

# OCD Special Docket September 15, 2026- 20260916\_140644UTC-Meeting Recording\_DAY 2

September 16, 2026, 2:06PM

3h 44m 34s

**PH Pecos Hall 24:29**

Good morning.

It is October.

It is September 16th.

We are back on the record for our special docket and we were hearing yesterday.

A case in which enduring resources applied.

For a exploratory unit and we had epic opposing it. This is case 26365 inches of appearance please.

**AR Adam Rankin 24:58**

Good morning, Mr. hearing Officer Adam Rankin with the Senate. The Office of Pawn and Heart appearing on behalf of the applicant enduring resources.

**PH Pecos Hall 25:05**

Good morning.

**MB Matthew M. Beck 25:11**

Good morning, Mr. Matt Beck. On behalf of Epic Energy, LLC.

**PH Pecos Hall 25:15**

Good morning.

Have the parties conferred?

**AR Adam Rankin 25:19**

Good morning, Mr. hearing examiner.

The question last when we broke was whether enduring was going to put on a rebuttal case, and I informed Mr. Beck last night that we were going to put on a rebuttal case.

So we're preparing to do that right now and to the extent we have more matters to confer over which we may, I'll reach out to Mr. Beck and we'll confer. But at this

36 point, we're preparing to put on a what I anticipate to be a relatively short REB.

37 Case.

38 When we have an opportunity to do so.

39 With Mr. Beck's return from District Court.

40

41 **PH Pecos Hall 25:53**

42 OK. And what are the issues that you anticipate presenting during your rebuttal case?

43

44 **AR Adam Rankin 26:00**

45 Well, we're still working that out to some extent, but I believe it will be of the two

46 issues that came in were permitted to come in by the by the hearing examiner on on.

47 Epics case in chief is we're we're gonna present testimony chiefly going towards the

48 notice compliance issue.

49

50 **PH Pecos Hall 26:22**

51 You said notice of compliance issue.

52

53 **AR Adam Rankin 26:24**

54 Correct.

55

56 **PH Pecos Hall 26:25**

57 All right. Will there be testimony in rebuttal to the article that Mister Beck's expert

58 presented yesterday?

59

60 **AR Adam Rankin 26:33**

61 No, Mr. hearing Officer, we will not be addressing that.

62

63 **PH Pecos Hall 26:37**

64 OK. And did you get a copy?

65

66 **AR Adam Rankin 26:39**

67 I did.

68

69 **PH Pecos Hall 26:40**

70 OK.

71 Very good.

72 All right, Mr. Beck, is there anything from you this morning?

73

**MB Matthew M. Beck** 26:46

75 That's it, Mr. hearing examiner, as I, as I've said a couple times before, as soon as my  
76 hearing's over this morning. Whenever that is, I'll I'll rush over under the speed limit  
77 to to the your building and and be there.

78

**PH Pecos Hall** 27:00

80 OK.

81 That's wonderful.

82 And Mr. Rankin?

83 Are your two witnesses going to be virtual or will they be Live Today?

84

**AR Adam Rankin** 27:09

86 It'll likely just be one witness and we'll plan on being live, Mr. hearing officer.

87

**PH Pecos Hall** 27:11

89 Oh.

90

**AR Adam Rankin** 27:16

92 And to that point and to to address Mr. Beck's timing, I guess to the extent we could  
93 have, you know, a set time or if there's an, you know, I don't know how long this case  
94 will take for us, but it sounds like it might go at.

95 Least till noon.

96 Maybe. Maybe there's an opportunity for us to present after the lunch hour or in  
97 early afternoon.

98 So you know, there's a possibility for a set time or maybe an hour.

99 So that we can work our way over there.

100 That would be appreciated if at all possible.

101

**PH Pecos Hall** 27:44

103 OK. We will do that.

104 Will you?

105 I'll ask Freya to keep in touch with Mr. Beck and yourself.

106 And as we start to anticipate finality to the Xco case, we'll reach out to both of you  
107 and coordinate a time.

108

109 **AR Adam Rankin** 28:03

110 I appreciate it very much. Thank you.

111

112 **PH Pecos Hall** 28:05

113 All right.

114 Thank you.

115 Have a good day.

116

117 **MB Matthew M. Beck** 28:07

118 Thanks for accommodation. See you soon.

119

120 **PH Pecos Hall** 28:08

121 All right.

122 You're welcome.

123 We're off the record.

124 In that case, let's move on to XTO Energy 26248 entries of appearance, please.

125 Good morning, Mr. hearing examiner.

126 This is James Parrott with Beatty and Wozniak on behalf of the applicant, XTO Energy  
127 Inc.

128 And my colleague Jacob Beaverhart, also representing the applicant.

129 Good morning. Good morning.

130 Good morning, Mr. herring examiner.

131 Good morning, technical examiner.

132 Mr. Technical examiner Darren Savage with Abbie and Shill appearing on behalf of  
133 Devon Energy Production Company LP and on behalf of VF Petroleum, Incorporated.

134 Devon is only monitoring and preserving preserving rights.

135 While VF Petroleum has objected to Xto's application, thank you.

136 Sharon Shaheen, on behalf of Pride Energy Pride, has withdrawn its objection but  
137 remains in the in the case to monitor and preserve its rights.

138 Thank you, machine.

139 All right, Mr. Savage.

140 What is the nature of your objection?

141 Mr. Examiner.  
142 The the nature of the objection we feel is.  
143 Rather involved and we would like to address it as as part of the opening statement  
144 we in our pre hearing statement, we asked if the you know we are concerned that  
145 there's a threshold question about whether the division under the statutory authority  
146 has the authority to hear this.  
147 Case we would like to present that that particular argument.  
148 And and and have the in order for the division to be able to consider that that issue.  
149 So, Mr. Savage, I believe I have reviewed the preliminary objection, and that's what  
150 you're talking about was one of the things you're talking about in the preliminary  
151 objection, OK.  
152 We had five contested cases on our special docket.  
153 Several went away at the last minute.  
154 Those are the cases that we reviewed most heavily.  
155 Going into this, so I have not spent a lot of time on your threshold question, but  
156 what I'll do is.  
157 Let me get some other preliminary information from the parties 1st and then I have  
158 have prepared something on the threshold question. I'd like to hear from the other  
159 side.  
160 I did not hear from the other side in writing and I I I did wonder why you waited until  
161 just a few days ago to present this threshold question.  
162 We we presented in the pre hearing statement that that's you know that that was the  
163 analysis and statement of the case.  
164 So we feel like we've followed the proper procedure regarding timing for presenting  
165 of that of that issue. OK, all right.  
166 How many witnesses do you if the case moves forward?  
167 How many witnesses do you anticipate presenting? So Mr. you know, because we  
168 believe that the the main focus of this is on the matter of law.  
169 We we we don't see a need to burden the OCD with with a witness, but we would  
170 like to do a thorough cross examination, OK.  
171 All right. So no witnesses on your, did you?  
172 I saw that you presented.  
173 A pre hearing statement in a revised pre hearing statement.  
174 Then you presented exhibits and then a revised exhibit packet.  
175 No, we did an amended pre hearing statement just to make sure that we included

176 Devon. That was the only that was the only change, nothing else changed.  
177 There was no change of the legal analysis and so we can remove your original pre  
178 hearing statement.  
179 Yes, OK.  
180 Fine. And then are you saying you did not file another?  
181 Oh, I thought.  
182 Let me just, yeah, yes. OK.  
183 So there there was.  
184 There was a.  
185 Emotion. So XTO filed a motion eliminate to exclude Exhibit 10 of the original  
186 hearing packet. OK.  
187 So what we did is we filed a response and we asked the division in their wisdom that  
188 they're the ones that should make the decision on this and for the convenience of  
189 the division, we did include as an exhibit an example of an amended hearing packet  
190 that we.  
191 Would file.  
192 Under the guidance of the division.  
193 If they decide so that it needs to be filed, we also present arguments that that under  
194 under the under the law and the rules and the issue about the nature of a trade  
195 secret after it's been disclosed, and then the fact that XTO is relying on that ex.  
196 For approval of.  
197 Their application we feel that there is a strong legal argument that it should be  
198 adjudicated in in the hearing.  
199 OK.  
200 I I read that.  
201 So I'm I'm fine with the motion and response on the confidentiality of exhibit 10 and  
202 prepare to deal with that. What I was trying to understand is so QO filed an amended  
203 exhibit packet. OK.  
204 Withdrawal? Objection.  
205 Injections.  
206 A statue for hearing. Eliminate. OK, OK.  
207 Mr. parrot.  
208 How many witnesses do you anticipate? We have two witnesses, Mr.  
209 We'll get to that.  
210 Let's deal first.

211 First, let me finish reviewing this.  
212 Preliminary objection based on.  
213 What Mr. Savage talked about moments ago.  
214 So hold on one minute.  
215 Sure thing.  
216 And Mr. Examiner may ask you about a minor logistical point when you're sure, let  
217 me just deal with this first.  
218 Since it's a threshold issue as characterized by Mr. Savage and.  
219 Mr. McClure is with us today as technical examiner. Mr. McClure, did you happen to  
220 see the preliminary objection and the threshold issue?

221

222  **McClure, Dean, EMNRD** 34:52

223 I have not reviewed that particular article.

224

225  **Pecos Hall** 34:53

226 That's fine, that's fine.

227 That's fine.

228 I mean, it's a legal argument. So, you know, I understand why you in all the work that  
229 you've had did not look at it. That's fine.

230 Mr. Parrott, have you reviewed the legal argument?

231 Submitted by Mr. Savage that the division doesn't have authority to hear this case.

232 Yes, OK you have.

233 All right, good.

234 Alright, so I'm just gonna go over what I see here.

235 I'm not making a decision at this point.

236 I'm just.

237 Basically summing up what I understand from the legal argument, obviously I might  
238 not get it correct.

239 And if I don't, let me know, Mr. Savage. And then I wanna hear from QO. OK.

240 My understanding of the argument is that under NMSA 1978 section 70-2 DASH  
241 12.2.

242 A rule.

243 And a rule includes amendment or repeal of a rule may be adopted only by the  
244 Commission.

245 Through former rulemaking procedure.

246 VF is arguing that Xcos application is in substance a request to amend 19151615 and  
247 Mac for 133,444 acre area prospectively and permanently.  
248 Mr. Savage alleges the division has no rule making authority at which I agree,  
249 divisions not.  
250 Mr. Savage also cites Union versus the New Mexico Oil Conservation Commission,  
251 where the Supreme Court held that division adjudications must be limited to  
252 identifiable persons and cannot be and cannot impose broad prospective regulatory  
253 changes.  
254 VF can argues that XC OS requests precisely the type of broad FEU wide restructuring  
255 that cannot be done through division adjudicatory order.  
256 This precedent is directly on point and strengthens.  
257 The jurisdictional argument.  
258 Further VF alleges that Xto's application directly contradicts existing OCD rules.  
259 VF.  
260 Alleges that the XTO requested relief would override standard unit definitions 40  
261 acre and 160 acre building blocks.  
262 Invent unauthorized third category of spacing units deemed standard even though  
263 they do not meet rule criteria.  
264 Eliminate notice and objection rights.  
265 Expressly embedded in the 2018 horizontal well rules and remove set back  
266 requirements for uncommitted tracts.  
267 And finally, well, maybe that.  
268 Finally, almost finally.  
269 VF alleges that Xiao acknowledges the novelty and regulatory changing nature of its  
270 request.  
271 There is an August 20, 2026 transcript citation.  
272 Where Council for QO admit the application is novel approach to deal with federal  
273 exploratory units.  
274 VF alleges that XEO seeks to change the statewide significance rather than a  
275 traditional adjudication.  
276 VFR. Use that xtoe reliance on 19/15/20 point 14 and Mac explaining that the rule  
277 deals with proration units for vertical wells, not spacing units or setbacks in Fe U's  
278 predates the 2018 horizontal well rule.  
279 OK, now.  
280 Did I summarize that that was a from what I heard, that was an accurate summary

281 from for the parts that were summarized OK.  
282 All right. Mind you, I just saw this this morning because we had other cases to deal  
283 with first and we just got to this case.  
284 So you know, I'm trying to give it as much thought as I can. Alright, Mr. parrot.  
285 Does that summary.  
286 Comport with your understanding of the motion.  
287 Yes, OK.  
288 Very good.  
289 Or the objection. Whatever you want to call it. All right now.  
290 You didn't file a written response.  
291 Start by first and what I'm gonna do is this. I wanna hear from you.  
292 I'm gonna give you a very short reply opportunity and then I'm gonna go discuss this  
293 with the technical examiner.  
294 Umm, so Mr. Parrot, was there a reason why you didn't respond to this in writing?  
295 There are several reasons.  
296 One I did not see a provision in the pre hearing order that expressly allowed.  
297 Motions responses to motions.  
298 You know, that sort of thing secondly.  
299 We were.  
300 Very busy with responses to evidentiary objections dealing with exhibits. You know,  
301 there was a very short period of time the division did not request response in writing.  
302 Certainly would be.  
303 Delighted to brief the issue for you and I thought that the more appropriate.  
304 Means of dealing with this objection or motion or whatever you want to call it would  
305 be to discuss this with you here at the hearing.  
306 And asked if you would like briefing on the issue and then the parties can provide  
307 you with full prepared briefing on the issue rather than rushing through something  
308 that's haphazard I understand.  
309 So would you like to address point by point or how however you want to address it?  
310 Well, our preference would be if if you need a response from QO to respond in  
311 writing. What I can tell you is that the gist of our response would would be.  
312 Probably 3 parts, first of all.  
313 It's somewhat.  
314 Incredulous or blizz believability that the division does not have the authority to do  
315 in a single application? What I believe nobody would argue that it has the authority

316 to do under multiple applications.  
317 So this is essentially.  
318 Modifying a single spacing unit that would be set up, but doing it on mass right so.  
319 I don't think that if we were coming here sitting before you with an application to  
320 allow 40 acre building blocks for a Wolfcamp formation, spacing Unit 1, single  
321 spacing unit, then anybody would say that the division does not have the authority  
322 to do that, right? So we're asking.  
323 You to do that for multiple space units.  
324 At the same time, so it's it's a little bit hard to believe that that the division doesn't  
325 have that authority secondly.  
326 As a policy matter.  
327 It seems like it is much preferable.  
328 To provide individual notice to every single party within the unit and within a mile of  
329 the unit boundary.  
330 Giving them exactly the information that they would need.  
331 Need to involve themselves in a proceeding that could potentially affect their rights  
332 rather than take a rule making approach, this in which case notice does not go out to  
333 potentially affected parties and stakeholders. So as a policy perspective from a policy  
334 perspective, the way that that XTO is.  
335 Doing this is much more protective of due process.  
336 Right. And then the essentially the third prong of our argument, if if we're to submit  
337 something.  
338 In writing, would deal with the statutory authority and mandates that the division has  
339 to prevent waste and protect relative rights.  
340 That gets into a little bit of the merits of the application, but it is xto's position and  
341 evidence will show that.  
342 Application will prevent waste and protect corrosive rights in a way that no other  
343 option for comprehensive development plan of the unit possibly could.  
344 So let me.  
345 Let me let me go through the points as I certainly laid them out since it was a good  
346 summary according to Mr. Savage and according to my reading of the objection.  
347 Let me finish this note.  
348 All right.  
349 Basically, Mr. Savage is saying that this what you're asking the division to do is a rule  
350 making.

351 That you're in substance requesting to amend 19151615 and Mac and let me ask Mr.  
352 McClure a question, Mr. McClure, from your understanding, what is? What does the  
353 rule 19151615.

354 And Mac say.

355

356  **McClure, Dean, EMNRD** 46:32

357 I believe they're asking for essentially exemption from the.

358 Criteria that's required to classify Hsu as standard as well as set back requirements.

359

360  **Pecos Hall** 46:45

361 OK, So what?

362

363  **McClure, Dean, EMNRD** 46:46

364 That's a that's a horizontal well rule is what you cited.

365

366  **Pecos Hall** 46:48

367 That's it.

368 OK. All right.

369

370  **McClure, Dean, EMNRD** 46:49

371 I'm sorry.

372

373  **Pecos Hall** 46:49

374 That's what I meant.

375

376  **McClure, Dean, EMNRD** 46:49

377 I apologize.

378 That's the horizontal well rules that they're citing too.

379

380  **Pecos Hall** 46:52

381 And and what does that rule basically say if you were explaining this to a child, what  
382 would you say?

383

384  **McClure, Dean, EMNRD** 46:59

385 Well, the port that is.

386 That QO was interested in.

387

388  **Pecos Hall** 47:04

389 Yes.

390

391  **McClure, Dean, EMNRD** 47:06

392 Is basically along the lines of within gas pools.

393 You're required to use quarter section spacing for building blocks and in addition to  
394 that, you're also required to.

395

396  **Pecos Hall** 47:12

397 OK, OK.

398

399  **McClure, Dean, EMNRD** 47:18

400 Well, rule allows your setbacks internal to units to essentially already be exempted.

401 However, the purple Sage Wolfcamp order theoretically supercedes.

402 Rule in that regard.

403

404  **Pecos Hall** 47:30

405 I see.

406 I see.

407

408  **McClure, Dean, EMNRD** 47:31

409 And so they're trying to correct that.

410 So I think it's the spacing and the setbacks is whether the relief they're seeking, I  
411 guess.

412

413  **Pecos Hall** 47:38

414 OK.

415

416  **McClure, Dean, EMNRD** 47:38

417 I don't know if that answers your question though.

418

419  **Pecos Hall** 47:40

420 It does.

421

422  **McClure, Dean, EMNRD** 47:40

423 Mr.

424

425  **Pecos Hall** 47:40

426 It answers it answers, it gives me something to to understand the argument. So  
427 basically.

428 Mr. Savage is alleging that you are basically conduct asking the division to conduct a  
429 rulemaking.

430 For 133,000 acre area prospectively and permanently.

431 As you know, the division doesn't have rule making authority.

432 Why is this not a rulemaking?

433 Well, to use.

434 VFS own case.

435 A.

436 A rule making is rule of general applicability, whereas in Judicatory hearing is  
437 targeted at very specifically identifiable parties and interests.

438 And we have provided already in our exhibit packet evidence that every single  
439 interest owner within the unit and within a mile of the unit received notice of this  
440 application.

441 I don't know that you can get more identifiable than having identified every single  
442 interest owner in the unit.

443 This is a large notice list, but we were able to identify every single owner within the  
444 unit, including overriding royalty interest owners and give them notice of the  
445 application.

446 Ample notice of the application.

447 And a full opportunity to participate in an adjudicatory hearing.

448 So that right there I think is the strongest evidence that this is not a rulemaking.

449 I would say additionally there is the strongest evidence that this is not a rule making.

450 Is what that we identified every single potentially affected party and provided.

451 A.

452 Mailed certified, mailed notice to that party.

453

454  +19\*\*\*\*\*41 49:36

455 Oh.

456

457  **Pecos Hall** 49:39

458 That does not happen in a rulemaking.

459 Obviously the state would have to mail notice to every single person in the state and  
460 hundreds of thousands of people outside of the state.

461 I'm just taking notes here so I can discuss this with Mr. understood.

462 So give me a minute.

463 So let me capture what you just said.

464 And then we'll continue, OK.

465 Yeah.

466 Mr. Examiner, 1 minor correction to what I just said.

467 The offset.

468 Notice it wasn't a mile Halo, which was, you know, involved curves and that sort of  
469 thing.

470 It was every section that abuts the unit.

471 That abuts the unit every fold section. Right. OK.

472 So there, there are certain places where the notice is actually more than a mile away  
473 from the unit.

474 OK.

475 Let's go on to point #2.

476 Well, I think.

477 You already know what point #2 is.

478 Oh, I'm sorry.

479 I thought you were asking me to explain the next reason that I was. No, I'm giving  
480 you my summary of the objection. In the first gave it to Mr. Savage because I think it  
481 lays it out in a way that I understand it. And and I'd like to.

482 Hear your response point for point before I go to talk to Mr. McClure.

483 So I think there's some additional information that should be OK.

484 So with regard to the argument that this is the application is a rulemaking, right?

485 In in addition to have having specifically identifiable parties, which means it's not  
486 making.

487 I believe that it's instructive that there is no rule in existence that applies to a single.

488 Federal unit.  
489 That applies to a single federal unit, right?  
490 So it would.  
491 It would be.  
492 New completely.  
493 Unheard of approach for the Commission to adopt A rule singling out a single  
494 federal unit.  
495 OK.  
496 I'm not going to, you know, go back and forth on it.  
497 I understand your point.  
498 OK. All right.  
499 Is that it for the rulemaking?  
500 Why this is not a rule making?  
501 Those are the major points.  
502 I mean, we would have other points if we were to brief this.  
503 I understand.  
504 Thank you. OK.  
505 Let's go on now to the next point in the objection, which is Mr. Savage cites to a  
506 case.  
507 The last minute, please hold on a second.  
508 Sing.  
509 OK, Mr. Savage cites to you in UHDENV as New Mexico Oil Conservation  
510 Commission, where the Supreme Court held that division adjudications must be  
511 limited to identifiable persons and cannot impose broad perspective regulatory  
512 changes.  
513 I think your argument already goes to what? To that point, I think what you've just  
514 said goes to that point, so.  
515 Do you need to add to that?  
516 Well, I think also there's the perspective.  
517 Nature of this and this is not a perspective application, this is.  
518 Modifying spacing.  
519 Now this is not allowing.  
520 For spacing to be modified as XTO sees fit or as any other party for that matter sees  
521 fit in the future.  
522 OK.

