. SHAHEEN: Longfellow has three
8 witnesses.

9 THE HEARING EXAMINER: All right.
10 Would you call all three, please?

11 MS. SHAHEEN: Yes. Ms. English, Mr.
12 DeHamer, and Mr. Mitchell.

13 THE HEARING EXAMINER: I can't see,
14 hold on a second, I got the screen in front of me and
15 I can't see. Okay. So I heard Ms. English. I didn't
16 hear the other two names.

17 MS. SHAHEEN: Jacob DeHamer.

18 THE HEARING EXAMINER: DeHamer. Thank
19 you.

20 MS. SHAHEEN: And David Mitchell. And
21 all three have previously testified before the
22 Division.

23 THE HEARING EXAMINER: Perfect. Then
24 I'll ask that question after we get them sworn in. I
25 see you, Mr. DeHamer. All right. I see Ms. English

1 and I see Mr. Mitchell. That's great. Okay. Would
2 you all three raise your right hands, please?

3 Do you swear or affirm under penalty of
4 perjury that the testimony you're about to give is the
5 truth, the whole truth, and nothing but the truth?

6 MS. ENGLISH: I do.

7 MR. DEHAMER: I do.

8 MR. MITCHELL: I do.

9 THE HEARING EXAMINER: All right, thank
10 you. Now one at a time, and I'll start with you, Ms.
11 English, would you please spell your name?

12 MS. ENGLISH: Yes, sir. Rebecca,
13 R-E-B-E-C-C-A, English, E-N-G-L-I-S-H.

14 THE HEARING EXAMINER: And Ms. Shaheen
15 advises me that you've been previously qualified as an
16 expert by this division.

17 MS. ENGLISH: Yes, sir.

18 THE HEARING EXAMINER: Would you tell
19 me in what capacity?

20 MS. ENGLISH: Sure. It's been many,
21 many years. I think it was in, it would be 2016 and
22 2017 is when I was previously qualified in the
23 capacity of landman.

24 THE HEARING EXAMINER: Landman. Well,
25 if you were qualified back then, you're even more

1 qualified now. So I don't have any reason to doubt
2 that.

3 Mr. DeHamer, would you go next?

4 MR. DEHAMER: Yes. Can you hear me?

5 THE HEARING EXAMINER: I can.

6 MR. DEHAMER: Perfect. You want me to
7 spell my name?

8 THE HEARING EXAMINER: I do.

9 MR. DEHAMER: J-A-C-O-B, D-E-H-A-M-E-R.

10 THE HEARING EXAMINER: Thank you. And
11 the previously qualified expertise, what is the field?

12 MR. DEHAMER: Petroleum geology.

13 THE HEARING EXAMINER: Perfect. How
14 long ago was it?

15 MR. DEHAMER: Like six to eight months
16 ago.

17 THE HEARING EXAMINER: Oh, okay.

18 MR. DEHAMER: My first hearing.

19 THE HEARING EXAMINER: With me? Did we
20 have a hearing together?

21 MR. DEHAMER: Just a pooling order,
22 yeah.

23 THE HEARING EXAMINER: Oh, okay. Was
24 it a hearing by affidavit?

25 MR. DEHAMER: Yes.

1 THE HEARING EXAMINER: Okay. And I
2 qualified you at that time?

3 MR. DEHAMER: Yes, sir.

4 THE HEARING EXAMINER: Perfect. All
5 right.

6 And, Mr. Mitchell, would you spell your
7 name?

8 MR. MITCHELL: D-A-V-I-D,
9 M-I-T-C-H-E-L-L.

10 THE HEARING EXAMINER: And the area of
11 expertise?

12 MR. MITCHELL: Petroleum engineering.

13 THE HEARING EXAMINER: And when were
14 you qualified for that?

15 MR. MITCHELL: It was probably four or
16 five years ago at another contested hearing. Did that
17 not come through?

18 THE HEARING EXAMINER: I won't be able
19 to capture what you're saying. Plus, you're frozen.

20 MR. MITCHELL: I'm sorry, can you hear
21 me now?

22 MR. DEHAMER: Actually, Mr.
23 Commissioner, you're frozen. Sorry.

24 THE HEARING EXAMINER: And I'm frozen.
25 All right. Hold on a minute. I'm going to turn my

1 camera off because it seems -- I'm sorry?

2 MR. GARCIA: I just said I believe it's
3 your side. I can see --

4 THE HEARING EXAMINER: Can you hear me
5 now?

6 MR. GARCIA: We can.

7 THE HEARING EXAMINER: Okay. My
8 camera's off because my computer said it was
9 overheating, which it's a brand new computer, so
10 that's unfortunate.

11 Mr. Mitchell, I had asked you when you
12 were qualified by this Division as a petroleum
13 engineer.

14 MR. MITCHELL: Approximately five years
15 ago during a separate protested hearing.

16 THE HEARING EXAMINER: Okay, perfect.
17 Thank you, sir.

18 What is a petroleum engineer?

19 MR. MITCHELL: Petroleum engineer is an
20 engineer that's responsible for the drilling,
21 completions, and production of subsurface reservoirs,
22 as well as the surface equipment and infrastructure
23 required to produce them.

24 THE HEARING EXAMINER: I see. Okay,
25 perfect. Thank you.

1 All right. Now it is noon, basically,
2 here in Mountain Time. And I wonder if the parties
3 would like a break to get something to eat before we
4 begin in earnest. Ms. Shaheen?

5 MS. SHAHEEN: I think that would be a
6 good idea, particularly for you and the technical
7 examiner, and for Ms. McLean as well.

8 THE HEARING EXAMINER: Okay. Well,
9 that's very kind of you. So I was thinking about a
10 half an hour. Is that okay with you?

11 MS. SHAHEEN: That works for me.

12 THE HEARING EXAMINER: It works for me
13 and Mr. Garcia as well. I say that because this
14 hearing may go into tomorrow, I don't know, but I
15 figure if we cut down the lunch, maybe it won't. I
16 don't know.

17 MS. SHAHEEN: Good idea.

18 THE HEARING EXAMINER: All right,
19 sounds good.

20 Ms. McLean, does that work for you?

21 MS. MCLEAN: That works for me.

22 THE HEARING EXAMINER: All right. And
23 my computer needs a rest, obviously. So, okay. We're
24 going to come back on the record at 12:30, which is in
25 about 33 minutes from now. And, Mr. Court Reporter, I

1 hope that's okay with you.

2 THE REPORTER: That's fine by me.

3 Thank you.

4 THE HEARING EXAMINER: All right. So
5 thank you, everyone. We'll be back on the record.
6 We're in recess now.

7 (Off the record.)

8 THE HEARING EXAMINER: It is 12:30 on
9 the nose and we are back on the record. Ms. Shaheen,
10 are you ready to proceed?

11 MS. SHAHEEN: I am.

12 THE HEARING EXAMINER: Which of your
13 witnesses do you want to call first?

14 MS. SHAHEEN: The landman, Ms. English.
15 And I would just note, I'm hoping that we can get Mr.
16 DeHamer to testify today as well. So if we start
17 running too long with Ms. English, maybe we could hop
18 to Mr. DeHamer, because he's not available tomorrow.

19 THE HEARING EXAMINER: Okay, that
20 sounds fine. I can't imagine Ms. McLean would object
21 to that. So go right ahead, Ms. Shaheen.

22 MS. MCLEAN: And I'll just let you guys
23 know we are not planning to cross Mr. DeHamer, the
24 geologist.

25 THE HEARING EXAMINER: Ah, okay. Thank

1 you. Go right ahead.

2 Ms. English, I remind you you're under
3 oath.

4 DIRECT EXAMINATION

5 BY MS. SHAHEEN:

6 MS. SHAHEEN: Good afternoon, Ms.
7 English. Let's start by describing the acreage that
8 Longfellow seeks to pool in this proceeding.

9 MS. ENGLISH: Sure. Excuse me, sorry.
10 Yes, we are looking to pool the south half of Section
11 33, Township 16 South, Range 31 East.

12 MS. SHAHEEN: And when did Longfellow
13 acquire its interest in this acreage?

14 MS. ENGLISH: I believe it was before
15 my time at Longfellow, but I believe it was in
16 2024/2023 timeframe.

17 MS. SHAHEEN: And what tracts does
18 Longfellow have an interest in?

19 MS. ENGLISH: Sure, yeah. Let me pull
20 up my map, just to make sure I'm not misspeaking.
21 Longfellow has an interest in the south half, in
22 particular in the east half of the southwest quarter
23 and the east half of the southeast quarter.

24 MS. SHAHEEN: And I'll share now, if
25 everyone is patient with me for a sec. Can everyone

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1 see what I'm trying --

2 MS. ENGLISH: Yes, ma'am.

3 MS. SHAHEEN: -- to show, the direct
4 exhibits? Let's turn to your Exhibit A-7 quickly
5 here, because I think it'll be helpful to talk about
6 the interest in the tracks.

7 MS. ENGLISH: Sure.

8 MS. SHAHEEN: Is this your Exhibit A-7?

9 MS. ENGLISH: It is.

10 MS. SHAHEEN: And so can you describe,
11 using the colors here in this map, what Longfellow's
12 acreage is in the south half of Section 33?

13 MS. ENGLISH: Yes. Yeah, and I'll --
14 and I'll take just a quick step back because this map
15 does have quite a bit to it. This map shows
16 Longfellow's interest across what we dub the Cedar
17 Lake area. And the interest is all contained within
18 the black outline, which is the North Square Lake unit
19 boundary, which is part of what's at issue here today.
20 And Longfellow's interest is the yellow.

21 So you can see that we have leases
22 across many different sections and many different
23 proposed units. Our proposed units are outlined in
24 red. The unit at issue is the south half of 33, where
25 you can see our interest in the east, half of the

1 southwest and the east, half of the southeast, all
2 under the same lease. So all of Longfellow's interest
3 in Section 33 is under one federal lease.

4 The blue is XTO's acreage. So we -- we
5 show XTO's acreage across, again, kind of similarly
6 the Cedar Lake area so that we can appropriately
7 depict, you know, the -- the correct amount of leases
8 that are potentially expiring in July.

9 The difference between the darker blue
10 and the light blue, I don't know if everybody can like
11 make out the two distinct colors there, but the
12 lighter blue are definitively record title shows XTO
13 with 100 percent interest. The darker blue has some,
14 a little bit of nuance to it, and I don't know if we
15 want to talk about it now or later, but we
16 distinct -- we show each of them separate so that you
17 can kind of see what we're dealing with.

18 MS. SHAHEEN: And --

19 MS. MCLEAN: Can I ask a question real
20 quick? Just in the interest of time, are we, you
21 know, we haven't objected to her direct testimony or
22 any of their direct testimonies are exhibits and I
23 thought like the, all the other contested hearings
24 that they would adopt their testimony, then introduce
25 rebuttal exhibits, and then we could cross.

1 Are we going to go through all of her
2 testimony or what are the -- I guess if we could just
3 kind of outline the order of operations, that would be
4 helpful.

5 THE HEARING EXAMINER: Ms. Shaheen?

6 MS. SHAHEEN: Yes. I was just hoping
7 to have Ms. English summarize her testimony. And I
8 think it's helpful to have a graphic representation of
9 what her testimony is here. And of course, Mr.
10 Examiners, if I'm taking too long or Ms. English is
11 taking too long, just let us know and we'll move it a
12 little faster.

13 THE HEARING EXAMINER: What if we do
14 this? What if we do this? I don't have the exhibit
15 packet in front of me because my computer's having
16 trouble. How many exhibits came in through Ms.
17 English?

18 MS. SHAHEEN: I believe there are seven
19 direct exhibits and then rebuttal Exhibit A-8 is also
20 an exhibit that's sponsored by Ms. English.

21 THE HEARING EXAMINER: Okay. All
22 right. And the seven exhibits, is there a way -- they
23 are in evidence and Mr. Garcia and I have reviewed
24 them. Is there a way to do sort of a broad summary of
25 Ms. English's expert opinion? Maybe let's say ten, 15

1 minutes? And then we can see if she needs more time
2 after that.

3 MS. SHAHEEN: That sounds good. I was
4 hoping to get her through it in about that much time.

5 THE HEARING EXAMINER: Sounds good.

6 So, Ms. McLean, I know you didn't
7 object, but you wanted some operational guidance. I
8 think what we'll do is we'll give each witness a
9 15-minute period to summarize their self-affirmed
10 statement if there is one, and their exhibits, and
11 then we'll open them up for cross-examination.

12 So please proceed, Ms. Shaheen.

13 MS. SHAHEEN: May I just clarify one
14 thing?

15 THE HEARING EXAMINER: Yes.

16 MS. SHAHEEN: Because I was thinking
17 that ten to 15 minutes would be the direct, and then
18 there would be, we would offer what rebuttal we can
19 now, and then there would be cross. But if you want
20 to do it differently, I'm happy with that as well.

21 THE HEARING EXAMINER: As we've done it
22 in the past, if rebuttal exhibits have been submitted
23 and reviewed by opposing counsel, then that witness
24 should incorporate their rebuttal testimony during
25 their 15-minute summary. Now of course, Ms.

1 English's, A-8 is not in evidence, so you might want
2 to spend a little time at the end trying to lay a
3 foundation for A-8.

4 MS. MCLEAN: Just for clarification for
5 the record, the Rebuttal Exhibit A-8 is actually XTO's
6 rebuttal exhibit.

7 THE HEARING EXAMINER: I'm sorry.

8 MS. MCLEAN: And Longfellow calls
9 theirs Rebuttal Exhibit 1 and Rebuttal Exhibit 2.

10 THE HEARING EXAMINER: Thank you for
11 the clarification. Agreed.

12 MS. SHAHEEN: And so we also have, you
13 know, rebuttal testimony and response to their written
14 testimony, and we'll try to weave that in as we go
15 along.

16 THE HEARING EXAMINER: Yeah, it's up to
17 you. And if you need more time, just ask for it.
18 I'll just start the 15 minutes now.

19 MS. SHAHEEN: Okay.

20 BY MS. SHAHEEN:

21 MS. SHAHEEN: So turning back to
22 Exhibit A-7, we were discussing that the blue, the
23 light blue and the dark blue, represent XTO's
24 interest.

25 Is that right, Ms. English?

1 MS. ENGLISH: Yes, ma'am.

2 MS. SHAHEEN: And do you know when XTO
3 acquired its interest in these blue --

4 MS. ENGLISH: Sure, yeah. Don't quote
5 me on the exact year, but I believe XTO's had this
6 interest for some time, several decades, 60s,
7 potentially.

8 MS. SHAHEEN: Okay. And then the
9 difference between the two, the light blue and the
10 dark blue, there's some discussion in your testimony
11 about a reassignment?

12 MS. ENGLISH: Yes, ma'am.

13 MS. SHAHEEN: Okay. Can you talk about
14 that reassignment and the status of the reassignment?

15 MS. ENGLISH: Sure, yeah. At some
16 point in time through, you know, various decades, I
17 can't eloquently speak on the exact date, but XTO, I
18 believe, issued a term assignment. And again, none of
19 this is disputed. We all agree on this. But XTO
20 issued a term assignment to a few parties. I believe
21 it was in a third, a third, a third. So three
22 separate parties.

23 And forgive me if I misquote this, I'm
24 sure XTO will -- will clear this up. The -- the term
25 assignment termed out several years ago, in around

1 2006, so about 20 years ago. And in that term that
2 occurred, the parties, XTO was due a reassignment from
3 the parties. There's no question. We don't dispute
4 that at all that XTO does indeed, they are owed
5 reassignment.

6 From what we can tell, the reassignment
7 was not, did not occur from the three parties. I
8 think there is some dispute on who the three parties
9 are. But we know that one of them was Occidental, and
10 then the other two are, our title shows it as one
11 part, as -- as potentially different from what XTO's
12 title is. But that, again, is not an issue.

13 So I believe XTO sought a reassignment
14 from Occidental back in 2006, and Occidental did give
15 XTO a reassignment, thereby XTO having record title
16 again in one third of those two darker blue tracts.
17 That assignment was not recorded. And so we were not
18 aware of that assignment until we, you know, spoke
19 with XTO recently and they, well, we pointed it out
20 and they knew about it and they then subsequently
21 recorded that. So that is good. It's of record.

22 The other two thirds, I think XTO is
23 seeking those reassignments. I have inquired with my
24 counterpart at XTO, and I don't believe that they've
25 gotten them yet, but that they are seeking them.

1 So what that means in terms of title is
2 that in the two darker blue tracts, we do not dispute
3 that XTO is owed a reassignment, but we do not believe
4 that they have record title at this time.

5 MS. SHAHEEN: Going back to the map,
6 A-7, you mentioned something about other Longfellow
7 developments in the area.

8 How many other additional developments
9 does Longfellow have in the area?

10 MS. ENGLISH: Yes. So it -- it's kind
11 of a moving target because, you know, we're in this
12 hearing at this time, but you can see the red outline
13 on these units. So Longfellow right now has several
14 different units that we are actively working to get
15 drilled before this July deadline. And if I need to,
16 I don't know if anybody has questions, but I can
17 explain why the deadline is in July. If that's not an
18 issue, we don't have to do that.

19 But the -- presumably all of the
20 leases, including Longfellow's yellow leases, with the
21 exception of Section 32, is the only exception, have
22 an expiration of July. And this includes all of XTO's
23 leases as well.

24 MS. SHAHEEN: And are you aware --

25 MS. ENGLISH: So --

1 MS. SHAHEEN: Oh, I'm sorry.

2 MS. ENGLISH: No, no, no, go ahead.

3 MS. SHAHEEN: Are you aware of any
4 developments that XTO has proposed in this acreage
5 that's depicted within what you've deemed the Cedar
6 Lake unit?

7 MS. ENGLISH: No, ma'am.

8 MS. SHAHEEN: Now your Exhibit A-5 is
9 the usual chronology of contacts. Let's scroll back
10 to that here. And of course the important part is the
11 chronology of contacts with XTO here. And I'll make
12 it a little bit bigger.

13 So does this represent the timing of
14 the contacts that you've had with XTO throughout the
15 time, since the time you first proposed the well on
16 August 5th of 2025?

17 MS. ENGLISH: It does, with the
18 exception of -- of one thing, that this ended, you
19 know, we submitted these last week, and even since
20 last week we've had numerous conversations with XTO
21 that are not depicted on this chronology.

22 MS. SHAHEEN: And in your statement at
23 paragraphs 27 to 40, you actually detailed all of
24 these conversations, communications with Exxon, and
25 could you just hit the high points of your paragraphs

1 27 through 40? And I'll --

2 MS. ENGLISH: Sure, sure, yeah.

3 MS. SHAHEEN: -- turn to that now.

4 That's PDF page 21.

5 MS. ENGLISH: Sure, yeah, and I can, I
6 can keep it somewhat brief. So I think the high
7 points are, we contacted XTO back in August through
8 October of last year to talk about a standard
9 protocol, which would be to offer a term assignment to
10 XTO or, and/or a participation through an operating
11 agreement in this specific unit, the south half of
12 Section 33.

13 This conversation took place before
14 Longfellow or XTO were aware of any issues with the
15 Acacia bankruptcy proceedings and the Acacia shallow
16 unit that holds these leases. The original term
17 assignment was to offer to take a term assignment in
18 Section 33 as well as section 1 in a different
19 township. So we -- we submitted a single term
20 assignment that had two different tracts involved.
21 One is in the south half of 33, and one is in a
22 different township in 18 South 28 East, or excuse me,
23 I apologize, 18 South 27 East. That conversation,
24 we -- we submitted it, they were grateful for that,
25 and they said we'll look into it.

1 Shortly after, Longfellow discovers
2 that we have a -- we have quite a big problem with
3 this Acacia bankruptcy issue. So I call XTO to let
4 them know that this has come up and that
5 Longfellow's -- you know, were you aware of it? And
6 Longfellow's doing everything we can to try to sort
7 through the nuances of this and we'll get back in
8 touch later.

9 So then fast forward to, I'll skip
10 quite a bit, multiple conversations took place and we
11 believe we've come up with a solution that can benefit
12 both Longfellow and XTO, which is, as simple as I can
13 say, expedite putting wells in the ground so that we
14 hold both our lease and XTO's lease. We discussed
15 that we can come up with a deal structure, whether
16 again that's term assignment, proposed JOA, or -- or
17 anything and agree that, you know, no problem, we'll
18 get there.

19 Fast forward to 2026. We -- we have
20 in-person meeting, we speak to them often, and we
21 offer everything from the original term assignment,
22 which involved another tract in another area, to, you
23 know, assign us 100 percent of the interest, we'll
24 hold your wells, we'll hold your, the rest of your
25 lease for you, to we'll give you every option through

1 operating agreement, participation, term assignment,
2 anything that you would like. You just tell us what
3 you would like to do. Our point being, we just need
4 to get wells in the ground.

5 And you know, we still are discussing
6 even today, but unfortunately we have not come up with
7 a plan at this time. So the summary is just several
8 months of communications climaxing, obviously, into
9 today's hearing.

10 MS. SHAHEEN: And with respect to
11 paragraphs 45 through 50, here you've talked about
12 XTO's actions and inactions. Has XTO at any time, to
13 your knowledge, until yesterday at about 1:30,
14 proposed any alternative development that would
15 include Longfellow's lease?

16 MS. ENGLISH: Not that would include
17 Longfellow's Lease. No, ma'am.

18 MS. SHAHEEN: And I think we've
19 discussed before the urgency of development, that's in
20 your paragraphs 51 through 57. Is there anything in
21 particular you would like to highlight with respect to
22 that urgency?

23 MS. ENGLISH: No, and I apologize, I'm
24 shuffling to get there. I think we all -- I think
25 it's undisputed about the -- and perhaps it's not, but

1 undisputed about how we got here with this Acacia
2 bankruptcy. But you know, our take is, my -- my
3 summary is that it's absolutely paramount that both
4 parties get their leases held.

5 We have communicated, and to be clear,
6 Longfellow has communicated often with the BLM on
7 this, because we've taken the lead in communicating
8 and then providing those communications to the other
9 third parties that we're working with in this area.
10 So XTO is not the only third party that we have
11 discussed this situation with.

12 If you go back to the map, Ms. Shaheen,
13 you can see we don't have other, and it's not
14 necessary, but there's not other parties listed on the
15 map, but there's third parties who have leases in
16 those white spaces. And we -- we're in the same
17 conversations that we've been in with XTO on those
18 tracts as well.

19 So the whole thought process is let us
20 take the lead, let us get this administratively
21 approved, and let us drill to hold everybody's leases,
22 all within the timeframe that the BLM has told us is
23 required, which is before July of 2026.