523 Let's go on to what I think is the Third Point.  
524 VF demonstrates that Xto's application directly contradicts OCD rules.  
525 Relief if the requested relief would override standard unit definitions of building  
526 blocks.  
527 Do you want me to give you all of these?  
528 There's about four of them.  
529 Do you want me to give them all to you, or do you want to be one at a time?  
530 You don't have to give me the rules.  
531 I'm familiar enough with the division's rules.  
532 Great. So why does this not directly contradict existing OCD rules?  
533 Well, I think that's probably where a lot of detail is needed and.  
534 As far as a response, my preference would be to brief that in writing.  
535 But.  
536 Again, it sort of in a general sense, comes down to the notion that.  
537 There would be no dispute that the division has the authority to establish a spacing  
538 unit.  
539 Um.  
540 Using 40 acre building blocks, for example, in the Purple Sage Wolf Camp under a  
541 single application.  
542 What we're asking for here is the.  
543 Multiple spacing unit establishment essentially on mass.  
544 And.  
545 It's it is, I think, an issue that would.  
546 Be easier to explain in writing with reference to each individual rule.  
547 Go through each rule and explain why each rule.  
548 Not being violated by the application, so to speak. I don't think it really makes sense  
549 to do that verbally, but I think that you can kind of.  
550 See the theme of the argument.  
551 That would be present in a written brief that where the division has the authority to  
552 do a single spacing unit under the rule, and nobody would argue that it does or  
553 doesn't. The division certainly has the authority to do that over more than one  
554 spacing unit in a.  
555 Single application.  
556 OK. All right.  
557 Yeah.

558 And I would also note that the division has done this in.  
559 Hundreds, if not thousands of of instances where purple Sage.  
560 Wolfcamp and other Wolfcamp units are established based on 40 acre building  
561 blocks and this is where, I think a written response becomes more helpful because  
562 we could attach, for example, an exhibit that would list a representative sample of  
563 units that have been established with.  
564 Wolf Camp, 40 acre building box for example.  
565 Mr. Savage.  
566 Sites to.  
567 The transcript from August 20th, where council admits the application is a novel  
568 approach to deal with federal exploratory units.  
569 What would you say to that?  
570 I don't dispute that I said that.  
571 I don't see why that means that the application is illegal or not consistent with the  
572 rules, just because some somebody hasn't done something before doesn't mean that  
573 it's not allowed. I think that I think that VF is alleging that you are seeking to change.  
574 A change of statewide significance rather than a traditional adjudication.  
575 What do you say about the statewide significance argument?  
576 I would say that the fact that this application is limited to the unitized area in the  
577 bighorn unit.  
578 Makes that assertion.  
579 Illogical.  
580 At best.  
581 OK. And while the?  
582 Disparaging, potentially.  
583 Obviously this application does not affect any lands that are not part of the unitized  
584 building area.  
585 There are even some lands within the Big Eddy unit that are not unitized there.  
586 The doughnut holes in the unit, right?  
587 We're all familiar with uncommitted tracks within units, and this application does not  
588 affect those uncommitted landscapes.  
589 Of the unit.  
590 They're not within the unit boundaries, OK? And this certainly doesn't affect anything  
591 outside the Big Eddy unit. Nobody can.  
592 Form a wolf camp spacing unit in a different federal unit or in non unitized lands that

593 is not consistent with.  
594 The the rule or doesn't have.  
595 160 acre building blocks for the wolf camp.  
596 As a result of this application, if it's approved.  
597 Umm.  
598 Last two points.  
599 You rely on a rule 19/15/2014.  
600 Are you familiar with that rule? Yes. OK.  
601 And VF explains that that rule deals with proration units for vertical wells, not spacing  
602 units or setbacks in FBUS, and predates the 2018 horizontal well rule.  
603 Umm.  
604 Basically VF is saying that that rule is inapplicable.  
605 What do you say?  
606 You did say 19/15/2014, yes.  
607 So that's the unitized area rule and it's essentially saying that the division may  
608 approve contiguous developement units in a unitized area.  
609 Excuse me.  
610 Proration units are also oftentimes used synonymously with spacing units.  
611 And.  
612 To be clear, XTO is not relying solely on that rule as the basis for relief, but as  
613 additional authority that the division has to establish proration units, AKA spacing  
614 units, within a unitized area.  
615 So it's just the simple plain language of the rule.  
616 Which is that there's a petition which we filed notice which.  
617 There's no argument that was sent out.  
618 Obviously you have received the notice, as did pride.  
619 And a hearing that's today.  
620 So we've met all those criteria and.  
621 The division can approve combined contiguous proration units into unitized area.  
622 That's essentially the Big Eddy unit, right? So that's.  
623 And that that's also the hearing that happened yesterday to approve a unitized area.  
624 I'm not entirely sure that there's why there's any dispute that the division has the  
625 authority to approve the Big Eddy unit as unitized area, OK? And then finally, VF  
626 really aligns its argument with the Commission's 2018 rule making intent.  
627 By saying that the rule explicitly explicitly preserves only one prior special pool order.

628 I'm not going to give you the order number.  
629 It doesn't matter and did not preserve earlier FEU related provisions like Belle Lake.  
630 VFS argument.  
631 Asserts that the Commission intentionally narrowed the framework and rejected FEU  
632 wide spacing regimes that would resemble what Xero now seeks.  
633 Well, to to be clear.  
634 Is not seeking the unilateral authority to establish spacing units in the absence of  
635 division approval.  
636 The divisions still approves spacing units.  
637 And still applies waste and corrosive rights criteria to the approval of spacing units  
638 within the Big Eddy unit.  
639 Xto does not purport to substitute its own judgment for that of the division insofar  
640 as.  
641 What?  
642 Should be done to protect relative rights and prevent waste and other criteria for the  
643 establishment of spacing units.  
644 Xiao believes that the division is best suited to interpret the intent of the rule and to  
645 apply that rule within the Big Eddy unit and to determine what spacing units are  
646 appropriate so the process works. That QO would submit AC102, which is essentially  
647 an applic.  
648 To establish or designate a spacing unit, and the division would review that  
649 application, make a determination if it is going to protective of correlative rights, and  
650 prevent waste and meet other criteria, and then either approve the C-102, thereby  
651 establishing the spacing unit, or reject the.  
652 C-102, and we presume that there will be situations where the division comes back to  
653 XTO after AC102 is submitted and disputes.  
654 The.  
655 C-102, for one reason or another, and the C-102 will have to be modified to meet  
656 the.  
657 Criteria that the division sets forth, so that is the divisions authority, that is, the  
658 divisions jurisdiction.  
659 That is not the authority of VF. That is not the authority of XTO that is solely within  
660 the discretion of the division and we are not trying to usurp the divisions authority.  
661 To protect relative rights and prevent waste.  
662 OK.

663 Thank you.

664 Mr. Savage, I'm gonna give you 5 minutes to respond.

665 Go right ahead, OK.

666 Thank you, Mr. Hayes, Examiner.

667 Let's go through each each one of these.

668 So for example, the the first point, they say that they're providing multiple

669 applications.

670 So if you look in at their application, there is not a single spacing unit proposed.

671 There is not a single concrete spacing the unit with.

672 A legal description that is asking to be approved.

673 They are only asking for accommodations of spacing rules, and that is a change and

674 amending the existing rules. The existing rules have been established in 2018.

675 They were adjudicated by the.

676 Commission the Commission got public consent for those and they were established

677 to protect credible rights and prevent waste.

678 And units within the federal.

679 Units and outside federal units.

680 There, the rules actually specifically apply have provisions for unitized areas. Now. If

681 you notice in our pre hearing statement we offered an alternative, the.

682 An order for approval of a non standard spacing unit does not have a deadline.

683 It does not have a date that terminates, so for example they could have and what

684 they're claiming.

685 This is what they could have done, which they didn't, is they could have, for example,

686 picked 10 different areas around the border that were problem areas.

687 Is that needed to be addressed and they could have proposed a specific spacing

688 units in those in those ten areas provided C1O2's for those areas which they did not.

689 They're claiming they did not provide C1O twos they could have and then they.

690 Could have asked the.

691 The division to do a batch approval.

692 A batch application review each concrete spacing unit and approve or not approve

693 each one and let the parties.

694 The identifiable detailed parties under Uden to have notice and to object to each one

695 of those units that they are associated with. That is not what they did.

696 That's what they're claiming they're doing.

697 They're claiming that they're they're trying to get approval of spacing units all

698 around the border, but they're not.  
699 They're trying to amend existing rules, which they even cite and specify so.  
700 If they did multiple spacing units that would have conformed.  
701 With the 2018 rules and the OCD would have had full authority to evaluate each one  
702 of those, OK.  
703 Let's talk about the notice.  
704 So they they.  
705 Gathered a number of folks had who have interests around the border and within the  
706 federal unit.  
707 I don't.  
708 We don't know exactly what the details of how they identified those those persons in  
709 in the in the.  
710 In the land man statement, they just say interests they don't.  
711 What kind of interest?  
712 They don't see whether it's working interest overrides. We have no idea.  
713 It's a very generalized interest, but and then they sent out notice, but what do they?  
714 What do they tell these these individuals that they claim to be interest owners?  
715 They said here's the application. Here's notice of application which we are going to  
716 change spacing rules. That's what they told them.  
717 They didn't say here is an application where we have identified.  
718 A number of specific.  
719 Big spacing units and we want and you have an interest related to those spacing  
720 units and you have a right to object.  
721 That's not what they did, they said. We are going to change these rules.  
722 We're going to do accommodations that change these rules and then and then we're  
723 going to have a hearing at the at the division level in which we ask the division to to  
724 amend those rules.  
725 I already do accommodations that would amend those rules.  
726 OK.  
727 So and then and then Mr. Parrot points out that.  
728 That the and the application says they're going to protect correlative rights, but it  
729 should be noted that what these what what the application requests is that the  
730 certain owners who otherwise would be provided notice for a a non standard unit  
731 and would have a right to object.  
732 Would no longer have a right to object.

733 They would no longer be received notice.  
734 And he would no longer have a right to object because the space the, the prospect,  
735 the the spacing unit that they would later propose under under these new rules, they  
736 would later propose and provide C 10 twos, those would be deemed standard.  
737 So any so an irregular shaped spacing unit that that that carves out a tract for  
738 example.  
739 Under the current rules, those those owners would have a right to object.  
740 Because there would be concerned that they would be produced, that the well would  
741 be producing from the carved out tract and so they would object and they would say  
742 no, we want to protect ourselves.  
743 We want that tract included and and therefore we want a standard unit, A straddle  
744 unit, a standard unit that protects our rights. They are trying to take that away.  
745 So they're actually their application is undermining and violating.  
746 Crella of rights.  
747 Now they point out that the division has done stuff like this before with.  
748 Excuse me. I went a minute over.  
749 You had 6 minutes and again you did anyway. So let me ask you a question before I  
750 go talk to Mr. McClure about this.  
751 From my understanding, in federal units is not an area where you know I have a lot  
752 of experience here, but from my understanding of the case that we heard yesterday.  
753 Federal exploratory units are creations of voluntary agreement amongst interest  
754 owners.  
755 And the division. OK, so is that is that part true here?  
756 So. So there's there's two parts to that, OK.  
757 So there is a unit agreement, yes. And that unit agreement governs.  
758 The to a large extent, the nature of the federal unit.  
759 Now what's interesting is that.  
760 Xto did not provide a copy of the unit agreement in its exhibits, so the vision does  
761 not, cannot review then does not know if there's anything in that unit agreement that  
762 would restrict the application that they provide.  
763 But the more important part of that question is that in the 2018 rulemaking, the  
764 division specifically.  
765 Approved and established the Commission.  
766 I'm sorry.  
767 Yeah, the Commission.

768 The Commission specifically.  
769 Established 2 rules that directly govern unitized areas.  
770 One one of the rules is has to do with non standard locations of wells.  
771 And they said that you can locate a well anywhere you want in the federal unit, but if  
772 you go, if you're going to encroach upon the border, you you have to do an SL  
773 application. Also, if you're going to encroach upon a track that's non participating,  
774 you're going.  
775 To have to do an NS application.  
776 Now what they want to do is they want to do away with having to encroach upon.  
777 A track that's non participant that's non committed.  
778 So, so they they actually want to change that they.  
779 Though they'll honor the encroachment upon the border under the rule, but they  
780 want to take away the part of the rule that does not allow them to encroach upon an  
781 uncommitted track.  
782 Now the the other part.  
783 Of the of the rule has to do with non standard units and so in that one they.  
784 They they want to.  
785 A unit in a unit in in a federal in a federal.  
786 I'm sorry, a spacing unit in the federal tract.  
787 That would be considered non standard.  
788 You'd have to get an NSP application they want because because of its its shape and  
789 and the nature and because it's they they want, for example, they want to be able to  
790 build spacing units based on quarter, quarter, quarter, sections 10 acre sections. Now  
791 nowhere does that exist.  
792 The rules that were passed in 2018 specifically say 40 acre tracks or the building  
793 blocks for oil.  
794 And 160 acres are the building blocks for for gas. They want to do away with that.  
795 They want to say we want to build these, we want, we want to be able to fill out the  
796 crevices of the border of the FEU by doing this kind of.  
797 A Tetris game of of putting 1010 acre tracks in there and say that those are  
798 legitimate building blocks instead.  
799 And then what?  
800 That does that excludes the neighbor outside the border because if you have to, if  
801 you have to put a 40 acre tract and there's only 10 acres of the parameter.  
802 Of the border you would have to negotiate with the owner outside as they would

803 have to do, for example with pride.  
804 But they want to do away with that.  
805 They they want to basically not not allow the not to have to the not to have to do the  
806 go through the inconvenience of negotiating with other owners.  
807 So I have a question, Miss Shaheen.  
808 You haven't said anything.  
809 You had an objection at one time.  
810 Pride had an objection at one time, and pride has withdrawn a subjection.  
811 Can you tell me?  
812 About that.  
813 I understand that pride in XTO are negotiating.  
814 In the process of negotiating a resolution.  
815 I can't really say more than that other than.  
816 I believe we didn't want to rock the boat with those negotiations.  
817 Mr. Examiner, I'm I'm happy to provide some additional information about that. Sure.  
818 And I'd like to.  
819 I'd like you to address a couple of things that Mister Savage said I wasn't going to  
820 give you yet another. Well, a second opportunity. But before I go talk to Mr. McClure,  
821 I would like you to address a couple of things here that I have written down. But.  
822 What did you want to address about the pride?  
823 Objection. Certainly. And on the note of a few other things to address I have.  
824 Endeavoured to limit my responses to the specific questions that you've asked me,  
825 but there is an issue outside the context of those questions, which is the outstanding  
826 to make some of its arguments that I would like a a few moments to address with  
827 you before you go speak.  
828 With the technic.  
829 Ian, the last minute to bring up these foundational issues is really it's troubling.  
830 I mean if if.  
831 If you're gonna challenge VF standing to be here and you're gonna challenge this as  
832 a, as a rule making and wait until the last minute, I mean, it doesn't give the forum a  
833 lot of time to really delve into complicated math. These are complicated.  
834 Yes, yes, I understand what you're saying, but I'll. I'll just point out that we brought  
835 these issues up at the Status Conference on August 20th.  
836 We provided the full analysis in the in the.  
837 Hearing statement the week before the pre hearing order allows and we also

838 brought it up in the objections now.  
839 Remains silent.  
840 No, we we you know we we could you know we could have done this.  
841 Not another opportunity to to to go into it further.  
842 The point is, this is not really an evidencia objection as laid out in paragraph six of  
843 the pre hearing order. This is a whole different legal argument and and you waited  
844 until a few days before.  
845 I have to caution you that in the future I might say that that's just not.  
846 That's just not the right time to bring it up.  
847 I might just not deal with it.  
848 I'm trying to deal with it now.  
849 Yeah, I appreciate that. And I would say that the better approach would have been  
850 emotion.  
851 Obviously, Jim, obviously, OK.  
852 So I got it.  
853 I you know, giving Mr. Parrot and QO due process, I will hear the issue about what  
854 you said, but I have some questions, but please address the pride thing first.  
855 Certainly my understanding is that the the crux of the pride objection was that its  
856 interests which are adjacent to the unit were not going to be developed because the  
857 unit would be formed.  
858 That stopped at the boundaries of of the federal unit.  
859 A spacing unit would be formed that would stop at the boundaries of the federal  
860 unit, and that would leave some acreage adjacent to the unit that would.  
861 Make development somewhat difficult.  
862 Especially in light of some very restrictive surface conditions, including potash  
863 islands.  
864 And.  
865 Given some very recent developments with BLM and Jillian area entitlements, that  
866 issue has now been resolved.  
867 VF acreage is going to be developed.  
868 I'm sorry. Prides acreage.  
869 Thank you. Is going to be developed as part and parcel of the comprehensive unit  
870 development?  
871 Plan and that has satisfied pride that its acreage is not going to be essentially  
872 stranded.

873 Now there's a lot more detail than that, and I don't think it's necessarily important,  
874 but I think that's the crux of the issue.

875 You can see that pride had specifically identifiable injury about which it was  
876 concerned that injury has been redressed, and so the objection has been withdrawn.  
877 That injury was.

878 With respect to the acreage, that Pride actually owns.  
879 And not some acreage.

880 That was 5 townships away.  
881 All right.

882 May I clarify? Sure.

883 I don't believe that the resolution Mr. Parrott is talking about is what we are  
884 negotiating about currently. OK, so that has not been a quote resolution of the issue.  
885 So you're negotiating over something else.

886 We're negotiating with regard to the same interest, but looking for a different  
887 resolution.

888 OK. All right. But you.

889 Mr. Savage, now giving you an opportunity and a reply I don't need to do that, so  
890 please don't. Don't speak yet.

891 Or let's I want to hear from Mr. Parrot right now and Miss Shin. Are you done with  
892 what you said you were going to say?

893 Yes, thank you.

894 All right. You're welcome.

895 OK, now I wondered.

896 Mr. Savage brought up a point that you didn't provide the unit agreement. Any  
897 particular reason?

898 Well, I think as has been discussed at length over the past day or two of hearings and  
899 other matters, certainly the division is entitled to take administrative notice of the  
900 arguments in those matters. With regard to this matter, the division neither has nor  
901 desires the authority to adj.

902 Private contractual issues.

903 If there were to be.

904 A violation of a contractual provision in a unit agreement or a unit operating  
905 agreement.

906 Or any other agreement that affects the unit. That would be a matter purely between  
907 the parties and for potentially a District Court. It would be a waste of the division's

908 time if we were to file a Union agreement and ask the division to adjudicate that the  
909 PROV.  
910 Of the unit agreement are consistent with the application.  
911 The division doesn't have that authority. It doesn't want that authority, and it would.  
912 It would be.  
913 A misuse of the division's time in this hearing to get into those issues.  
914 OK, Mr. Savage.  
915 Discussed that your application seeks to do away with the.  
916 I think I might get this right, I might not.  
917 The NSL.  
918 Requirements.  
919 Within the unit.  
920 Especially around the borders of the unit that you want to be able to.  
921 Do quarter, quarter, quarter section 1010 acres basically.  
922 That's not wrong, is it?  
923 It was wrong in the sense that there's a request to eliminate.  
924 Any setbacks from uncommitted tracks or the boundaries of the unit we very  
925 specifically.  
926 Stated in the application that the setbacks of any particular special pool rule or in the  
927 absence of a pool, just general rule setbacks will apply within the entire unitized area.  
928 Not all of the area within the entire boundaries of the unit.  
929 Is unitized.  
930 There's about 600.  
931 700 acres, or about 1/2 of 110th of 1% of the unit that is not unitized.  
932 Uncommitted tracks, essentially and.  
933 The NSL restrictions of the rules or special pool rules would.  
934 Remain in place as to those uncommitted tracks.  
935 Again, setbacks would remain in place as to those uncommitted tracks, so those  
936 uncommitted tracks are not within the boundaries of the unit.  
937 And you know, I can read you the language of the application that limits the relief of  
938 the application to within the boundaries of the unit.  
939 That's probably not necessary.  
940 OK, but the relief only applies to committed tracks.  
941 Which is what 99.9% of the unit correct? OK.  
942 And then finally, Mr. Savage also said that.