24 MS. SHAHEEN: Turning now to XTO's
25 exhibits, have you reviewed the exhibits of

1 Mr. -- excuse me, Ms. McKee?

2 MS. ENGLISH: Yes, ma'am.

3 MS. SHAHEEN: And here, let me scroll
4 back to that. That's at PDF page 3 of XTO's direct
5 exhibits.

6 MS. ENGLISH: Yes, ma'am.

7 MS. SHAHEEN: On page 2. Here we go.
8 And so with respect to paragraph 6, I'll scroll down
9 here. Have you reviewed this testimony of Ms. McKee's
10 regarding XTO's ownership of 100 percent of the
11 federal lease?

12 MS. ENGLISH: Yes, ma'am.

13 MS. SHAHEEN: And as you discussed
14 earlier, they do not have record title to 100 percent
15 of that; is that correct?

16 MS. ENGLISH: I'm not -- I do not
17 believe they do. I have spoken with Ms. McKee and
18 asked the question and -- and the response is that
19 they are working on getting record title.

20 MS. SHAHEEN: And here in paragraph 8
21 where Ms. McKee represents that the acreage was all
22 reassigned to XTO on November 1st of 2010, is that a
23 true statement?

24 MS. ENGLISH: I don't believe it is. I
25 believe there's outstanding reassignments that still

1 need to occur.

2 MS. SHAHEEN: With respect to
3 paragraphs 15 through 20, here Ms. McKee discusses a
4 number of communications in her paragraphs 15 through
5 20. Have you reviewed her testimony here?

6 MS. ENGLISH: Yes, ma'am.

7 MS. SHAHEEN: And in particular I,
8 well, let's start with paragraph 15 and 16 where Ms.
9 McKee represents that Longfellow never responded to
10 XTO's inquiry about removing XTO from the forced
11 pooling.

12 Can you talk a little bit about that
13 from Longfellow's perspective?

14 MS. ENGLISH: Sure, yeah. I -- I
15 think, and perhaps I can get clarification, but
16 I -- I'm not -- I'm not sure what -- what the request
17 was we never responded. My understanding is that
18 we've been in contact with XTO and every
19 question/email/phone call has received a response very
20 immediately.

21 So if I could just understand a little
22 bit more as to exactly what that is and perhaps look
23 at that, then maybe I could opine on that a little bit
24 more. But my understanding is that we've always been
25 in contact and responded.

1 MS. SHAHEEN: Okay. Sounds like you
2 might need to come back after Ms. McKee's testimony.
3 With respect to paragraph 17, Ms. McKee makes a number
4 of representations here about Longfellow, the first
5 being Longfellow having no plan to develop the Van
6 Halen Spacing Unit with XTO.

7 What is your response to that?

8 MS. ENGLISH: That's, we -- we were in
9 person with XTO, clearly with the intent that we would
10 like to strike a deal in order to develop the Van
11 Halen Spacing Unit with XTO. I'm not quite sure. We
12 wouldn't have approached them to attempt to get an
13 operating agreement, a term assignment, an assignment,
14 if we had no intention of doing this.

15 MS. SHAHEEN: And there's a number of
16 statements here about LFE or Longfellow drilling a
17 vertical well. How did that come up and what is
18 Longfellow's position with respect to drilling the
19 horizontal wells?

20 MS. ENGLISH: Sure, yeah. It is
21 absolutely not disputed that discussing drilling a
22 vertical well occurred in our in-person meeting. Our
23 conversation in the in-person meeting was, hey guys,
24 we've previously given you a term assignment on both
25 the South half of Section 33 and Section 1 in the

1 other township. So we're here hat in hand saying,
2 okay, let's come back to those discussions on the term
3 assignment that we've been tabling for a little bit
4 while we try to understand this bankruptcy.

5 And now we're requesting similar terms.
6 That we would like to get an assignment for those
7 interests in exchange for working to expedite to drill
8 this well that can help hold our, both of our leases.
9 If that's not on the table to XTO, then it is
10 Longfellow's position that we will have to protect and
11 maintain our leasehold, which would include the
12 possibility of drilling a vertical well.

13 XTO mirrored that sentiment by saying
14 that they also could and would drill a vertical well,
15 as well as approach another operator to develop their
16 leasehold for them.

17 So vertical well discussions have
18 always been part of it. It is no secret that we have
19 filed for an APD to have a vertical well. It is
20 Longfellow's position that we would like to protect
21 our interest, and I think a prudent operator would
22 have a vertical well as an option. Specifically in
23 case they got into a situation like this where,
24 unfortunately, timing is of the essence, but we cannot
25 expedite because of a contested hearing.

1 We -- I, you know, I'm not an engineer,
2 I think Mr. Mitchell will talk about this a little bit
3 later, but although vertical well would be a lot less
4 expensive than drilling a horizontal well and
5 potentially easier to get an APD, there's a lot of
6 benefits of drilling a vertical well. But the very,
7 very major negative of drilling a vertical well is the
8 thought process that it is not the best thing to do
9 for protecting correlative lights, preventing waste,
10 and when we could drill a horizontal well that we all
11 know is more prolific.

12 MS. SHAHEEN: Turning now to paragraph
13 23, here Ms. McKee represents that approval of
14 Longfellow's application here would strand acreage in
15 the south half of the Southwest quarter of Section 33.

16 Isn't the south half of the Southwest
17 quarter of Section 33 included in this, in the acreage
18 that we seek to pool here?

19 MS. ENGLISH: Yes, ma'am, it is.

20 MS. SHAHEEN: Have you also reviewed
21 Mr. Brown's statement?

22 MS. ENGLISH: Yes, ma'am, I have.

23 MS. SHAHEEN: Turning now to PDF page
24 29.

25 THE HEARING EXAMINER: And, Ms.

1 Shaheen, you're coming up on 20 minutes in about one
2 minute.

3 MS. SHAHEEN: This is our last point
4 with Ms. --

5 THE HEARING EXAMINER: Go right ahead.

6 MS. SHAHEEN: -- English, unless we
7 need further rebuttal.

8 BY MS. SHAHEEN:

9 MS. SHAHEEN: And so I turn your
10 attention now to paragraph 6B here where my hand is
11 and where Mr. Brown is critical of the surface
12 location of the proposed wells.

13 Is that how you understand this
14 testimony?

15 MS. ENGLISH: Yes, ma'am.

16 MS. SHAHEEN: And can you just briefly
17 tell the examiners why Longfellow's proposing the
18 surface locations that are proposed?

19 MS. ENGLISH: Yes, ma'am. Yeah, I
20 think we, we all know that environmental effects,
21 especially in New Mexico, are paramount, and our
22 surface location was chosen and approved with the BLM
23 through on sites. Sorry, excuse me, the State Land
24 Office. I don't want to misstate, because it is on
25 State Land Office acreage. As the best surface that

1 there is to be getting, you know, to this development.

2 Having our surface off lease, if you
3 may, outside of the unit, allows us to put our first
4 take point at the closest proximity, therefore we
5 believe, preventing the least amount of waste. It's
6 just a simple concept of what I would consider an
7 off-leased surface location, especially with all the
8 environmental effects out there. That it is the best
9 and the most prudent way to develop this.

10 MS. SHAHEEN: And what are a couple of
11 the environmental issues that you've had to address
12 with respect to surface locations?

13 MS. ENGLISH: Sure, yeah. And this is,
14 I was not on the on-sites for this, so please keep in
15 mind that this isn't firsthand experience for this
16 particular location. But having worked New Mexico
17 before and at this present day, all sorts of factors
18 between, you know, species of animals that might have,
19 you know, migratory patterns, to living around the
20 location, to protected cactus, all of these things
21 come into play, as we all know, when reviewing a
22 surface location.

23 And in this particular area, my
24 understanding is that it's particularly a little bit
25 hairy in the respect of there's not a plethora of

1 available locations that don't have at least one
2 environmental concern adjacent or on the location.

3 MS. SHAHEEN: And one of those
4 environmental concerns is the sagebrush, the desert
5 sagebrush lizard.

6 MS. ENGLISH: Yes.

7 MS. SHAHEEN: Is that correct?

8 MS. ENGLISH: Yes, ma'am. It's, yes.

9 MS. SHAHEEN: And there are also sand
10 dunes present that are an environmental concern; is
11 that right?

12 MS. ENGLISH: That's correct, yes.

13 MS. SHAHEEN: With that, Mr. Examiner,
14 the only testimony at this point that I anticipate Ms.
15 English would do, it relates to our Rebuttal Exhibit
16 1, which has not yet been admitted.

17 THE HEARING EXAMINER: Let me stop you
18 there for a moment. And I would remind Ms. McLean the
19 same thing, so I don't feel like this is unfair.

20 Did you ask your witness to adopt their
21 self-affirmed statement and exhibits under oath and
22 whether they wanted to make any corrections to them?

23 MS. SHAHEEN: Not yet, but I'm happy to
24 do that now.

25 THE HEARING EXAMINER: Go ahead.

1 MS. SHAHEEN: Thank you.

2 BY MS. SHAHEEN:

3 MS. SHAHEEN: And your testimony, your
4 direct testimony, Ms. English, is in Exhibit A of
5 Longfellow's exhibits; is that correct?

6 MS. ENGLISH: Yes, ma'am.

7 MS. SHAHEEN: Do you have any
8 corrections to that testimony at this time?

9 MS. ENGLISH: I'm reviewing just to
10 make sure I -- I say this appropriately, so give me
11 one second. Rolling through it. No. The only -- the
12 only thing that I would like to say, just to make sure
13 that we are all on the same page, is that as of the
14 date of these exhibits, the communication was as it
15 was outlined on the contact list, and there's only
16 been additional communication that has occurred since,
17 since we put these exhibits in. So I would like for
18 it to be clear that that's -- that is not the final
19 contact.

20 MS. SHAHEEN: And do you adopt the
21 written testimony as your direct testimony in this
22 matter?

23 MS. ENGLISH: I do.

24 MS. SHAHEEN: Thank you.

25 With that, I would pass the witness,

1 with the understanding that I can bring her back if
2 need be for additional rebuttal.

3 THE HEARING EXAMINER: Ms. McLean?

4 MS. MCLEAN: Yes, thank you.

5 Good afternoon, Ms. English. I'm
6 Jackie McLean. I represent XTO.

7 Let me just -- Ms. Shaheen, would you
8 mind stopping sharing so I can do that if I need?

9 MS. SHAHEEN: Did it work?

10 MS. MCLEAN: Yes, thank you.

11 MS. SHAHEEN: Okay.

12 MS. MCLEAN: Just want to make sure we
13 got what we need.

14 CROSS-EXAMINATION

15 BY MS. MCLEAN:

16 MS. MCLEAN: All right. Okay, Ms.
17 English. You agree that XTO has a working interest
18 and ownership in the Van Halen Spacing Unit; correct?

19 MS. ENGLISH: Correct.

20 MS. MCLEAN: Let me ask you about the
21 North Square Lake Unit and the lease expirations.
22 Both XTO's lease and Longfellow's lease were held by
23 production because they're part of that Acacia remnant
24 North Square Lake Unit; is that correct?

25 MS. ENGLISH: That's my understanding,

1 yes, ma'am.

2 MS. MCLEAN: So that meant that both
3 XTO and Longfellow's Lease were not at a risk of
4 terminating, even though their independent leases did
5 not have production as long as there was production
6 somewhere within that North Square Lake Unit; correct?

7 MS. ENGLISH: That's my understanding,
8 yes, ma'am.

9 MS. MCLEAN: And as of October 2025,
10 when you brought up the lease expiration concerns to
11 XTO, Longfellow didn't have any production on its
12 leasehold; correct?

13 MS. ENGLISH: That's correct, yes,
14 ma'am.

15 MS. MCLEAN: And Longfellow, you said,
16 acquired its interest in the acreage that's the
17 subject of this application in 2023 or 2024; correct?

18 MS. ENGLISH: Yes, ma'am.

19 MS. MCLEAN: And Longfellow first
20 proposed the Van Halen wells to XTO in August 2025;
21 correct?

22 MS. ENGLISH: I believe that's the
23 date. I apologize, there's a landman that on -- is on
24 my team who proposed it, so I don't know the exact
25 date. It should be in the -- in the --

1 MS. MCLEAN: Yeah, let me --

2 MS. ENGLISH: -- but that's correct.

3 MS. MCLEAN: Let me show you, I'll go
4 ahead just so that we're very clear.

5 MS. ENGLISH: Yes, yes ma'am.

6 MS. MCLEAN: It's your Exhibit A-4.
7 Share my screen. Hold on.

8 MS. ENGLISH: And, Ms. McLean, I have
9 it now in front of me. If it's easier, I can read it
10 directly from there.

11 MS. SHAHEEN: And I can share as well,
12 if that would be helpful.

13 BY MS. MCLEAN:

14 MS. MCLEAN: Okay. Here. Do you see,
15 is this your well proposal letter?

16 MS. ENGLISH: Yes, ma'am.

17 MS. MCLEAN: To XTO?

18 MS. ENGLISH: Yes, ma'am.

19 MS. MCLEAN: And it's dated August 1,
20 2025?

21 MS. ENGLISH: Yes, ma'am.

22 MS. MCLEAN: So that would be, you
23 know, a year, year and a half after acquiring an
24 interest in the subject acreage that you proposed
25 these wells?

1 MS. ENGLISH: Yes.

2 MS. MCLEAN: And Longfellow and XTO
3 were discussing developing the Van Halen Spacing Unit
4 from about August 2025 until present; correct?

5 MS. ENGLISH: Yes, ma'am.

6 MS. MCLEAN: So about six months of
7 working pretty diligently on trying to come up with a
8 way to get production on these leases?

9 MS. ENGLISH: Yes, ma'am.

10 MS. MCLEAN: And on January 6, 2026,
11 XTO withdrew its initial protest to Longfellow's
12 pooling application on what you say, quote,
13 "assurances that negotiation would continue between
14 the parties."

15 Isn't that true?

16 MS. ENGLISH: That is true. Yes,
17 ma'am.

18 MS. MCLEAN: So at this point, January
19 6th, XTO and Longfellow were working together to
20 develop this acreage in the Van Halen Spacing Unit;
21 correct?

22 MS. ENGLISH: We were proposing
23 options, and XTO had not agreed to any of the options.
24 So we were, we were in negotiations. Yes.

25 MS. MCLEAN: Well, you had said earlier

1 that you had spent six months of working pretty
2 diligently together with XTO on a way to come up, on a
3 way to produce these leases.

4 Are you saying now no, you weren't
5 working together during that time?

6 MS. ENGLISH: No, ma'am. No, ma'am.
7 We, what I'm saying is, I think it would be just a
8 definition of -- of working together. XTO, as you can
9 see in the -- sorry, excuse me, Longfellow, as you can
10 see in the contact list, sent the initial well
11 proposal in August of 2025. And then we sent a term
12 assignment offer on -- in October of 2025, and then
13 had multiple contacts over the phone between October
14 and January 6.

15 No -- so we had proposed a term
16 assignment at that point in time, definitively, but it
17 had not been accepted. So, you know, working
18 together, yes, we were communicating, but there was no
19 alternative options presented by XTO during those
20 communications.

21 MS. MCLEAN: And so are you saying that
22 XTO just didn't respond at all?

23 MS. ENGLISH: No, ma'am, I'm not.

24 MS. MCLEAN: So I guess your definition
25 of working together means that XTO would've just

1 immediately accepted your proposal?

2 MS. ENGLISH: No, ma'am.

3 MS. MCLEAN: I guess I'm confused on
4 what you're really saying here.

5 MS. ENGLISH: Yeah, sure. So, you
6 know, when we say working together, I -- I'm curious.
7 We proposed at that point in time at least one option
8 for a -- a deal structure. That option had not been
9 accepted by XTO during those months of August to
10 January.

11 MS. MCLEAN: But you had many
12 conversations about that offer; correct? And by
13 January 6th, XTO felt comfortable enough based on,
14 quote, assurances by you, that negotiations would
15 continue; correct?

16 MS. ENGLISH: Yes, ma'am. Yeah.

17 MS. MCLEAN: Okay. So then a month
18 later, February 3, 2026, there's an in-person meeting
19 with Longfellow and XTO; correct?

20 MS. ENGLISH: Yes, ma'am. I would
21 classify that as negotiations continuing.

22 MS. MCLEAN: Okay. That's not what I'm
23 asking, though. I you had an in-person meeting with
24 XTO on that date; correct?

25 MS. ENGLISH: Yes, ma'am.

1 MS. MCLEAN: Okay. And at that meeting
2 you presented what you describe in your testimony as a
3 comprehensive proposal to XTO for developing the Van
4 Halen Spacing Unit; correct?

5 MS. ENGLISH: Yes, ma'am.

6 MS. MCLEAN: And as part of this
7 comprehensive proposal, XTO was to assign 100 percent
8 of its interest in the southeast quarter of Section 1,
9 Township 18 South, Range 27 East to Longfellow; is
10 that correct?

11 MS. ENGLISH: That's correct. With a
12 little bit more to it.

13 MS. MCLEAN: Well, I'm just reading
14 what you have in paragraph 32D of your testimony. It
15 says --

16 MS. ENGLISH: Let me get there. One
17 second.

18 MS. MCLEAN: And I can put it up too,
19 if we need.

20 MS. ENGLISH: Sure. Is it, could you
21 give me a page? I think that would be -- I apologize.

22 MS. MCLEAN: It's page 23 of the PDF
23 packet.

24 MS. ENGLISH: Okay. Yes, yes, ma'am.

25 MS. MCLEAN: So on this paragraph 32D,

1 you say ExxonMobil would assign 100 percent of its
2 interest in the southeast corridor of Section 1,
3 Township 18 South, Range 27 East, as discussed in the
4 original October 2025 term assignment, retaining a 2.5
5 percent overriding royalty interest with Longfellow
6 offering to place the Section 1 interest on term to
7 accelerate development.

8 MS. ENGLISH: Yes.

9 MS. MCLEAN: Was there anything apart
10 from, from that as part of that --

11 MS. ENGLISH: No, yeah, I just wanted
12 to finish that sentence with the retaining the
13 override, because that was the -- the real package.
14 Yes, ma'am, that's correct.

15 MS. MCLEAN: Okay. And so that
16 acreage, the southeast quarter of Section 1, Township
17 18 South, Range 27 East, is a couple townships over
18 from the Van Halen development; correct?

19 MS. ENGLISH: Yes, ma'am.

20 MS. MCLEAN: And is actually right by
21 the Marley pad, which your engineer uses as an analog
22 for the production in this acreage; right?

23 MS. ENGLISH: Yes, ma'am.

24 MS. MCLEAN: And the Marley pad is in a
25 more proven area of the Yeso Play; isn't that correct?

1 MS. ENGLISH: You know, I -- I would
2 like to say yes, I'm not a geologist, but from my
3 understanding, yes, there's more wells over there.
4 Yes.

5 MS. MCLEAN: And specifically,
6 Longfellow has already producing wells in this area;
7 correct?

8 MS. ENGLISH: That's correct. To the
9 north of that section. Yes, ma'am.

10 MS. MCLEAN: So essentially you're
11 trying to get XTO to assign you acreage in an area you
12 already have proven results of as a condition of this
13 comprehensive proposal; is that correct?

14 MS. ENGLISH: No, ma'am. I think what
15 the correct statement in my mind, this is me talking
16 obviously, is that this 32D mirrored the original term
17 assignment that was offered to XTO in October, before
18 we even knew about the Acacia, except for a few
19 nuances in the delivery. So the acreage is the same.

20 MS. MCLEAN: Well, I'm not, I'm not
21 disputing that the acreage is the same. What I'm
22 asking is whether it's in October of 2025 or February
23 of 2026, you are trying to get, to trade acreage with
24 XTO in an area where you have already proven well
25 results and Longfellow has already producing wells;

1 correct?

2 MS. ENGLISH: That's correct. As of
3 February 3, 2026.

4 MS. MCLEAN: Right. And by February 3,
5 2026, and October 2025, Longfellow did not have any
6 producing wells in the area that it's seeking to pool,
7 the Van Halen Spacing Unit; is that correct?

8 MS. ENGLISH: That's correct.

9 MS. MCLEAN: So then during the
10 February 3rd meeting, vertical wells come up; right?

11 MS. ENGLISH: Yes, ma'am.

12 MS. MCLEAN: And it was Longfellow that
13 first mentioned vertical wells; is that correct?

14 MS. ENGLISH: I -- I cannot say that
15 definitively, but I would not deny if that's what
16 somebody else remembers.

17 MS. MCLEAN: Well, during the meeting,
18 your testimony says that you disclosed to XTO that
19 Longfellow was already drilling five vertical wells to
20 hold its acreage in other sections; is that correct?

21 MS. ENGLISH: That's correct.

22 MS. MCLEAN: And you also state that
23 during that meeting, you told XTO that Longfellow
24 could just drill a vertical well in Section 33 until
25 its lease at a, quote, material -- a cost materially

1 lower than drilling the van Halen wells; correct?

2 MS. ENGLISH: That's correct.

3 MS. MCLEAN: And you, quote, emphasized
4 that putting the Van Halen program on the fast track
5 so both XTO and Longfellow could meet lease
6 obligations would involve additional expense and
7 carrying meaningful execution and timing risk;
8 correct?

9 MS. ENGLISH: That's correct, yes,
10 ma'am.

11 MS. MCLEAN: And by timing risk, you
12 meant not producing the wells by July 2026 to meet the
13 lease termination deadline?

14 MS. ENGLISH: Well, I -- I want to take
15 a second on that. By timing risk, I mean, you know,
16 we still had at that point in time the CPO hearing to
17 go through and the administrative concerns of getting
18 APDs for the expense cost. It would be the expedition
19 of business leases. There's, you know, things that we
20 need to do to fast track these wells. Yes, ma'am.

21 MS. MCLEAN: Okay. And it was unclear
22 at that point if all of that could be accomplished in
23 time for the Van Halen wells to be producing by July
24 2026; correct?

25 MS. ENGLISH: Yes, ma'am.

1 MS. MCLEAN: And I know, you know, your
2 testimony, you say you that you never said you didn't
3 want to pursue the Van Halen Spacing Unit with XTO.
4 But you did say that you wanted to make clear that if
5 XTO was not to proceed on the terms proposed,
6 Longfellow would need to revisit the matter internally
7 and determine the approach that best aligned with
8 Longfellow's overall interests; correct?

9 MS. ENGLISH: Yes, ma'am.

10 MS. MCLEAN: And I'd like to show
11 you -- Sharon, do you want to put this up or you want
12 me? It's one of XTO's exhibits.

13 MS. SHAHEEN: Do you know what PDF page
14 number it is?

15 MS. MCLEAN: Yes. I can tell you.
16 It's our, XTO's Exhibit A-6, which is in the packet
17 that was filed on the OCD website, page 17.

18 MS. SHAHEEN: Seventeen. Is this it?

19 MS. MCLEAN: This is it, yes. Thank
20 you.

21 MS. SHAHEEN: Okay.

22 BY MS. MCLEAN:

23 MS. MCLEAN: So, Ms. English, this has
24 been marked as XTO's Exhibit A-6.

25 Are you familiar with this email chain?

1 MS. ENGLISH: Yes, ma'am.

2 MS. MCLEAN: And this is an email chain
3 between yourself and various individuals at XTO;
4 correct?

5 MS. ENGLISH: Correct.

6 MS. MCLEAN: And the first email, you
7 know, the first page of this exhibit is a response
8 from you to Suzanne Spahr and Shelbi McKee, among
9 others at XTO; is that correct?

10 MS. ENGLISH: Yes, ma'am.

11 MS. MCLEAN: And your response is
12 written in blue; right?

13 MS. ENGLISH: Yes, ma'am, yeah.

14 MS. MCLEAN: And this response was
15 written on February 9th, which is six days after that
16 February 3rd meeting; correct?

17 MS. ENGLISH: Yes, ma'am.

18 MS. MCLEAN: And at the end of this
19 page, you say, "I'd like to add additional context to
20 the in-person meeting." And this, you're essentially
21 responding to XTO's characterization of the February
22 3rd meeting; is that correct?

23 MS. ENGLISH: Yes, ma'am.

24 MS. MCLEAN: Okay. And in -- on this
25 first page, first you set out what Longfellow's

1 proposed deal was; right?

2 MS. ENGLISH: Yes. In the, yes, in
3 the, those paragraphs? Yes, ma'am.

4 MS. MCLEAN: Yes. Yeah, those bullet
5 points that are at the bottom of that page.

6 MS. ENGLISH: Yes.

7 MS. MCLEAN: That's you setting out
8 what you said was, you know, that comprehensive
9 proposal that you made to XTO during the February 3rd
10 meeting; correct?

11 MS. ENGLISH: Yes, ma'am.

12 MS. MCLEAN: And this basically tracks
13 what's in your written testimony at paragraph 32;
14 right?

15 MS. ENGLISH: I'm going to take your
16 word for it on the paragraph. Yes, ma'am.

17 MS. MCLEAN: And then, Ms. Shaheen, if
18 we could go to the next page of this exhibit. Thank
19 you.

20 BY MS. MCLEAN:

21 MS. MCLEAN: So then on this page, the
22 bullet point that starts with "Longfellow informed
23 ExxonMobil that we have applied for multiple units as
24 well as multiple vertical wells with the appropriate
25 regulatory bodies," do you see that?

1 MS. ENGLISH: I do, yes, ma'am.

2 MS. MCLEAN: So again, in this email
3 from February 9th, just a few days after that February
4 3rd meeting, you are reiterating that you applied for
5 multiple vertical well permits; correct?

6 MS. ENGLISH: Yes, ma'am. Yep.

7 MS. MCLEAN: And then the bullet point
8 below, you said you're already drilling five vertical
9 wells to hold your acreage in other sections; correct?

10 MS. ENGLISH: Yes.

11 MS. MCLEAN: And that Longfellow
12 advised ExxonMobil that Longfellow could elect to
13 drill a vertical well in Section 33 to satisfy
14 leasehold obligations at a cost materially lower than
15 drilling the Van Halen wells; correct?

16 MS. ENGLISH: Yes, ma'am.

17 MS. MCLEAN: And then at the end of
18 that bullet point, you didn't include this in your,
19 your written testimony, but in this email you say the
20 question remains whether such an accelerated schedule
21 is achievable. Meaning you weren't sure whether you
22 could do the, you know, get the Van Halen wells
23 producing by that July 2026 deadline; right?

24 MS. ENGLISH: What is the date of this
25 email?

1 MS. MCLEAN: This was from February
2 9th.

3 MS. ENGLISH: And so this was, my
4 understanding, is when I drafted this email, this was
5 after the protest had come out with the CPO by XTO.
6 So yes, that statement is true and it has to be,
7 surrounding that we were then going to go to a
8 contested hearing, which we all know is taking time.

9 MS. MCLEAN: Okay. So again, the
10 question I asked was, when you say in this February
11 9th email, the question remains whether such an
12 accelerated schedule is achievable, is that Longfellow
13 was not sure as of February 9th that it could meet
14 that July 2026 production deadline; correct?

15 MS. ENGLISH: That's correct.

16 MS. MCLEAN: Okay. And then you go on
17 to say, again, as you did in your direct testimony,
18 the next, the next bullet point down, that you made it
19 clear that if ExxonMobil is not prepared to proceed on
20 the terms that Longfellow proposed, Longfellow would
21 need to revisit the matter internally and determine
22 the approach that best aligns with Longfellow's
23 overall interest; correct?

24 MS. ENGLISH: Yes, ma'am.

25 MS. MCLEAN: So by the end of the day

1 on February 9th, you had told XTO twice that
2 Longfellow was currently drilling five vertical wells
3 to hold its acreage in other sections; correct?

4 MS. ENGLISH: I think it was on
5 February 3rd.

6 MS. MCLEAN: Oh, so I'm saying by
7 February 9th, so, you know, February 3rd plus February
8 9th, at this point, you had told XTO twice that
9 Longfellow was currently drilling five vertical wells
10 to hold its acreage in other sections?

11 MS. ENGLISH: Yes. And I -- I want to
12 be clear about something. We had at that time filed
13 for APDs. So we were -- we were not currently
14 drilling. We were filing for APDs and had the plans
15 to, pending the approval of those APDs, execute
16 drilling of those five vertical wells.

17 MS. MCLEAN: So then your email of
18 February 9th where you say, "Longfellow discussed that
19 we are already drilling five vertical wells," and then
20 your sworn testimony at paragraph 34, where again you
21 say, "I disclosed that Longfellow was already drilling
22 five vertical wells," those are incorrect statements?

23 MS. ENGLISH: Well, I -- I think
24 already drilling, you know, that's a -- a verb, but
25 this is talking about in the future we would be

1 drilling. So I guess we could say that that's an
2 incorrect statement. It would, to me, seem like
3 that's saying the proposed plan is to drill already,
4 meaning we would have a rig out, a vertical rig, those
5 five vertical wells.

6 MS. MCLEAN: Well, let's pull up your
7 sworn statement because I don't think it's you're
8 already, but let's just look at what you said.

9 MS. ENGLISH: Okay.

10 Ms. Shaheen, do you want to share or do
11 you want me to share that?

12 MS. SHAHEEN: Yeah, just tell me which
13 PDF page number and I can --

14 MS. MCLEAN: Your Longfellow's exhibits
15 at page 24.

16 MS. SHAHEEN: All right, here we are.

17 MS. MCLEAN: Okay, great.

18 BY MS. MCLEAN:

19 MS. MCLEAN: So paragraph 34, the first
20 sentence. "Also during the February 3, 2026, meeting,
21 I informed ExxonMobil that Longfellow had applied for
22 multiple units in multiple vertical wells with the
23 appropriate regulatory bodies." Correct?

24 MS. ENGLISH: That's right. Yes,
25 ma'am.

1 MS. MCLEAN: So that sentence is saying
2 that you informed them that you had applied for
3 permits, correct, for vertical wells?

4 MS. ENGLISH: That's right. Yes,
5 ma'am.

6 MS. MCLEAN: Okay. Then the next
7 sentence, "I disclosed that Longfellow was already
8 drilling five vertical wells to hold its acreage in
9 other sections." And then if we skip in that
10 Longfellow it could elect to drill a vertical well in
11 Section 33. So this sentence, can you tell me how
12 it's wrong to characterize this as you disclosed to
13 XTO that Longfellow was already drilling five vertical
14 wells?

15 MS. ENGLISH: Yeah, look, I'm not -- I
16 won't sit here and argue about the -- the words
17 already drilling, whether that means already drilling
18 in the future, as in that's part of our plan, or
19 already drilling as in we had sped five vertical
20 wells.

21 It's undisputed that at the time of
22 this meeting and in my testimony, that we are not
23 currently with a bit in the ground drilling five
24 vertical wells. I greatly apologize if that sentence
25 is misleading. I read that sentence as we disclosed

1 that we were already going to drill five vertical
2 wells in the area between now and July to hold leases,
3 including third-party leases. If that's misleading --

4 MS. MCLEAN: Could you see how someone
5 reading an email that says I disclose that Longfellow
6 was already drilling five vertical wells to hold its
7 acreage, would believe that to mean that you are
8 currently drilling five vertical wells?

9 MS. ENGLISH: Yes, absolutely.
10 And -- and to my counterparts at XTO, I was never
11 aware that that's what you guys took this as, since
12 we've never discussed that. I apologize. What that
13 means is the plan was to drill five vertical wells. I
14 apologize for any confusion to anybody that meant we
15 were currently drilling five vertical wells.

16 MS. MCLEAN: So let's go back to the
17 question, the initial question. By February 9th, you
18 had relayed to XTO twice that Longfellow was, quote,
19 "Already drilling five vertical wells to hold its
20 acreage in other sections." Correct?

21 MS. ENGLISH: Yes, ma'am.

22 MS. MCLEAN: And by February 9th, you
23 had told XTO twice that Longfellow had applied for
24 multiple vertical well permits; correct?

25 MS. ENGLISH: Yes, ma'am.

1 MS. MCLEAN: And by February 9th, you
2 had told XTO twice that Longfellow could go drill a
3 vertical well in Section 33 to hold its lease at a
4 cost materially lower than drilling the Van Halen
5 horizontal wells; correct?

6 MS. ENGLISH: Yes, ma'am.

7 MS. MCLEAN: And you had also told XTO
8 twice that Longfellow wasn't sure an accelerated
9 drilling schedule for the van Halen wells was possible
10 to hit that July 2026 lease expiration; is that
11 correct?

12 MS. ENGLISH: Yes, ma'am.

13 MS. MCLEAN: So you don't dispute that
14 Longfellow told XTO at least twice that it was going
15 to drill vertical wells to hold its acreage in at
16 least five other locations; is that correct?

17 MS. ENGLISH: That we had filed for
18 APDs, yes. And that the plan was potentially, you
19 know, we could drill five vertical wells. I apologize
20 for this confusion. I -- I'm having a hard time
21 understanding the relevance. These are wells outside
22 of this section.

23 MS. MCLEAN: I don't think that you can
24 object to relevance.

25 MS. ENGLISH: Oh, sure, sure, sure. I

1 apologize.

2 MS. MCLEAN: And again, this goes to,
3 you know, as you've heard, XTO has doubt whether this
4 Van Halen Spacing Unit will actually be executed. And
5 this goes to our evidence to show that there were
6 multiple instances where Longfellow said that they
7 were drilling vertical walls in other areas.
8 Longfellow brought up the idea of vertical wells. And
9 this came as a surprise to XTO, who had been --

10 MS. ENGLISH: I'm going to object --

11 MS. MCLEAN: -- diligently working
12 with --

13 MS. SHAHEEN: I'm going to object
14 because Ms. McLean is testifying.

15 THE HEARING EXAMINER: I'm on my pad
16 now, so it's a little different here. Ms. McLean,
17 your response?

18 MS. MCLEAN: I'll withdraw it.

19 THE HEARING EXAMINER: Thank you, Ms.
20 McLean. All right.

21 So just to be clear, Ms. English, when
22 it comes to relevance, that doesn't really apply when
23 a witness is being questioned --

24 MS. ENGLISH: Absolutely.

25 THE HEARING EXAMINER: -- to bring out

1 their credibility; okay?

2 MS. ENGLISH: Yes, absolutely.

3 THE HEARING EXAMINER: So Ms. McLean
4 has wide latitude to question you so that the fact
5 finder, Mr. Garcia and myself, can determine the
6 reliability of your statements, because that goes to
7 the weight of your testimony.

8 But I feel like we all understand at
9 this point, at least I can speak for myself, what you
10 said and what maybe you should have said. I don't
11 know if Ms. Shaheen is going to redirect you on this
12 and whether Ms. Shaheen is going to want to submit a
13 revised exhibit, possibly, to clean that up.

14 But Ms. McLean, do you want to move on?

15 MS. MCLEAN: Yes, thank you.

16 THE HEARING EXAMINER: I'm not sure
17 what we're looking, what are we looking at? Okay,
18 thank you.

19 BY MS. MCLEAN:

20 MS. MCLEAN: And, Ms. English, you
21 would agree that drilling the Van Halen horizontal
22 well is not the only option to hold both XTO's and
23 Longfellow's leases; correct?

24 MS. ENGLISH: Yes, ma'am.

25 MS. MCLEAN: Let's go to paragraph 56

1 of your testimony, and that's on page 29 of the PDF.
2 Okay. Do you see paragraph 56?

3 MS. ENGLISH: Yes, ma'am.

4 MS. MCLEAN: And about halfway through
5 this paragraph, you say that despite being on notice
6 of the lease expiration risk for several months, XTO
7 has taken no independent action to reserve its
8 leasehold; correct?

9 MS. ENGLISH: Yes, ma'am.

10 MS. MCLEAN: But in your testimony, you
11 detail months of negotiations between XTO and
12 Longfellow to attempt to come to an agreement to drill
13 wells on this lease; right?

14 MS. ENGLISH: Yes.

15 MS. MCLEAN: And if the Van Halen wells
16 were drilled and producing by July 2026, this would
17 preserved the XTO lease; correct?

18 MS. ENGLISH: That's right.

19 MS. MCLEAN: And you also mentioned in
20 your testimony that XTO had contacted Mack to
21 re-permit already approved wells in the south half of
22 Section 32 to penetrate and produce from XTO's
23 leasehold; is that correct?

24 MS. ENGLISH: That's coming from XTO.
25 That's what they told us.

1 MS. MCLEAN: If we go to paragraph 49,
2 which is on page 28 of your, of the PDF, you say, "As
3 noted in paragraph 35, ExxonMobil's only affirmative
4 action with respect to the development of its acreage
5 has been to approach Mack to request that Mack
6 re-permit its already approved wells in the south half
7 of Section 32 to penetrate and produce from
8 ExxonMobil's leasehold in Section 33 or to have Mack
9 drill vertical well."

10 That's your testimony; correct?

11 MS. ENGLISH: Yes, ma'am.

12 MS. MCLEAN: And so you say there has
13 been, quote, an affirmative action to develop Exxon's
14 acreage; correct?

15 MS. ENGLISH: Yes, sure. I -- I think
16 yes, they have -- this was coming from XTO that they
17 had approached Mack. So we're taking their word for
18 it. Yes, ma'am.

19 MS. MCLEAN: Well, you're
20 characterizing it, though, as Exxon's only affirmative
21 action to develop its acreage; correct?

22 MS. ENGLISH: Yes.

23 MS. MCLEAN: So that affirmative action
24 on the part of XTO would be some sort of action to
25 preserve its leaseholds; isn't that right?

1 MS. ENGLISH: That's right.

2 MS. MCLEAN: Then I want to ask
3 briefly, you were confused in your direct testimony
4 about Ms. McKee's statement that XTO emailed
5 Longfellow to confirm that Longfellow would not pull
6 XTO's interests.

7 Do you remember that?

8 MS. ENGLISH: Yes, I do.

9 MS. MCLEAN: Can we go, it's XTO's
10 Exhibit A-4, which is page 14 of the PDF of exhibits.
11 So this is the end, the last page of Exhibit A-4,
12 which is another email chain. And this was the first
13 email in the chain at the bottom of the PDF.

14 Do you recall receiving this email on
15 January 7th?

16 MS. ENGLISH: I do.

17 MS. MCLEAN: And in the email, Exxon
18 says, "Happy New Year. We wanted to make sure you
19 received an outside counsel's removal of our protest
20 on Van Halen. Additionally, would you confirm
21 Longfellow will be removing us from the order as we
22 work through other commercial arrangements."

23 Do you see that?

24 MS. ENGLISH: I do.

25 MS. MCLEAN: And if we go to the next

1 page up, so yes, and I'll give you time to look
2 through that and then you can answer whether you ever
3 responded to XTO about whether you'd be removing them
4 as a pooled party.

5 MS. ENGLISH: Can you repeat the
6 question? I apologize.

7 MS. MCLEAN: Yes. So in this January
8 8th response to XTO's January 7th inquiry about
9 whether you confirm that you were removing them as a
10 pooled party, did you confirm that Longfellow had done
11 that or would be doing that?

12 MS. ENGLISH: No, ma'am, I did not.

13 MS. MCLEAN: And then let's go to the
14 next email up on this page.

15 MS. SHAHEEN: Oh, here?

16 MS. MCLEAN: Still that second page.
17 Yes, yes, perfect. Right there is fine.

18 BY MS. MCLEAN:

19 MS. MCLEAN: This is another January
20 8th email to you from XTO. And that first paragraph,
21 "Thanks for the update. I hope things went well for
22 Longfellow today. We do prefer to work in agreement
23 rather than be subject to an order."

24 Do you see that?

25 MS. ENGLISH: I do. Yes, ma'am.

1 MS. MCLEAN: And the next email up, if
2 you want to read, and then let me know if you ever
3 responded to them about removing them as a pool party.

4 MS. ENGLISH: No, ma'am. Not in the
5 email.

6 MS. MCLEAN: Okay. And then the
7 surface location that you spoke to briefly in your
8 direct testimony, I'd like to -- have you had a chance
9 to review XTO's Rebuttal Exhibit A-8?

10 MS. ENGLISH: A-8. Presumably yes, but
11 I don't have -- let me take a second. I apologize.

12 MS. SHAHEEN: I believe that that has
13 not yet been admitted into the record.

14 MS. MCLEAN: Well, I'm going to try and
15 get it admitted through Ms. English here.

16 MS. SHAHEEN: Okay. I'm sorry, let me
17 just make sure I understand, because I thought we had
18 objected to XTO's Rebuttal Exhibit A-8.

19 MS. MCLEAN: Yes. But I think, you
20 know, even though, I mean, do you -- I guess what
21 would you prefer? Would you prefer for me to try and
22 introduce it through my witness? I think that it's
23 relevant and she's opened the door to this with her
24 surface location testimony, which is why this was
25 submitted as a rebuttal exhibit to begin with, and I

1 think it would be appropriate to address with Ms.
2 English.

3 MS. SHAHEEN: Give me a minute here to
4 look at it. So you're talking about XTO's Rebuttal
5 Exhibit A-8. And we've objected to that, and until
6 you get it admitted into evidence, I don't believe you
7 can cross-examine Ms. English about it.

8 MS. MCLEAN: Well, I'm trying,
9 I'm -- we have introduced it as rebuttal to Ms.
10 English's testimony; correct? And she has, I believe,
11 opened the door for us to ask about this C-102 on
12 cross-examination. I can wait and come back and ask
13 her about it again if you want me to do that. But in
14 the interest of time, and if the hearing examiner
15 permits, I do think it would be appropriate to try and
16 introduce at this juncture.

17 MS. SHAHEEN: Okay. Well, I --

18 THE HEARING EXAMINER: So let's --

19 MS. SHAHEEN: -- object to introduction
20 of that exhibit, and I'm happy to tell you why, if now
21 is the appropriate time.

22 THE HEARING EXAMINER: Okay. Since Ms.
23 McLean is trying to get an objected exhibit admitted,
24 let me ask a question first.

25 Ms. McLean, which witness developed

1 Exhibit A-8?

2 MS. MCLEAN: Well, this is, it's -- it
3 was not developed by any witness. It is a public
4 filing of a C-102 for Mack's proposed well. And Ms.
5 English, in her testimony, had said that there were
6 surface location issues, and this C-102 show -- the
7 surface location that Mack has already had approved by
8 the BLM, we feel rebuts her statement. And I was
9 going to ask Ms., our land witness, Ms. McKee, about
10 this exhibit as well.

11 THE HEARING EXAMINER: All right. So
12 I'm just trying to understand the legal background for
13 this exhibit first. This was not developed by any of
14 your witnesses. It's a witness [sic] that you found
15 in the public forum, which you believe helps your case
16 because it in some way discredits Ms. English's
17 testimony; is that right?

18 MS. MCLEAN: Somewhat. I just want to
19 make clear that it wasn't, like, by happenstance that
20 we found this in the public forum. We have been
21 working with Mack. Mack has filed --

22 MS. SHAHEEN: I'm going to object again
23 because Ms. McLean is testifying about facts related
24 to an exhibit that I've objected to. And I'm happy to
25 state my objection to that exhibit whenever you're

1 ready.

2 THE HEARING EXAMINER: So I'm happy to
3 hear, hold on, I'm happy to hear your objection, Ms.
4 Shaheen. However, we're dealing, if we were dealing
5 with the rules of evidence, this would be a Rule 104,
6 and specifically would be Subsection B. And as a
7 trial attorney, I dealt with this all the time, in
8 providing foundation for an exhibit to come in. Rule
9 104(B) allows hearsay testimony to establish a
10 foundation.

11 Of course, the rules of evidence don't
12 apply here. So I'm not even worried about
13 specifically Rule 104, but I understand what Ms.
14 McLean is doing. And what I'm trying to find out is
15 more about this exhibit, because I know nothing about
16 A-8. It was objected to and it's not in evidence.

17 Your objection, Ms. Shaheen, is that
18 she shouldn't be using it to cross-examine your
19 witness because it's not in evidence, and that's a
20 good point. However, Ms. McLean is saying, well, for
21 the sake of time management, why don't we see if we
22 can get the exhibit in. On top of that, Ms. McLean is
23 saying that your witness opened the door to this issue
24 and so she should be able to bring it in.

25 MS. SHAHEEN: Well, I'm sorry, I just

1 haven't been able to state my objection yet.

2 THE HEARING EXAMINER: Please go ahead.

3 MS. SHAHEEN: I'd like to state my
4 objection.

5 THE HEARING EXAMINER: Ms. Shaheen, I'm
6 just reiterating what I understand so far. I'm
7 certainly going to give you an opportunity to speak,
8 and now is a good time.

9 MS. SHAHEEN: Okay, great. So these
10 objections relate to both Rebuttal Exhibits A-8 and
11 B-7. These were filed yesterday afternoon, at like
12 one, between one and 1:30. These exhibits appear to
13 constitute a, quote, competing proposal, which was
14 offered to the Division by XTO less than 24 hours ago.

15 These exhibits result in unfair
16 surprise and prejudice to Longfellow. This is
17 particularly true where we have this imminent lease
18 expirations. Apparently, Exhibit A-6 has been
19 available to XTO since February 9th, more than 20 days
20 ago, and ten days prior to the deadline for filing the
21 parties' exhibit packages. Any so-called competing
22 proposal should have been included in the direct
23 testimony at the latest.

24 Moreover, this is simply a proposal to
25 drill 158 feet into the southwest quarter of the

1 southwest quarter of the acreage Longfellow proposes
2 to develop. It does not include the remaining acreage
3 that Longfellow proposes to develop, and thus does not
4 preserve Longfellow's lease. These exhibits simply
5 illustrate the bad faith conduct of XTO in this matter
6 since they received the well proposal in August 2025.