943 For existing vertical wells, did you?  
944 Did you? Did you say just existing wells or did you say existing vertical wells when  
945 you were saying that the application deals with those in a certain way?  
946 I'm sorry, Mr. I don't.  
947 I don't recall discussing vertical loads right after you talked about the.  
948 The.  
949 You were saying that one of the objections you had to the.  
950 Application was that it seeks to deal with existing wells within the unit in a certain  
951 way that you felt was wrong.  
952 What did you say?  
953 So where I referred to vertical wells was the right cited that that they claim that the  
954 that the division has authority based on the proration units and the allowables.  
955 To to to combine individual proration units in a contiguous manner.  
956 That's and then and then I pointed out that that that is an older rule. I believe it's  
957 from the 1950s when it was initiated and it it dealt because vertical wells were the  
958 predominant form of extraction at that time.  
959 It it it, it allowed the division like if you have a whole an area where people are doing  
960 a lot of vertical wells and proration units.  
961 And they are adjacent. The the division could then come in for efficiency purposes  
962 and they could say, OK, all these contiguous proration units involving vertical wells  
963 can now be unitized has nothing to do with the 2018 rules later.  
964 Applied to the federal exploratory units, nor does it have anything to do with  
965 exploratory units.  
966 Nor does it have any authorized division to do any kind of amendment of the  
967 existing rules.  
968 That were passed. What I was referring to. I was referring to something Mr. Perry, did  
969 you hear?  
970 Do you know what I'm talking about, Mr. Examiner? I I'm sorry.  
971 I'm a little lost.  
972 I.  
973 I don't recall.  
974 Mr. Savage's comments about.  
975 That you were not going to be protecting existing wells within the unit?  
976 I mean, if that's a concern for the division, I I think it's fair to point out that the  
977 application doesn't.

978 Request any variance as from the existing rules or any special pool rules as to  
979 existing wells.  
980 So there would be no difference.  
981 In in, the applicability of the Commission's rules, or of any special pool rules or any  
982 existing orders that would apply to existing wells.  
983 OK, Mr. Stephens.  
984 Now, do you understand what I'm talking about?  
985 No, I think I understand.  
986 I think I understand.  
987 Can can I show you a diagram that might I believe would help illustrate what we're  
988 just telling me. What you said, OK.  
989 So what did you say about the existing wells?  
990 That, yes, Sir.  
991 OK. So well in in terms of excluding one, one of the things I said that is if you have an  
992 irregular shaped a non rectangular unit for a well at the border.  
993 That's not what I'm talking about.  
994 I got that point OK.  
995 I got that point.  
996 I'm talking about the other thing you said.  
997 If you can't remember, it's OK, OK.  
998 I'm sorry, it's fine.  
999 It's fine.  
1000 Maybe Mr. McClure will remember. Anyway, I think I have enough information to at  
1001 least talk to Mr. McClure.  
1002 Let's take a 10 minute break.  
1003 It may end up 15.  
1004 I don't know.  
1005 We're off the record. Thank you.  
1006  
1007  +19\*\*\*\*\*41 1:57:27  
1008 OK.  
1009  
1010  Pecos Hall 2:11:14  
1011 Alright, it is 10/17. We're back on the record.  
1012 Heard arguments, reviewed statutes, rules discussed the case with.

1013 My technical examiner and drafted an order.  
1014 On the preliminary objections of VF Petroleum, well, I found them to be.  
1015 Persuasive. We are going to hear the case today based on my ruling.  
1016 Qo is ordered.  
1017 In paragraph 6, regarding the redacted exhibit B2 to satisfy the order.  
1018 Any problem with that?  
1019 No problem with regard to producing a full, unredacted exhibit B2 under an  
1020 appropriate protective order, and I will confer with my colleague about what that  
1021 means.  
1022 I did just want to make sure that there's clarification as to.  
1023 The plan of development, the 135 page or so plan of development that was attached  
1024 to the original pre hearing statement and list of exhibits.  
1025 I.  
1026 Very briefly reviewed the order that you just gave us, and I don't recall seeing that in  
1027 there.  
1028 Was there a ruling on that?  
1029 Planet development.  
1030 Did you hear what Mr. Parrot was talking about?  
1031 Well, I assume that the redacted Exhibit 2 was the same as the 2026 development  
1032 plan, but if it's not, then I think we still have an issue about that exhibit Mr. Perry.  
1033 I believe our original exhibit two was just an ownership list, and it wasn't the full plan  
1034 of development.  
1035 Exxon Qo never attached the full plan of development.  
1036 That's a highly confidential document.  
1037 And should never have been available on the Commission's on the divisions website,  
1038 and it was, it was.  
1039 Until a week ago that it's gone.  
1040 Now it's gone, but now actually it is not gone.  
1041 It is available in this case and we have asked for it to be taken down. In this case. It  
1042 was available in Case 365. It has been removed from that case and we have asked for  
1043 it to be removed from this case as well.  
1044 OK. And we'll deal with that, OK.  
1045 We'll deal with that separately, but so just to clarify savages, your order does not  
1046 address the full plan of development.  
1047 It only addresses the original exhibit B2 that was attached to.

1048 Xto's first.  
1049 Pre hearing statement. Is that correct?  
1050 OK.  
1051 Thank you.  
1052 Thank you for that clarification.  
1053 All right.  
1054 So.  
1055 With that, let's get going.  
1056 It's 1020.  
1057 20 were bit behind schedule.  
1058 Mr. Perry.  
1059 Do you feel a need for an opening statement?  
1060 Yes, Mr. Examiner, I'll keep it brief.  
1061 All right, let's deal with the let's deal with the exhibits first.  
1062 What exhibits do you have for us?  
1063 We have all of the exhibits that were attached to our amended pre hearing  
1064 statement.  
1065 Do you want me to go through them individually?  
1066 Basically.  
1067 How many?  
1068 How many labeled exhibits are you seeking to admit?  
1069 Just one moment. I'm gonna bring up my.  
1070 Table.  
1071 16.  
1072 OK, 16.  
1073 Yes, 16 and that would.  
1074 Include the application.  
1075 And the.  
1076 Redacted exhibit that we will then confer with.  
1077 Mr. Savage, on a protective order regarding OK.  
1078 And oh, I'm sorry. 17 including the exhibit.  
1079 So we have the exhibit 6 land exhibits 6.  
1080 Geology exhibits and four notice exhibits.  
1081 Looking for the here we go. OK, so we have.  
1082 D notice alright notice was timely.

1083 Yes, all right.  
1084 Nathaniel Bell is here with us.  
1085 Yes.  
1086 OK. And do we have Matthew Fletcher?  
1087 Yes, all right.  
1088 And Mr. Examiner, at your discretion, I would.  
1089 Respectfully urge the division to hear the witnesses testimony as soon as possible.  
1090 Because they do have some travel restrictions, no problem.  
1091 Thank you very much.  
1092 Can we get Mr. Fletcher and Mr. Ball up to the witness stand, please?  
1093 Yes, in the meantime, Mr. Savage. Well, let me start with you, Miss Shaheen.  
1094 Any objections to these exhibits?  
1095 No objections.  
1096 Now that exhibit B2 will be admitted.  
1097 Under unredacted, of course, Mr. Savage.  
1098 Any objection to these exhibits?  
1099 Well, I haven't seen exhibit B2, so I can't evaluate to determine whether or not that I  
1100 would object to it, but I don't.  
1101 The other ones I have no objection to, OK.  
1102 All right, Mr. Examiner.  
1103 I believe the exhibit B2, to which Mr. Savage is referring, was attached to VFS  
1104 amended pre hearing statement that was submitted. I I have it in front of me. Mr.  
1105 Sam, do you have the ability?  
1106 I can look at that.  
1107 Well, OK, so so far I no objections if you have an objection, you'll let me know after  
1108 you look at it.  
1109 Alright, so your exhibits are admitted into evidence without exception.  
1110 Alright, thank you.  
1111 Yes, OK.  
1112 Which one is Mr. Fletcher?  
1113 Very good.  
1114 Would you approach the microphone, turn it on?  
1115 Thank you.  
1116 Would you would both gentlemen raise your right hands, please? You swear? Affirm  
1117 under penalty of perjury, that the testimony about to give is the truth, the whole

1118 truth.  
1119 Nothing but the truth. Yes, Sir.  
1120 OK, both gentlemen.  
1121 Acknowledge that would you? One at a time. Who do you want to start with?  
1122 We'll start with Mr. Fletcher.  
1123 Who's the Fletcher?  
1124 Mr. Henry Chandler. Mr. I'm sorry to interrupt, but do we have a chance to waive  
1125 your?  
1126 Definitely we haven't qualified them, OK.  
1127 We're going to do that one at a time.  
1128 And of course you have. Yes, thank you.  
1129 For that, by all means, Mr. Ball, would you, before you go back to your chair, would  
1130 you state and spell your name for the record into the microphone?  
1131 Yes. Nathaniel ball. Nathan i.e., LBALL, OK. And you've not been qualified as an expert  
1132 before this division. No, Sir.  
1133 What area of expertise do you seek to be qualified? Petroleum geoscience,  
1134 petroleum. Geoscience? Petroleum. Geoscience.  
1135 Is there another way to say that petroleum geology is more simple?  
1136 Thank you.  
1137 That's what I was looking for.  
1138 Feel free to have a seat. OK, Mr. Fletcher.  
1139 Have a seat, please. Would you state and spell your name for the record?  
1140 It's Matthew Fletcher.  
1141 Matthew is Matthew last name Fletcher Fletcher.  
1142 Mr. Examiner, with your permission, we will share screen Mr. Fletcher's resume.  
1143 Great. Thank you.  
1144 Appreciate it, Mr. Fletcher.  
1145 What is appearing on the screen is marked as exhibit what Mr. Parrot.  
1146 I believe this is exhibit B1.  
1147 Let's make sure. No, I'm sorry.  
1148 This is exhibit B. OK, Mr. Fletcher, did you prepare exhibit B?  
1149 Yes, Sir.  
1150 OK.  
1151 Very good.  
1152 Is it true and accurate to the best of your knowledge? Yes, Sir.

1153 OK. And obviously you seek to be admitted as a petroleum land man?  
1154 Yes, Sir, before this division.  
1155 Thank you.  
1156 Can you make this go up?  
1157 OK, stop there for a minute.  
1158 Thank you.  
1159 And just a little bit more up now please.  
1160 What is a Master of legal studies?  
1161 It's a program offered through OU.  
1162 Discusses it's kind of like the the undergrad degree through Texas Tech and OU, but  
1163 at the masters level.  
1164 I see. OK. Thank you.  
1165 OK.  
1166 Mr. Savage, I've reviewed the.  
1167 CV.  
1168 It's your opportunity if you wish to why do you the witness?  
1169 Thank you, Mr. Herring. Examiner, Mr. Fletcher, thank you for your time. And and.  
1170 Time here and and I'm willing to address these questions. It says in your resume that  
1171 you prepared exhibits and supporting documents for applications of compulsory  
1172 pooling and spacing units.  
1173 And non standard well locations in accordance with nmocd regulations.  
1174 Based on that statement, do you agree that?  
1175 You're familiar with OCD regulations, rules and processes for non standard wells and  
1176 spacing units. Yes, Sir. OK.  
1177 Let's talk about your masters of legal studies.  
1178 In that program, did you develop?  
1179 Did you study the nature of statutes?  
1180 Statutes, Mr. Examiner. Objection I.  
1181 Line of questioning and the previous question indicate to me that opposing counsel  
1182 is attempting to qualify Mr. Fletcher as a legal expert.  
1183 He is not being offered as a legal expert, but as an expert in land matters.  
1184 If we could keep the voices to that particular area of expertise, I think that would be  
1185 more appropriate.  
1186 Thank you, Mr. Savage. Are you challenging this witness?  
1187 'S qualification as an expert in petroleum land matters.

1188 Mr. Henry Examiner, a petroleum land managers, say an experienced petroleum land  
1189 man has a lot of knowledge facility and ability to discuss in depth rules and  
1190 regulations.  
1191 Even statutes.  
1192 In fact, I would say that a petroleum probably practices law without being  
1193 acknowledged as such in fact.  
1194 When I was in Oklahoma, I put a good petroleum Jelly in this against a.  
1195 Against a witness is not attorney anytime.  
1196 Witness, if you will wait. If there's an objection, if you will just wait.  
1197 I think we should understand the scope of his expertise as a petroleum land man,  
1198 and I think these questions are important. He put, he put his expertise, he put  
1199 masters of Legal studies, a formal program on the study of law on his resume to  
1200 prove to the Div.  
1201 That he is an expert in petroleum management, which covers a discussion.  
1202 Rules, regulations and statutes. Mr. Savage, I think I know where you're going with all  
1203 of this.  
1204 I've already ruled in this in this I've already ruled on that issue here. If your questions  
1205 are gonna go to whether this is a rule making or not.  
1206 But we're not dealing with that right now.  
1207 OK.  
1208 What we're dealing with right now is whether this gentleman is qualified before this  
1209 division as an expert in petroleum land matters by his work, his education, there is no  
1210 reason for me not to qualify him.  
1211 Unless there is a particular question on his experience and and education, I'm gonna  
1212 qualify him as such.  
1213 So do you have a particular question on that aspect?  
1214 No, I think he's qualified.  
1215 Thank you. I do too.  
1216 All right.  
1217 Thank you, Mr. Fletcher.  
1218 This division qualifies you as an expert in petroleum land matters, Mr. Parrick.  
1219 Do you want to put on your case with Mr. Fletcher?  
1220 Yes, Mr. Examiner, you did at one point ask me.  
1221 About whether I'd be interested in making an opening statement, go ahead.  
1222 Would this be an OK time?

1223 Thank you.

1224 OK, QoS application will maximize efficient development and prevention of waves  
1225 through a comprehensive development plan for the federal exploratory unit.  
1226 This maximization of efficiency, prevention of waste and the comprehensive  
1227 development plan is only possible by injecting some flexibility into the process.  
1228 For designating spacing units and the application, when approved, will protect  
1229 cruelty of rights, prevent waste, reduce surface and environmental impacts, and  
1230 mitigate the administrative burden on both the division and other government  
1231 agencies, including the BLM.

1232 Specifically, the application request and the spacing unit within the unit may be  
1233 composed of core port quarters for any formation without the need to establish.  
1234 Non standard spacing units.

1235 I will note that we are amending that request to.

1236 Just quarter quarter sections or equivalent being approximately 40 acre parcels. We  
1237 are not asking for.

1238 Space units to be composed down to the level of 10 acre, quarter, quarter quarters.  
1239 That is, of course allowed because any quarter quarter would be made-up of  
1240 generally four quarter quarter quarters.

1241 So the relief requested in the application.

1242 And the notice thereof is adequate.

1243 Also being requested is the option in place completed intervals anywhere within the  
1244 unit, subject to setbacks from the beginning boundaries, which applies to the  
1245 exterior boundaries, and the internal boundaries around uncommitted.

1246 Tracks and I'll note that the uncommitted tracks.

1247 Compose about 1/2 of 1% of the unit, about 700 acres.

1248 The Big Eddy is over 133,000 acres, so this application will have these many benefits. I  
1249 mentioned over an area that's a couple 100 times the size of an average spacing unit  
1250 in this area.

1251 It's a major force multiplier for preventing waste and maximizing efficient  
1252 development.

1253 And and those are the primary mandates of of the division.

1254 We're going to prevent evidence today that will show that many factors, pros,  
1255 obstacles to preventing waste and maximizing efficiency of development, including  
1256 surface restrictions, federal regulations and regulatory delays.

1257 Our evidence is going to show that these factors can cause sub optimal development

1258 and completions reducing.

1259 The efficiency of development causing waste, increasing cost and escalating surface  
1260 and environmental impacts. This application removes one of the most significant  
1261 barriers, that of the significant delays and uncertainty associated with non standard  
1262 spacing unit applications and this can't be done simply by batching NS PS or non  
1263 stand.

1264 Applications xeo could.

1265 Establish 20 or 30 non standard spacing units today.

1266 But they would need to be modified as XTO gathers data, implements technological  
1267 innovations and responds to an evolving state of federal and regulatory issues.

1268 The full development of the Big Eddy is an evolutionary, not a static process.

1269 It requires constant spacing adjustments and reevaluation timing flexibility. Drilling  
1270 rig changes, completion, rig changes, scheduling adjustments.

1271 And surface use modifications. Our evidence will show that VF was provided notice  
1272 and that notice went to all stakeholders and that VF and other stakeholders and all  
1273 stakeholders had an opportunity to participate in the hearing.

1274 Today VF has maximized that opportunity by appearing today, albeit without any  
1275 witnesses to provide any evidence of its concerns.

1276 VF doesn't own any interests in the big Yeti.

1277 Its interests won't be impacted by the application. This appears to be a protest based  
1278 entirely on principle and not on practical impacts.

1279 VF asserts adverse impacts on behalf of hundreds of interested parties who did get  
1280 notice of the application, most of whom will be participating in unit wells and none  
1281 of whom elected to protest or even enter an appearance.

1282 Xeo respectfully urges the division to rely on its own substantial expertise in  
1283 determining proper spacing in the Big Eddy unit.

1284 Review the application on its merits and limit its consideration of VFS objection to  
1285 the narrow confines of actual possible injury to VF and not to anonymous parties  
1286 who are not here today.

1287 On that note, QO did offer to enter into an agreement to allow VF to object to any.  
1288 Spacing unit formed adjacent to XTO acreage that would normally be a non standard  
1289 unit in the absence of this application, we have not heard any response to that offer,  
1290 but that offer does stand if the division would like to consider a condition of  
1291 approval in order to.

1292 More in its opinion, more effectively address concerns raised by VF with regard to

1293 any possible actual injury. In fact to VF.  
1294 So Xeo respectfully requests that the Commission review the application on its  
1295 merits, ignore potential adverse impacts asserted on behalf of Anonymous  
1296 stakeholders who are not participating in the hearing today, but did get notice.  
1297 Consider the massive gains in efficiency and recovery that will come from approval of  
1298 this application and approve the application subject to the modification of quarter  
1299 quarters instead of quarter quarter quarters.  
1300 Thank you. And if I could call my first witness.  
1301 Mr. Fletcher, let's turn to your.  
1302 Since we don't have a opposing case in Chief, do you mind if I make an opening few  
1303 opening comments before we because I'll. I'll be happy.  
1304 Until after this case in Chief. And then I think you'll have even more.  
1305 Yeah. Thank you. Thank you.  
1306 Good.  
1307 Thank you, Mr. Fletcher, if we could turn to your exhibit B1, would you please explain  
1308 this exhibit?  
1309 So this exhibit is showing the bigotry units, the.  
1310 Outline of it. Internally, it's showing the federal unit or federal leases as well as the  
1311 state leases.  
1312 As depicted in the legend to the bottom left.  
1313 Thank you. And Mr. Examiner, I'll defer to your discretion and how you'd like to deal  
1314 with exhibit B2.  
1315 We don't intend to ask the witness to authenticate exhibit B2.  
1316 That was the ownership list.  
1317 That was redacted.  
1318 We will be happy to submit it, subject to a protective order after conferral with pride  
1319 and VA attorneys, but I hadn't intended to ask the witness to testify about it.  
1320 OK.  
1321 Mr. Fletcher, if you could turn to your exhibit B3.  
1322 And I will note that in the PDF document this is.  
1323 Many many pages.  
1324 Pages approximately well, pages 48 through approximately 125.  
1325 We don't intend to go through every single page, but Mr. Fletcher, if you could  
1326 please explain at least this first page of exhibit B3 absolutely.  
1327 So this is AC1O2 for the Big Eddy unit DI 28254 H This is showing.

1328 The spacing that this well was drilled upon.  
1329 Also showing that it's in the Bone Spring.  
1330 Pool and has 440 dedicated acres.  
1331 And are the remaining pages of exhibit B3 also C-102's that have either been drilled  
1332 or submitted for approval within the budget unit?  
1333 Yes, Sir.  
1334 And are they substantially similar to this first page of exhibit B3? Yes, Sir. OK.  
1335 We'll move on past the rest of these pages and go to our exhibit B4.  
1336 Page 126 of the PDF.  
1337 Packet.  
1338 Mr. Fletcher, would you please explain this exhibit?  
1339 So this is another.  
1340 Plat showing the Big Eddie federal unit outline.  
1341 This also has indicated with the red borders on the outside showing kind of where  
1342 we have irregular borders in the big E unit.  
1343 And do the red outline areas represent areas where you would expect QO to have to  
1344 form a non standard space unit, but for this application? Yes Sir.  
1345 And would QO potentially also form say for example 12180 acre or 19120 acre  
1346 spacing unit?  
1347 For Bone Spring wells in the interior of the unit.  
1348 Yes, Sir.  
1349 And we'll turn to some of those in the next slide.  
1350 Let's go to exhibit B5.  
1351 And would you please explain this exhibit?  
1352 This exhibit is similar to the last one, however we've added.  
1353 Both drilled and or completed wells in the surrounding as well as the interior of the  
1354 the Big Eddy federal units.  
1355 This also depicts.  
1356 Xto operated.  
1357 James Ranch unit to the to the southeast there.  
1358 And also permitted wells on the boundaries.  
1359 And let's just take a case example on the West side of the unit in Township 21 S, 28 E  
1360 and we will zoom in on that. So you can see it a little bit better.  
1361 It appears kind of in then.  
1362 More northern portion of that Township, there is a label that says Mac.