7 The belated assertion of a purported
8 alternative development filed less than 24 hours prior
9 to the hearing should not be condoned, and these
10 exhibits should be excluded from the record.

11 THE HEARING EXAMINER: Okay. So I'm
12 confused, Ms. McLean, maybe you can help me understand
13 something that Ms. Shaheen just said. I don't
14 understand the competing proposals. What is she
15 talking about?

16 MS. MCLEAN: I don't know either. This
17 is not a competing proposal. We're not presenting it
18 as a, quote, you know, proposal that the Division
19 needs to look at with all its seven factors. This is
20 going to show, one, like I've already said, we are
21 trying, I'm trying to get this in through Ms. English
22 to show the surface location, as she's rebut that
23 testimony. That Longfellow had questioned our, quote,
24 independent action to do anything with regard to the
25 spacing unit.

1 As Ms. Shaheen so diligently pointed
2 out, this is dated February 9, 2026. As we've
3 established through testimony, you know, ad nauseum,
4 by February 9, 2026, Ms. English had informed XTO at
5 least twice that they had gotten permits to drill
6 vertical wells to hold their acreage. That they were,
7 quote, drilling vertical wells to hold their acreage.
8 And at that point XTO said we got to get the move on
9 trying to do something to hold our own lease.

10 That's when this became a very real
11 scenario that they didn't think Longfellow would drill
12 these wells, and why they reached out to Mack to amend
13 their already approved APD to include this perfing
14 [ph], this acreage in their lease. That's why we're
15 introducing it. It's of absolutely no surprise to
16 Longfellow, as they themselves testify about Mack and,
17 you know, XTO's reaching out to Mack to help them hold
18 their lease.

19 Again, I believe that Ms. English has
20 opened the door for me to introduce this Exhibit A-8,
21 at least now for the purpose of rebutting that surface
22 location testimony.

23 MS. SHAHEEN: And I'm not sure which
24 testimony you're rebutting. If you could be very
25 specific about that would be helpful.

1 THE HEARING EXAMINER: So, Ms.
2 Shaheen -- hold on, hold on, Ms. McLean. So I don't
3 want the parties sort of arguing with each other. If
4 you have a position, Ms. Shaheen, address me. I'll
5 address Ms. McLean.

6 Ms. McLean, right now I'm looking at
7 the rule and I'm looking for the deadlines for
8 exhibits, because Ms. Shaheen has brought up the idea
9 that, you know, you filed this yesterday, it's a
10 surprise. I know you're saying it shouldn't be a
11 surprise. However, I am looking for the rule.

12 I do see in 19.15.4.13 where it talks
13 about exhibits. And, Ms. Shaheen, I think you should
14 look at this rule as well.

15 But, Ms. McLean, where is the deadline
16 for exhibits?

17 MS. MCLEAN: There is none, and funny
18 you should bring that up. I actually reached out to
19 Ms. Shaheen on Monday to see if she would agree to a
20 mutual deadline of 5 p.m. Tuesday to exchange
21 exhibits, and she said absolutely not. She would
22 never hold herself to such a deadline when none is
23 required or ordered by the Division. So I said, okay,
24 I understand.

25 And so we got ours together, filed them

1 yesterday around lunchtime. They filed another one,
2 another rebuttal exhibit, their Rebuttal Exhibit A-2
3 after we filed ours. We haven't objected to that. We
4 aren't saying it's a surprise. We kind of were
5 expecting them to file some more things.

6 So it's just really disingenuous when I
7 had asked if we could agree upon a deadline and she
8 flat out refused, to now be saying she's surprised
9 that we're filing and we filed less than 24 hours when
10 she did the exact same thing.

11 THE HEARING EXAMINER: So, Ms. Shaheen,
12 I'm looking here at the rule I just cited,
13 19.15.4.13b(2). That's the closest I can find to
14 anything that talks about a deadline. It seems like
15 the rules are very permissible when it comes to
16 offering evidence at a hearing. It says a party other
17 than the applicant shall include in its pre-hearing
18 statement, a statement of the extent to which the
19 party supports or opposes the issuance of the order
20 the applicant seeks and the reasons for such support
21 or opposition.

22 In cases to be heard by the commission,
23 each party shall include copies of exhibits that it
24 proposes to offer in evidence at the hearing with the
25 pre-hearing statement. So there's a certain amount of

1 days before. The commission may exclude witnesses the
2 party did not identify in the pre-hearing statement or
3 exhibits the party did not file and serve with the
4 pre-hearing statement, unless the party offers such
5 evidence solely for rebuttal or makes a satisfactory
6 showing of good cause for failure to disclose the
7 witness or the exhibit.

8 That's the only deadline I can find.
9 Do you know of any other?

10 MS. SHAHEEN: There are no deadlines
11 for rebuttal exhibits in the pre-hearing order.
12 However, I think I still can rely for guidance on the
13 rules of evidence that prohibit use of an exhibit that
14 co constitutes unfair surprise or prejudice.

15 I understand Ms. McLean's argument that
16 there's no unfair surprise here because we knew about
17 discussions with Mack, but what we did not know is
18 that there was an APD that had been filed. And yet
19 they knew that an APD had been filed as of February
20 9th and failed to disclose that.

21 THE HEARING EXAMINER: Okay. So let me
22 ask this question to the parties. Maybe this is a
23 good compromise. Ms. McClean, instead of
24 cross-examining this witness on A-8 at this time, why
25 not bring in A-8 during your case in chief, and then

1 we can recall Ms. English and you can question her
2 about A-8 if it comes in at that time.

3 MS. MCLEAN: Sure. I'm happy to do
4 that.

5 THE HEARING EXAMINER: That way also,
6 Ms. Shaheen and Ms. English have an opportunity to
7 look at A-8 carefully and discuss it and go from
8 there.

9 Does that sound fair, Ms. Shaheen?

10 MS. SHAHEEN: We will work with that.

11 THE HEARING EXAMINER: That doesn't
12 answer my question, but okay. Okay.

13 So, Ms. McLean, you were
14 cross-examining Ms. English.

15 MS. MCLEAN: Yes.

16 THE HEARING EXAMINER: Do you want to
17 continue?

18 MS. MCLEAN: Yes. I just am going to
19 have one or two more questions.

20 THE HEARING EXAMINER: Please go ahead.

21 MS. MCLEAN: And I think that these are
22 particularly important, especially at this juncture
23 since we have this Mack C-102.

24 BY MS. MCLEAN:

25 MS. MCLEAN: Ms. English, at paragraph

1 49 of your testimony, you state that ExxonMobil's only
2 affirmative action with respect to the development of
3 its acreage in the horizontal spacing unit has been to
4 approach Mack, a third-party operator, to request that
5 Mack re-permit its already approved wells in the south
6 half of Section 32 to penetrate and produce from
7 ExxonMobil's leasehold in Section 33.

8 Do you see where you've said that?

9 MS. ENGLISH: I do.

10 MS. MCLEAN: So at the time you filed
11 this testimony, which is February 20, 2026, was it
12 your understanding that Mack had already approved
13 permits for wells in the south half of Section 32?

14 MS. ENGLISH: It -- it was my
15 understanding that they already had approved permits.

16 MS. MCLEAN: Okay. And was it your
17 understanding that XTO had, was planning on asking
18 Mack to re-permit their already approved permits to
19 penetrate and produce from Section 33?

20 MS. ENGLISH: I apologize if this is
21 the wrong wording, but it was my understanding that
22 they would sundry or -- or change, amend. So I don't
23 know if that's considered a re-permit, but something
24 to that degree.

25 MS. MCLEAN: Right. So that's fine

1 language. So as of February 20th, last Thursday, it
2 was your understanding that XTO was planning on
3 requesting that Mack change its already approved
4 permits to include penetrating Section 32 in addition
5 to Section 33; is that correct?

6 MS. ENGLISH: That was my
7 understanding. Yes, ma'am.

8 MS. MCLEAN: Okay, thank you. I have
9 no more questions, but I do reserve the right to
10 recall Ms. English for that Rebuttal Exhibit A-8. Oh
11 you're on mute, Hearing Examiner.

12 THE HEARING EXAMINER: Thank you. I
13 don't know how it got on mute. The parties do not
14 need to reserve the right to recall witnesses. That
15 will always be allowed unless there's a valid
16 objection to it. So both parties do not need to do
17 that.

18 Mr. Garcia, questions?

19 MR. GARCIA: I have a few.

20 Good afternoon, Ms. English. I was
21 going to say --

22 MS. ENGLISH: Good afternoon.

23 MR. GARCIA: I'm not a landman, so bear
24 with some of my questions.

25 MS. ENGLISH: Sure, of course.

1 MR. GARCIA: All the land in yellow is
2 Longfellow's. The black outline represents basically
3 the, what I'll call the old Acacia unit.

4 I guess my question is with BLM, I'm
5 not an expert with BLM'S leases, does the development
6 plan for this case that we're discussing hold all this
7 acreage or is it just the acreage that the wells
8 penetrate?

9 MS. ENGLISH: Just the acreage that the
10 wells penetrate subject to the lease. So if the
11 lease, I'll use XTO's acreage as the example, you can
12 see the lease number NMLC 56302B. We put on all of
13 the tracts, you can see that their lease covers, it's
14 800 acres is, is what their lease covers.

15 So one well would hold all of the lease
16 302B, which is every XTO tract, with the exception of
17 that east half of the northwest quarter of Section 28.
18 So one well, yes, sir, would hold the entirety of the
19 BLM lease that XTO has.

20 In our case, similar concept but much
21 less acreage. Our lease is just in Section 33. So
22 our one well that's in dispute would hold just those
23 four tracts that we have in Section 33.

24 MR. GARCIA: Ending in 681?

25 MS. ENGLISH: Yes, sir, yeah.

1 MR. GARCIA: Okay. I guess on that
2 point, the five wells that you guys discussed
3 extensively that are to be drilled in the future,
4 those are basically in order to cover the leases that
5 don't end in 68 then; is that correct?

6 MS. ENGLISH: That's correct, sir, yes.

7 MR. GARCIA: Okay. And then I'm just
8 looking at my notes. Has BLM, I guess again, not BLM
9 expert, have they outright stated that if this lease
10 expires, that they won't reissue it until the
11 bankruptcy's resolved in, I think you guys estimated
12 2029?

13 MS. ENGLISH: Yeah. They have and --
14 and I giggle because who is a BLM expert. I certainly
15 am not. So I, I just have my communications with
16 them. They're -- I can give you names if we need, but
17 the people who I've been speaking with at the BLM have
18 indeed said that their counsel internally at the BLM
19 has requested that the leases would not, quote,
20 terminate per the -- the unit until the federal -- or
21 until the bankruptcy proceedings have run their
22 course, even though the leases would technically be
23 terminated.

24 So these are their words. But in other
25 words, the leases would terminate in July of this

1 year, but they wouldn't go back into auction until the
2 bankruptcy proceedings have been finalized. Which the
3 reason we estimate such a long period is because this
4 bankruptcy covers much larger than this unit. I think
5 it covers about 450 wells. And -- and please,
6 the -- the attorneys will know more than me on this,
7 but I think it's about 450 wells across several
8 counties. And so it's going to be quite an extensive
9 Chapter 7 proceeding.

10 MR. GARCIA: Okay. I guess on that,
11 I'm assuming BLM isn't open to, like, Longfellow
12 asking for an extension of lease then?

13 MS. ENGLISH: That's a -- it's a great
14 question. We -- we have -- we have requested many
15 times, and the BLM has been very helpful, I -- I will
16 say. They're -- my understanding from my
17 communications with them is that they're very, very,
18 very much wanting wells to go in the ground to hold
19 these leases, because they do think that this
20 bankruptcy is going to be quite hairy and perhaps take
21 some time.

22 So they're very supportive of getting
23 wells in the ground, and that comes out in their
24 statements that they would do everything they can to,
25 you know, expedite APDs and -- and try to help move

1 the process along.

2 But in terms of your direct question,
3 unfortunately, at the end of the day, the only thing
4 that they do, they've said this, they can't, you know,
5 make deals and negotiate a new contract. It has to
6 come down to the lease, four corners of the lease.
7 And unfortunately, there's just no provision that
8 could keep us -- give us an extension.

9 MR. GARCIA: Okay. And if you can't
10 answer this, let me know. This might be more a
11 counsel question. Has Longfellow ever asked for,
12 like, a leave in the bankruptcy court proceedings in
13 regards to this lease?

14 MS. ENGLISH: Yes. So we, we have,
15 sir, we have reached out to the trustee of the
16 bankruptcy in our long-winded attempt to, to come up
17 with a solution. As you've read, I presented to XTO
18 and said, we think we came up with a solution. We
19 think you saw that in, in italics. That was the
20 product of conversations with the BLM, the trustee of
21 the bankruptcy proceeding, and all of the third-party
22 operators.

23 So we did interject into the bankruptcy
24 and attempt to come up with something with the
25 bankruptcy proceeding. It gets very tricky. And to

1 keep you out of all of the muddiness of it, one of the
2 things we requested was simply, is there a way that we
3 could produce some of the wells in the unit? What if
4 we come in and we, we attempt to do that. That was
5 one of the things we threw out there. Unfortunately,
6 with the BLM, you cannot have multiple operators
7 within a unit.

8 This is, again, I'm no expert, this is
9 just me regurgitating my conversations with the, the
10 BLM. So we are not, Longfellow is not a party to the
11 unit right now. We only have rights in the Yeso. And
12 so unfortunately, we don't have an availability to
13 interject and produce from the Acacia unit to hold
14 these leases.

15 MR. GARCIA: Okay. No, appreciate it.
16 I think this is my last question. I talk to BLM often
17 and probably why I'm not an expert is because I rely
18 on them heavily. I know BLM heavily, in talks with
19 operators about orphan wells and since this lease has
20 a lot of potential orphan wells or facilities, assets,
21 et cetera, I guess has BLM talked to Longfellow or
22 vice versa about any dealing with those assets, I
23 guess?

24 MS. ENGLISH: Yeah, that's a good
25 question. They have not. They haven't approached us

1 in -- well, in our -- in my conversations that has not
2 come up, simply because Longfellow is not the -- a
3 record title owner. We have operating rights. And
4 as, as you may know, the -- the record title of the
5 federal lease is ultimately liable for helping
6 remediate and plug wells, along with the operating
7 rights owner in the unit. Which again, Longfellow is
8 not a party to the unit. So they have not reached out
9 and asked us to take on liability.

10 With that said, we have discussed some
11 of that even with XTO just today. So that's an
12 ongoing discussion. But it is -- it is hard because
13 Longfellow would prefer not to take on, you know,
14 plugging liability. That's -- it's the remediation
15 that needs a very good review.

16 And we would be willing to work with
17 parties, but we would also not want to take on the
18 whole unit or, you know, all of the wells, anything
19 like that to -- to try to clean it up, because we just
20 don't know what -- what that implies.

21 MR. GARCIA: Yeah, understood. I
22 believe that's all my questions. Thank you.

23 THE HEARING EXAMINER: All right. Ms.
24 Shaheen, before you do redirect, I'd like to take a
25 five-minute break.

1 MS. SHAHEEN: Okay.

2 THE HEARING EXAMINER: All right.
3 We'll be back.

4 (Off the record.)

5 THE HEARING EXAMINER: All right, Ms.
6 Shaheen, let's see. What time is it? It is 2:06
7 p.m., and we're here for your redirect of Ms. English.

8 MS. SHAHEEN: Thank you. I don't have
9 a whole lot, so that's the good news.

10 REDIRECT EXAMINATION

11 BY MS. SHAHEEN:

12 MS. SHAHEEN: Ms. English, you recall
13 the discussion about your paragraph 34, and I will
14 share this In particular, this second sentence in
15 paragraph 34, "I disclosed that LFE was already
16 drilling five vertical wells to hold its acreage in
17 other sections."

18 So here, you did not represent that
19 Longfellow was already drilling a vertical well in the
20 subject acreage here; right?

21 MS. ENGLISH: That's correct.

22 MS. MCLEAN: Objection. This is not
23 redirect because I never asked her if she represented
24 if Longfellow was drilling a vertical well in Section
25 33. It was always to hold its acreage in other

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1 sections, and then separately, that Longfellow could
2 elect to drill a vertical well in Section 33.

3 THE HEARING EXAMINER: Ms. Shaheen?

4 MS. SHAHEEN: The impression that I
5 received after listening to the long discussion about
6 this was that Ms. McLean was suggesting that XTO
7 believed that Longfellow was going to be drilling
8 within the subject acreage, a vertical well. And I'm
9 just clarifying for the record that that is not what
10 Ms. English's testimony says.

11 THE HEARING EXAMINER: I believe, and
12 my door is open because this room is getting too hot
13 with the door closed, so if you hear noise, I
14 apologize. I believe that your witness, Ms. English,
15 clarified that the language she used in her
16 self-affirmed statement was somewhat misleading. She
17 admitted to that and she clarified what she really
18 meant. I don't think there's really any issue here.

19 So I sustain that objection. Why don't
20 you go on to another subject in your redirect?

21 BY MS. SHAHEEN:

22 MS. SHAHEEN: Ms. English, you've
23 reviewed Ms. McKee's testimony regarding Longfellow's
24 rigs in New Mexico, have you not?

25 MS. ENGLISH: Yes, ma'am, I have.

1 MS. SHAHEEN: Turning now to XTO's
2 exhibit, this is PDF page 3.

3 MS. MCLEAN: Objection. Again, I don't
4 see how this is rebuttal. I never asked -- or
5 redirect. I never asked Ms. English about
6 Longfellow's rigs in New Mexico. She could have done
7 this on her direct and her rebuttal testimony.

8 THE HEARING EXAMINER: Ms. Shaheen?

9 MS. SHAHEEN: Well, I believe I have
10 the right to bring back Ms. English to do additional
11 rebuttal testimony. And if you want me to wait until
12 after Ms. McKee has testified about the rig
13 availability, that's fine. But I think I certainly
14 have the right to ask her about Ms. Shelbi's
15 statements regarding rig availability at some point.
16 We can do it now or we can do it later.

17 THE HEARING EXAMINER: Ms. Shaheen, I
18 agree that this isn't correct redirect because this
19 was not asked on cross-examination by either Mr.
20 Garcia or Ms. McLean. So why don't you call her back
21 after the other witness testifies? I agree.

22 MS. SHAHEEN: Well, except I will say
23 that this actually goes to this discussion about
24 already drilling vertical wells. This relates to
25 that. So in that sense, it is redirect.

1 THE HEARING EXAMINER: Okay. Well then
2 if that's the argument you're making, then make it so
3 that we can -- I can make a ruling.

4 MS. SHAHEEN: Okay.

5 THE HEARING EXAMINER: How does it
6 relate to the already drilling?

7 MS. SHAHEEN: Your asking me that is a
8 bit of a request for me to testify. But it relates
9 because they knew that Longfellow was not already
10 drilling because they're -- they've -- they're
11 testifying that Longfellow did not have a rig
12 operating in New Mexico.

13 THE HEARING EXAMINER: But, Ms.
14 Shaheen, we've already clarified, your witness has
15 already clarified what she meant in that paragraph. I
16 don't know that we need to belabor this back and forth
17 about already drilling or will be drilling in the
18 future or whatever. So I really think this subject,
19 unless something comes out on Ms. McLean's case in
20 chief or rebuttal case, that you need to rebut. I
21 don't see the issue here anymore.

22 MS. SHAHEEN: The issue is that I
23 believe Ms. McLean is using this testimony to justify
24 XTO's apparent belief that Longfellow wasn't going to
25 drill the horizontal wells because it was going to

1 drill a vertical well. And that's just simply not
2 true.

3 THE HEARING EXAMINER: Okay. Now that
4 being said, let's wait until Ms. McLean's witnesses
5 say that and you can cross-examine their witnesses if
6 they say that. And you can bring rebuttal testimony
7 if they say something you're surprised about.

8 But at this point, we have the evidence
9 from your witness as to what Longfellow's intents
10 were. I don't see the point of belaboring this.

11 So do you have other redirect besides
12 this will be drilling or has drilled or whatever?

13 MS. SHAHEEN: I do not.

14 THE HEARING EXAMINER: Okay, very good.
15 All right. Okay. So may we excuse this witness, at
16 least temporarily?

17 MS. SHAHEEN: Yes.

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

20 Thank you, Ms. English, and we may see
21 you again later or tomorrow or something of that
22 nature.

23 Why don't we bring in your other
24 witness, Ms. Shaheen, that you said needs to testify
25 today?

1 MS. SHAHEEN: Yes. Mr. DeHamer.

2 THE HEARING EXAMINER: There we are. I
3 see him. Mr. DeHamer, I remind you that you are under
4 oath.

5 MR. DEHAMER: Yes, Mr. Commissioner.

6 THE HEARING EXAMINER: Go right ahead,
7 Ms. Shaheen, and I'll start the 15 minutes. In case
8 you need more, let me know.

9 MS. SHAHEEN: I will. And so we're
10 turning now to PDF page 81 of Longfellow's exhibits,
11 our PDF page 80.

12 WHEREUPON,

13 JACOB DEHAMER,
14 called as a witness and having been first duly sworn
15 to tell the truth, the whole truth, and nothing but
16 the truth, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MS. SHAHEEN:

19 MS. SHAHEEN: Good afternoon, Mr.
20 DeHamer.

21 MR. DEHAMER: Good afternoon.

22 MS. SHAHEEN: And I'll ask first, this
23 is your Exhibit B, PDF page 80, and the related
24 sub-exhibits, B-1 through B-5.

25 Do you adopt this as your, this written

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1 testimony as your direct testimony in this case?

2 MR. DEHAMER: Yes, ma'am.

3 MS. SHAHEEN: And I should have asked
4 this question before. Do you have any corrections to
5 this testimony?

6 MR. DEHAMER: No, ma'am.

7 MS. SHAHEEN: And here you have the
8 usual geology exhibits here, B-1, a general location
9 map; B-2, a subsea structure map and cross-section
10 map. And I'll turn to the exhibits now. B-2, your
11 Yeso structure map; B-3, your Yeso cross-section.

12 And here, can you describe to the
13 examiners the proposed development within the Yeso
14 Formation?

15 MR. DEHAMER: Yeah. In the Van Halen
16 Unit, we proposed three landing zones within the Yeso
17 Formation that has a gross thickness of 1,400 feet.
18 Those landing zones we describe as a Paddock landing
19 zone and two Blinbry landing zones. You'll see that
20 the Paddock landing zone is roughly 300, 350 feet
21 thick, and the Blinbry -- or 400 feet thick, and the
22 Blinbry the remaining of the Yeso and accommodates
23 more than, more than one target.

24 MS. SHAHEEN: And so your gun barrel
25 here at Exhibit B-4 illustrates the various targets

1 throughout that 1,400 thick Yeso Formation; is that
2 right?