1363 Do you see that?

1364 It's sections 8910 and 11. Yes, Sir.

1365 And is that an example of the place where XTO might consider establishing, say, A

1366 25160 acre spacing unit for Bone Spring wells?

1367 Yes, Sir. With that decision be dependent on data that is gathered by XTO

1368 throughout the comprehensive development of the unit. Yes, Sir.

1369 Thank you.

1370 Let's turn to the next exhibit.

1371 Which is exhibit B6.

1372 And can you please explain this exhibit to us?

1373 It's an exhibit showing.

1374 Where VF Petroleum has wells that they either drilled or operates as well as some

1375 acreage that.

1376 They own outside the federal units.

1377 This also depicts the federal unit line.

1378 In the blue dashed line.

1379 To your knowledge, does VF own any interest either in wells or in acreage within the

1380 boundaries of the BIGHOTTY unit?

1381 No, they do not.

1382 Do they own any interest within any uncommitted tracts or partially committed tracts

1383 within the BIGHUETTY unit?

1384 No, they do not.

1385 What about adjacent to uncommitted tracts within the BIGHETDEE unit? No, they do

1386 not.

1387 OK.

1388 No more questions for this witness.

1389 Thank you.

1390 Yes.

1391 Thank you, Mr. Examiner.

1392 Uh, let me uh get my exhibits up here.

1393 I'll just put those up there to have them ready. OK, before we, I got a series of

1394 questions.

1395 Yeah.

1396 Exhibits that you see.

1397 I have exhibits that I provided for to facilitate questioning.

1398 Demonstrative and but in there there's also and there's been no objections.  
1399 There's serial register page of the abelian.  
1400 Yeah. Are there any?  
1401 I think the.  
1402 Exhibit.  
1403 8.  
1404 Which is a transcript. I guess that we take administrative notice of the transcript of  
1405 the Status conference.  
1406 Exhibit 9 is the.  
1407 Serial register page of the BLM that I think that needs to be admitted.  
1408 And then the exhibit 10, which I will not show at this time, needs a ruling on whether  
1409 or not it's admissible.  
1410 So of your exhibits, I guess. What's what?  
1411 I'm a little confused about is.  
1412 Well, I I guess I'm not confused. So in other words.  
1413 The only three exhibits that you see to admit are the.  
1414 8-9 and ten, yes, that's as long as long as the division views one through 7 as  
1415 demonstrative and not needing to be exhibited.  
1416 Well, it's directed division to view them as demonstrative. You have to tell me it's  
1417 your case. OK. So in other words, are you seeking to admit any of these exhibits into  
1418 evidence?  
1419 I'll I will seek to admit Exhibit 6 because it provides.  
1420 Information from the SCR register page about the number of acres that are not  
1421 committed.  
1422 The.  
1423 The others are diagrams that I would use and references to the rules that I would use  
1424 as reference for demonstrative purposes.  
1425 So Exhibit 6 is the only one you seek to admit 6/6, 8:00 and 9:00 and then 10 if it's  
1426 admissible.  
1427 But I don't that has not been ruled on OK.  
1428 So one more time 6.  
1429 8:00 and 9:00, eight and nine. Right. OK.  
1430 Let me start with those, Mr. Parrot.  
1431 Are you familiar with exhibit 689? Yes. OK.  
1432 Good. You have any objection to six, eight and nine? I do.

1433 I don't believe that VF is able to authenticate any of these exhibits and it was unclear  
1434 whether there was that was going to actually be be able to happen at this hearing  
1435 until we got here, so we couldn't object.  
1436 Ahead of time on that basis, but now that it's clear that there won't be any witness  
1437 here to authenticate any exhibits, I believe an objection is is both timely and  
1438 appropriate.  
1439 And I can tell you, for example, with Exhibit 6.  
1440 There's been some characterizations of, for example, partially committed tracts as not  
1441 actually committed to the unit or outside the unit.  
1442 That's not how federal units work, and without a witness here to authenticate what  
1443 partially committed means within the context of the application, it's it's problematic.  
1444 And that's exemplary of of why an exhibit should not be admitted without proper  
1445 authentication.  
1446 So what about 8:00?  
1447 No objection to 8. I believe that doesn't need to be authenticated because it's  
1448 already part of the record.  
1449 OK.  
1450 What about 9:00?  
1451 Yes, that is an authentication problem.  
1452 It's not part of the Commission's or the division's records.  
1453 It's a BLM record.  
1454 There's no witness to authenticate it, and that goes to the issue of partially  
1455 committed versus uncommitted versus effectively committed and what those things  
1456 mean and without a witness to authenticate the exhibit and cross examine them  
1457 about the meaning of those terms and what that exhibit means.  
1458 I believe that authentication.  
1459 Is is fatal OK.  
1460 And then what about exhibit 10?  
1461 Have many objections to exhibit 10 being regretted. Would you like me to go  
1462 through them?  
1463 No, no, thank you. I have that.  
1464 I have the response. I have to find a way forward or how I'm gonna deal with exhibit  
1465 10.  
1466 So I'd also like to note that we we couldn't do this in our objection, but that exhibit  
1467 would need to be authenticated and it cannot be.

1468 OK. And we couldn't do that in our objection to the exhibit that we filed last week.  
1469 So so far, Mr. Savage, and I'll give you an opportunity. If you want to try to provide a  
1470 foundation.  
1471 For you know, the rules of evidence are relaxed and administrative hearings.  
1472 However, you do need to show us that it's reliable and relevant.  
1473 That's the minimum that you need.  
1474 So Exhibit 8 is admitted into evidence. So Mr. Court reporter, will you keep track of  
1475 the exhibits?  
1476 Xto's exhibits are all admitted VF.  
1477 Exhibit 8 is admitted.  
1478 That's the only one so far. So in cross examining, if you want to show a demonstrate  
1479 demonstrative exhibit, as long as there's no objection to it, you're more than  
1480 welcome to.  
1481 Otherwise you you're able to cross examine this witness.  
1482 If I just may add, respectfully, Mr. Parrott always points every time to the provisions  
1483 of the pre hearing order, the pre hearing order was very clear about when objections  
1484 should be.  
1485 Now Mr. Parrott is sophisticated and smart enough to look at a demonstration.  
1486 That's an exhibit that looks like a demonstration. If he has concerns that it should be  
1487 authenticated, or it's not probative, that's the time to raise the objection. He is taking  
1488 advant.  
1489 Of the procedure and not acknowledge not following the pre hearing order OK.  
1490 Thank you, Mr. Chairman.  
1491 Do you want to go ahead and cross examine this one?  
1492 Mr. Fletcher, thank you for your time and expertise here today at Pecos Hall. If I ask a  
1493 question that you do not understand or that may need a rephrasing, please do not  
1494 hesitate to ask me to repeat it or rephrase it or provide additional context.  
1495 Now.  
1496 In in your application, in your hearing statement, you state that you're familiar with  
1497 the application. Yes, Sir.  
1498 OK.  
1499 Now the title of the Xto's application is application.  
1500 Of XTO energy for spacing within the Big Eddy federal exploratory unit.  
1501 Eddy and Lee counties, New Mexico. Is that correct? Yes, Sir.  
1502 Can you identify one specific actual horizontal spacing unit?

1503 It's legal description, it's pools and its wells that would be authorized or approved if  
1504 the division issues an order approving your application.  
1505 Objection, Mr.  
1506 Examine. I believe this is not relevant.  
1507 The question is relevant to the issue on which you already ordered, which is whether  
1508 the division has the authority to adjudicate the application.  
1509 Let's see where Mr.  
1510 Let's see where Mr. Savage is going with this question. I'll allow it.  
1511 Would you please answer the question?  
1512 Can you ask that again please?  
1513 Yes. Can you identify one specific actual horizontal spacing unit?  
1514 It's legal description, it's pools and its wells that would be authorized or approved if  
1515 the division issues an order approving this application that you submitted.  
1516 So you're looking for an existing spacing unit, correct?  
1517 So for example, in your exhibits you provide a diagram of the borders.  
1518 Around the border around the FEU.  
1519 He provide C-102's, for example, that show wells that have been drilled.  
1520 Do any of those point to a specific spacing unit that you are asking the division to  
1521 approve by this order?  
1522 I'd say those have already been approved.  
1523 Majority of those have been drilled and or planned to be drilled.  
1524 OK.  
1525 So with yes or no, is there a specific?  
1526 Spacing unit that you're asking the division to approve.  
1527 Say at this time we have we do have plans in the works for what we call under.  
1528 Exhibit B4.  
1529 Our DSU Yeti, as well as our DSU OK, is, is that is that a spacing unit that you have  
1530 asked the division to approve at this application?  
1531 No, Sir.  
1532 So would be fair to say that you do not have a specific spacing unit.  
1533 That you've provided to the division for an order to approve.  
1534 Specifically submitted to the OCD.  
1535 No, Sir.  
1536 Thank you.  
1537 You do mention that you have some C1O twos in there in which.

1538 That you submitted to the OCD for approval and they've already approved it, is that  
1539 correct?

1540 But as far as the exhibits for the C-102's that we we went over those.  
1541 Is it correct that those pertain to units that have already been requested to be  
1542 approved? Yes, Sir.

1543 OK. Are any of those non standard?  
1544 Were any of those non standard spacing units that you that you submitted a non  
1545 standard application for?  
1546 We did submit non standard spacings for. If you refer to art exhibit B for the Batman.  
1547 DSU. We do have four NS PS that we had to file.  
1548 For those developments.

1549 OK. And of those forests in this piece, all of those were approved and they were  
1550 approved under the existing rules.  
1551 Is that correct?  
1552 Yes, Sir.

1553 And what was the average time for approval of those NSPS?  
1554 Let me let me rephrase the question.  
1555 Were there any objections?  
1556 Are contested hearings for those NSPS.  
1557 No, Sir, not to my knowledge.  
1558 OK.

1559 So the do you agree that under the rules, the grace period?  
1560 Approval is.  
1561 After 20 days, the OCD can issue a order approving if there are no objections.  
1562 Objection.  
1563 Calls for a legal conclusion.  
1564 It's it's a fact of the of the rule, he says in his resume that he has submitted and or  
1565 worked with NSP applications.  
1566 He's familiar with the under under NMOCD regulations.  
1567 He he should be aware to know the facts of how long a a notice period is under this  
1568 under the rule and he should be able to go ahead and answer.  
1569 Could you restate it please?  
1570 OK.  
1571 So you if I recall, you said that none of the NSP applications were contested. Is that  
1572 correct? OK.

1573 So given that, do you agree that after 20 that Xta will only have to wait 20 days  
1574 before to see if they receive any objections and after that the OCD may approve the  
1575 application? Do you agree?  
1576 Objection. Calls for speculation.  
1577 Opposing counsel can ask the witness about what actually happened with the  
1578 Batman, but to the extent that he's asking the witness to testify about the legal  
1579 processes of the division, I'll withdraw that so each of the four applications, how long  
1580 did it take to approve? I don't have.  
1581 OK, information.  
1582 But they so you agree that as you pointed out that they were approved.  
1583 Yes, Sir. They were approved without contestation.  
1584 So can we assume that they were approved readily?  
1585 I don't know that I would assume.  
1586 Let me ask, let me ask this to get their approval in an efficient manner.  
1587 Would you have needed any of the accommodations that you request?  
1588 Think our request is to allow us to have the flexibility.  
1589 As we progress and drill out this federal unit.  
1590 To.  
1591 To allow us to effectively or efficiently develop the Big Eddy federal units.  
1592 And again it's, you know, we're not drilling all of this this year. So as we continue to  
1593 drill over the years, the data that we we take from those wells.  
1594 Within, allow us to make any alterations that we need to on on future spacings.  
1595 So under under the current rules, if you do a a non standard spacing unit as you did  
1596 with the Batman.  
1597 With a.  
1598 Offset owner have a right to object.  
1599 Under the current rules.  
1600 Correct. So under the current rules, yes. Notice and they would have so they would  
1601 have a right to object.  
1602 And.  
1603 Is to protect relative rights. A valid reason for objecting under the rules. Objection.  
1604 Calls for legal conclusion.  
1605 I would draw the question.  
1606 So they have a right to object.  
1607 Do you understand?

1608 The why a owner such as XTL? Let's say XTO owns a.  
1609 Adjoining track and XTO objects can you can you provide some of the reasons why  
1610 they might object objections? A hypothetical question.  
1611 It's a hypothetical question.  
1612 That's correct.  
1613 Calls for speculation Mr. Savage.  
1614 I'm going to sustain that.  
1615 You you keep asking hypothetical questions.  
1616 I don't understand.  
1617 Why were you going with this line of questioning, OK.  
1618 So let me phrase it this way then.  
1619 So he he the witness, acknowledged that he had a right to object.  
1620 So let me ask this if if the accommodations are approved.  
1621 And you say that you would use those accommodations for future space for the  
1622 proposed actual proposed future spacing units if you if you proposed a future  
1623 spacing unit that was non standard.  
1624 On the border.  
1625 Would an adjoining owner have a right to object with the accommodations  
1626 approved?  
1627 So in this application we we provided notice to all those parties that that's not the,  
1628 that's not the question answer to the question would they have a right to object if  
1629 the accommodations are approved?  
1630 They did have the.  
1631 Opportunity to object when we filed this application originally. OK, so they had the  
1632 right to object to this application which asks for accommodations. And OK, let's  
1633 assume.  
1634 That the the division grants the accommodations and approves it, and it says that  
1635 we'll grant your prayer be your prayer. Be says that.  
1636 A spacing unit that would otherwise be defined as non standard. We're going to  
1637 deem it to be standard under the accommodation.  
1638 After that approval, if QO then submits.  
1639 After that approval, does XTO then have to submit?  
1640 An NSP application to get approval for that unit, that would other that is that would  
1641 is viewed as standard. Now after the approval, but would otherwise be viewed as non  
1642 standard under the rules. Does that make sense?

1643 No, you're gonna have to shorten that. All right.  
1644 So we we agree that.  
1645 Umm.  
1646 That the party has a right to object to a non standard unit, OK.  
1647 If you have.  
1648 A unit that's non standard at the border.  
1649 Under the current rules.  
1650 After the if the division approves prayer A and approves the application.  
1651 Would you?  
1652 Would you have to submit an SP application for that unit?  
1653 After the accommodations are approved.  
1654 For a future request for a future development of that unit.  
1655 Is there a specific area that you could point to?  
1656 Let's let's go to the you said that you had an exhibit that you would be requesting.  
1657 A spacing unit in the future. Is that correct?  
1658 Yes, Sir.  
1659 OK. Which which facing unit?  
1660 So it was officer Examiner.  
1661 I'm sorry to interrupt.  
1662 We might be able to assist with the question by putting an exhibit on the screen.  
1663 Mr. Savage, would you like us to put up our exhibit?  
1664 B5 would that be helpful?  
1665 Oh, that'd be fine. Yes. OK.  
1666 I apologize for interrupting.  
1667 OK.  
1668 So where is the spacing unit that you on this that you think that you would?  
1669 Propose in the future.  
1670 We can look at the.  
1671 The Yeti, which is to the South of the Big City unit.  
1672 So you get a unit covers section 34 and section 35 there.  
1673 OK.  
1674 OK.  
1675 So this is a unit that under the current rules, if you wanted to develop it, that would  
1676 be considered a non standard unit.  
1677 Is that correct?

1678 Non standard as to spacing on standard spacing unit under the rules which pool.  
1679 Which which which pool is in which it would you say? As I understand you said it  
1680 would be a non standard unit. So is it a non standard unit to which pool code? Well  
1681 can you tell me which pool code it would be non standard.  
1682 More than likely to. OK OK, so.  
1683 Wolfcamp pull code OK.  
1684 So let's assume that you're proposing it for that pool, and it's a non standard unit  
1685 under the current rules. Is that correct?  
1686 Yes, Sir.  
1687 As to the wolf camp, yes, as to the wolf camp. OK, so under the current rules, before  
1688 any approval of this of the accommodations.  
1689 The OCD.  
1690 The OC.  
1691 You would have to submit a non standard application, is that correct?  
1692 For approval of that non standard unit.  
1693 Under the current rules, yes. For the Wolfcamp, yes now under under, if you submit a  
1694 non standard unit.  
1695 To the division.  
1696 Do offset owners who would be excluded.  
1697 Or who give receive who entitled to know this? Would they have a right to object to  
1698 that non standard application?  
1699 Under the current rules.  
1700 The current rules? Yes. OK. Now given that now let's assume that the division.  
1701 Has approved the accommodations, has approved prayer A and approved the  
1702 application. OK, now after that order is issued down the road.  
1703 You decide you want to develop this particular unit.  
1704 Would you have to submit a non standard spacing application?  
1705 If we were only to include.  
1706 Just that acreage.  
1707 So the spacing unit right, the spacing unit that you say is would be non standard with  
1708 the Wolfcamp?  
1709 So in in this area, this specific area.  
1710 We did provide notice under this application, so they did have the option  
1711 opportunity to object.  
1712 So hold on. Sarah's, you're not gonna ask this question for 1/5 time, OK?

1713 Would you please instruct your witness to answer the question that was asked?  
1714 It's a very simple question. Even I know the answer to it and I'm not an expert with  
1715 your witness.  
1716 I'm. I'm sorry, Mr. Examiner.  
1717 What? What was the last thing that you said?  
1718 Do you need a minute with your witness?  
1719 Oh, that probably would be helpful please.  
1720 Yep, take it.  
1721 Do you want me to approach the witness or do you want me to speak to him from  
1722 here?  
1723 However, you wanna do it OK.  
1724 We're off the record, OK.  
1725 We're off the record, Mr. Court reporter.  
1726 Permission to approach the witness.  
1727 We're on our first witness.  
1728 So you don't get up.  
1729 We're on our first witness.  
1730 There are two witnesses that exceed presenting, but it's going it's going slowly, so I  
1731 would suggest we won't be ready for your case until after lunch.  
1732 That's my office is back in Albuquerque, so I've got a table here, but I thought you  
1733 might have something else that you in Santa Fe besides sitting here, but it's up to  
1734 you.  
1735 It's up to you.  
1736 OK.  
1737 Go ahead. Thank you.  
1738 I believe there was some misunderstanding of the question and the witness now  
1739 understands the question he's prepared.  
1740 We're back on the record. OK. Mr. Perry, did you have an opportunity to discuss with  
1741 your witness?  
1742 I did.  
1743 I believe there was some misunderstanding about the question.  
1744 It's been clarified.  
1745 He's prepared to answer the question.  
1746 Fine. Please answer the question as well as it was asked.  
1747 We're not going to hear it again, Raja.

1748 So yes, after the application we would not have to.  
1749 Send out notifications for that.  
1750 And they would not have a right to object.  
1751 Is that correct?  
1752 They would not have the right to object if this application were correct.  
1753 OK.  
1754 Now let's assume.  
1755 Let's so therefore, would you agree that every spacing unit that's a non that would  
1756 that would otherwise be a non standard spacing unit under the current rules?  
1757 After the accommodations are approved, every one of those spacing units would no  
1758 longer. You would no longer need to file an NSP application.  
1759 Same as the this particular spacing unit.  
1760 That is correct, yes.  
1761 So they would be considered standard within the federal, OK.  
1762 So would you agree that this application asks for prospective?  
1763 A change of the criteria by which a non standard spacing unit, otherwise a unit that  
1764 would be considered non standard spacing would become a standard unit objection  
1765 and cultural unit inclusion.  
1766 And it's not relevant.  
1767 It goes to the issue.  
1768 Sustained. Mr. Savage, we dealt with this.  
1769 We dealt with this argument.  
1770 Do you have another line of questioning for this? OK.  
1771 I'll move on to the yes.  
1772 Please.  
1773 You say in your statement.  
1774 That.  
1775 And also the application states that the applications required to protect correlative  
1776 rights.  
1777 You actually state that. Is that correct?  
1778 That's my statement. Yes. OK.  
1779 Who's correlative? Rights are you protecting in this?  
1780 By this application, well, first of all, let me draw that.  
1781 Can you give me your understanding of what correlative rights are?  
1782 Yes. So for the correlative rights and be the protection of royalty.

1783 Owners that own the the mineral rights there.  
1784 OK, I'm going to share a slide here.  
1785 I apologize for the delay.  
1786 Here I am not as fast with the technology as some people, but.  
1787 Is.  
1788 OK.  
1789 Mr. Examiner.  
1790 Mr. Savage is sharing a slide.  
1791 Would we be allowed to provide the witness of bottle of water?  
1792 Yeah. So thank you, definitely.  
1793 Thanks.  
1794 OK.  
1795 I'll let you have a drink there. Thank you.  
1796 Thank you for the patience.  
1797 OK, the question is, can you give me your understanding of of corelative rights?  
1798 That question was answered.  
1799 I OK looking at this slide krill debris.  
1800 This is a definition of Karl de Bris that comes from the definition of the in the statute  
1801 in the oil and Gas Act.  
1802 Looking at this, do you does your understanding agree with this definition objection,  
1803 culturally or conclusion?  
1804 I believe Council can simply.  
1805 Where are you going with this?  
1806 I just.  
1807 I'm trying to lay foundation about.  
1808 He so the land man states that this protects creed rights.  
1809 The application states that protects Creel to rights.  
1810 I'm trying to make sure we understand what creed rights are that are being  
1811 protected, Mr. Savage.  
1812 It's not proper question to have him review this statute and see if he agrees with it or  
1813 if his definition agrees with it.  
1814 He's giving you his definition.  
1815 And now if you want to explore the Crowder rights that he is asserting are being  
1816 protected, that's a pretty simple question.  
1817 But this this.