3 MR. DEHAMER: That's correct. It shows
4 our staggered development pattern, which is becoming
5 standard in our local hills area to be applied here.

6 MS. SHAHEEN: And you've used similar
7 development plans elsewhere; is that right?

8 MR. DEHAMER: That is correct.

9 MS. SHAHEEN: And then your Exhibit B-5
10 is your Gross Isopach map here. Is there anything in
11 particular that you think is good to point out?

12 MR. DEHAMER: Just relevance of the
13 thickness kind of continuing. You see the wells that
14 are drilled immediately offset the, the proposed unit
15 are, those are also Paddock and Blinebry development,
16 albeit from 2014/2015. So we have a lot of confidence
17 in this area due to the offset production. And I
18 believe we have another exhibit that kind of shows
19 that all three benches have been targeted.

20 MS. SHAHEEN: Is that Exhibit B-6?

21 MR. DEHAMER: Yes, ma'am. So as you
22 can see, the previous historically three-bench
23 development has kind of been proven in the immediately
24 offset area. So we -- we think that three wells
25 within the kind of more dense spacing within the CD is

1 adequate for this area and helps us drain the
2 reservoir to our -- our best abilities.

3 MS. SHAHEEN: I have no further
4 questions of Mr. DeHamer, and I pass the witness for
5 cross.

6 THE HEARING EXAMINER: Thank you, Ms.
7 Shaheen. Now the one thing I'm wondering, Ms.
8 Shaheen, I don't remember your asking if he adopts
9 under oath his self-affirmed statement and the
10 accuracy of his exhibits?

11 MS. SHAHEEN: I believe I did, but I'll
12 do it again.

13 BY MS. SHAHEEN:

14 MS. SHAHEEN: Do you have any
15 corrections, Mr. DeHamer, to your Exhibit B, your
16 self-affirmed statement and the sub exhibits related
17 thereto?

18 MR. DEHAMER: No, ma'am.

19 MS. SHAHEEN: And do you adopt this
20 testimony as your written testimony in this matter?

21 MR. DEHAMER: I do.

22 THE HEARING EXAMINER: Thank you.
23 Okay. Ms. McLean?

24 MS. MCLEAN: No questions for this
25 witness.

1 THE HEARING EXAMINER: Oh, that's
2 right. You said originally that you weren't going to
3 have questions. I don't know, I thought you might
4 change your mind.

5 And then, Mr. Garcia?

6 MS. SHAHEEN: Should I? Should I
7 change my mind just for fun?

8 THE HEARING EXAMINER: You did,
9 actually. You said I won't have any questions, and
10 now I remember you said that.

11 Mr. Garcia?

12 MR. GARCIA: I think I just have one
13 question.

14 Mr. DeHamer, hopefully I read your, all
15 of your good exhibits; right? Is it Longfellow's plan
16 to drill one well because of, you know, timelines you
17 guys are under with the lease, and then come back and
18 drill the remaining wells? Is that correct?

19 MR. DEHAMER: That is the plan, yeah.

20 MR. GARCIA: Okay. Okay. Just want to
21 make sure. Okay. So that's not my question. My real
22 question is, I guess, with that drilling one well,
23 completing it, coming back and doing the rest of the
24 wells, do you have any concerns about, like,
25 production drawdowns or I guess what most people call,

1 like, parent-child effects?

2 MR. DEHAMER: No, we've -- we've
3 developed the Yeso kind of in -- in our other -- in
4 other areas with, you know, one or two wells
5 prevention, then come back and finish up the pad
6 and -- and we see -- we see adequate production.

7 MR. GARCIA: I think you said like
8 1,400 foot thick here.

9 MR. DEHAMER: Yeah.

10 MR. GARCIA: So basically, you're not
11 worried about any reduction drawbacks because of, you
12 know, the fast timeline you're under?

13 MR. DEHAMER: No, and our engineer can
14 speak to this in his testimony if need be. But in
15 terms of we take operational kind of measures to -- to
16 make sure our production remains online and at its, at
17 its best.

18 MR. GARCIA: I think you answered it
19 sufficient for me. No other questions.

20 MS. SHAHEEN: Mr. Examiner?

21 THE HEARING EXAMINER: Okay, thank you.
22 Yes?

23 MS. SHAHEEN: I apologize, but I did
24 not get to Mr. DeHamer's rebuttal of XTO's statements.
25 I apologize. If I could have the opportunity to do

1 that --

2 THE HEARING EXAMINER: Yes, please go
3 ahead.

4 MS. SHAHEEN: -- I would appreciate it.

5 THE HEARING EXAMINER: Go right ahead.

6 MS. SHAHEEN: Okay, great.

7 REDIRECT EXAMINATION

8 BY MS. SHAHEEN:

9 MS. SHAHEEN: Mr. DeHamer, have you
10 reviewed the testimony of Ms. McKee and Mr. Brown?

11 MR. DEHAMER: Yes.

12 MS. SHAHEEN: And so turning now to,
13 well, actually this is paragraph 10 and perhaps I'm
14 not going to be allowed to ask this question. I did
15 have it as a rebuttal question.

16 MS. MCLEAN: Paragraph 10 of his
17 testimony or of someone else's testimony?

18 MS. SHAHEEN: Of Mr. McKee's
19 testimony -- Ms. McKee's testimony.

20 MS. MCLEAN: Okay.

21 MS. SHAHEEN: Oh, here I'm in the wrong
22 exhibit. So let me see which page this is on. Here
23 it is. This is the rig availability, this is the rig
24 availability question. I will save that question for
25 Mr. Mitchell, who will address it with respect to a

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1 different subject. Turning to Ms. --

2 THE HEARING EXAMINER: Oh, you're still
3 going? Okay.

4 BY MS. SHAHEEN:

5 MS. SHAHEEN: Okay. Turning to
6 paragraph 24 and Ms. McKee's testimony, here Ms. McKee
7 testifies that the estimated cost of the proposed Van
8 Halen wells are not fair, not reasonable, and not
9 comparable to the cost of other wells of similar
10 length in Eddy County.

11 Do you have any response to that
12 statement, Mr. DeHamer?

13 MR. DEHAMER: I think that response
14 would be best left to our engineering expert, Mr.
15 Mitchell, if that's okay.

16 MS. SHAHEEN: All right. And then I
17 have --

18 MR. DEHAMER: My response would be we
19 drill good wells and our -- our costs are in line with
20 what we do.

21 MS. SHAHEEN: Okay. So my next topic
22 here is rebuttal, Longfellow's Rebuttal Exhibit 2.
23 And let me see if that is for you or for Mr. -- oh,
24 this looks like it's for Mr. Mitchell.

25 Turning to paragraph 6A of Mr. Brown.

1 Okay. And I'll share.

2 MS. MCLEAN: And can you repeat where
3 you are?

4 MS. SHAHEEN: Yeah, I'm on PDF page 29,
5 and it's actually 7-A.

6 MS. MCLEAN: Of XTO's exhibits?

7 MS. SHAHEEN: Yes.

8 MS. MCLEAN: Okay, thank you. Do you
9 want me to share?

10 MS. SHAHEEN: I'll share. I'm almost
11 there.

12 BY MS. SHAHEEN:

13 MS. SHAHEEN: Okay. Paragraph 7A.
14 Have you reviewed this testimony of Mr. Brown?

15 MR. DEHAMER: Let me just make sure I
16 have real quick. Yes, ma'am.

17 MS. SHAHEEN: And do you have a
18 response to his testimony in paragraph 7A?
19 Specifically in the first sentence over --

20 MR. DEHAMER: Yeah. The comparison
21 he's trying to make is to development that was done in
22 kind of, we'll call Gen 1 Yeso development immediately
23 to the south. These were eight wells per section.
24 They were stacked on top of each other within the
25 section, so no lateral offset.

1 In the -- in the following 12 years,
2 Yeso operators, including Longfellow and other
3 operators, kind of adopted the staggered model on two
4 or two to three bench development that we've seen.
5 Again, this is a good area within the platform and
6 we -- we view the better areas to be able to
7 accommodate three wells per section from a reservoir
8 quality.

9 MS. SHAHEEN: And turning now to
10 paragraph 7B, again the first sentence here, do you
11 have any rebuttal to this statement regarding
12 unproductive lateral?

13 MR. DEHAMER: Yeah. Again, as Ms.
14 English testified to, this is an environmentally
15 sensitive area and so we need to have our surface
16 locations where they're at. And that's -- that's the
17 reason for, for the kind of extended length of
18 measured depth that we see pretty much in the Cedar
19 Lake area. We're trying to minimize our impact on the
20 surface.

21 MS. SHAHEEN: Anything else that you
22 would like to say in response to Ms. McKee's or Mr.
23 Brown's testimony?

24 MR. DEHAMER: No. Just like I said,
25 this is a high confidence area for Longfellow. We

1 view this area as good as any other area on the shelf
2 and we are taking our concepts to this spot as well.

3 MS. SHAHEEN: Thank you, Mr. DeHamer,
4 and I really do pass the witness this time.

5 MS. MCLEAN: And I do have just one
6 question based on his testimony.

7 THE HEARING EXAMINER: Go right ahead.

8 MS. MCLEAN: Thank you.

9 CROSS-EXAMINATION

10 BY MS. MCLEAN:

11 MS. MCLEAN: Mr. DeHamer, are you aware
12 of any developments in the surrounding, in the acreage
13 surrounding Van Halen that have 16 well per section in
14 the Yeso?

15 MR. DEHAMER: No, ma'am.

16 MS. MCLEAN: Okay. That's the only
17 question we have. Thank you

18 THE HEARING EXAMINER: Mr. Garcia?

19 MR. GARCIA: No other questions.

20 THE HEARING EXAMINER: Thank you.

21 All right, Ms. Shaheen, may this
22 witness be excused?

23 MS. SHAHEEN: Yes, he may.

24 THE HEARING EXAMINER: All right.

25 Thank you, Mr. DeHamer.

1 And, Ms. Shaheen, that leaves Mr.
2 Mitchell.

3 MS. SHAHEEN: That is correct.

4 THE HEARING EXAMINER: Mr. Mitchell, I
5 remind you you're still under oath.

6 MR. MITCHELL: I understand. Thank
7 you.

8 THE HEARING EXAMINER: Thank you.

9 WHEREUPON,

10 DAVID MITCHELL,
11 called as a witness and having been first duly sworn
12 to tell the truth, the whole truth, and nothing but
13 the truth, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. SHAHEEN:

16 MS. SHAHEEN: Mr. Mitchell, I'll start
17 by asking you if Exhibit C represents your written
18 testimony, direct testimony in this matter?

19 MR. MITCHELL: It does.

20 MS. SHAHEEN: And the sub Exhibit C-1
21 through, let's see, C-1 through C-8?

22 MR. MITCHELL: Yes, yes, ma'am.

23 MS. SHAHEEN: And do you have any
24 corrections to that testimony?

25 MR. MITCHELL: No, ma'am.

1 MS. SHAHEEN: And do you adopt that
2 testimony as your direct testimony in this matter?

3 MR. MITCHELL: I do.

4 MS. SHAHEEN: So here on PDF page 92,
5 you discuss Longfellow's history of well performance
6 and operational capability.

7 Can you hit the high points for us in
8 paragraphs 5 through 8?

9 MR. MITCHELL: Sure. So first of all,
10 thanks very much for -- for hearing my testimony.
11 Longfellow's been operating in Eddy County since about
12 2018. We've drilled over 30 laterals in the Yeso
13 trend, which is what we're -- the formation that's
14 under discussion here.

15 We have a slightly different operating
16 strategy than some of the other operators in the -- in
17 the play. And it requires much larger fluid loadings
18 and much bigger fracks, just to put simply. And we've
19 achieved much higher reserves per lateral foot than
20 our offset competitors.

21 When we look at all the horizontals in
22 Eddy County, including all other formations of
23 interest including the -- the basin, which includes
24 the Wolfcamp and the Bone Springs and very prolific
25 plays, of the 50 best wells in an EUR per lateral foot

1 basis, Longfellow holds eight, as per drilling info
2 Enverus public release data.

3 So we do believe we are a top-tier
4 performer, albeit a smaller company, and can -- but
5 can contend with our well results. We believe our
6 well results are justified, the additional cost
7 required.

8 There was, I'm trying to figure out the
9 best way to go through this because I can't control
10 the mouse. We've talked about the eight wells. These
11 include the Marley Pads and the Bonzo pads that are in
12 1728, which is about three or four townships to the
13 west of the -- the area in question.

14 So we're an experienced operator in the
15 play and we have an -- a fairly active program. We
16 are not running a rig currently, but we have been
17 drilling approximately 12 wells a year for the last
18 three years.

19 MS. SHAHEEN: And turning to your
20 paragraphs 9 through 17 here, you talk about the
21 reasonableness of Longfellow's estimated well costs.

22 Can you hit the high points for us
23 here?

24 MR. MITCHELL: Sure. Longfellow, our
25 well costs are associated with our -- our development

1 strategy, and everybody's costs are -- are slightly
2 different of what's in the capitalized portion of an
3 AFE and what's in the operating cost portion of AFE.

4 Longfellow believes in capitalizing
5 our -- our submersible pumps and other equipment,
6 which increases some of the intangible or costs
7 associated with completions, as well as the larger
8 racks which are on or about 50 percent larger than the
9 majority of our offset operators.

10 We drill majority one-mile laterals, as
11 is common in the play. About 98 percent of the
12 horizontal wells drilled in the Yeso have been
13 one-mile laterals. We were the first operator to
14 drill two-mile laterals, and we have some extended one
15 and a half mile laterals as well. And we use those
16 where we can achieve those benefits.

17 But the land fabric and the existing
18 drainage associated with a long term, long time
19 vertical development across the play really limits
20 those opportunities to specific areas. So
21 where -- where it's possible to drill more than one
22 mile, we do drill more than one mile.

23 The drilling costs for these wells are
24 approximately 1.8 million. And the completion costs,
25 including facilities and -- and pipeline are about 3.5

1 million when developed as a pad.

2 We could probably move to the -- the
3 next point. So in the proposal, you know, proposals,
4 and these things take quite a long time between
5 proposing wells, poolings associated, and then -- and
6 then development opportunities. But at the time of
7 the proposals, these wells were estimated to cost \$6.1
8 million per well for what was planned as an eight well
9 development, prior to the knowledge that there was a
10 leasehold expiration issue.

11 Drilling eight wells at a time requires
12 a significant amount of time. These wells do drill
13 fairly quickly. We can -- we average about eight or
14 nine days per horizontal to drill. But if we're going
15 to drill eight of them back to back, that would be,
16 let's just say for simple math, if they're ten-day
17 wells, that would be an 80 day development of
18 drilling. We do not have time to fully develop the
19 unit on an eight well development program and satisfy
20 the expirations of the leases.

21 So our original proposal of the 6.1
22 million per well was amended in conversations
23 with -- or with XTO, excuse me, to include a one well
24 phase 1 development and a follow on seven well infill
25 development program.

1 The one well obviously is burdened by
2 some costs that -- that are ultimately going to be
3 shared across all eight wells. For example, the
4 surface location, it -- you need to build the surface.
5 If you're going to drill one well or you're going to
6 drill eight, you need to build the facility to
7 accommodate one well or to accommodate eight.

8 And so this, the individual first well
9 of the unit was revised in conversation with XTO from
10 the 6.1 million to the 7.56 million to -- to
11 accommodate those otherwise shared costs.

12 It is still our intent to, under this
13 pooling order, to drill the first well and to return
14 to the pad after production's commenced and finish out
15 the development. And those -- those additional costs
16 will be shared amongst -- amongst the other -- the
17 other pads.

18 MS. SHAHEEN: I'm showing the slides
19 here that show our development plan and the AFE
20 reconciliation. Is there anything in particular that
21 would be helpful to point out in these two slides?

22 MR. MITCHELL: So this -- so this is
23 much easier for me to talk towards versus the text, so
24 thank you very much. So with -- with what I've got
25 here on this development plan slide, what we're --

1 what I'm showing here is, I mean, Mr. Examiners, you
2 guys saw the -- the acreage position that we hold in
3 the area. There's -- there's multiple units, and
4 outside of that map, there's some other units as well
5 that -- that are outside of the expiring acreage in
6 question.

7 So we have significant surface
8 infrastructure that we're planning on building, which
9 the -- the balance of that is a very large produced
10 water recycling and storage facility, as well as
11 surface water transfer lines. We've talked about the
12 desert sagebrush habitat. And so it's our -- it's our
13 intention to bury permanent transfer lines so we don't
14 have surface lay flat and the risk of -- of spills and
15 things like that, that could -- that could cause harm
16 to the environment.

17 Now this infrastructure is material in
18 cost. We have, you know, the -- the pit and recycling
19 facilities, approximately 4 million. The -- this
20 distribution system for frack waters, approximately 2
21 million, and all the infield gathering and -- and
22 transportation is another couple of million.

23 And so our plan initially was to have
24 all this ready for, let's just say the end of this
25 year, for kind of full pad development. And we've had

1 to accelerate our timetable based on the lease
2 expiration.

3 The -- the numbers highlighted in bold,
4 sorry, before you go off that slide, are the numbers
5 that are associated with what XTO is participating in.
6 The numbers that are not highlighted in bold
7 are -- are numbers that -- that Longfellow will be --
8 will be carrying as for development of the area, not
9 specifically just this unit, and -- and are -- are not
10 subject to XTO's participation.

11 And I just noticed one minor error that
12 the infill seven remaining units, number 4 on 2027 of
13 37 million, that -- that should be in bold. That will
14 be something that XTO has the option to participate in
15 under this pooling order, should they participate in
16 development.

17 MS. SHAHEEN: Turning now to the next
18 slide, the AFE reconciliation.

19 MR. MITCHELL: So it was -- it was
20 argued that our -- okay, sorry, here we go. So -- so
21 our initial well estimate from the middle of last year
22 was 6.1 million per well, approximately 1.8 million of
23 that being associated with drilling and about 3.5
24 million of that associated with completions, and
25 another 700,000 per well with the well site facility

1 production facilities.

2 When we've gone to a single well
3 program, there's some costs that -- that have
4 obviously been aggregated in, and I've already
5 mentioned the surface facility -- the surface pad
6 for -- for drilling and production facilities, as well
7 as the production facilities themselves.

8 And the -- the other thing that has
9 changed is that most of the production, gas production
10 in this play, and in really the county in general, is
11 handled by midstream companies. These midstream
12 companies are notoriously late. And so with the risk
13 of development timing and our inability or our
14 internal requirement to -- to not flare and produce
15 waste through flaring, we took the option to build the
16 pipeline for gas, for gas sales for the midstream
17 company.

18 And -- and they're going to credit us
19 back that pipeline capital, because they acknowledge
20 that we can do it faster than they can do it.
21 And -- and so we'll essentially not have to pay gas
22 processing until we -- they -- we recover those costs.
23 But it was a way for us to expedite the drilling of
24 this, this unit.

25 So that's really how we walk from the 6

1 million to the 7.5. And I've itemized some of the
2 main variance points. One of the AFEs had contingency
3 costs in it; the other one didn't. So I've kind of
4 reconciled that out. Contingencies are just a five
5 percent kind of fudge factor that a lot of AFEs have
6 for unplanned or unexpected costs.

7 There's an expedited business lease
8 that we're hoping not to -- not to need, but we may.
9 We have business lease applications in process that
10 were put in, I believe in October. But, and so we're
11 expecting them any day now, but if we do not receive
12 them in time to develop, we'll have to pay an
13 expediting fee. There's a BLM process -- or there's a
14 process, I shouldn't say BLM, because I think it's
15 through the realty group, which I'm not sure how that
16 rolls, which division that rolls into. That's an
17 incremental cost.

18 And then as we sort of share costs
19 around how things -- how things divide up, really the
20 major variances outside of those two are the gas
21 pipeline of 900,000, the facility that the first well
22 will bear but then will ultimately be reallocated to
23 the -- to the follow on wells, and then, you know,
24 those are the major drivers between the two numbers.

25 MS. SHAHEEN: Turning to your next

1 exhibit, drilling permits, what is the significance of
2 this slide?

3 MR. MITCHELL: So this is our -- this
4 is the unit in question that we're developing. The
5 yellow lands are the Longfellow 100 percent Yeso
6 rights lands. The blank lands are the XTO lands in
7 question. We have eight permits in process that were
8 filed, I had it written down, I apologize, but it
9 was -- but that are filed and pending, pending
10 approval. We expect those really any day now.

11 And we have been working with the BLM
12 on those permits because there's a because that unit
13 that we're talking about was water flood. And so that
14 water flood, there were some requirements that they
15 requested for casing and cementing adjustments to
16 protect production casing from the water flood. So
17 we've accommodated the BLM's request on -- on those
18 casing designs and -- and we're expecting those back.

19 So we do have drilling permits for the
20 full development. We are planning the single well
21 here initially. And once that major infrastructure
22 we're talking about is in place and we've satisfied
23 production from the unit, we'll put that -- that
24 infrastructure in place and we'll finish out the
25 development of this, of this unit.

1 MS. SHAHEEN: Turning to your next
2 slide, development efficiency that says Exhibit C-5?

3 MR. MITCHELL: So -- so I know, you
4 know, I'm not a lawyer, I'm an engineer, and people
5 talk about waste and prevention and correlative
6 rights.

7 So -- so the Yeso was historically
8 developed vertically. I mean, this play has been
9 active for approximately 100 years. And so a lot of
10 the initial development was vertical development. But
11 if we took -- take vertical development, offset a unit
12 that, an un-depleted unit that's immediately adjacent
13 to it, this is from our Local Hills development, which
14 is a couple townships to the west.

15 You can see that in a vertical well
16 development -- now, we couldn't get a full, the
17 acreage, we couldn't get a 320 acre and a 320 fully
18 depleted side by side. So we're -- I had to grow
19 up -- gross up some numbers here. But you can kind of
20 see that the vertical development on 160 acre
21 depletion produced 700,000 barrels of oil, which for a
22 60 million barrels of oil per section recovered just
23 under five percent recovery of the oil in place.

24 In the immediate adjacent horizontal
25 developed unit, which is also 60 million barrels per

1 section, obviously they're -- they're adjacent units
2 here, we recover -- we are estimating to recover about
3 four and a half million barrels, which constitutes
4 about 15 percent recovery factor of the original oil
5 in place.

6 So all this to say that horizontal
7 development has far superior efficiency and
8 recoveries, particularly in the Blinebry, but also in
9 the Paddock, because the Blinebry is much tighter,
10 much lower porosity. So it -- the vertical
11 development was not bad, let's just say, for -- for
12 the Paddock, but it's totally inappropriate in the
13 Blinebry for -- for recovery purposes.

14 So horizontal development, really the
15 punchline, is far more effective at recovering
16 hydrocarbons than vertical development. And as I'll
17 point out, this, the development of that Marley
18 horizontal unit, spacing, landing zones, is analogous
19 to what we're proposing in the Van Halen Unit.