1818 I'll rephrase, sure.

1819 So in this definition it says Creel, devoids means the opportunity afforded to an  
1820 owner of each property in the pool to produce.

1821 The owner's equitable share just an equitable share of oil and gas, or both in the  
1822 pool so far as can be determined and obtained without waste, and the proportion  
1823 that the quantity of recoverable oil and gas.

1824 Or both under the property. That's the the property that the owner has, and that  
1825 might be like an offset.

1826 Adjoining unit bears to the total recoverable oil and gas in the pool itself.

1827 That does.

1828 Your does your understanding of.

1829 As you express Crowther, brides match what I what I stated.

1830 Yes, Sir.

1831 OK.

1832 Thank you.

1833 OK so.

1834 If.

1835 If an adjoining owner.

1836 If if the accommodations are approved and an adjoining owner.

1837 Can no longer object.

1838 To a non standard unit because it's standard.

1839 And therefore cannot make the case that its property under this definition its  
1840 tracked.

1841 That would would be excluded from the pool.

1842 Would would that impact that owners Creed of rights, as you understand, Creel, the  
1843 rights?

1844 Objection. I'd I'd ask Council to rephrase the question.

1845 It's either a hypothetical or it's a compound question.

1846 Well, I'm confused by what the question is.

1847 I don't think the witness can be expected to understand. That's not a proper  
1848 objection.

1849 So either you're going to give me a basis for an objection that I can rule on or not,  
1850 OK?

1851 It's a hypothetical, and it's a compound question.

1852 Well, hypothetical questions are OK when we're dealing with an expert witness, as

1853 long as it's within his area of expertise. So on that basis.  
1854 No one.  
1855 That's overruled, however.  
1856 Compound question, Mr. Savage. Would you try not to ask compound questions?  
1857 It's a complicated subject, so I'm trying my best to make it clear, but obviously I'm  
1858 not quite hitting the target on on this so I will rephrase and try to streamline my my  
1859 questions. So as a hypothetical, let's assume that there is.  
1860 A owner in an adjoining tract to the board that you want that?  
1861 Of a spacing unit that you want to develop.  
1862 And.  
1863 Under the under the rules under the previous, under the rules, that spacing unit  
1864 would be non standard.  
1865 And the therefore, the owner would have a right to object to the application and  
1866 would have a right to make a case for inclusion.  
1867 Of its tract.  
1868 Now let's assume after that the division approves the accommodations.  
1869 And the.  
1870 And then therefore, what was once non standard is now deemed standard.  
1871 And so you do not have to do an application.  
1872 Would that scenario?  
1873 In which the.  
1874 Owner no longer has the right to object. As we stated before.  
1875 Would that?  
1876 Would that impact that owners corral the rights as you understand cruelty rights and  
1877 as you agreed to this definition of cruelty of rights?  
1878 So for this situation, are we?  
1879 We determining this hypothetical is as being.  
1880 On the border of the the Bighuetty unit, let's assume the hypothetical covers for  
1881 example.  
1882 That yet Yeti scenario?  
1883 OK.  
1884 The Yeti scenario.  
1885 So under this application, if this application were approved, we did provide notice  
1886 previously, but under the application, if it was approved, approved and the 40 acre  
1887 spacing was allowed.

1888 The I guess the offset party you know would not be able to protest under that.  
1889 Yeah. And so the the remaining part of the question is, would that affect or impact  
1890 the owners cred of rights?  
1891 It could depends on I guess where you know as to the Yeti. Yes, as to other areas,  
1892 there's other development party. So as to the Yeti, how how would it, how would it  
1893 impact the curl of rights?  
1894 With a protected OK, let me phrase it this way.  
1895 Would it protect the crow, the rights or would it allow the owner to lose his cred of  
1896 rights?  
1897 Think it would protect.  
1898 I mean, we're still protecting. You're talking about the offset, the owner, the own.  
1899 Er of the offset tract. The the owner's creed of rights.  
1900 Correct if if the owner wanted. If the owner let's do.  
1901 Let's just set up another hypothetical here.  
1902 So if the owner viewed the the production of that unit.  
1903 As also producing the pool under his property, and that his objection would have  
1904 been.  
1905 That would have been the basis of his objection.  
1906 To the NSP application.  
1907 But he does no longer has a right to object and make a case for inclusion of his.  
1908 Of that offset tract.  
1909 Would that negatively impact his correlative rights?  
1910 So as to this Yeti hypothetical.  
1911 If we were not to include the acreage on the outside guess.  
1912 You're not going to include this, so therefore.  
1913 Any production from that excluded tract?  
1914 The owner would not receive. Is that correct?  
1915 In any any production of that pool that's under that tract.  
1916 That's being produced or drained. I think it's the drained is a better term.  
1917 By the well in these in the now standard unit.  
1918 That the offset owner would not receive any production.  
1919 Is that correct?  
1920 Objection assumes facts not in evidence.  
1921 The questions seem to assume that the wells in, for example, the Yeti unit will drain  
1922 the offset operator. The witness has not stated that that's going to happen.

1923 Additionally, that is definitely not a land question.  
1924 So how can we assume that the Yeti will drain the offset lands until that's been  
1925 established?  
1926 Mr. Savage, are you assuming that?  
1927 No, I'm given the hypothetical and the hypothetical stated that I heard the  
1928 hypothetical, that the objection was please don't repeat it. OK? The question is, are  
1929 you assuming that the well drilled inside the unit will drain the area right outside the  
1930 unit?  
1931 No, you're not.  
1932 I'm assuming that that's the reason that the offset owner objected to the NSP  
1933 application.  
1934 Under the current rules, if he had an opportunity to object.  
1935 Now you've confused me, Mr. Savage, and I can see why the witness may be  
1936 confused by this line of questioning as well.  
1937 Your question presumes that the correlative rights would be impaired.  
1938 If QO drills inside the unit and it would drain the land from the owner outside the  
1939 unit, are you not assuming that?  
1940 No, I'm assuming that if the owner had a right to object.  
1941 Under the current rules, which he does under the current rules, and he made the  
1942 objection and his concern, his objection was that OK, my property is covers that pool.  
1943 Under the definition of cruelty rights that my my objection is my property covers that  
1944 pool, assuming that OK.  
1945 I'm I'm objecting because to me it looks like you will be.  
1946 Undermining my credibility, and this witness answered that question already, he said.  
1947 Yes. OK. If that's if that's if that's an affirmative answer to the hypothetical, then I'll  
1948 accept that that was the answer to your previous question.  
1949 OK. Next question.  
1950 That was objected to.  
1951 I sustained the objection because you're now taking that further. OK. You're now  
1952 talking about actual draining the property and and and I agree.  
1953 With Mr. Parr that you're now assuming that property is going to be drained.  
1954 So please move on. Thank you.  
1955 OK, I want to look at.  
1956 Is it?  
1957 Yeah.

1958 I'm going to look at your.  
1959 Application.  
1960 Prayer be let's take a look at that real quick.  
1961 OK.  
1962 So.  
1963 Prayer be as stated here.  
1964 Get a little bit bigger.  
1965 Authorizing the completed interval of any horizontal well within the FEU to be at any  
1966 location, any location in in the FEU without the need for an unorthodox dwell  
1967 location.  
1968 Provided that no portion of any completed interval is closer to the FEU boundaries  
1969 than allowed.  
1970 Won by the provision of any special pool rule covering the location of such well or if  
1971 there is no such application provision, then 19151615 C is it.  
1972 Isn't this already granted under the existing rules?  
1973 How is this? How?  
1974 Let me let me phrase it this way.  
1975 How is this?  
1976 How is this different than what's already granted under the existing rules for non  
1977 standard locations?  
1978 So for for this application, we're looking for the the building blocks on the 40 acres  
1979 versus the the offsets.  
1980 Well, that's prayer.  
1981 That's prayer Al.  
1982 Agree with that.  
1983 But this is prayer.  
1984 And it says authorizing the completed interval of any horizontal well within the FEU  
1985 to be at any location.  
1986 So this is. Does this not address?  
1987 The whether a well has a standard or non standard location.  
1988 Sorry, doesn't this prayer be addressed?  
1989 A well in the FEU would have a standard or non standard location.  
1990 Yes, OK.  
1991 So how? How does this prayer differ?  
1992 So as do you recall that Mister Parrot said that?

1993 That XTO in this in this request would honor the set back both at the border of the  
1994 federal exploratory unit and within the non committed tracks in the exploratory unit,  
1995 right?  
1996 Yes, Sir.  
1997 OK.  
1998 So so as I understand that if if XTO wants to encroach on the border.  
1999 As if to does not encourage in the border with the well, that would be a standard  
2000 location. If they encroach on the border, they would have to do an SL application.  
2001 Is that correct?  
2002 Yes, Sir.  
2003 OK, now.  
2004 Same with a uncommitted tract. If they respect the set back, that would be a  
2005 standard location, correct?  
2006 Yes, Sir.  
2007 And if they approached?  
2008 That would be a nonstandard location.  
2009 They would have to get approval for on the uncommitted tract.  
2010 Yes, Sir.  
2011 OK.  
2012 So how is that any different from what's already granted under the rules?  
2013 It's not.  
2014 We're again, the application was requesting 40 acre building blocks versus.  
2015 Non standard, but it doesn't ask the division to enter in order authorizing.  
2016 Yes, Sir.  
2017 OK.  
2018 So this is this is basically a gratuitous request.  
2019 That's not really necessary.  
2020 I wouldn't know. I mean, I guess.  
2021 I'm not sure. OK.  
2022 Would it help if I showed you the the rule that this?  
2023 That governs this request.  
2024 Sure. OK.  
2025 Let's take a look at that.  
2026 Mr. Examiner, point of, or maybe a question for you, apologize for the interruption.  
2027 VF indicated that it required 45 minutes for its opening statement, cross examination,

2028 etc.

2029 We're currently approaching the 40 minute mark. Are we going to be sticking to time  
2030 limits today or do we have unlimited time?

2031 To cross examine, redirect that sort of thing, Mr. Savage.

2032 That was an estimation, but these are complicated issues and so.

2033 You know, I would be able to leave it to the discretion of the division to to hear what  
2034 it needs to hear for making a proper decision on this, the witness agreed with you to  
2035 your questions and then you ask the question, is it gratuitous? Right. That's correct.  
2036 OK. And and why did you ask that question?

2037 Because I wanted to see if there's any basis for the application to be.  
2038 I'll conceived.

2039 And I think that's evidence like if if the if that happens to be a gratuitous question,  
2040 and that raises the issue of whether the application was even.

2041 Possibly legitimate, and I would like to address that in in any closing arguments I  
2042 would be allowed to submit.

2043 So now you're bringing up a rule.

2044 And what is the purpose of your showing this? Witness the rule, he said he was  
2045 uncertain.

2046 He didn't know.

2047 He didn't feel like he fully understood the rule.

2048 So he wasn't not certain if it was gratuitous.

2049 But isn't it?

2050 Isn't it up to the division to decide whether it's gratuitous or not?

2051 Based on the full record and I believe that this is important for providing a full record  
2052 in this discussion.

2053 I mean, administrative procedures are provide a lot of leeway compared to District  
2054 Court. I mean I think that.

2055 This is appropriate, you know.

2056 I mean it's it's your.

2057 It's your. It's obviously Mr. Young examiner.

2058 It's. It's your discretion on this, but right, OK.

2059 Mr. Examiner, perhaps a better solution would be to allow me to ask some questions  
2060 of the witness on redirect on this particular topic, and then for Mr. Savage to be  
2061 permitted on this particular issue. Sir Cross on this particular issue, I I think there's  
2062 some confusion about what.

2063     Going on and I'll be clarified more efficiently.  
2064     If we do it that way, Mr. Savage, how do you feel about that?  
2065     I feel like we have the slide up and he can answer the question directly right now.  
2066     You have an opportunity to ask this one question. Go ahead. OK.  
2067     So, Mr. Fletcher, looking at this says for a horizontal well, the completed interview,  
2068     which is located wholly within a unitized area, which your prayer be describes.  
2069     OK.  
2070     The setbacks prescribed.  
2071     In section C 19151615.  
2072     And those are the whatever the setbacks happen to be appropriate setbacks 331  
2073     hundred, 660.  
2074     Apply to apply only to the outer boundary of the unitized area. OK.  
2075     So that's we know what that is, Mr. Savage.  
2076     You're testifying, OK?  
2077     You're not asking a question, do you? Do you agree?  
2078     Just let him read the rule and ask your question and let's move on.  
2079     OK. If you would please, Mr. Fletcher.  
2080     Read this rule to you feel comfortable with it.  
2081     OK.  
2082     You feel comfortable discussing, OK?  
2083     Believe so.  
2084     So how does?  
2085     How does prayer be differ from what this rule already?  
2086     Grants to go.  
2087     Can we go back to Prairie B?  
2088     See if I can find that.  
2089     Can you see that or is we need to enlarge it, enlarge it?  
2090     Good right there. Thank you.  
2091     OK, I think I.  
2092     So can you ask a question?  
2093     OK.  
2094     So what does prayer be asked that is not already authorized or granted under the  
2095     under the rule?  
2096     I can't.  
2097     I can't tell like as far as the difference.

2098 So so would you agree that's gratuitous? Request asked and answered. Yes. OK, Mr.  
2099 Savage. He just answered your question. You're asking him to characterize his answer  
2100 now as gratuitous.  
2101 So I would draw the question.  
2102 OK, Mr. Fletcher.  
2103 In fact, looking at your statement is it correct that you did not even address prayer  
2104 B in your in your testimony or statement?  
2105 In my signed one, the signed 1 correct.  
2106 As to the spacing.  
2107 Or as to the spacing, yes, as to the offset, I do not see that. OK. So as to prayer a yes,  
2108 correct.  
2109 And then as to prayer be no.  
2110 Yes, Sir.  
2111 OK.  
2112 Thank you. In paragraph 12 of your written statement, you state that all interest  
2113 owners were locatable. And no, this is that correct.  
2114 Sorry, can you repeat that?  
2115 In paragraph 12 of your written statement, you state that all interest owners were  
2116 locatable and noticed.  
2117 Is that correct?  
2118 Objection paragraph.  
2119 12 does not.  
2120 Deal with let me notice.  
2121 Make sure to see what.  
2122 Mr. Savage.  
2123 Yeah, I'm I believe.  
2124 I believe that's savage.  
2125 I'm gonna give you until noon, which is 20 minutes from now to OK.  
2126 Alright, thank you.  
2127 If you don't finish, then that'll be the end of the opportunity. I appreciate that.  
2128 Thank you.  
2129 I believe that's paragraph 14.  
2130 Yes, Sir.  
2131 All interest owners were locatable and noticed. I apologize for the miscitation on  
2132 that. Is that correct?

2133 Doctor.  
2134 Yes, Sir.  
2135 OK. And can you describe what what owners, what interest owners you just do  
2136 general interest, can you describe or identify what interest owners were noticed  
2137 pursuant to your application?  
2138 We noticed.  
2139 All the internal parties to the Big Eddy federal units as to operating rights.  
2140 Overriding rights.  
2141 Minimum interest fee owners and then as to the the outside of the federal unit we  
2142 we noticed all the operators.  
2143 OK. Did you notice the working interest owners and the joining tracks outside the  
2144 unit?  
2145 We noticed the operators, so you didn't.  
2146 You did not.  
2147 Is it correct you did not join?  
2148 Notice the working interest owners in the adjoining tracks, not the working interest,  
2149 the operators.  
2150 Of those wells outside, you only notice the operators.  
2151 Yes, Sir. OK.  
2152 When you say that you noticed all the owners within the border.  
2153 Inside the FAU did you give notice to the owners of the uncommitted tracks?  
2154 Yes, Sir. And.  
2155 How how did you identify the uncommitted?  
2156 The owners in the uncommitted tracks.  
2157 From our exhibit B.  
2158 Of the Big Eddy federal unit.  
2159 Did you run?  
2160 Did you run title on those tracks?  
2161 We're currently running title but no OK no OK.  
2162 So the BLM identifies and is it correct that the BLM identifies owners based on their  
2163 serial register page of?  
2164 Umm.  
2165 Leasehold owners of federal leases.  
2166 Sorry to say that again, please. OK, let me put this way.  
2167 Are you familiar with the Co register page of or the of the title of the federal

2168 exploratory unit?

2169 I'm aware of the serial registry page. Yes, yes, OK.

2170 Is it?

2171 Is it correct that the CL register page identifies the uncommitted tracts as?

2172 A private fee lands. Yes, Sir. OK.

2173 So wouldn't you have to run title on the private Vlands to identify the owners who

2174 need to be noticed?

2175 Yes, Sir.

2176 OK. And did you not just state that you have not run title on the uncommitted tracks

2177 yet?

2178 As to current title, now we we did have those parties identified on our Exhibit B of

2179 the bigotry federal.

2180 How did you identify those without running title?

2181 Mr. Examiner. Objection. VF does not have standing to assert any injury to any

2182 owners other than itself.

2183 It's essentially this whole line of questioning goes to potential.

2184 Notice defects involving owners that are not VF, so it does not have standing to

2185 engage in this line of questioning, Mr. Savage.

2186 So the XTO presented an application in which they claimed that notice was satisfied.

2187 That's one of the criteria for having an application approved.

2188 They claim that they gave.

2189 They stated that they gave notice to all the owners within the F EU FEU.

2190 These are owners.

2191 The question relates to owners within the FAU.

2192 VF as they stated clearly in his pre hearing statement.

2193 That and it wasn't, you know, entitled to notice, be able to title notice has standing

2194 that its concern is the precedent that approval of this application would set. So if the

2195 notice is defective in general that so that the application cannot be approved, this is

2196 a relevant quest.

2197 For VFS concerns, OK, I'll allow the question. The objections overruled. Mr. Mr.

2198 Savage. You have 14 minutes left.

2199 Would you answer the question please?

2200 Sorry, could you could you repeat question?

2201 How could you identify the the owners that need to be noticed if you did not rent

2202 title on the uncommitted and partially committed tracks?

2203 So we had an exhibit B for the BIGHU unit.  
2204 That that we had listed with those those fee owners as to updated title, I would say  
2205 that's.  
2206 Which?  
2207 We received from our predecessor to the the federal unit.  
2208 But you said you did not.  
2209 It's correct. You said you did not run title yourself.  
2210 I did not run title XT O did XTO run title.  
2211 We're currently running title on to update.  
2212 So is it fair to say you have not received the results of that?  
2213 I can't tell you what.  
2214 Is it fair to say that when you sent the notice out that you didn't have the title  
2215 finished?  
2216 As to the current title, yes Sir.  
2217 OK. And so is it fair to say that you did not base notice the notice list on current title?  
2218 We we provided notice to all the parties that we had.  
2219 As to the exhibit B as well as we you know, as it shows here, we publicized in the  
2220 newspapers as well, OK, but it wasn't based on current exhibit B's not based on  
2221 current title.  
2222 Is that correct?  
2223 Because you didn't finish it.  
2224 Yes, Sir.  
2225 OK.  
2226 Thank you.  
2227 OK.  
2228 If if XT.  
2229 Received an order or an order from the division with a degree to expressly preserve.  
2230 For for due process purposes and protection of cruelty rights, a notice to adjoining  
2231 and excluded owners.  
2232 If they granted an order which gave your accommodations, would you agree to it  
2233 preserving notice to adjoining an excluded orders? So like not all? Not all of your  
2234 accommodations would be provided because they would preserve this one right to  
2235 objection.  
2236 Objection, Mr. Examiner, if I understand the question correctly, VF is attempting to  
2237 preserve the right of parties other than VF to do something in the future and it does

2238 not have standing to do that. Sustained. Mr. Savage, can you move on?  
2239 Does XTO or Exxon operate other federal exploratory units?  
2240 Objection. Outside the scope of the hearing.  
2241 Outside the scope of direct.  
2242 Mr. Examiner questions Mr. No, Mr. hearing examiner, if I may explain.  
2243 The Mr. Parrot stated in his the status conference that this was a application was a  
2244 means of dealing with federal exploratory units in the state objection, and that's  
2245 testimony from council outside the scope of direct it. It's not relevant what I said in a  
2246 pre hearing conference is.  
2247 Not relevant to the witnesses testimony and the test.  
2248 The witness wasn't even present and I'm explaining.  
2249 The foundation of the question.  
2250 Go ahead. OK.  
2251 So it was stated that it was a way to deal with.  
2252 Federal units across the state.  
2253 Fe FS main concern is that this would set a precedent for dealing with federal units  
2254 across the state.  
2255 Objection assumes facts not in evidence.  
2256 Council is testifying this whole line of questioning needs to be struck.  
2257 It's true that FBF is concerned about this application being a precedent for applying it  
2258 to objections.  
2259 Council used, I mean, this would be appropriate material for an opening statement or  
2260 closing statement.  
2261 It is not appropriate for questioning my witness.  
2262 Mr. Savage, I sustained the objection because I don't see how other FEU's outside of  
2263 this case have anything to do with this case.  
2264 I understand what you're trying to do, can I?  
2265 Can I can I explain the answer that question?  
2266 Look, you have another 10 minutes to go before we break to lunch, and then we're  
2267 going to go to Mr.  
2268 So.  
2269 The main reason, as Mr. Paradis said, for wanting to approve this application, is they  
2270 want to avoid objections.  
2271 They said that objecting to the Fe to the to the non standard units is causes delay  
2272 and it causes.

2273

2274

## **OCD Special Docket September 15, 2026-**

2275

## **20260916\_175116UTC-Meeting Recording**

2276

September 16, 2026, 5:51PM

2277

3h 10m 6s

2278

2279 **PH Pecos Hall 0:13**

2280

Inefficiencies. OK, now consider that the only reason to create.

2281

These non standard units to be standard is because of the irregularity of the border.

2282

That's the only criteria they didn't like.

2283

No geology criteria.

2284

Irregularities the board now.

2285

Every federal exploratory unit in the state has an irregular border.

2286

So if you approve this, that justification would easily apply to every federal

2287

exploratory unit in the state.

2288

So it does have, we believe it does have relevance to all the federal units in the state.

2289

I understand your argument, and that would be great for a closing argument, but

2290

that's not a proper question for this witness because outside the scope of his

2291

testimony.

2292

With a proper question B, do you? If this is approved, do you plan to use this on

2293

other?

2294

Federal units that you are a operator of, why don't you try the question and see if

2295

you get an objection. Thank you.

2296

Objection. Calls for speculation.

2297

Mr. Savage, you knew you were going to get an objection.

2298

I'm going to sustain that objection.

2299

Do you have any other relevant questions for this witness?

2300

No, I believe I've answered.

2301

I asked a lot of relevant questions.

2302

I will conclude my examination.

2303

I didn't say you didn't ask Melvin, I said.

2304

Do you have any further recommendations for this? Thank you.

2305

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

2306

2307  **McClure, Dean, EMNRD** 1:35

2308 I do, Mr. Herring. Examiner.

2309

2310  **Pecos Hall** 1:36

2311 Go right ahead.

2312

2313  **McClure, Dean, EMNRD** 1:38

2314 OK Mr. fetcher.

2315

2316  **Pecos Hall** 1:43

2317 It's Fletcher.

2318

2319  **McClure, Dean, EMNRD** 1:45

2320 Fletcher. Yeah, I say it correctly, Sir.

2321

2322  **Pecos Hall** 1:47

2323 Yes, Sir.

2324

2325  **McClure, Dean, EMNRD** 1:48

2326 OK. Thank. Thank you, Mr. Fletcher.

2327 In your application, let me grow up.

2328 Find the page number here.

2329 Under paragraph five of the application on page five of 179.

2330 And of course, miss. Oh, it looks like Mr. Parrot's got it there.

2331 Are you with whipping, Mr. Fletcher?

2332

2333  **Pecos Hall** 2:33

2334 Yes.

2335

2336  **McClure, Dean, EMNRD** 2:35

2337 OK, it states there.

2338

2339  **Sharon Shaheen** 2:36

2340 OK.

2341

2342  **McClure, Dean, EMNRD** 2:38

2343 Well, we got a bit of a echo going on.

2344 Because I'm not sure where it's coming from.

2345 Maybe it's fixed now.

2346 In this paragraph, it states that the Big 80 unit covers all depth informations below  
2347 the base of the Dakota Sand.

2348 Is that a typo?

2349 Does it?

2350 Does it actually cover below the Dakota sand or is that the Delaware sand that  
2351 should be included there?

2352

2353  **Pecos Hall** 3:16

2354 The Big Eddy federal unit starts 5000 feet below. Surface is what I believe it calls out  
2355 in the.

2356 The Federal Union agreement.

2357

2358  **McClure, Dean, EMNRD** 3:29

2359 Like, well, that makes sense.

2360 Perhaps for the Delaware Mountain group.

2361 Then you believe it's tied to a depth and not a specific formation though.

2362 Is that correct, Mr. Fletcher?

2363

2364  **Pecos Hall** 3:38

2365 I believe it says depth and may also reference a specific formation, don't recall.

2366

2367  **McClure, Dean, EMNRD** 3:49

2368 I'm sorry, I'm not sure if I I I heard you correctly.

2369 Did you say that you think it may, but you don't recall?

2370 Is that correct, Mr. Fletcher? Fletcher.

2371

2372  **Pecos Hall** 3:56

2373 Yes, Sir.

2374

2375  **McClure, Dean, EMNRD** 3:58

2376 OK.  
2377 Would your geologist likely know what's included in the big in the Big Eddy unit, Mr.  
2378 Fletcher?

2379

2380  **Pecos Hall** 4:14

2381 Potentially.

2382 Should.

2383

2384  **McClure, Dean, EMNRD** 4:16

2385 OK.

2386 Well, I guess.

2387 I guess let me ask you this question a different way.

2388 Do you know which formations?

2389 Xto is requesting this relief for.

2390

2391  **Pecos Hall** 4:29

2392 The unitized formations.

2393

2394  **McClure, Dean, EMNRD** 4:33

2395 I guess what I'm trying to cover is I need to know which formations were referring to  
2396 by all those formations.

2397 That's a. That's my question, I guess.

2398 And do you know which formations they are?

2399

2400  **Pecos Hall** 4:45

2401 I'm not.

2402 I don't have all of them off the top of my head.

2403 No, Sir, it'd be the unitized formation.

2404 So starting at 5000 feet below surface.

2405 And I don't, I don't recall.

2406 That specific formation.

2407

2408  **McClure, Dean, EMNRD** 5:02

2409 OK. When you were conducting your review?

2410 Now let me back up a second in regards to providing a list of noticed of persons to

2411 be noticed.

2412 Was that done under your supervision or by yourself?

2413

2414  **Pecos Hall** 5:22

2415 Yes, Sir.

2416

2417  **McClure, Dean, EMNRD** 5:23

2418 And in that review.

2419 Which formations did you look for? Operator slash working interest donors for?

2420

2421  **Pecos Hall** 5:37

2422 Like inside the the federal unit is it?

2423 So we we we noticed all all parties within the.

2424 No matter the depth.

2425

2426  **McClure, Dean, EMNRD** 5:51

2427 OK.

2428 So then you were reviewing the operator and or working interest or this interest

2429 owners essentially for all depth then is that correct, Mr. Fletcher?

2430

2431  **Pecos Hall** 6:03

2432 Yes, Sir.

2433

2434  **McClure, Dean, EMNRD** 6:05

2435 OK. And I believe Mr. Savage, kind of.

2436 Touched upon this a little bit, but I guess in terms of like classifications of person,

2437 example being working interest operators.

2438 Which person or and as well as within the unit without the unit? Which persons did

2439 XTO provide notice to of this application?

2440

2441  **Pecos Hall** 6:34

2442 So inside the unit we noticed all the operating rights parties as well as the mineral

2443 owners fee fee owners, mineral slash fee owners as well as the overriding parties.

2444 And then on the outside of the federal unit we we noticed the offset operators.

2445

2446  **McClure, Dean, EMNRD** 6:57

2447 Does was XTO and offset operator of this unit in any of the boundary?

2448

2449  **Pecos Hall** 7:06

2450 I mean, we do operate the the unit to the Southeast there.

2451

2452  **McClure, Dean, EMNRD** 7:12

2453 For the working interest donors notified of in the within those tracks.

2454

2455  **Pecos Hall** 7:25

2456 I don't believe so. No, Sir.

2457

2458  **McClure, Dean, EMNRD** 7:30

2459 Was there any tracks that has no operator bordering the Big Eddy unit?

2460 Mr. Fletcher, I guess like this talk about like this exhibit B2 or whatever that was

2461 retracted was that I hadn't seen it prior to retraction.

2462 Like a list of like noticed persons.

2463 Is that what was in that exhibit?

2464

2465  **Pecos Hall** 8:07

2466 For the exhibit B that let's see exhibit B to the federal exploratory unit.

2467 So we did notice all those parties. Yes, Sir.

2468

2469  **McClure, Dean, EMNRD** 8:16

2470 No, no, I'm referring to.

2471 There's like a retracted exhibit that we addressed at the beginning of this. I think it  
2472 was exhibit B2, if I'm not mistaken.

2473 Do you know what that contains? Roughly speaking.

2474 I guess for context, Mr. Fletcher, I guess what?

2475

2476  **Pecos Hall** 8:44

2477 Yeah.

2478

2479  **McClure, Dean, EMNRD** 8:46

2480 I would.  
2481 What I was imagining was maybe it had like a depiction of all the tracks around the  
2482 unit, you know, with like, who's the operator working interest owner, that sort of  
2483 thing.

2484 Does that sound like what may be in that exhibit?

2485

2486  **Pecos Hall** 9:05

2487 Yes, Sir.

2488 As.

2489 As to that exhibit, I believe it's the the Big Eddie federal unit.

2490 Exhibit B.

2491 Which lists out all the parties and all the tracks was inside the big any federal unit  
2492 and then all those parties were the ones that we noticed interior to the unit.

2493

2494  **McClure, Dean, EMNRD** 9:32

2495 OK.

2496 So then that exhibit only include interior ownership and not exterior, then is that  
2497 correct, Mr. Fletcher?

2498

2499  **Pecos Hall** 9:41

2500 I believe so, yes, Sir.

2501

2502  **McClure, Dean, EMNRD** 9:44

2503 OK, I guess.

2504 Within the exhibit packet.

2505 Is there any exhibits that like illustrate the ownership external to the boundary?

2506

2507  **Pecos Hall** 9:59

2508 No, Sir, I don't believe we have an exhibit showing that depicting that.

2509

2510  **McClure, Dean, EMNRD** 10:16

2511 Hey, Mr. Fletcher, I believe Mr. Parrott spoke to it earlier, but it sounds like xtio's.

2512 Hsu request is now 40 acre building blocks or quarter quarter equivalents rather than  
2513 quarter quarter, quarter, that is that correct?

2514

2515  **Pecos Hall** 10:36

2516 Yes, Sir.

2517

2518  **McClure, Dean, EMNRD** 10:37

2519 OK.

2520 Mr. Fletcher, extremely briefly in regards to the Hsu component of this application.

2521 What is your understanding of of the relief that XTO is requesting from the division?

2522

2523  **Pecos Hall** 11:12

2524 So we're requesting the 40 acre building blocks to allow us to align.

2525 Um.

2526 In these areas where we have.

2527 The.

2528 Sorry, the exhibit moves.

2529 Let me pull it.

2530 My exhibits.

2531 So in the irregular shaped borders.

2532 Where we'd have to file for.

2533 Non standard spacing.

2534 You know the 40 acre building blocks would allow us to.

2535 To still develop.

2536 Within the federal units and allow us the flexibility and efficiently.

2537 Produce, you know, efficiently produce the the the minerals inside the Big Eddy

2538 federal units. And as we as we progress with drilling down the road, we would the

2539 flexibility of the 40 acre building blocks would allow us to then.

2540 Change any development.

2541 Plans that we needed to.

2542

2543  **McClure, Dean, EMNRD** 12:22

2544 So I guess to maybe say it more concisely, would it be accurate to say, Mr. Fletcher,  
2545 that what X2 would like to do is be able to use 40 acre building blocks?

2546 With all of its proposed HS use and for that Hsu to still be considered standard, is  
2547 that correct?

2548

2549  **Pecos Hall** 12:41

2550 Yes, Sir.

2551

2552  **McClure, Dean, EMNRD** 12:45

2553 Now there seems to be.

2554 Is it your understanding that QO is requesting?

2555 The approval.

2556 Of.

2557 Like future hsus.

2558 Within the the big let me let me re ask that question.

2559 And I guess Mr. Savage kind of hit on this a little bit.

2560 Does XTO have any?

2561 Like.

2562 Defined HS use which it's asking the division to approve at this time.

2563

2564  **Pecos Hall** 13:43

2565 At this time, no Sir.

2566

2567  **McClure, Dean, EMNRD** 13:46

2568 So it would be accurate to say.

2569 Is it your understanding that QO is requesting an extension?

2570

2571  **Pecos Hall** 14:16

2572 The.

2573

2574  **McClure, Dean, EMNRD** 14:19

2575 From stipulations within the horizontal well rule.

2576

2577  **Pecos Hall** 14:31

2578 It's my understanding for this applet, yeah.

2579 From.

2580 For for this application, it's my understanding that we were requesting.

2581 40 acre building blocks which allow us, you know as we as we continue to drill out

2582 this this federal unit and have more data collected that we can have the flexibility to

2583 efficiently develop.  
2584 The entire unit to include the irregular borders that we have outlined here in red.

2585

2586  **McClure, Dean, EMNRD** 15:07

2587 I guess what I'm trying to unders, for some context, I'm trying to understand the  
2588 mechanism in which Xtoi gets wishes to get to the relief that they're requesting.  
2589 And I guess from that standpoint, what it kind of seems like is XTO is asking for an  
2590 exemption from the specifically the rule that requires gas pools to be built out of  
2591 quarter sections rather than quarter quarter sections.  
2592 Is that accurate or not?  
2593 I guess, Mr. Fletcher.

2594

2595  **Pecos Hall** 15:42

2596 Yes, Sir. I would say that that's accurate instead of on the gas pools using the 160  
2597 acre quarter sections, we would be asking for the.  
2598 Quarter, quarter sections at a 40 acre.  
2599 Space.

2600

2601  **McClure, Dean, EMNRD** 16:05

2602 Did XTO consider?  
2603 Going down the route of.  
2604 Special pool rules and demonstrating for the division that the gas pools should only  
2605 be drained or are only draining from quarter sections.

2606

2607  **Pecos Hall** 16:44

2608 So.  
2609 Altering. Are you asking if we're, if we?  
2610 Tried to run this application as to change the spacings on the gas pool codes within  
2611 the federal unit.

2612

2613  **McClure, Dean, EMNRD** 17:00

2614 Yes, I'm interested asking if XTL had considered that mechanism to reach its  
2615 requested relief, I guess.

2616

2617  **Pecos Hall** 17:07

2618 Yes, Sir. I believe that was one of the one of the items that we we reviewed prior to  
2619 submitting this application.

2620

2621  **McClure, Dean, EMNRD** 17:17

2622 I guess.

2623 Do you know why XTL felt that this was the more appropriate mechanism, rather  
2624 than going that route?

2625

2626  **Pecos Hall** 17:29

2627 For my understanding.

2628 Upper management did discuss that with the division and.

2629 The appropriate action or the I guess preferred action was to go this route versus  
2630 trying to take all those pool codes and and change them.

2631

2632  **McClure, Dean, EMNRD** 17:51

2633 And by that, do you mean it was xto's management or the divisions management?

2634

2635  **Pecos Hall** 17:56

2636 Apologies XTS management.

2637

2638  **McClure, Dean, EMNRD** 18:05

2639 How are you aware of how many gas pools?

2640 Are actually included within the Big Eddy unit.

2641

2642  **Pecos Hall** 18:15

2643 Not off the top of my head. No, Sir.

2644

2645  **McClure, Dean, EMNRD** 18:21

2646 Put that in the geology exhibit submits to Fletcher.

2647 I thought there was like a list of pools in here.

2648

2649  **Pecos Hall** 18:25

2650 I think I believe we did submit originally in the original application, a bunch of the  
2651 pool codes. Here you go. Yeah, so.

2652

2653  **McClure, Dean, EMNRD** 18:30

2654 Yeah.

2655

2656  **Pecos Hall** 18:34

2657 We we did depict Wolfcamp as well as the Bone Spring.

2658 So.

2659

2660  **McClure, Dean, EMNRD** 18:39

2661 And was this.

2662 Were these exhibits put together under your supervision, Mr. Fletcher? Or these like  
2663 geology exhibits or something?

2664

2665  **Pecos Hall** 18:52

2666 Under, I guess the geology.

2667

2668  **McClure, Dean, EMNRD** 18:54

2669 OK.

2670 I'm just.

2671 I'm just trying to figure out which, which which expert witness to to ask about that.

2672 So I guess would the answer be that you're not sure how many gas pools occur if in  
2673 the Big Eddy unit?

2674 Is that correct?

2675

2676  **Pecos Hall** 19:06

2677 Yes, Sir.

2678

2679  **McClure, Dean, EMNRD** 19:07

2680 OK.

2681

2682  **Pecos Hall** 19:07

2683 I'm not sure.

2684

2685  **McClure, Dean, EMNRD** 19:18

2686 Earlier, Mr. Savage asked you about the title in regards to the ownership within the

2687 Big Eddy unit.

2688 Is that correct, Mr. Fletcher?

2689

2690  **Pecos Hall** 19:29

2691 Yes, Sir.

2692

2693  **McClure, Dean, EMNRD** 19:30

2694 And is my understanding correct that your response to that was essentially that?

2695 Xto is relying upon the title that was conducted when it took over operating of the  
2696 unit.

2697 Is that correct?

2698

2699  **Pecos Hall** 19:51

2700 As to certain parts of the unit, yes, yes, Sir.

2701

2702  **McClure, Dean, EMNRD** 19:57

2703 Well, I guess let me rephrase my question. When notice was conducted for this  
2704 application for the interest owners within the unit, XTO used the list of ownership.  
2705 That it received when it took over the unit.

2706 Is that correct?

2707

2708  **Pecos Hall** 20:18

2709 So we we use the exhibit B to the unit agreement. Yes, Sir.

2710 Now as to ownership. It was updated periodically as title did come through.

2711

2712  **McClure, Dean, EMNRD** 20:36

2713 OK, I guess.

2714 Can you elaborate on that a little bit more, Mr. Fletcher?

2715

2716  **Pecos Hall** 20:42

2717 So.

2718 The federal unit consist of a little bit over 133,000 acres. We we started development  
2719 over in kind of the North East side.

2720 So as drilling occurred, we were completing title in that area.

2721 Set.

2722

2723  **McClure, Dean, EMNRD** 21:04

2724 Yes, I think that addresses what I guess my question was, but for like the rest of the  
2725 unit though then the IT is it possible that the ownership could have changed from  
2726 what you currently have indicated?

2727

2728  **Pecos Hall** 21:05

2729 OK.

2730

2731  **McClure, Dean, EMNRD** 21:20

2732 Mr. Fletcher.

2733

2734  **Pecos Hall** 21:25

2735 Yes, Sir.

2736

2737  **McClure, Dean, EMNRD** 21:28

2738 Do you know how long ago that title was ran? I guess, Mr. Fletcher.

2739

2740  **Pecos Hall** 21:33

2741 No, Sir, we do have title being updated on the entire baguette unit right now.

2742

2743  **McClure, Dean, EMNRD** 21:39

2744 OK. But some of what you currently have on hand that informed you to who provide  
2745 notice here could conceivably be from back when the unit was first formed?  
2746 Is that correct?

2747

2748  **Pecos Hall** 21:52

2749 I'm not.

2750 I wouldn't say first formed, but.

2751

2752  **McClure, Dean, EMNRD** 22:00

2753 Potentially old though.

2754 Would that be fair to say, Mr. Fletcher?

2755

2756  **Pecos Hall** 22:04

2757 Potentially, yes, Sir.

2758

2759  **McClure, Dean, EMNRD** 22:13

2760 I guess.

2761 Do you know how long I mean understanding? It's 130,000 acres, but do you know

2762 how long it's it'll end up taking XTO to finish its title research?

2763

2764  **Pecos Hall** 22:27

2765 We are having the brokers do everything and we we've given them till the end of the

2766 year to provide all the brokerage work which at the same time we're sending all that

2767 brokerage work over to title attorneys.

2768 To then render opinions on those leases.

2769

2770  **McClure, Dean, EMNRD** 22:51

2771 So I guess until that work is is finished, how does XTL know that it provided notice to

2772 all of the working interest owners within the unit, Mr. Fletcher?

2773

2774  **Pecos Hall** 23:16

2775 So XTO does own a majority of the working interest throughout the beginning unit

2776 and in areas that we do not.

2777 You know, the exhibit B does show.

2778 Those working interest parties.

2779 Which are the ones that we then turn around and noticed?

2780 As to the tracks that we have not developed, I should say so.

2781

2782  **McClure, Dean, EMNRD** 23:44

2783 Yeah, but Mr. Fletcher ain't some of those tracks, aren't.

2784 Those are the ones that you're currently conducting, Title 4.

2785 Or am I misunderstanding?

2786

2787  **Pecos Hall** 23:55

2788 No, Sir, you're not misunderstanding.

2789 Some of those tracks? Yes, Sir.

2790 As to current title is being run on those. Some of those tracks title was run on those  
2791 because we did drill drill wells through.