20 MS. SHAHEEN: Turning to --

21 MR. MITCHELL: So all three benches
22 stacked laterals.

23 MS. SHAHEEN: Turning now to your
24 Exhibit C-6 regarding surface use and waste.

25 MR. MITCHELL: So -- so this is a --

1 this is an interesting challenge. You know, one of
2 the questions that -- that we initially asked
3 ourselves when we were looking at this area is, well,
4 why hasn't -- why haven't anybody else drilled here?
5 And the simple -- the simple answer is there's sand
6 dunes in this area and it creates -- the sand dunes
7 create habitat for desert sagebrush lizards, and the
8 environmental constraints around getting access to
9 surface are very challenging.

10 So our initial, our initial pads were
11 actually a little bit to the east, much closer to the
12 section boundary of the west side of the Van Halen
13 Unit. And we -- we partner with a group called CEHMM,
14 which is a partner of the BLMs that's -- that's a
15 consortium for environmental protection. And so we
16 work very closely with the CEHMM group to identify
17 surface locations that are viable and work with the
18 BLM to get them approved.

19 So in this area, we had to back those
20 pads up because of identified habitat in that area.
21 We have now -- now if we think about a 40-acre
22 development, which -- or ten-acre development is the
23 typical vertical spacing, a 320-acre unit would
24 require something like 32 vertical wells to deplete.

25 Now, you can drill the exact same

1 subsurface acreage with two horizontal pads. And so
2 if you run the math on the acreage size of -- of a
3 horizontal pad, on the high side is about six acres.
4 And a vertical pad on -- on the high side is about two
5 acres.

6 But if you multiply that by the number
7 of pads required, you get to about a 50 percent
8 increase in surface use of vertical development versus
9 horizontal development. So in our view, horizontal
10 development is the more efficient method from a
11 surface use and vertical development, reduces surface
12 waste.

13 MS. SHAHEEN: Turning now to Exhibit
14 C-7, surface access environmental constraints. You
15 talked about this a little bit, but does this slide
16 provide some further insight?

17 MR. MITCHELL: So -- so the -- the
18 image that you're seeing is from an environmental
19 survey we conducted about -- about two years ago,
20 where we sent environmentalists into the field to
21 identify potential viable surface locations and -- and
22 tried to really work out where the -- the arc sites
23 were, where this desert sagebrush habitat may be so we
24 could work on pad development.

25 As you can see in -- there was three

1 categories. There was undetermined delineated
2 habitat; kind of possible; and absolute, in fact kind
3 of high risk DSL habitat. And as you can see from the
4 Van Halen Unit, the majority of the unit is in
5 possible DSL habitat. We've updated this a few times
6 and so, you know, there -- there's -- it's quite
7 challenging to get surfaces.

8 Now you can do it, but it takes a lot
9 of time, it takes a lot of, a lot of effort, and a lot
10 of negotiation between us, the CEHMM group, and the
11 BLM. So when we -- with the prevalence of the -- of
12 the sagebrush lizards there, we've come up with
13 locations that are viable that the BLM has approved.
14 We've -- we've passed all our on sites for these,
15 these locations, and -- and we are, I'd say the
16 service locations are imminently pending.

17 MS. SHAHEEN: Turning now to your final
18 slide, economic impact of delaying development,
19 Exhibit C-8. What's important here?

20 MR. MITCHELL: So -- so this, this I
21 thought was a useful, maybe scroll down just a little
22 bit more. I think this is a useful tool to understand
23 what we're -- what we're trying to manage. And it's
24 not only the fact that we want to hold the acreage, we
25 want to open the -- the runway for development.

1 I mean really in my -- in my
2 engineering perspective, you know, the force pooling
3 process is really to allow for -- for development to
4 occur and not be impeded. So we're sitting here with
5 a situation where this -- this unit that's been
6 holding this acreage is in bankruptcy.

7 If we do not establish production by
8 July, or on or before July, I should say, we are going
9 to look at there's -- there's a multi-year and it --
10 it was estimate a three-year process for bankruptcy
11 to -- to proceed.

12 If I take the forecasted production
13 and -- and associated cash flows of our current
14 development plan and I delay that by three years,
15 there's a negative economic impact. I wrote this
16 somewhere and I just -- so the -- there's a about a \$3
17 million loss in, \$3.8 million loss in total royalties
18 to the state, just from that delay. On a -- on a
19 discounted basis, it's two million gross, four million
20 discounted.

21 There's a million dollar loss in
22 production and tax revenue on a PV zero, so
23 undiscounted basis, and about a two million discounted
24 and there's a \$3 million, if you add those together,
25 you're looking at a \$3 million undiscounted loss of

1 royalty versus -- or a \$5.8 million discounted loss.

2 So delaying the operations here
3 through -- through impeding of -- of development is a
4 material cost -- a material loss of revenue to the
5 state. Well actually, sorry, to the BLM here. And
6 well, there's, some of these go to the state, sorry,
7 production tax goes to the state; royalties go to the
8 BLM.

9 MS. SHAHEEN: Before we leave your
10 direct testimony, I'd like to go back to your slide
11 PDF 105, I was a little bit late in jumping on the
12 slides here, and make sure there's nothing else,
13 whoops, here that is important for you to note for the
14 hearing examiners. This is your Exhibit C-1, with
15 respect to Longfellow's well performance that you
16 talked about earlier.

17 MR. MITCHELL: The only thing I'll say
18 about this is that the Elvis Patch, so this is the top
19 50 wells by -- by reserves per lateral foot achieved.
20 The Elvis was drilled before the Bonzos. The Bonzos
21 were drilled before the Marleys. As we continue our
22 development, as we continue our evolutions of our
23 completion design and -- and technological
24 applications, we keep on moving up the curve of better
25 and better and better wells.

1 So in the argument that we're not a
2 prudent operator, this, this I think is important
3 testimony to show that not only are we a prudent
4 operator when you look at us versus everybody else in
5 the -- in Eddy County on all formations, we are
6 continuously getting better and -- and drilling and
7 producing better wells, with our Marley wells being in
8 the top five. Some of our Marley wells being in the
9 top five producers in the whole county.

10 MS. SHAHEEN: Thank you. Let's turn
11 now to your rebuttal.

12 THE HEARING EXAMINER: Ms. Shaheen?

13 MS. SHAHEEN: Yes.

14 THE HEARING EXAMINER: You're over the
15 15 minute mark, so how much more time do you think you
16 need?

17 MS. SHAHEEN: Maybe ten minutes for our
18 rebuttal testimony.

19 THE HEARING EXAMINER: Okay, go ahead.

20 MS. SHAHEEN: I could bring him back if
21 you'd like.

22 THE HEARING EXAMINER: Go ahead, Ms.
23 Shaheen.

24 MS. SHAHEEN: Alrighty. So we're going
25 turning now back to Ms. McKee's testimony, and that is

1 PDF page 2, I believe. And here we are coming back to
2 the rig availability, paragraph 10. But I believe Mr.
3 Mitchell has some information about rig availability
4 for Longfellow.

5 BY MS. SHAHEEN:

6 MS. SHAHEEN: So here in paragraph 10,
7 Mr. Mitchell, Ms. McKee represents, it does not appear
8 that Longfellow has had -- has any active rigs in New
9 Mexico.

10 Do you have some rebuttal to that
11 testimony?

12 MR. MITCHELL: So while it's true,
13 Longfellow does not have any active rigs operating
14 today in New Mexico, we have active negotiations
15 on -- with ten drilling contractors today. We have
16 three drilling contractors that have rigs that we can
17 utilize for these, these wells that are in question.
18 The companies are Savanna Drilling, Key to Drilling,
19 and Lasso Drilling, that have all -- that have all
20 indicated, they have rig availability. And we are
21 working in negotiating actively with each of them, and
22 really it's going to come down to ultimately price,
23 who we select. They're -- they're, they're companies
24 we've worked with in the past.

25 In addition to those three, we've

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1 talked to seven additional companies that we'll
2 continue talking to. But those are the three that
3 we're currently looking to drill these wells.

4 MS. SHAHEEN: Turning to paragraph 24,
5 and I believe this is PDF page 6 here, Ms. McKee
6 testifies about the estimated cost of Longfellow's
7 AFEs.

8 What is your rebuttal to this
9 testimony?

10 MR. MITCHELL: I mean, in the end,
11 we're not in business to spend money; we're in
12 business to -- to produce economic reserves. And we
13 don't spend more money because we think we -- we think
14 spending money is better than spending less money. We
15 spend more money because we -- we are in the business
16 of making better wells.

17 And that really goes to my initial
18 testimony that there is some of -- some of the things
19 that happen are -- are allocations. For example, we
20 do capitalize our -- our ESP equipment, which is about
21 a quarter million dollar capital investment that the
22 operators that were used in the -- in the direct
23 testimony from XTO that we're participating in some of
24 their wells, they expense them.

25 And there's pros and cons to each and

1 everybody's accountants are going to come up with a
2 different argument. And that's every company's
3 discretion. I'm not going to argue one way is
4 superior than the other. That's just our -- our
5 methodology of development and -- and accounting.

6 The -- that being said, we believe that
7 on a cost per -- per recovered barrel of oil, we are
8 as competitive or more competitive as anybody else in
9 this play.

10 MS. SHAHEEN: Turning now to Mr.
11 Brown's testimony, and I'm going to share again. Here
12 we're back at his paragraph 7a and 7b, and I believe
13 you're going to testify about his -- his
14 representations in the second sentence, I believe.
15 And correct me if I'm wrong, but whatever parts of
16 this testimony relate to engineering.

17 MR. MITCHELL: So -- so well spacing
18 is -- is challenging. And figuring it out takes not
19 only a bunch of -- bunch of smart people working
20 running numbers, but a bunch of physical tests in the
21 field where -- where you test various spacing and
22 you -- and you understand what what you're doing.

23 We've run extensive tracer surveys on
24 all of our development units to understand wellbore
25 interference and -- and really dial in our

1 understanding of spacing. Not only within a -- within
2 an individual landing zone, but also between landing
3 zones, so that we know the kind of interference that
4 you want.

5 There is -- you don't want your wells
6 to be too far apart and have undrained oil between
7 the -- the stimulated rock volumes, and you don't want
8 them too close together and essentially have redundant
9 and overcapitalized completion costs. We have what we
10 believe is the optimal spacing for -- for this
11 reservoir, and we -- we feel strongly that we -- we
12 feel strongly that the spacing we have is warranted in
13 this, in this play.

14 With respect to the 2,000 foot of
15 unproductive lateral, I think we've addressed that
16 several times with the -- with the desert sagebrush
17 lizard habitat. We did have our initial pad locations
18 attempted to be closer to the unit line. And really
19 wasn't the BLM, but it was the CEHMM group
20 who's -- who's a BLM, I won't -- I don't want to call
21 them an affiliate, but a partner, who -- who advised
22 us to move the pads back, and again, trying to be a --
23 a good steward and trying to work with our -- the
24 other regulatory agents, we agreed.

25 MS. SHAHEEN: And then in the second

1 sentence of paragraph 7b here, he talks about
2 anti-collision drilling risks.

3 Do you have a response to that?

4 MR. MITCHELL: I mean, anti-collision
5 is -- is a known quantity. You know, we -- we have --
6 we have engineers who -- who build anti-collision
7 models and make sure that we have -- we have
8 appropriate spacing between horizontals and between
9 verticals and horizontals as we go.

10 And that's not just between other wells
11 in the area, but see even between your own sometimes
12 when you're back building and doing other things, this
13 is something that every company does, including XTO,
14 routinely and is not a material risk to development.

15 MS. SHAHEEN: And turning now to
16 paragraph 8, I believe one of our rebuttal exhibits
17 might be in response to paragraph 8, which addresses
18 estimated well cost. Am I remembering correctly?
19 Should we look to your --

20 MR. MITCHELL: Yes. So I -- I provided
21 a rebuttal slide on the -- on the Ozzy development.
22 And I think this is actually kind of useful also when
23 we talk about anti-collision, because you can see
24 circled in red there a bunch of vertical producers in
25 the Yeso Formation.

1 So these were the first two mile
2 laterals drilled in the Yeso Play that were operating
3 that we -- they were the first two mile laterals in
4 the Yeso Play that we drilled, but that anybody
5 drilled. And there was vertical wells in the middle
6 of the section that we were -- that we drilled past.

7 So in the pre-drill assumptions going
8 in there, I mean, look, engineers, we make
9 assumptions, and because it's -- there's a saying that
10 says it's dark down there. You don't know what you're
11 going to get. So we assume that the rock in that
12 circled area was going to be depleted. And as such,
13 we did not -- we did not capitalize the completion of
14 the entire lateral.

15 You know, that's a two mile lateral.
16 So in each mile we have about 25 stages of completion
17 that we pump. And so we -- we capitalized 75 percent
18 of that two mile lateral as completed lateral, with
19 the expectation of drainage. But again, that's an
20 assumption.

21 So as we executed the fracks, we -- we
22 executed these pump in procedures where we could test
23 reservoir pressure physically through the pressure
24 that we -- if you pump into a depleted reservoir, the
25 pumping pressure that you have is very low. If you

1 pump into an energized reservoir, the pumping pressure
2 is very high.

3 As we were completing this well, we
4 started from the east towards the west and we got to
5 those zones where we were expecting depletion. We
6 executed these pump in tests. We did not experience
7 depletion. Therefore, it was an economically
8 justifiable decision to complete those stages.

9 And so while the AFE did not represent
10 an estimate -- the AFE was for 37, I believe,
11 completed stages, and the -- the actuals were for 50
12 completed stages per well, which was the balance of
13 the cost change between the -- the AFE estimate and
14 the actual.

15 MS. SHAHEEN: Turning to your next --

16 MR. MITCHELL: This -- yeah, yeah, go
17 ahead.

18 MS. SHAHEEN: Turning to your next page
19 of this Rebuttal Exhibit 2.

20 MR. MITCHELL: So -- so you can see the
21 proposed AFE and the actual cost. Now there was some,
22 there were some problems. This was executed in the
23 dead of winter in the middle of an ice storm. So we
24 had a bunch of freezing issues on the front end, which
25 led to some increased drilling costs.

1 We also had some unexpected -- and the
2 current -- the current explanation is -- is a shallow
3 nitrogen pocket which we drilled into, which caused
4 essentially a pressure control issue, which we had to
5 essentially evacuate the -- the gases before we could
6 continue drilling. So there was some cost overruns on
7 the drilling associated with that for both wells.

8 But the majority of the cost variance
9 was associated with two things. One, which I've
10 already discussed, which is 37 stages of completion to
11 50 stages. And the second one was in the preliminary
12 AFE plan, we were going to have these two wells
13 produced to a secondary, another pad, where we had an
14 existing production facility constructed, and
15 unfortunately in our work with the BLM -- oh sorry,
16 excuse me, with the state, this was a couple years
17 ago, 18 months ago maybe, commingling was much more
18 stringent. And so they -- they didn't want to let us
19 to co-mingle these two -- these two production units.
20 And so we were forced to build a more expensive
21 battery on this location versus co-mingling in that to
22 the other pad.

23 Since that time, actually in -- in
24 part, I hope, because of some of the arguments we
25 made, the state has amended their commingling

1 restrictions and now enable operators to do exactly
2 what we proposed. So these costs can be captured in
3 the future -- cost savings can capture in the future.

4 MS. SHAHEEN: And finally, with respect
5 to Mr. Brown's testimony in paragraph 9, and let's see
6 if I can show all of paragraph 9 here. He's talking
7 about the capital efficiency of wells that are one
8 mile versus longer wells.

9 Do you have any additional testimony in
10 rebuttal to this statement by Mr. Brown?

11 MR. MITCHELL: Generally speaking,
12 I -- I don't disagree that there are benefits to
13 longer lateral drilling. We are, in the Yeso Play,
14 the only operator that's really pushing longer
15 laterals to date. And so I don't disagree with the --
16 with the assertion.

17 That being said, outside of the longer
18 laterals we've drilled, there's -- there's very few,
19 probably less than five, longer than one mile laterals
20 out of the approximately 500 horizontal wells that
21 have been in the play. One mile laterals are
22 extremely economic and are -- are proven to recover
23 hydrocarbons at a high recovery factor. And -- and
24 positive -- and economically, very justifiable. We do
25 not own interest in the adjacent section, and if we

1 did, we certainly would've proposed longer laterals.

2 THE HEARING EXAMINER: Ms. Shaheen,
3 would you wrap it up? You're past the ten minutes.

4 MS. SHAHEEN: Yes, I believe that is
5 it.

6 BY MS. SHAHEEN:

7 MS. SHAHEEN: I would just ask Mr.
8 Mitchell whether he has anything in the additional
9 that I forgot to ask him about?

10 MR. MITCHELL: I think, I think, you
11 hit it. Thank you very much.

12 THE HEARING EXAMINER: Okay. Ms.
13 McLean?

14 MS. MCLEAN: Yes, thank you. Let me
15 just go back to -- okay.

16 MR. MITCHELL: There was actually, Ms.
17 Shaheen. I just saw one point about the 158 foot
18 first take point proposing -- competing proposal that
19 was in A-8 from XTO.

20 MS. MCLEAN: Yeah, let's talk about
21 that.

22 MS. SHAHEEN: Well, that exhibit is not
23 yet in admitted into the record, so you'll have to
24 come back to testify about that.

25 MR. MITCHELL: I'm free.

1 MS. SHAHEEN: Thank you, Mr. Mitchell.

2 MR. MITCHELL: Thank you.

3 CROSS-EXAMINATION

4 BY MS. MCLEAN:

5 MS. MCLEAN: All right, Mr. Mitchell.
6 Hello. You've identified in your testimony the Marley
7 and Bonzo wells as analogous to the Van Halen wells;
8 is that correct?

9 MR. MITCHELL: That's correct.

10 MS. MCLEAN: And these are Longfellow's
11 closest Yeso wells; correct?

12 MR. MITCHELL: They're not our closest.
13 We have closer wells, but they were -- they're analog
14 wells. Yes.

15 MS. MCLEAN: What makes these analog
16 wells as opposed to the ones that are closer, if you
17 could explain?

18 MR. MITCHELL: Well, I mean, really
19 they're all -- they're all analog wells. They were
20 just used -- well, the Marley was used because it was
21 a clean example of an un-depleted Yeso section next to
22 a vertically fully -- fully drilled vertical section.
23 But we have wells that are probably eight or nine
24 miles closer that would -- that are also analogs to
25 the reservoir, but not necessarily were perfect for

1 that example.

2 MS. MCLEAN: And not as high producers
3 as the Marley and the Bonzo wells?

4 MR. MITCHELL: We, I mean, we
5 have -- I'm -- when I was doing the analysis,
6 the -- the quantum of production wasn't really a
7 criteria. It was just looking for un-depleted
8 horizontal development like the Van Halen, and
9 completely vertically developed like the adjacent. I
10 was just looking for an example that was, that had
11 that.

12 And so a lot of our units, like the
13 Ozzy that I showed you, which is closer but it has
14 vertical depletion right in the center of it, wasn't a
15 great example because of the -- the two depletion
16 techniques happening at the same time.

17 MS. MCLEAN: Okay. And the Marley unit
18 area, that's in the south half of Section 31 and
19 Southwest quarter of Section 32, Township 17 South,
20 Range 28 East; correct?

21 MR. MITCHELL: I believe so, yes. I
22 don't have a map in front of me, I'm sorry, but yes,
23 it's 1728.

24 MS. MCLEAN: I will share a map.

25 MR. MITCHELL: South corner of 1728.

1 MS. MCLEAN: I'm going to show you what
2 has been marked as XTO's Exhibit B-5.

3 MR. MITCHELL: Okay.

4 MS. MCLEAN: Up here. All right. Do
5 you see this map or Exhibit B-5?

6 MR. MITCHELL: Yes.

7 MS. MCLEAN: Okay, great. And so the
8 Bonzo and Marley wells that you've identified as the
9 analogs, they are about 22 miles southwest of the Van
10 Halen wells; correct?

11 MR. MITCHELL: Correct.

12 MS. MCLEAN: And the Marley unit or the
13 Marley wells, you say at paragraph 23 of your
14 testimony is a six well stacked horizontal development
15 spaced at six wells per section; is that correct?

16 MR. MITCHELL: So no, there are more
17 than six wells in the Marley section.

18 MS. MCLEAN: All right. Let me show
19 you. And oh, that's your rebuttal exhibit. Your
20 rebuttal. Let me go to your testimony. It's page 98.
21 Sorry, I'm trying to -- all right.

22 So your paragraph 23, you say here the
23 horizontal development, Longfellow's six well stacked
24 horizontal development of the south half of Section 31
25 Marley CD unit with Paddock's basic six wells per

1 section and the upper Blinebry at four walls per
2 section and lower Blinebry at two walls per section.

3 MR. MITCHELL: Yes. Yeah. So -- so,
4 sorry, I thought I heard you say there was six wells
5 per section in the -- in that unit, but there's six
6 wells in the Paddock, I believe it's five wells in the
7 upper Blinebry, and two wells in the lower Blinebry.
8 So -- so there's 11 wells per section, not six, is
9 what I thought your question was.

10 MS. MCLEAN: Is that the six wells
11 stacked horizontal development; is that correct? Am I
12 reading that correctly?

13 MR. MITCHELL: Yeah, I think what
14 you're -- the only thing you maybe misunderstood is
15 that's for the half section of Section 31, six in the
16 half section.

17 MS. MCLEAN: Six in the half section.
18 Okay, got it. Not the entire Section 31?

19 MR. MITCHELL: Yeah.

20 MS. MCLEAN: Okay. And then, so how
21 many wells in that section would there be then total?

22 MR. MITCHELL: Total in that section
23 drilled today are 11. There's two undeveloped lower
24 Blinebry remaining to develop and there's one
25 undeveloped upper Blinebry to be developed.

1 MS. MCLEAN: Okay. So then at eight
2 proposed wells, that would be 16 well per section for
3 the Van Halen development; is that correct?

4 MR. MITCHELL: That's correct, yeah.

5 MS. MCLEAN: And that's denser spacing
6 than these established Marley wells; is that correct?

7 MR. MITCHELL: That's true to a point.
8 This Marley pad -- so in this area where the Marley
9 pad is, there was no lower Blinebry development in the
10 area. So this Marley pad was the first lower Blinebry
11 horizontal development in the area. So we were at the
12 time of development here, testing the concept of oil
13 in place in the lower Blinebry. It's very, very
14 challenging to determine from logs how much oil's in
15 place because of the, just the nature of the -- the
16 reservoir. It's very tight, it's really hard to get
17 an accurate volumetric calculations in the Blinebry in
18 total.

19 And so in the Marley section we drilled
20 two lower Blinebry as test wells, which have
21 been -- which were actually one of them is one of the
22 best wells on -- in the unit. And so this -- this was
23 the initial kind of, I guess, proving up of the lower
24 Blinebry in the Local Hills project area.

25 MS. MCLEAN: When were those drilled?

1 MR. MITCHELL: I want to say the end of
2 '24.

3 MS. MCLEAN: And since then you haven't
4 proposed any additional wells in this Marley unit?

5 MR. MITCHELL: No, we have not.

6 MS. MCLEAN: So at this point it's
7 still 11 wells per section; is that correct?

8 MR. MITCHELL: Yes.

9 MS. MCLEAN: Okay. And again, the Van
10 Halen wells are going to be 16 wells per section;
11 correct?

12 MR. MITCHELL: Well, just the way the
13 spacing works, the one -- in two units, one of the
14 units will have one or two more wells than the unit to
15 the north, just because of the way the spacing works.
16 We don't -- we don't do it often.

17 MS. MCLEAN: -- those wells are just
18 for the south half?

19 MR. MITCHELL: Yeah. The reason being,
20 the way the standoffs work in New Mexico, you're
21 allowed 330 feet from the line. And so two wells, you
22 know, on the same bench across a section line or half
23 section line of a different unit are a little too
24 close. So if you have 16 in the south unit, you might
25 have 14 in the north unit. Sorry, on a wells per

1 section basis. That was confusing the way I said
2 that.

3 MS. MCLEAN: And at paragraph 7 of your
4 affidavit, let's go to that. This is on page 92 of
5 the PDF. You state that longfellow's completion
6 designs utilize the highest fluid loading simulation
7 in the play, which results in a higher completion cost
8 per well; correct?

9 MR. MITCHELL: Yes.

10 MS. MCLEAN: And that the results from
11 other completed wells show that the higher cost
12 delivers superior well economics over the life of the
13 well; correct?

14 MR. MITCHELL: Correct.

15 MS. MCLEAN: And have you provided any
16 of these results from other completed wells to -- to
17 show the superior well economics?

18 MR. MITCHELL: Well, I provided
19 the -- the publicly available data from Enverus. But
20 what I would argue, and -- and correct me if I'm
21 wrong, Mr. Examiner, but that would be something I
22 would think would be kind of a competitive advantage,
23 proprietary information.

24 MS. MCLEAN: Well I'm asking, the
25 question I'm asking you, and this is not directed to

1 the hearing examiner and you can't ask him for help --

2 MR. MITCHELL: I apologize.

3 MS. MCLEAN: -- can't be your phone a
4 friend, the question I'm asking is, have you actually
5 provided as evidence, the results from other completed
6 wells that show the superior well economics over the
7 life of the well?

8 MR. MITCHELL: No.

9 MS. MCLEAN: Thank you.

10 MR. MITCHELL: I've only provided the
11 total reserve recovery per lateral foot.

12 MS. MCLEAN: Right. So you have not
13 provided any results from other completed wells to
14 show that Longfellow's higher fluid loading deliver
15 superior well economics over the life of the well; is
16 that correct?

17 MR. MITCHELL: I have provided results,
18 but I have not provided economics.

19 MS. MCLEAN: Okay. And can you please
20 direct me to the exhibit, your exhibit, that you've
21 introduced as evidence that shows results from other
22 completed wells, show that these higher costs deliver
23 superior well performance over the life of the well?

24 MR. MITCHELL: No, I -- I said I have
25 provided results, which was that top 50 EUR per later

1 foot, but I have not provided economics, which would
2 be -- which would be, I think, to answer your
3 question, over the life of the well superior
4 economics. That portion of the question I have not
5 provided.

6 MS. MCLEAN: Great. So that portion of
7 paragraph 7, there is in fact no evidence to support
8 that; correct?

9 MS. SHAHEEN: I'm going to object. An
10 expert can testify based on data that's not in the
11 record.

12 THE HEARING EXAMINER: Ms. McLean?

13 MS. MCLEAN: Well, I think, you know,
14 his statement, he's trying to show, and they even
15 have -- you know, they're saying that they have higher
16 costs for their wells and they're trying to discredit
17 our testimony that says their costs are way higher
18 compared to competitors, by saying it's this higher
19 fluid loading simulation.

20 Well, they've provided no evidence to
21 support that, that allegation in his testimony. And
22 that's why I am asking that question. It's not
23 supported by evidence. And even -- an expert needs to
24 have some sort of evidence they can point to, to
25 support this paragraph 7.

1 THE HEARING EXAMINER: Well, Ms.
2 McLean, the witness's testimony is evidence. The
3 Division will put whatever weight it feels appropriate
4 on the testimony. And if you're going to show that
5 there's no data in the record to support the expert's
6 opinion, then that may reduce the reliability of the
7 opinion. But I do think that his testimony is
8 evidence.

9 MS. MCLEAN: Yes, his testimony is
10 fine. You know, evidence supporting that goes to the
11 reliability of his written testimony.

12 THE HEARING EXAMINER: Right. I agree
13 with Ms. Shaheen that his testimony is evidence. He
14 doesn't have to have evidence in the record to base
15 his opinion on, but, you know, we will adjust the
16 weight that we give it based on your
17 cross-examination.

18 MS. MCLEAN: Thank you.

19 BY MS. MCLEAN:

20 MS. MCLEAN: In regards to that higher
21 fluid loading, did you use that for the Marley wells?

22 MR. MITCHELL: Yes.

23 MS. MCLEAN: And for the Bonzo wells
24 too?

25 MR. MITCHELL: Yes.

1 MS. MCLEAN: And then the Elvis wells?

2 MR. MITCHELL: Yes.

3 MS. MCLEAN: Okay. And those Marley,
4 Bonzo, Elvis wells, those are all within kind of the
5 core of this Yeso Play; is that correct?

6 MR. MITCHELL: So no, the core of the
7 Yeso Play is really the midpoint between Local Hills
8 and Cedar Lake. The -- the legacy core of the play.
9 That's where the Yeso is the thickest and highest oil
10 in place. This is, this actually was -- was
11 considered until we started developing here a
12 lower -- lower perspective area in the Yeso Play.

13 MS. MCLEAN: So then I'm just going
14 to --

15 MR. MITCHELL: -- your map here --

16 MS. MCLEAN: -- by --

17 MR. MITCHELL: -- just so I can explain
18 my answer. Yeah.

19 MS. MCLEAN: Yes.

20 MR. MITCHELL: So to explain my answer,
21 right where that number 22 miles is, that was the
22 legacy core of the Yeso Play. And then on -- and that
23 was developed by Concho, probably in the circa 2010 to
24 2016 range. Off of this map to the west another two
25 or three townships and a little bit south, was the

1 Percussion and then later Spur area, which became
2 the -- the core of the play in circa 2018 to 2022.

3 Our operations where the Bonzo, Elvis,
4 Marley, Ozzy, and -- and other pads, those were
5 started in 2019 through 2024. And that led to
6 significant activity in that -- in that 1728 township.
7 So I -- I wouldn't call it the core of the play. This
8 was kind of the third, maybe the third core of the
9 play.

10 MS. MCLEAN: Okay. But this is more
11 established in the Yeso development than where the Van
12 Halen wells are proposed 22 miles away; is that
13 correct?

14 MR. MITCHELL: I mean, directly south
15 of where the -- the Van Halen unit is, is a very large
16 Apache operated development. I think there's 100
17 horizontal wells in that development area, which span
18 from 2014 to probably 2018. Maybe it was a little
19 earlier, 2012 to 2018. So I wouldn't say that that's
20 a less established part of the play. It is just an
21 area that had significant environmental challenges,
22 and because of that was undeveloped.

23 MS. MCLEAN: Okay. And that Apache
24 development, do you know what their spacing is for
25 their Yeso wells?

1 MR. MITCHELL: Yeah, they were doing
2 four wells per bench, per section.

3 MS. MCLEAN: And then back to the fluid
4 loading, could the high performance be attributed to
5 factors other than just the higher fluid loading?

6 MR. MITCHELL: I guess could you, could
7 you maybe specify what you mean?

8 MS. MCLEAN: Yes, I mean you say that
9 in your testimony --

10 MR. MITCHELL: Okay. I think I
11 understand the question. I'm sorry. So -- so in 1728
12 where the -- where what we call the Local Hills
13 project is our area of 1728, which is kind of the core
14 area, but it bleeds a little bit into 1729 and a
15 little bit into 1720, so a little bit -- or 1727, a
16 little bit east and west of that township.

17 In that township we have horizontal
18 wells, Spur has horizontal wells, and -- in that area,
19 and Riley has horizontal wells. We are the only
20 operator that has the higher fluid loading and our
21 wells outperform their wells.

22 MS. MCLEAN: So based on that, you are
23 attributing that to, that is what's leading to the
24 superior well economics over the life of the well?

25 MR. MITCHELL: Very difficult to boil

1 things down to one thing, but it is a major
2 contributing factor to the well performance. Yes.

3 MS. MCLEAN: Okay. So it's not the
4 main -- it's the main factor, but it's not the only
5 factor for the higher performing wells?

6 MR. MITCHELL: Correct, correct.

7 MS. MCLEAN: Okay. Let's go to
8 paragraph 22 of your testimony. And this is on page
9 98 of the PDF. And on page 22, you -- this begins a
10 section where you discuss horizontal versus vertical
11 development; is that correct?

12 MR. MITCHELL: Yes.

13 MS. MCLEAN: You conduct this analysis
14 because you state that one alternative under
15 consideration is for Mack to drill a vertical well on
16 XTO's acreage to hold its lease; is that correct?

17 MR. MITCHELL: I should say that that's
18 sort of what I was -- what I was told what
19 from -- from conversations Longfellow had with XTO,
20 which I was not a part of, that one option that XTO
21 was pursuing was vertical well drilling on their
22 acreage. Yes.

23 MS. MCLEAN: Right. So this is an
24 analysis of what happens for, you know, in terms of
25 horizontal versus vertical development, prevention of

1 waste, if Mack were to drill a vertical well for XTO
2 on XTO's lease; is that correct?

3 MR. MITCHELL: Correct.

4 MS. MCLEAN: And so you're aware, based
5 on today's testimony and sworn testimony submitted by
6 Longfellow in this case, that Longfellow has filed
7 permits to drill five vertical wells to hold its
8 leases in other sections; is that correct?

9 MR. MITCHELL: That's correct, yeah.
10 I -- and I am the -- the permitting department reports
11 to me.

12 MS. MCLEAN: Okay. And you're aware
13 that Longfellow advised XTO that it could elect to
14 drill a vertical well in Section 33 as well to satisfy
15 lease sold obligations; is that correct?

16 MR. MITCHELL: Partially, yes.

17 MS. MCLEAN: What do you mean
18 partially? Did you not hear the testimony about that
19 earlier?

20 MR. MITCHELL: Well, I think -- I think
21 partially, the way that -- that I understand the
22 conversation was that if -- if a solution could not be
23 arisen to, and that if XTO's only -- only pursuit was
24 to impede development, we would -- we would permit
25 vertical wells to hold our -- our interest, and we had

1 no choice, effectively.

2 MS. MCLEAN: And you heard testimony
3 that it was Longfellow that was the initiator of the
4 vertical well conversation?

5 MR. MITCHELL: I -- I believe that's
6 what Ms. English said, yes.

7 MS. MCLEAN: So then based on your
8 engineering analysis, the five vertical walls
9 Longfellow has permitted for the development of the
10 Yeso Formation in this area will, as you say, result
11 in substantial waste of recoverable hydrocarbon?

12 MR. MITCHELL: No.

13 MS. MCLEAN: Tell me why not. How is
14 that --

15 MR. MITCHELL: So our -- our vertical
16 wells would be followed by full pad horizontal
17 development. Now it's an economic waste because
18 drilling vertical well is not economically viable.
19 But to hold the acreage and then follow it on, I mean,
20 a vertical well, let's be honest, it's going to cost
21 us a million and a half to \$2 million, and maybe we'll
22 get half of that back in terms of economic producible
23 reserves.

24 But it enables us to come back and
25 drill the full unit, preserved the lease, drill the

1 full unit, which is a 50-plus million dollars
2 investment, which has material rate of return on -- on
3 that. So we would take the loss financially of the
4 vertical well to preserve the horizontal development.
5 It's not something we want to do. It's something that
6 we feel we would be compelled to do if we couldn't
7 reach an agreement.

8 MS. MCLEAN: So would that analysis
9 then hold true for XTO drilling a vertical well on its
10 section of -- or on its lease and then extending out
11 into section to the west that Mack is already
12 drilling --

13 MR. MITCHELL: Unfortunately, it would
14 not.

15 MS. MCLEAN: -- development?

16 MR. MITCHELL: Unfortunately, it would
17 not in -- in the Mack/XTO proposal, because of where
18 the surface location of Mack's located. They can only
19 drill a very small portion of that 80 acre lease from
20 that surface location and produce from it.

21 So you would strand 90, well, I think I
22 calculated 82 percent of the acreage of that 80 acre
23 spacing, unless they came back and drilled the rest
24 with vertical wells, which would be waste.

25 MS. MCLEAN: What about a U-turn or

1 J-turn well in that acreage?

2 MR. MITCHELL: We're -- we're sitting
3 at about 4,000 feet true vertical depth. So simply
4 the challenge of drilling horizontals outside of one
5 mile is -- is mechanically challenging. To try to
6 drill things like U-turns, I mean, that's, you know,
7 you know, that's like putting a man on Mars.

8 MS. MCLEAN: So are you saying that the
9 only possible way to develop this is with the Van
10 Halen lateral wells?

11 MR. MITCHELL: No. But what I'm saying
12 is that the proposal that perforating the heel of
13 the -- of the well in the 80 acre section that XTO has
14 adjacent to Mack's one mile, one mile lateral planned
15 unit, cannot capture the reserves of the full 80 acre
16 section. I'm not saying there's no other potential
17 option. There's, you can imagine, possibly other
18 options. I can't sit here and opine on what
19 theoretical options could be.

20 MS. MCLEAN: But it would not
21 necessarily result in waste of that 80 acres to the
22 east of the well pad, as you said, because there are
23 other options for development; is that correct?

24 MR. MITCHELL: No, I'm saying can
25 I -- can I say definitively there are not other

1 options? I -- I can't. I'm saying the options that
2 are presented, ours recovers the most hydrocarbon and
3 produces the least amount of waste. And the option to
4 recover hydrocarbon off the alternative is -- is not
5 there. But could there be other ways to recover the
6 hydrocarbon? Certainly. Given the constraints of the
7 timing of the leases, probably not.

8 MS. MCLEAN: And I think that
9 constraint of the timing of the leases is what led
10 Longfellow to initiate the vertical well conversation;
11 isn't that correct?

12 MR. MITCHELL: Honestly, we initiated
13 the vertical well conversation because we've been
14 talking to XTO for years about these leases and
15 developing these leases together and have had very
16 little success in producing positive results towards
17 development, which compelled pooling.

18 MS. MCLEAN: So are you saying that
19 Longfellow began talking to XTO about developing these
20 leases before August 2025?

21 MR. MITCHELL: We have -- we have
22 probably offered XTO on these leases, I mean, it's got
23 to be half a dozen times over the past several years.

24 MS. MCLEAN: Even when it was part of a
25 term assignment to other companies, you're still

1 offering to --

2 MR. MITCHELL: So yes, when we -- when
3 we believed that XTO had a term assignment on this, we
4 offered to -- sorry, not XTO, OXY. The record title
5 wasn't filed, so public record and -- and land files
6 showed that OXY had control of some of those sections.
7 So we made offers to -- to OXY, I -- I couldn't tell
8 you when, but it was some time ago to develop with
9 OXY.

10 MS. MCLEAN: And this was, you're
11 testifying, before Longfellow acquired this acreage,
12 in I believe the sworn testimony says first quarter of
13 2024?

14 MR. MITCHELL: It was about -- when
15 we -- when we started acquiring here, we contacted
16 everybody who -- who had title recorded in this area.

17 MS. MCLEAN: So it's your testimony
18 that Longfellow had proposed to develop this acreage
19 with horizontal wells and has been trying to work with
20 XTO on that for years?

21 MR. MITCHELL: So the word proposed is,
22 I have a problem with that. We have not proposed
23 wells, but we've negotiated term assignments on -- on
24 every tract in -- in this area

25 MS. MCLEAN: With XTO?

1 MR. MITCHELL: With -- with all parties
2 in -- in this area, what we define as our kind of
3 geologic target area of interest.

4 MS. MCLEAN: And at that time, you
5 know, pre-20, fall of 2025 when the lease expiration
6 became an issue, there was no need to develop this
7 acreage with any additional wells because the leases
8 were held by production with that greater unit; is
9 that correct?

10 MR. MITCHELL: We have -- we have some
11 term assignments in the area in general that we were
12 planning to hold. Our -- our plan to commence
13 development was not until the fourth quarter of this
14 year. And that's really why the infrastructure is not
15 in place today, as we were going to build it this
16 summer.

17 So the -- but certainly the Van Halen
18 unit was in the initial thought process for phase of
19 development, which is why prior to even knowing about
20 the expiration of the held by production status of the
21 unit, we proposed those wells to -- to XTO.

22 MS. MCLEAN: Right. And that was
23 August 2025; correct?

24 MR. MITCHELL: Correct.

25 MS. MCLEAN: Okay. I had wanted to ask

1 about our Exhibit A-8, but I can bring Mr. Mitchell
2 back after our direct, if you would like that.

3 Let's look at, it's Longfellow's
4 Rebuttal Exhibit 2. And I think you had just gone
5 through this with Ms. Shaheen, and this is for the
6 Ozzy two mile Yeso wells; correct?

7 MR. MITCHELL: Correct.

8 MS. MCLEAN: And going to page 2 of
9 this exhibit, I'm just going to make it a little
10 bigger because it's very small. And here you show
11 that there is approximately 4.95 million over an
12 actual versus proposed costs. And I'm just
13 highlighting that. Is that correct?

14 MR. MITCHELL: For the two wells, yeah.

15 MS. MCLEAN: For the two wells, yes.

16 MR. MITCHELL: Yeah, 2.2 for the 1H and
17 2.3 for the 2H, correct.

18 MS. MCLEAN: Correct. And that the
19 cost per completed mile ended up being 4.69 million
20 for the 1H and 4.7 million for the 2H, compared to
21 your original AFE proposals of 3.5 for each well?

22 MR. MITCHELL: So what you're showing
23 there, and I want to make sure I understand the
24 question, is, so these are two mile laterals.

25 MS. MCLEAN: Yes.

1 MR. MITCHELL: So what I'm showing
2 there is if you take the two mile AFE or AFE in actual
3 cost and you normalize it to a one mile, how does it
4 compare to a one mile AFE? Is that clear what I'm
5 showing?

6 MS. MCLEAN: I'm looking at, so you
7 have cost completed, cost per completed mile
8 proposal --

9 MR. MITCHELL: Yeah.

10 MS. MCLEAN: -- and actual.

11 MR. MITCHELL: Yeah.

12 MS. MCLEAN: So the actual, I'm
13 assuming, is what it actually cost?

14 MR. MITCHELL: Yes. Yeah.

15 MS. MCLEAN: And the proposal is what
16 went out with your AFEs; correct?

17 MR. MITCHELL: Right. But again, those
18 are divided by two, essentially, two mile to one mile.

19 MS. MCLEAN: Yes. And I understand
20 that you had originally proposed one miles and then
21 you ended up doing two mile wells; right?

22 MR. MITCHELL: Correct.

23 MS. MCLEAN: But at the end of the day,
24 this was still approximately 25% or 26% over the costs
25 that were proposed in the AFE, is that correct?

1 MR. MITCHELL: That's correct.

2 MS. MCLEAN: And the Van Halen wells,
3 which we're here about today, are one mile laterals,
4 correct?

5 MR. MITCHELL: That's that's correct.

6 MS. MCLEAN: So would you expect to
7 have these same cost savings per mile that you got
8 with the two mile wells for one mile?

9 MR. MITCHELL: No, I mean, the costs we
10 project and we presented are the costs we expect.

11 MS. MCLEAN: Okay. And let me go to,
12 sorry.

13 THE HEARING EXAMINER: Ms. McLean?

14 MS. MCLEAN: Yes.

15 THE HEARING EXAMINER: Before you
16 continue, and I'm not interrupting you, but I do want
17 to confirm that this case is going to run tomorrow.
18 We have a court reporter that we need to reserve for
19 tomorrow.

20 So would both parties like to agree
21 that we're going to continue tomorrow after today?

22 MS. MCLEAN: It seems likely. We just
23 have, you know, it's already 3:30.

24 THE HEARING EXAMINER: Ms. Shaheen?

25 MS. SHAHEEN: It seems likely that we

1 will go over into tomorrow. If not the entire
2 morning, at least part of the morning, because we
3 haven't started on XTO's witnesses yet, and it's
4 probably unlikely that we'll get done with them in an
5 hour or so.

6 THE HEARING EXAMINER: It is. It's
7 unlikely. And plus I'm going to call this at four
8 o'clock, so we definitely don't have enough time. So
9 I want to start tomorrow at 8 a.m. I just want the
10 parties to know, to have their witnesses available for
11 8 a.m. start.

12 MS. MCLEAN: That's just not possible
13 for me. I could do 8:15 at the earliest, but I can't
14 do 8 a.m.

15 THE HEARING EXAMINER: Okay. 8:15 is
16 close enough for me.

17 MS. MCLEAN: Okay.

18 THE HEARING EXAMINER: It's close
19 enough for me.

20 MS. MCLEAN: I have school drop off
21 that, you know.

22 THE HEARING EXAMINER: I understand.

23 MS. MCLEAN: Starts at eight.

24 THE HEARING EXAMINER: So, Mr. Court
25 Reporter, you're virtual; aren't you?

1 MR. MITCHELL: Yes, that's correct.

2 THE HEARING EXAMINER: Okay, perfect.
3 So you're available to start 8:15 tomorrow morning?

4 MR. MITCHELL: I sure am. Yes.

5 THE HEARING EXAMINER: Okay, great.
6 Okay.

7 Sorry, Ms. McLean, keep going.

8 MS. MCLEAN: Okay, thank you. This is
9 the last exhibit that I have for this witness.

10 BY MS. MCLEAN:

11 MS. MCLEAN: And this is XTO's Exhibit
12 B-6. And you'll see here that we have, there's four
13 different costs proposed for these Van Halen wells.

14 Do you see that on this chart?

15 MR. MITCHELL: I -- it's a little, if
16 you could zoom it in a little bit, I think --

17 MS. MCLEAN: Oh yes, yes, sorry.

18 MR. MITCHELL: You're talking about
19 the -- the numbers, the wells represented in red?

20 MS. MCLEAN: Yeah. So the ones that
21 say Longfellow Van Halen.

22 MR. MITCHELL: Yep.

23 MS. MCLEAN: And so there are four
24 projected costs that we have received at this point.
25 Do you see that?

1 MR. MITCHELL: Yep.

2 MS. MCLEAN: And one of the costs, only
3 one of the costs, was the original eight AFEs right
4 here. That was August 11, 2025. Do you see that?