2792

2793  **McClure, Dean, EMNRD** 24:12

2794 97 Fletcher. I guess if the division were to approve.

2795 This application I mean how would XTO? How would XTO propose to deal with you  
2796 know potential working interest owners that would never provided notice and may  
2797 wish to protest?

2798

2799  **Pecos Hall** 24:35

2800 Mr. Examiner, that might be a legal question and I'd be happy to address it as.

2801 Xto is legal, essentially legal expert.

2802 Mr. McClure.

2803 Let's let Mr. Parrot address that instead of the witness.

2804

2805  **McClure, Dean, EMNRD** 24:56

2806 Yeah, that's that's perfectly fine to me, Mr. hearing examiner.

2807

2808  **Pecos Hall** 24:58

2809 Go ahead ahead, Mr. Perry.

2810 Mr. McClure, I believe there may be a question about whether there are any.

2811 Owners who were not located as of the last title update, and it seems that perhaps  
2812 the witness needs to consult some records before he can give you the exact update  
2813 of the last title update. If on the off chance that any new owners were to be found.

2814 Although having worked closely with XTO on notice, I believe that's unlikely.

2815 But if it were to happen.

2816 I would suggest.

2817 That the division follow precedent in previous cases like this hold the record open for  
2818 a period of time.

2819 Require XTO to send a specific notice to those owners.

2820 Give those owners.

2821 At least 20 days to file an objection, and if there are any objections received, then  
2822 those owners can come in and present a case.

2823 In hearing if no objections are received, then the matter can be concluded.

2824 The record can be closed and the division can proceed to take the application under  
2825 advisement.

2826

2827  **McClure, Dean, EMNRD** 26:16

2828 Mr. Parrott, I guess, are you proposing that we leave the case open for? Well, the  
2829 next six months or however long it takes for XTO to finish conducting or researching  
2830 title?

2831

2832  **Pecos Hall** 26:29

2833 No, Mr. McClure, I believe that six months would be far in excess of the time that is  
2834 necessary to make the determination.

2835 The QO can advise the division within a couple of days, perhaps even after lunch,  
2836 when it expects to receive the results of determining whether there any parties who  
2837 are unnoticed and set.

2838 Deadline for sending out notice.

2839 And if.

2840 That deadline proposed by QO is not acceptable to the division.

2841 Then the division can tell XTO what an acceptable deadline would be.

2842

2843  **McClure, Dean, EMNRD** 27:17

2844 OK. Thank. Thank you Mr. Para that that does answer my question there.

2845

2846  **Pecos Hall** 27:22

2847 OK.

2848 Thank you for allowing me to interject and apologize for the interruption.

2849

2850  **McClure, Dean, EMNRD** 27:36

2851 Oh, looks like I lost you for a bit.

2852 Hey, can you hear me, Mr. hearing examiner?

2853

2854  **Pecos Hall** 27:40

2855 Yes, I can go right ahead with the witness, Mr. Ricard.

2856

2857  **McClure, Dean, EMNRD** 28:01

2858 Mr. Fletcher.

2859 If the division were to grant approval of this application.  
2860 How would XTO propose that the.  
2861 Umm.  
2862 Leftover quarter quarters that's external to the unit.  
2863 How would QO propose that other operators are allowed to?  
2864 Attain HSUS in those.

2865

2866  **Pecos Hall** 28:41

2867 So.  
2868 Believe like our exhibit B4 shows kind of the majority of the area where you see these  
2869 irregular shaped.  
2870 Borders with the non standard spacing areas depicted in red.  
2871 You can see that a majority of that area has already been been developed.

2872

2873  **McClure, Dean, EMNRD** 29:12

2874 And are there NSPS in place for external to the unit, then for those areas, Mr.  
2875 Fletcher?

2876

2877  **Pecos Hall** 29:17

2878 I would assume I'm not.  
2879 I'm not sure.

2880

2881  **McClure, Dean, EMNRD** 29:24

2882 I.  
2883 I suppose where I'm getting at is in any instance that QO would need to NSP to  
2884 exclude areas outside the unit.  
2885 They would also need to be an NSP for external to the unit or else stranded acreage  
2886 would occur.  
2887 And that's essentially my concern here, Mr. Fletcher. I believe earlier there might have  
2888 been some reference or maybe I misheard, was their thought process that.  
2889 Xto would.  
2890 Preemptively.  
2891 Preemptively.  
2892 Affirm that they'd have no protest to an NSP proposed external to the unit.

2893

2894  **Pecos Hall** 30:13

2895 What was the question?

2896 I'm sorry, I need you to restate that.

2897

2898  **McClure, Dean, EMNRD** 30:20

2899 Yeah, yeah, yeah. Yes, Sir.

2900 Yes, Sir.

2901 OK. Essentially if you have the you the boundary of the unit is splitting 1/4 section.

2902 Which is why XTL is asking for this exception to start with.

2903

2904  **Pecos Hall** 30:36

2905 OK.

2906

2907  **McClure, Dean, EMNRD** 30:37

2908 Not only does XTO currently need a NSP internal to that unit, if they want that  
2909 boundary there.

2910 An operator outside of that boundary would also need an NSP.

2911 In order to complete out up to the boundary.

2912

2913  **Pecos Hall** 30:54

2914 Yes, Sir.

2915

2916  **McClure, Dean, EMNRD** 30:54

2917 Like for instance.

2918 Like for instance like that SE quarter of section 35 right there on the screen in front of  
2919 us, Mr. Fletcher.

2920

2921  **Pecos Hall** 31:04

2922 OK.

2923 Right outside the the Yeti. What we're calling the Yeti.

2924

2925  **McClure, Dean, EMNRD** 31:09

2926 Yes, it's exact. Exactly. So, Mr. Fletcher. So, for instance, to say that's purple Sage

2927 Wolfcamp and quarter section spacing's required. I don't know if it is or not.

2928 Let's just say it is for purposes of this question.  
2929 The division could grant XTO and NSP to allow it to complete right up to that  
2930 boundary line.  
2931 But in order for whatever operators in section 36 to drill into section 35.  
2932 They would also need an NSP.  
2933 Do you see what I'm referring to, Mr. Fletcher?

2934

2935  **Pecos Hall** 31:46

2936 Yes, Sir. And.

2937 As to as to this area, this is all in you know, and I know it's kind of a hypothetical, but  
2938 as to this specific area, it's it's kind of hard to to to talk to that as we're in potash.  
2939 Therefore, there's other requirements in here.

2940 And and XTO has already filed potash development areas for this you know so.

2941 As to like other areas outside of potash, you know, as as depicted in the the exhibit,  
2942 we can see that that operators have already either drilled and completed or  
2943 permitted wells in that area, which yes, to your point would if if they were in a an  
2944 area.

2945 That was non standard.

2946 Would need your your NSP applications.

2947 Yes, Sir.

2948

2949  **McClure, Dean, EMNRD** 32:48

2950 And it it I mean I already know the answer, but it would it also be correct that XTO  
2951 has the ability to object to those NSPS when they submit those, is that correct?

2952

2953  **Pecos Hall** 33:03

2954 A lot of those tracks that we would be objecting on are inside the federal unit, so  
2955 they can't drill across those anyways.

2956

2957  **McClure, Dean, EMNRD** 33:14

2958 OK. If the operator is not drilling into the unit like for instance, let's look at what what  
2959 Mr. Parrot has on the string right now. We have like those green well stick boar sticks  
2960 going into Section 7 and into Section 8.

2961

2962  **Pecos Hall** 33:20

2963 OK.

2964

2965  **McClure, Dean, EMNRD** 33:32

2966 Do you see what I'm referring to, Mr. Fletcher?

2967

2968  **Pecos Hall** 33:32

2969 Yes, Sir.

2970 Yes, Sir.

2971

2972  **McClure, Dean, EMNRD** 33:36

2973 The say that's a gas pool and they need an NSP in order to drill those wells.

2974

2975  **Pecos Hall** 33:43

2976 Yes, Sir. They would need an NSP.

2977

2978  **McClure, Dean, EMNRD** 33:45

2979 And is it your understanding that XTO would have the ability to object to those  
2980 NSPS?

2981

2982  **Pecos Hall** 33:51

2983 Yes, Sir.

2984

2985  **McClure, Dean, EMNRD** 33:55

2986 So my question to you is QO prepared to preemptively say they're not going to  
2987 object to NSP like this?

2988

2989  **Pecos Hall** 34:11

2990 I couldn't.

2991 Mr. Examiner, I think that might be another attorney question.

2992 Is it OK if I interject and interrupt Mr. McClure?

2993 Is it OK if Mr. Parrott answers that question on behalf of his client?

2994

2995  **McClure, Dean, EMNRD** 34:30

2996 Yeah. I'm. I'm. I'm. Yeah. I'm I'm perfectly fine.

2997 Mr. Herring, examiner for that?

2998

2999  **Pecos Hall** 34:35

3000 Go right ahead, Mr. Barrett.

3001 Mr. McClure, I fully understand your question.

3002 I don't think that Mister Fletcher has been given the authority to answer that

3003 question, but we can certainly attempt to get you an answer during the upcoming

3004 break and come back after lunch and either answer the question in the affirmative or

3005 tell you that we do not have.

3006 Authority to to commit to that today.

3007

3008  **McClure, Dean, EMNRD** 35:03

3009 OK.

3010 Thank you, Mr. Perrott, that that will be sufficient. Although if XTO is not prepared to

3011 commit to that my follow up question is going to be how is it we're preventing

3012 acreage for being stranded otherwise?

3013 I mean, obviously it'll need addressed at that point, but that will be my follow up

3014 question because I'm trying to ensure that we're not going to have these the West

3015 half of the West half of Section 8 not completed because.

3016 And NSP can't be granted?

3017 Do you understand?

3018 I guess where I'm going with that, Mister Parrot.

3019

3020  **Pecos Hall** 35:39

3021 I understand completely and will be prepared to answer that follow up question if we

3022 don't have the authority to commit to the pre pre emptive waiving of objections

3023 adjacent to the unit.

3024

3025  **McClure, Dean, EMNRD** 35:53

3026 OK.

3027 Thanks. Thanks a lot, Mr. Parrot.

3028 Thank you, Mr. Fletcher.

3029 Mr. Herring, examiner, I have no more questions.

3030

3031 **PH Pecos Hall** 36:20

3032 Let's take a lunch break now.

3033 It's 1230 basically.

3034 And.

3035 I'm assuming you're going to have redirect, Mr. Perry.

3036 Yes, Mr. examine. I'll be fairly brief.

3037 All right. OK and.

3038 And then we have your other witness here with us, Mr. Ball.

3039 Alright, how short of a lunch break would you like?

3040 Because I can make mine as short as the parties want.

3041 I think we need at least 30 minutes.

3042 It's up to you.

3043 I'm just asking what you want, let's say 45 minutes, 45 minutes. OK. And then you  
3044 know, the Trader Joe's is right there on Cordova.

3045 It's pretty close.

3046 OK.

3047 I won't say any more about that.

3048 All right. So we'll be. We'll reconvene.

3049 At 1:15 and Mr. Fletcher, be prepared to take the witness stand at that time. Thank  
3050 you.

3051 We're off the record, Mr. Zaminer.

3052 One quick question.

3053 We're not off the record.

3054 Well, we could be off the record. That's OK go ahead.

3055 Well, my understanding was the enduring case was going to come back after lunch.  
3056 It is.

3057 And so I I guess I was just trying to estimate how much time we would have before  
3058 you would need us back here?

3059 For this case, but we're picking up this case at 1:15. Oh, and then? OK, not enduring.  
3060 OK, alright. Gotcha.

3061 It's 124 in the afternoon.

3062 And we're back on the record.

3063 Freya, did you contact counsel for Epic and enduring?

3064 I did.

3065 I'm awaiting a response.  
3066 I'm sorry, I didn't hear you.  
3067 I did and I'm awaiting a response.  
3068 Very good.  
3069 Will you let me know when you hear something? Yes, alright.  
3070 Thank you. All right.  
3071 When we last left the parties, Mr. Fletcher.  
3072 Was ready for, I believe, redirect Mr. Parrot.  
3073 Go right ahead.  
3074 Thank you, Mr. Examiner.  
3075 With your permission, I have a brief redirect on notice and then I will respond to Mr.  
3076 McClure's questions.  
3077 OK, perfect. And then we've got a few other redirect questions and we'll keep it brief.  
3078 Just a point of kind of logistics, our our next witness has a flight home at 4:00.  
3079 So we are hoping very much to dismiss him by about 2:45 if that's at all possible.  
3080 I understand we'll do our best, OK?  
3081 Mr. Fletcher, regarding the notice that was sent to uncommitted tracks.  
3082 And the questions about when the exhibit B quote UN quote was updated.  
3083 Did you have a chance during the break to double check company records and make  
3084 a determination of a date when the notice list for uncommitted tracks was updated?  
3085 Yes, Sir.  
3086 And can you tell us what that date was?  
3087 So that date would have been roughly around March of 2026 when we submit the  
3088 pod to the BLM Slo March 1st or March 15th.  
3089 I think it's, I believe it's March 1st, OK? So title was updated for the uncommitted  
3090 tracks.  
3091 No more recently than March 1st for the uncommitted tracks. Yes, Sir. OK.  
3092 And then.  
3093 Our updates to title.  
3094 Since you acquired the unit, are those ongoing or static?  
3095 They're ongoing, OK. And on what frequency?  
3096 Consistently so would it be monthly?  
3097 Annually semi annually.  
3098 I guess you could say monthly because we we consistently run title.  
3099 For not only operations, but for other aspects, OK.

3100 So if you had.

3101 If, if there had been a change of ownership within the uncommitted tracks.

3102 Since March 1st, can you tell us about how long it would take you to make that

3103 determination after today?

3104 Would it take a couple of days?

3105 A couple of weeks.

3106 Would it take six months?

3107 As to updating from current title from from the right.

3108 Do you think you could get it done in two weeks? Yes, Sir.

3109 OK. And then as far as?

3110 Notice to owners adjacent to the unit.

3111 Was notice provided to affected persons as XTO understands that term. Yes Sir.

3112 And what are affected persons as as XTO understands that term?

3113 So we provided notice to the offset operators of the wells on the outside of the the

3114 federal unit as well as the lessees of record or the working interest parts for any areas

3115 where no wells were drilled. OK.

3116 I'm.

3117 Gonna just if it's OK with you, Mr. Examiner, I'm gonna pause, redirect and defer to

3118 Mr. McClure to see if those answers help clarify some of his questions, if that's

3119 acceptable.

3120 I thought you said a moment ago that you were just going to answer some of Mr.

3121 McClure's questions.

3122 I I do plan to do that.

3123 Yes, I just wanted to see if there was any additional clarification that Mister McClure

3124 needed before I respond to responded to his question about waiving protests of

3125 NSPS for you not do that, understood. Just answer the questions if you would and

3126 finish your questions with this witness. Thank.

3127 You.

3128 Mr. McClure, as regards to your question about whether.

3129 Qo will waive its right to object to NSP's adjacent to the unit.

3130 Exte OS position is that there's too much uncertainty about what might be proposed

3131 and is not willing to.

3132 At this time, wave the right to object to NSP's.

3133 And XTO provided notice of this application to the same parties who would receive

3134 notice of NS PS and essentially is seeking reciprocal rights and notice as to any other

3135 NS PS. As far as protecting.  
3136 Against waste and corruptive rights of owners adjacent to the NSP, I will go ahead  
3137 and ask the witness some questions now on redirect to explain that answer.  
3138 And we have an additional exhibit that we just emailed to.  
3139 To pride in VF and also emailed to the clerk, we're calling this exhibit B7.  
3140 We'll put it up on the screen and I will proceed to authenticate the witness.  
3141 Sorry, the exhibit with the witnesses testimony.  
3142 Unless you want to check 1st to see if there are any.  
3143 Objections before I authenticate it.  
3144 Should I just go ahead and authenticate it OK?  
3145 Mr. Fletcher.  
3146 Have you seen this exhibit previously?  
3147 Was this exhibit prepared under your or prepared by you or under your direct  
3148 supervision?  
3149 Yes, Sir.  
3150 Do you have personal knowledge of the matter is set forth in this exhibit?  
3151 Yes, Sir. I offer this exhibit B7.  
3152 OK.  
3153 Into the record.  
3154 I don't know if you want to.  
3155 I apologize.  
3156 I was not listening, I said.  
3157 I thought this would go on a little longer than that and I'd have a chance. I'm sorry.  
3158 I offered this exhibit.  
3159 Yes, Mr. Fletcher, do you recognize this exhibit?  
3160 Yes, Sir.  
3161 Was it prepared by you or under your direct supervision?  
3162 Yes, Sir.  
3163 Do you have personal knowledge of the matter set forth in the exhibit?  
3164 Yes, Sir. I offer this exhibit to the record, Mr. Savage.  
3165 No objection. Sorry. Thank you.  
3166 It's admitted as exhibit 1.  
3167 B7B7.  
3168 Yes. So we have a new exhibit, OK. So this will be in some sort of amended exhibit  
3169 packet, OK.

3170 Yes, go right ahead. Thank you.  
3171 Umm.  
3172 Mr. Fletcher.  
3173 The sections on the exterior boundary of the unit appear to have some shading in  
3174 yellow and blue.  
3175 Can you explain to us what that shading indicates?  
3176 Yes, Sir. The yellow would be federal acreage and then the blue would be state SLO  
3177 acreage.  
3178 And are the shaded sections. Those that receive notice of the application to affected  
3179 persons? Yes, Sir.  
3180 And again, affected persons would include the well operators or if there's no  
3181 operator, the lessees of record, is that correct? Yes, Sir.  
3182 And let's zoom in on the southwest area of the unit, where Mr. McClure was asking  
3183 you some questions earlier regarding the West half W half of Section 8.  
3184 Is it?  
3185 Is it your contention that notice was provided to the owners in the West half W half  
3186 of Section 8?  
3187 Yes, Sir. And also all of Section 7.  
3188 Yes, Sir.  
3189 And therefore, would you expect that if any of those owners had a concern about  
3190 stranding of the West half of West, half of Section 8, that they would have either  
3191 objected or contacted you?  
3192 Yes, Sir.  
3193 Did you receive any communication from the owners in the West half W half of  
3194 Section 8?  
3195 No, Sir, I noticed that the West half W Half, Section 8 in the southeast of Section 7  
3196 are colored white.  
3197 Does that mean that those people did not receive notice?  
3198 Sorry where?  
3199 Where again, the West, half W half of Section 8.  
3200 Just right by the red line.  
3201 No, they would have received notices, OK.  
3202 Umm.  
3203 Mr. McClure, that concludes my.  
3204 Questions in regards to your follow up question about protecting waste if the.

3205 If QO does not elect to waive its right to protest NSP's.  
3206 And I'm prepared to conclude my redirect with a few more questions. Go ahead  
3207 please.  
3208 Umm.  
3209 Let's turn to the application page four of the application. Page seven of the PDF  
3210 packet.  
3211 Mr. Fletcher, do you recall Mr. Savages? Questions about prayer be which is the part  
3212 of the application that pertains to non standard locations or NS LS and the OCD  
3213 regulation that exempts wells in unitized areas from certain setbacks. Yes, Sir.  
3214 And are you aware of whether or not?  
3215 Special pool rules take precedent over that particular regulation.  
3216 Yes, Sir.  
3217 They they do OK.  
3218 Can we please put up as a demonstrative exhibit nmac 1915 to 9?  
3219 And we would ask.  
3220 The division to take administrative notice of 1915 to 9.  
3221 In in which it is stated that orders including special pool orders shall prevail against  
3222 rules.  
3223 Can you put up the other section?  
3224 We scroll up to.  
3225 No, just scroll up to the header.  
3226 Well this is 19151615.  
3227 So we would ask also for the division to take administrative notice of 19/16/15.  
3228 16 E 3.  
3229 Stating that special pool rules take precedence over.  
3230 The setbacks in 19151615.  
3231 And specifically, calling out the Purple Sage Wolf, Kim.  
3232 So, Mr. Fletcher.  
3233 Is it your understanding that it is these rules that?  
3234 'Cause special pool rules and orders to take precedence over the the default  
3235 regulation for.  
3236 Setbacks and on standard locations.  
3237 Yes, Sir.  
3238 OK. Are there special pool rules in the bighetdy unit?  
3239 I believe the.