5 MR. MITCHELL: Yes.

6 MS. MCLEAN: And then the remainder of
7 the costs have come as a result of this contested
8 hearing. Can you please just explain the appraisal
9 well and the high, you know, the extraordinarily high
10 cost of this 5H appraisal well?

11 MR. MITCHELL: Sure. So in my direct
12 testimony, I have a breakdown of -- of both the -- so
13 if I was to say, if we were to drill all eight wells,
14 there's certain costs that we're going to have to put
15 on the first well that can -- that would otherwise be
16 distributed across the other wells.

17 And so we talked to my direct testimony
18 about, like, pad construction, the -- the facility
19 construction. So the -- the separators, the tanks,
20 the heater treaters, the measurement systems, the
21 flare systems, all those things. You need those for
22 one well or you need them for eight. So all those
23 costs would hit the first well.

24 Now when we come back and subsequently
25 develop, it's normal accounting practice to

1 essentially re-bill and credit that first well back.
2 the allocated costs of the additional wells. But the
3 first well bears those costs.

4 MS. MCLEAN: Okay. So then --

5 MR. MITCHELL: We go from the six
6 million to the, and I'm just going off the top of my
7 head because these are in a per foot versus a gross
8 basis, but the 6 million to the 7.5 is really those
9 allocated, otherwise allocated costs really landing on
10 that first well.

11 MS. MCLEAN: So then that is the
12 appraisal phase well; correct? That you plan on
13 getting onto production by July 2026; correct?

14 MR. MITCHELL: Sure. I think, I don't
15 think I ever call anything appraisal, but, but yeah,
16 the --

17 MS. MCLEAN: This says --

18 MR. MITCHELL: Okay, yeah, you're
19 right. Appraisal -- appraisal phase. You're right.
20 Okay. Sorry.

21 MS. MCLEAN: Appraisal phase. And then
22 in paragraph 18, you talk about development phase.
23 The development phase 2027. Do you see that?

24 MR. MITCHELL: Yep.

25 MS. MCLEAN: And do you expect that

1 Longfellow will complete all of these additional seven
2 wells or drill them all by the expiration of a pooling
3 order, should you receive one from the Division?

4 MR. MITCHELL: Absolutely.

5 MS. MCLEAN: Even though you're going
6 to begin that development in February of 2027?

7 MR. MITCHELL: Well, the, I mean, the
8 infrastructure is going to go in, the supporting
9 infrastructure is going to go in this summer, and the
10 follow on development will follow in -- in the pooling
11 order timeframe.

12 So the pooling order, let's just say we
13 resolve this or we get a -- we get an order in the
14 next month, we'll have 12 months to complete
15 development. And so we -- we plan to develop all
16 these wells within that 12-month timeframe.

17 MS. MCLEAN: So this chart isn't
18 necessarily correct?

19 MR. MITCHELL: They're estimates, to
20 be -- to be frank. We don't have -- we're focusing on
21 this first phase development to hold all the acreage
22 and to retain the ability to come through and -- and
23 develop the units. That initial proposal in this
24 initial pooling was obviously based on assumptions
25 that we can drill the entire units in its entirety.

1 We've very recently, and I don't -- I
2 can't name -- tell the dates, but I'm sure Ms. English
3 mentioned it in her testimony, of when we found out
4 about the expiration of or the -- the failing of
5 the -- the unit in this area, which has really kind of
6 put our -- our timing on its head.

7 So these -- these follow on
8 developments are estimates from timing, but we do
9 intend to complete development within the pooling
10 order.

11 MS. MCLEAN: Okay. No more questions
12 from me.

13 THE HEARING EXAMINER: Mr. Garcia?

14 MR. GARCIA: Just a few questions.
15 Good afternoon, Mr. Mitchell. Ms.
16 McLean covered some of my questions, so I think I
17 should be fast.

18 You mentioned you're in rig discussions
19 with a few vendors. How many rigs are you guys
20 discussing?

21 MR. MITCHELL: So ideally, we could do
22 this with one, with one rig, and -- and frankly, our
23 intention is to drill no vertical wells if possible.
24 That is -- that is absolutely the mandate I've given
25 my team. The vertical wells are absolutely a last

1 resort.

2 There's a few drilling operators that
3 have smaller rigs that -- that were -- would be
4 suitable to drill vertical wells. So there's a chance
5 that two rigs would -- would be utilized if necessary.
6 But my hope is we can retain the entire project area
7 that's in question with -- with just a few horizontal
8 wells.

9 MR. GARCIA: Okay. Taking some notes.

10 MR. MITCHELL: But all three
11 contractors I mentioned are horizontal rig operators.

12 MR. GARCIA: Okay. In addition to the
13 rig discussions, are you guys also engaging in other
14 discussions with like third parties, like fracking and
15 blowback, et cetera?

16 MR. MITCHELL: Yes, absolutely.

17 MR. GARCIA: And you don't foresee any
18 issues with those schedules either?

19 MR. MITCHELL: The only -- the only
20 service we had -- we had some heartburn on was water,
21 but we've got that sorted out now. Sso no, we have it
22 all services essentially lined up.

23 MR. GARCIA: Busy down there, so. I
24 think you answered this question actually already. I
25 guess just to verify, you mentioned about your guys'

1 plan for takeaway. Your plan is basically you'd have
2 100 percent takeaway for oil, gas, water when these
3 well come online? Does that --

4 MR. MITCHELL: So no, we -- we would
5 truck the oil. We, I mean, we -- we typically, I'd
6 say we -- we operate about 10,000 barrels of oil
7 production a day in Eddy County and about 20 million a
8 day of gas. 100 percent of our gas is obviously tied
9 in and -- and sold by a pipeline. About 7 percent of
10 our oil is piped and -- and 30 percent is trucked.

11 And given the timeframe of this
12 development and just the proximity to oil takeaway
13 pipelines, we will initially be trucking oil here.
14 Now as the project develops and more wells go to the
15 ground, we'll certainly build oil pipelines.

16 MR. GARCIA: Okay. And I guess on the
17 gas front, you mentioned that Longfellow, I believe
18 you mentioned you guys have a no venting or flaring
19 policy, is what I believe you said. Do you guys --

20 MR. MITCHELL: Well, we try. I mean,
21 we -- we have -- we are compliant. We -- we have a
22 gaps capture plan. And you know, outside of, let's
23 call it unplanned events, we try to minimize flaring
24 to -- to zero.

25 MR. GARCIA: Yeah, things happen. I

1 guess, do you guys, how do you guys go about that when
2 you guys build your tank batteries? Like do you guys
3 install like VRUs and VRTs? I guess --

4 MR. MITCHELL: Absolutely. Yeah. I
5 mean, really with the Yeso well, you need VRUs. It
6 has lots of gas in the oil. And so all of our pads
7 have VRUs, all of our pads have gas takeaway. We
8 operate about 15 million a day of -- of high pressure
9 compression. So we can get into the -- the high
10 pressure sides of the mid streamers to get away from
11 the low pressure constraints that a lot of other
12 operators suffer from. So we are very proactive on
13 the gas side.

14 MR. GARCIA: All right. I believe
15 that's all my questions. Thank you.

16 MR. MITCHELL: Thank you.

17 THE HEARING EXAMINER: Okay. Thank
18 you, Mr. Garcia.

19 Ms. Shaheen, is there any redirect?

20 MS. SHAHEEN: No, there is not.

21 THE HEARING EXAMINER: All right. May
22 this witness be excused for now?

23 MS. SHAHEEN: Yes.

24 THE HEARING EXAMINER: All right.

25 Thank you, Mr. Mitchell.

1 MR. MITCHELL: Thank you very much.

2 THE HEARING EXAMINER: Okay. So let's
3 see. Where are we with your case, Ms. Shaheen?

4 MS. SHAHEEN: I believe we've come to
5 the end of our case in chief, and after Ms. McLean
6 presents her witnesses I may have one or more of them
7 come back for additional rebuttal.

8 THE HEARING EXAMINER: Okay. Now it's
9 my understanding that Rebuttal Exhibit 1 is still not
10 admitted?

11 MS. SHAHEEN: And you mean Longfellow's
12 Rebuttal Exhibit 1?

13 THE HEARING EXAMINER: I do.

14 MS. SHAHEEN: Did I forget about it?

15 THE HEARING EXAMINER: Well, I don't
16 know. Did you?

17 MS. SHAHEEN: I'm going to have to take
18 a look because I can't remember what it is.

19 MS. MCLEAN: I don't think it was used
20 with any witnesses. It's an email chain.

21 MS. SHAHEEN: Oh, right. I'll probably
22 use that with respect to my cross of Ms. English.

23 THE HEARING EXAMINER: Okay. Well,
24 you're more than welcome to establish --

25 MS. MCLEAN: You mean your cross of Ms.

1 McKee?

2 MS. SHAHEEN: Yes, my cross of Ms.
3 McKee. Thank you, Jackie. So

4 MS. MCLEAN: Then we might end up in
5 the same position where you can't use a rebuttal
6 exhibit on cross for another party's witness, which
7 Ms. Shaheen is the one who initiated that objection.

8 THE HEARING EXAMINER: So since we do
9 have a court reporter who's recording everything,
10 let's not talk over each other.

11 But I would agree that you can try to
12 establish a foundation tomorrow, Ms. Shaheen, on
13 Rebuttal Exhibit 1, and we'll see where we go with
14 that. But anyway. Okay, so let's see. It is 3:45
15 and I think at this point we should recess for the
16 day.

17 Do we have any housekeeping that we
18 need to, to take care of at this time, Ms. Shaheen?

19 MS. SHAHEEN: The one thing that I was
20 thinking about, I mean, ordinarily I would want to do
21 written closings, but in light of these lease
22 expirations coming up, I suggest that we have oral
23 closings. And to the extent you want something in
24 writing from us, we could provide you with competing
25 proposed orders.

1 I just feel like to wait for the
2 transcripts and then give us time to do closing
3 statements is, doesn't make a lot of sense when we've
4 got lease expirations in July.

5 THE HEARING EXAMINER: All right. So
6 before I go to Ms. McLean for her preference, let's
7 talk to Mr. Garcia and see what he thinks might be
8 helpful to him.

9 MR. GARCIA: I mean, written closings
10 and proposed orders always assist in writing the order
11 because it's difficult to, as you guys are aware, to
12 go back through the transcripts and records and cite
13 everything. So I tend to lean on you guys' orders for
14 guidance. It's going to be tight regardless, I guess,
15 is the statement.

16 THE HEARING EXAMINER: Right. So hold
17 on, Ms. Shaheen. Now it is possible, I think, to have
18 an expedited transcript made. We're also recording
19 this through AI, and AI does provide us with a
20 transcript. It's not official, but it may be enough
21 for you to at least, you know, base your closing
22 argument on.

23 But anyway, Ms. McLean, what's your
24 thoughts?

25 MS. MCLEAN: I always love written over

1 anything else, and that would be our preference.

2 THE HEARING EXAMINER: Okay. All
3 right. So let me ask the court reporter.

4 Is it possible to get an expedited
5 transcript?

6 THE REPORTER: Yes, it is.

7 THE HEARING EXAMINER: I thought so.
8 What is the, I mean, the Division pays the cost for
9 the the regular transcript. What's the cost of the
10 expedite?

11 THE REPORTER: For that, I'm sorry, I
12 just work here. I'm not sure about the costs. But I
13 do know if it needs to be within three days, I need
14 to, you know, get that approved and they would need to
15 contact you all. But if it's five days or more, then
16 that can certainly be expedited without a problem.

17 THE HEARING EXAMINER: All right.
18 Well, Ms. Shaheen, I know that your client is in a
19 hurry. I understand why. Why don't you communicate
20 with the court reporter and their company and see if
21 you want to pay for an expedited transcript. I'll
22 leave that to you and the court reporter to work out.

23 MS. SHAHEEN: Okay. Mr. Aragon, would
24 you by chance put your email in the chat?

25 THE REPORTER: I'd be happy to. One

1 moment, please.

2 MS. SHAHEEN: Thank you.

3 THE HEARING EXAMINER: Okay. So we've
4 talked about that. We'll go over some deadlines
5 tomorrow at the end of the hearing. Is there anything
6 else? What about exhibits? So we have XTO A-8 and
7 B-7 are still not admitted, and your Rebuttal 1 is not
8 admitted.

9 Is there anything else to review before
10 we go off the record for the day?

11 MS. SHAHEEN: Not that I can think of
12 at the moment. Thank you, though.

13 THE HEARING EXAMINER: All right. Ms.
14 McLean?

15 MS. MCLEAN: Nothing from me.

16 THE HEARING EXAMINER: All right. How
17 many witnesses will you have tomorrow?

18 MS. MCLEAN: I have two.

19 THE HEARING EXAMINER: Two. Are they
20 here with us today?

21 MS. MCLEAN: They are.

22 THE HEARING EXAMINER: I figured they
23 would be. Can we get them on the screen?

24 MS. MCLEAN: Yes. Ms. McKee and Mr.
25 Brown, and they're together in a room.

1 THE HEARING EXAMINER: Okay.

2 MS. MCLEAN: So they'll be together on
3 the screen.

4 If you guys could turn on your camera.

5 MS. MCKEE: Yes.

6 THE HEARING EXAMINER: I see you.

7 Okay. McKee and Brown. Excellent. Why don't we get
8 you, let's get some things out of the way so tomorrow
9 we can hit the ground running.

10 Okay. Let's start with you, Ms. McKee.
11 Would you state and spell your name for the record?

12 MS. MCKEE: Sure. I'm Shelbi McKee,
13 S-H-E-L-B-I. Last name McKee, M-C-K-E-E.

14 THE HEARING EXAMINER: Okay. Now
15 before we continue, have you been admitted as an
16 expert before this Division?

17 MS. MCKEE: I have not.

18 THE HEARING EXAMINER: Okay, great.
19 What area of expertise do you seek to be qualified in?

20 MS. MCKEE: Land.

21 THE HEARING EXAMINER: You're a land
22 person. All right. Landman. All right, we'll come
23 back to you in just a moment.

24 Mr. Brown?

25 MR. BROWN: Yes. I'm Paul Brown.

1 That's spelled P-A-U-L, B-R-O-W-N.

2 THE HEARING EXAMINER: And your area of
3 expertise?

4 MR. BROWN: It is petroleum geology.

5 THE HEARING EXAMINER: Have you been
6 admitted by this Division as an expert?

7 MR. BROWN: I have not.

8 THE HEARING EXAMINER: Excellent.
9 Let's do that now. Let's get this over with so that
10 we don't have to do this tomorrow.

11 Ms. McLean, have you provided CVs?

12 MS. MCLEAN: We have. They're attached
13 to their testimony as Exhibits A-1 and B-1.

14 THE HEARING EXAMINER: All right. Hold
15 on one minute. Me get to it. I think the easiest
16 thing to do is just to review them while they're here
17 in case I have any questions.

18 MS. MCLEAN: I can share my screen if
19 you'd like.

20 THE HEARING EXAMINER: Not necessary.
21 I have found it, what I wanted. It's harder to find
22 than what I thought it was. XTO. Okay. Resume 1.
23 Let's start with A-1.

24 Are you a lawyer, Ms. Shelbi?

25 MS. MCKEE: I am.

1 THE HEARING EXAMINER: Ms. McKee.

2 Excuse me.

3 MS. MCKEE: Oh, it's okay.

4 THE HEARING EXAMINER: That's what I
5 meant to say. I'm sorry.

6 MS. MCKEE: Either one works.

7 THE HEARING EXAMINER: Okay, perfect.
8 So you've been doing this since 2008, it looks like?

9 MS. MCKEE: Yes. Really since 2006,
10 and then I went from Exxon to Devon in 2008. So
11 there's a -- that's why there's a little --

12 THE HEARING EXAMINER: You mean from
13 Devon to Exxon?

14 MS. MCKEE: Well, I started at Exxon,
15 then I left and went to Devon for a little while and
16 moved to Oklahoma City, married my husband, and then
17 came back. Came back to Exxon shortly thereafter.

18 THE HEARING EXAMINER: Okay, great.

19 MS. MCKEE: Yeah.

20 THE HEARING EXAMINER: I see that here.
21 Okay. So currently your title is what?

22 MS. MCKEE: It's area commercial and
23 land manager for Outliers New Mexico, Deltex, and
24 Joint Interest.

25 THE HEARING EXAMINER: I see it now.

1 Okay. All right. You are obviously qualified as an
2 expert in petroleum land matters, so from here on in
3 we recognize you as such.

4 Now let's take a look at Mr. Brown's
5 CV. I will find it in just a moment. A lot of emails
6 here. Okay. I'm with Mr. Brown now. Okay.
7 Biography of Paul Brown.

8 Well, you've been with Exxon since
9 1998?

10 MR. BROWN: That is correct.

11 THE HEARING EXAMINER: Okay. Just to
12 develop this a little further, Mr. Brown. I've not
13 seen a resume that looks like this before. So let's
14 just flesh this out a little bit.

15 What is your current title?

16 MR. BROWN: My current title is a
17 senior geoscience advisor and New Mexico joint
18 interest lead.

19 THE HEARING EXAMINER: Okay. And how
20 long have you had that title?

21 MR. BROWN: Four years.

22 THE HEARING EXAMINER: Four years.
23 Okay. And what are your current duties?

24 MR. BROWN: My current duties involve
25 New Mexico assets, in my capacity is the joint

1 interest leads. We receive a number of proposals from
2 operators all across the northern part of the basin.
3 We evaluate those. We make technical and commercial
4 recommendations for those.

5 THE HEARING EXAMINER: Okay. So you
6 are seeking to be qualified as a petroleum geologist.
7 So would you revise that answer to talk more about
8 petroleum geology?

9 MR. BROWN: Well, as a petroleum
10 geologist, of course, you know, responsibility there
11 is, you know, we're locating, we're evaluating, and
12 we're facilitating extraction of oil and gas resources
13 in the subsurface. So that's -- that's our -- our
14 standard function and within the organization.

15 But I would state that through my 28
16 years of experience, I've worked in an integrated
17 capacity in the subsurface, very closely with
18 reservoir and other engineers across exploration,
19 development, and production all across the world.

20 THE HEARING EXAMINER: I see that from
21 your biography.

22 Ms. Shaheen, any objection to my
23 qualifying Mr. Brown as a petroleum geologist?

24 MS. SHAHEEN: No objection from
25 Longfellow.

1 THE HEARING EXAMINER: Excellent. Then
2 from here on in, Mr. Brown, you are viewed by this
3 Division as an expert in petroleum geology.

4 MR. BROWN: Thank you.

5 THE HEARING EXAMINER: Okay. So
6 tomorrow I'll swear you both in, because we haven't
7 done that yet. And we'll begin with your case in
8 chief and your rebuttal case.

9 Please be prepared to summarize, you
10 only have 36 or 34 pages here, so it's not hard to
11 summarize this, but please be prepared to give us a
12 high-level overview of why you have come to your
13 expert opinion, whatever it may be.

14 As you know, I do understand the case.
15 I discussed that this morning. I went over what I
16 thought were the issues in contention here. So both
17 Mr. Garcia and I are well-versed in what's going on
18 here.

19 MS. MCLEAN: And, Mr. Hearing Examiner,
20 if it's okay with you, our plan was actually just to
21 have them adopt their written testimony and exhibits
22 and then move on to our rebuttal exhibits without any
23 summary.

24 THE HEARING EXAMINER: Okay. That
25 sounds, you know, it's your case. I have no problem

1 with that, obviously, but it's your case to handle as
2 you see fit.

3 All right. Mr. Garcia, is there
4 anything further before we break for the day?

5 MR. GARCIA: I don't believe so.

6 THE HEARING EXAMINER: Okay, wonderful.
7 Do the parties have anything else they need?

8 MS. MCLEAN: Not for me.

9 MS. SHAHEEN: No.

10 THE HEARING EXAMINER: All right, good.
11 And, Ms. Shaheen, you have time to review those late
12 filed rebuttal exhibits so that you can address them
13 tomorrow, if need be. And I believe --

14 MS. SHAHEEN: And would the same hold
15 true for Ms. McLean? I mean, we do want to get our
16 exhibits in as well. And I believe --

17 MS. MCLEAN: Well, I did not object to
18 Longfellow Rebuttal Exhibit 2, which was actually
19 filed after our rebuttal exhibits. And I have not
20 objected to their Rebuttal Exhibit 1 on the basis of
21 timeliness, so. I still stand by our objection to
22 Rebuttal Exhibit 1, as it's not rebutting any direct
23 testimony.

24 THE HEARING EXAMINER: Okay. Well, and
25 that's fine.

1 MS. SHAHEEN: I mean, we can make that
2 argument tomorrow or I can make it now, whatever you
3 prefer.

4 THE HEARING EXAMINER: Well --

5 MS. MCLEAN: Well, at this point Ms.
6 Shaheen hasn't even tried to get it admitted into
7 evidence through anyone's testimony. So I think it's
8 a little premature for that argument.

9 THE HEARING EXAMINER: So, Ms. Shaheen,
10 the reason I asked you, or the reason I mentioned to
11 you that you will have some time to look at the
12 rebuttal exhibits that XTO filed was because when we
13 first started this hearing, you mentioned that, hey,
14 these were, you know, surprise. That was your
15 argument. And I can understand that. Which is why I
16 said you have now, you have some extra time to
17 familiarize yourself with the exhibits and prepare
18 your case.

19 MS. SHAHEEN: Well, thank you. I just
20 hope that I'm allowed to try to get that other
21 rebuttal exhibit in tomorrow.

22 THE HEARING EXAMINER: You know, the
23 Division prides itself on giving the parties a full
24 and fair opportunity to create a complete
25 administrative record for our decision making.

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MS. SHAHEEN: And I appreciate that practice.

THE HEARING EXAMINER: Okay. Well, I hope everyone has a good evening, and we'll see you tomorrow bright and early, 8:15.

MS. MCLEAN: Thank you.

MS. SHAHEEN: Thank you.

THE HEARING EXAMINER: Bye-bye now.

(Whereupon, at 3:59 p.m., the proceeding was concluded.)

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CERTIFICATE

I, GERALD ARAGON, 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.

GERALD ARAGON
Notary Public in and for the
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, NICHOLE RYAN, 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.

NICHOLE RYAN

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New Mexico Rules of Civil Procedure for the
District Courts

Article 5, Rule 1-030

(e) Review by Witness; Changes; Signing.

If requested by the deponent or a party before completion of the deposition, the deponent shall have thirty (30) days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by Subparagraph (1) of Paragraph F of this rule whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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