3240 The purple Sage runs across kind of southern portion of the Bighigh unit.  
3241 Outside of that, there's other pool pools throughout multiple pools throughout.  
3242 We're going to turn to page 15 of the application.  
3243 And are you familiar with this page of the application showing special pool rules for  
3244 the Bone Spring?  
3245 This one shows Wolfcamp.  
3246 I'm sorry. Let's go to page 15.  
3247 Well, you can stay on that page.  
3248 On this page is your understanding that this.  
3249 Is this page in the following few pages show the special pool rules for the wolf camp  
3250 within the Big Eddy unit?  
3251 Yes.  
3252 And is it your understanding that?  
3253 Those rules.  
3254 The setbacks and those rules and non standard location issues in those rules would  
3255 take precedence over the default regulation.  
3256 Yes, Sir. OK.  
3257 Let's go to page 15.  
3258 Same questions for the bone spraying.  
3259 Yes, Sir.  
3260 Umm.  
3261 And is there are are there situations where XTO?  
3262 Plans to or might be might need to establish.  
3263 Or might need to get approval for NSL's in the interior of the unit within these.  
3264 Special pool areas? Yes, Sir.  
3265 Can you give us an example?  
3266 And if you want us to turn to let's say, let's turn to exhibit B5.  
3267 Page 127 of the PDF.  
3268 So as previously discussed, we talked about the Batman area, so that was one area  
3269 that we actually did have to apply for NSPS.  
3270 We we did four there other areas that would require us to do NSPS would be what  
3271 we're what we're referring to as the DI 10 S.  
3272 Sorry, Mr. Fletcher. Let's let's pause for a moment. Let's look at.  
3273 The.  
3274 We're talking about NSL's.

3275 Let's let's look at the Batman phase one unit because we're talking.  
3276 You're talking about Batman?  
3277 Is is there a possibility that? Well, it looks like there was a unit established for  
3278 sections 3435 and 36 and then another one established for 2526 and 27.  
3279 Does that sound correct?  
3280 OK.  
3281 Yes, Sir.  
3282 So essentially two nights lay down 1920 acre units.  
3283 Yes, Sir.  
3284 Is there is there a situation where Exxon might or XTO might need to drill well on the  
3285 boundary between those two units?  
3286 There could be.  
3287 And would that require an NSL?  
3288 Yes, Sir.  
3289 And if that were a special pool, would that NSL be exempted under the object to  
3290 this?  
3291 Based on speculative.  
3292 There's nothing concrete.  
3293 I'll withdraw the last question.  
3294 Let's move on.  
3295 Mr. Fletcher.  
3296 Do you recall Mr. Savages question about the title of the application?  
3297 He asked if the application was titled Spacing Application.  
3298 Do you recall that question?  
3299 Yes. Can we turn to page 4 of the application?  
3300 Can you read me the title of this application?  
3301 Application of XTO Energy Inc.  
3302 For spacing within the Big Eddy federal exploratory unit, Eddie and Lee counties, New  
3303 Mexico and what does it say right below that?  
3304 Application where.  
3305 Yeah, the between the caption and the the unbolded text.  
3306 The underlined word.  
3307 Application does that say spacing application? No thank you.  
3308 Do you recall Mr. Savage's questions about the timing of?  
3309 NSP's, when there is an objection.

3310 It's fairly early in his questioning, so I can try to refresh your memory if you need it.  
3311 Yes, please.  
3312 He asked if, for example, the Batman applications were the Batman NSP. Applications  
3313 were protested.  
3314 They were not.  
3315 And do you recall him asking how long it would take to have to get through an UN  
3316 protested application? Yes, Sir.  
3317 And you're do you have experience dealing with NSPS when there's an objection  
3318 filed?  
3319 No, Sir. Have you ever?  
3320 Dealt with or been involved in any kind of an NSP or other OCD application where  
3321 there's an objection filed other than this one.  
3322 No, Sir. OK.  
3323 Let's return to some of Mr. Savage's questions about.  
3324 Correlative rights. Do you recall Mr. Savage asking you about your understanding of  
3325 correlative rights? Yes, Sir.  
3326 And does protection of correlative rights according to your understanding mean  
3327 that?  
3328 You ensure that an owner's minerals aren't drained without compensation.  
3329 Yes.  
3330 And.  
3331 Would that definition apply to an owner of interest adjacent to a spacing unit?  
3332 If that if those interests were being drained by wells inside the spacing unit.  
3333 Sorry, could you repeat the question certainly.  
3334 Would protection of correlative rights mean ensuring that?  
3335 You're not draining.  
3336 Minerals outside of a spacing unit with wells inside the spacing unit.  
3337 Let me rephrase, yeah.  
3338 You have a spacing unit.  
3339 There are wells inside the spacing unit that are producing.  
3340 Does protecting correlative rights mean ensuring that those wells don't drain  
3341 minerals outside of that spacing unit?  
3342 Yes, that is your understanding of correlative rights. Yes, Sir.  
3343 And is your understanding of the application that it relies on.  
3344 Established existing setbacks to protect coral of rights.

3345 Yes, we would use established setbacks and does the application expressly retain the  
3346 setbacks that have been established for years by pool rules and regulations? Yes, Sir.  
3347 Let's turn to exhibit B5 and zoom in on the Yeti unit.  
3348 And regardless of Xiao's actual plans of development for a Yeti unit.  
3349 Let's assume forsake of the cruelty of rights, questions that wells are going to stop at  
3350 the eastern boundary of the Yeti unit.  
3351 Is that your understanding that the wells would have to conform to the setbacks?  
3352 Established by pool rules and regulations.  
3353 For the eastern boundaries of the Yeti unit.  
3354 Yes, Sir.  
3355 And according to your understanding of correlative rights, would this adequately  
3356 protect the offset owners correlative rights? Yes, Sir.  
3357 Would an adjoining owner have been able to protest today's application if that  
3358 owner was concerned about corralled rights?  
3359 As to notice of this application correct, yes.  
3360 OK.  
3361 Let's talk for just a moment about the questions for Mr. McClure regarding pool  
3362 codes.  
3363 I believe Mr. McClure asked you if there was any consideration of doing essentially a  
3364 special pool for the entire Big Eddy unit.  
3365 Does that sound correct?  
3366 Yes, Sir.  
3367 And did Xeo consider that option?  
3368 Yes, Sir.  
3369 And this application does not apply that option right?  
3370 That is correct.  
3371 It retains essentially doesn't change existing special pool rules.  
3372 Is that right? That's correct.  
3373 OK, since that's the the application before the division, let's call that option a OK and  
3374 let's call option B establishing a single special pool for the entire Big Eddy unit.  
3375 OK. Are those two options clear in your head?  
3376 I believe so, yes.  
3377 OK and did.  
3378 Did XTO management inform OCD management that it preferred option A or did  
3379 OCD management inform XTO management that OCD management prefers option

3380 A?

3381 It was OCD management that.

3382 Told XTO management that they prefer option A so it would be fair to characterize

3383 the situation as XTO management deferring to OCD management on this particular

3384 issue. Yes Sir.

3385 OK. No more questions on redirect.

3386 Thank you. Thank you, Mr.

3387 Savage, do you have any recross on those particular subjects on redirect?

3388 I do, Mr. hearing examiner OK.

3389 So you if I'm correct, you answered.

3390 That.

3391 That you gave notice on what you understood to be the affected persons. Is that

3392 correct? Yes, Sir.

3393 OK, now are you familiar with 19151615?

3394 5B regarding notice.

3395 For application of a non standard unit.

3396 I don't know the full code off the top of my head. OK Sir.

3397 I can just read this real quick, Mr. Mr. Savage, if the witness is not familiar with the

3398 rule, then we can't go any further with that line of questioning.

3399 May I post?

3400 May I post the rule?

3401 No, we're not going to have.

3402 We're not going to have the witness read the rules and then no. If you want to ask

3403 him factual questions, please. OK, you got all day. But.

3404 If not, his understanding of rules. Thank you.

3405 OK.

3406 You stated earlier that there is no request for an approval of an NSP application or

3407 non standard specific non standard spacing unit in this application.

3408 Is that correct?

3409 Sorry. Objection. That was not topic of redirect.

3410 This is average.

3411 Was that a topic of redoing?

3412 Yes, this is foundation for the question about.

3413 The appropriateness of giving notice to.

3414 Affected persons. What I would prefer you do is if this is a topic that was brought up

3415 on redirect lead with that so that we all know what you're referring to and that you're  
3416 not going beyond the scope of redirect.  
3417 OK.  
3418 OK.  
3419 So you said that you gave notice based on to the affected persons for the adjoining  
3420 tracks, is that correct?  
3421 Yes, Sir.  
3422 OK.  
3423 So what rule allows you to give notice just to the affected persons for adjoining  
3424 tracks? If you're not requesting a specific approval of a non standard unit?  
3425 Are you referring to what rule?  
3426 Followed to provide notice on this OK.  
3427 Yes. So this application is for accommodations and spacing accommodations,  
3428 correct?  
3429 Yes, Sir.  
3430 OK.  
3431 So what rule did you follow that guides what notice you have to give and to what?  
3432 What owners and what parties?  
3433 For for proper notice.  
3434 So.  
3435 Kind of over noticed here, because we did internal and external and then we based it  
3436 off of the NSP, OK.  
3437 OK.  
3438 So, so the adjoining tracks are what I'm focusing on.  
3439 So you basically you you gave notice to the affected persons in the adjoining tracks  
3440 based on the NSP notice rule?  
3441 Yes, Sir. OK.  
3442 And is it correct that you said that this application does not request approval of a  
3443 specific NSP unit?  
3444 Objection. Asked an answer.  
3445 It's also beyond scope of redirect.  
3446 Mr. Savage, did he answer that question earlier on your original cross examination?  
3447 I think he did.  
3448 I believe this is relevant to whether or not it's appropriate.  
3449 I'm not saying what you're asking is not relevant.

3450 Is that particular question has been answered and answered correct.  
3451 OK.  
3452 OK.  
3453 So how does the how does the NSP rule that you used?  
3454 For approval of specific.  
3455 Non standard applications apply to proper notice for adjoining owners.  
3456 And this kind of application that has.  
3457 Request for approval of a specific non standard unit.  
3458 So given that.  
3459 We have the irregular shapes, which there's certain ones that would require the NSP,  
3460 you know, under current.  
3461 Current rules.  
3462 We utilized the NSP notice.  
3463 Process.  
3464 Given that you know we're taking that we're we're asking for 40 acre spacings on  
3465 this.  
3466 So yeah, I mean.  
3467 I don't think that there's anything governing.  
3468 The OR that specifically states for this application what we would, what we would  
3469 have to follow, which rule we we utilize the NSP application NSP notice application or  
3470 notice process to.  
3471 To file.  
3472 So would it be fair to say that because this application does not ask for an in  
3473 approval of an SP unit or approval of an NSP application, that that rule does not  
3474 apply?  
3475 Objection. Calls for legal conclusion.  
3476 Mr. Savage, you've asked this question.  
3477 I I could answer this question at this point.  
3478 OK, he's answered the question. You can use this in your closing argument.  
3479 You have the facts you need.  
3480 Can you move on to a new subject now?  
3481 Yes, I think I just have.  
3482 One more.  
3483 Question.  
3484 Two more questions.

3485 Umm.

3486 So.

3487 Mr. your Council said that XTO is not willing to commit.

3488 To consenting to not objecting.

3489 To non standard unit applications on the other side of your non standard

3490 applications or standard applications. If it's if it's approved.

3491 Does.

3492 Does that? Would that result in a disparate, disparate treatment between the two

3493 proposed units?

3494 That would negatively impact the creation of rights of the owners.

3495 Or operators outside that are adjacent to the unit.

3496 In other words, does this result in unequal treatment?

3497 Of parties one party inside that gets the advantage.

3498 Of having a standard unit that can't be objected to and party on the outside who has

3499 to go through the NSP approval application is does that result in?

3500 Improper treatment under the rules.

3501 I don't think so, because we did provide notice to all the parties.

3502 Under this application.

3503 And and if if an owner outside of adjoining the unit.

3504 Has to submit in the future, not in this application but in the future.

3505 An NSP application to get approval for its non standard unit because it mirrors the

3506 irregular shape of what it's adjoining.

3507 Uh.

3508 Can can XTO object to that.

3509 Application.

3510 I.

3511 I believe so, yes.

3512 If if you're asking.

3513 In the areas where we have kind of these non standard areas outside of the areas

3514 that are already been developed, yes, OK. And would this be an equal treatment?

3515 Under the procedures under the rules, didn't you ask this question a moment ago,

3516 Mr. I don't believe he answered that question.

3517 He he answered that it would not be on equal treatment because they had an

3518 opportunity to object to the application today.

3519 That's what I heard, Mr. right.

3520 So I continued that line of questioning and pointing out that this would not apply to  
3521 a notice for this application.  
3522 This would apply to notice and opportunity to object on a future application that  
3523 dealt specifically with non standard spacing units.  
3524 But he answered your question, so that sounds like something you can use in your  
3525 closing argument, right?  
3526 I thought that was not a direct answer to the question.  
3527 I feel like it was not.  
3528 But.  
3529 Last question is.  
3530 In your written statement and your testimony and your exhibits, have you did you  
3531 provide any evidence or testimony or argument that supports prayer B?  
3532 And prayer B is the referring to the NSL. The offsets. Is that correct?  
3533 That's correct in.  
3534 My signed statement? No Sir. OK.  
3535 All right.  
3536 Thank you.  
3537 That concludes.  
3538 Thank you, Mr. McClure.  
3539

3540  **McClure, Dean, EMNRD** 2:06:47

3541 Thank you, Mr. hearing examiner, Mr. Fletcher.  
3542 Earlier you referenced under questioning from Mr. Parrott that notice or title had just  
3543 been conducted on the uncommitted track. In March of this year.  
3544 Is that correct?  
3545

3546  **Pecos Hall** 2:07:06

3547 Yes, Sir.  
3548 So we update that exhibit B. Yes, Sir.  
3549

3550  **McClure, Dean, EMNRD** 2:07:12

3551 Now, in regard to the committed tract.  
3552 Does that statement also apply to those?

3553

3554  **Pecos Hall** 2:07:20

3555 Absolutely, yes, Sir.

3556

3557  **McClure, Dean, EMNRD** 2:07:22

3558 OK.

3559 So then is it accurate to say that the entirety of the Big Eddy unit has had title

3560 researched since March then?

3561

3562  **Pecos Hall** 2:07:36

3563 As to.

3564 As to current title, no Sir.

3565 Is that is that the question? So as of March to current have we had new title run?

3566

3567  **McClure, Dean, EMNRD** 2:07:51

3568 No, no, Mr. Fletcher, that that's not my question.

3569 I would just when?

3570 Mr. Parrott asked you the question he had the caviar, or he's just typically referenced

3571 the uncommitted tract.

3572 My question to you is if the same statement that title has been run as recently as

3573 March 1st, does that apply to the committed tracks as well?

3574

3575  **Pecos Hall** 2:08:17

3576 Yes, Sir.

3577 So we're constantly running title throughout the unit.

3578 Yes, Sir.

3579 And updating that exhibit B.

3580 Which is what we provided notice on yesterday.

3581

3582  **McClure, Dean, EMNRD** 2:08:27

3583 So then by extension of that response, it would be accurate to say that title research

3584 has been conducted for the entirety of the Big Eddy unit.

3585 As.

3586 At least since March 1st.

3587 Is that correct?

3588

3589  **Pecos Hall** 2:08:45

3590 Yes, Sir.

3591

3592  **McClure, Dean, EMNRD** 2:08:47

3593 OK. Thank. Thank you, Mr. Fletcher.

3594 Earlier also, Mr. Parrott asked you about.

3595 Well, he didn't really.

3596 I don't know if he was asking you per SE about definition of affected persons, but I  
3597 have a question relation to that.

3598 For offsetting tracks which has XTO as the operator.

3599 Was noticed, conducted to the working interest owners of those tracks.

3600 Next.

3601

3602  **Pecos Hall** 2:09:19

3603 So I guess let me look at my exhibit here as to on Exhibit B, I'll take 5.

3604 Are you referring towards that South side where offset to the Big Eddy unit we have  
3605 the James Ranch unit?

3606

3607  **McClure, Dean, EMNRD** 2:09:34

3608 Yeah. Just I mean to be fair, my question relates to anywhere that extends the  
3609 operator. But but yeah that I think that James or that southeast corner is probably  
3610 the most prevalent location.

3611

3612  **Pecos Hall** 2:09:37

3613 And yet, OK.

3614 Yes, Sir.

3615 So majority of that, yeah, XTO does own.

3616 Operating rights there as well.

3617 And then we're the unit operator on that Gru unit.

3618 So we provided notice to just to XTO.

3619

3620  **McClure, Dean, EMNRD** 2:10:02

3621 Now when you reference operator right?

3622 You're including all working interest in that consideration. Is that correct?

3623

3624  **Pecos Hall** 2:10:11

3625 Yes, Sir.

3626

3627  **McClure, Dean, EMNRD** 2:10:13

3628 OK.

3629 Are you familiar with?

3630 Like the standard exhibit that would be submitted with NSP application.

3631 That that depict like the track, the rounding, a proposed NSP and then the ownership  
3632 of that.

3633

3634  **Pecos Hall** 2:10:33

3635 Umm.

3636 I guess an exhibit that would be filed with the NSP.

3637

3638  **McClure, Dean, EMNRD** 2:10:41

3639 Yeah, Mr. Fletcher, it looks like Mr. Parrot put on the screen, kind of like and it kind of  
3640 shows like this is. Well, now I'm looking at this.

3641

3642  **Pecos Hall** 2:10:44

3643 OK, OK.

3644

3645  **McClure, Dean, EMNRD** 2:10:49

3646 It does have Concho.

3647 And Devon?

3648 Mr. Fletcher, are you looking at the same exhibit with me here?

3649

3650  **Pecos Hall** 2:11:00

3651 Yes, Sir.

3652 Yes, Sir, with the showing the offset operators outside the big. Yes, Sir.

3653

3654  **McClure, Dean, EMNRD** 2:11:04

3655 Yeah.

3656 Now, like I'm just sitting here looking at this.

3657 I do see where there's names identified on here.

3658 Now I'm just trying to figure like towards the right hand side of this map, like that  
3659 section 10 that's there on the you know, that doesn't really have a name there.  
3660 Is there anything that indicates who the operator is there? Does that mean there is  
3661 no operator or what?

3662

3663  **Pecos Hall** 2:11:34

3664 It would have been to the lessee of records, I believe.  
3665 Believe that's Devon. So Devin was notified.

3666

3667  **McClure, Dean, EMNRD** 2:11:45

3668 OK.  
3669 So I guess if I were to see something very similar to this is what I'd be looking for.  
3670 But if I were to ask you to include like a table or something that would go with this  
3671 and actually identify like who was provided notice in each of these off setting tracks  
3672 for instance, maybe it's new born for section 16 and 21.  
3673 Versus section 10 might be the working interest owners.  
3674 Or maybe Devin, whatever the case may be, do you understand what I'd be asking  
3675 for?

3676

3677  **Pecos Hall** 2:12:13

3678 Yes, Sir.  
3679 So you're you're asking us to provide a list of of parties on the offset side of the  
3680 bughy unit that was notified?

3681

3682  **McClure, Dean, EMNRD** 2:12:22

3683 Correct. And then to also essentially link that list to where they are in this in this map,  
3684 essentially some sort of basic legal description for them essentially. Or you could  
3685 number these areas and then have on your table the the unique identification  
3686 number to show me I guess.  
3687 What we're looking at.

3688

3689  **Pecos Hall** 2:12:41

3690 Yes, Sir, we can do that.

3691

3692  **McClure, Dean, EMNRD** 2:12:43

3693 OK.  
3694 Very good.  
3695 Now, you mentioned earlier, Mr. Parrot, I think identified like option A and option B  
3696 wherein one option is dealing with special pull rules and the other option is.  
3697 This application you remember that question, Mr. Fletcher. OK. And you had  
3698 indicated that OCD had directed XTO to submit the application in this form.

3699

3700  **Pecos Hall** 2:13:08

3701 Yes, Sir.

3702

3703  **McClure, Dean, EMNRD** 2:13:17

3704 Is that correct?

3705

3706  **Pecos Hall** 2:13:19

3707 To my knowledge, yes Sir.

3708

3709  **McClure, Dean, EMNRD** 2:13:24

3710 Self did not have a preference in the matter.

3711

3712  **Pecos Hall** 2:13:28

3713 Sorry, you you kind of cut out.

3714

3715  **McClure, Dean, EMNRD** 2:13:31

3716 Yeah. Let me ask.

3717 Is that to say that XTO does not have a preference in the matter?

3718

3719  **Pecos Hall** 2:13:43

3720 I want to say that we didn't have a preference. I believe our approach originally was  
3721 to to try to do 1 pool code.

3722 Throughout the the federal units.

3723 And we we, our management, XTO management brought that option to senior.

3724 NMOCD.

3725 Management, where they offered up that and then from my understanding there was  
3726 some discussions I was not involved in those and ultimately this route was what was  
3727 determined to be the best route for this application.

3728

3729  **McClure, Dean, EMNRD** 2:14:22

3730 And it was your understanding that the division had indicated it would prefer this  
3731 route, is that correct?

3732

3733  **Pecos Hall** 2:14:29

3734 Yes, Sir.

3735

3736  **McClure, Dean, EMNRD** 2:14:31

3737 Umm.

3738 Thank you, Mr. Fletcher, Mr.

3739 I don't any more questions for this expert witness.

3740

3741  **Pecos Hall** 2:14:49

3742 Mr. Parrot made his wetness be excused.

3743 Yes, Mr. examiner.

3744 Thank you.

3745 All right. Why don't you call your next witness?

3746 Like to call Mr. Nathaniel Ball, OK.

3747 Mr. Exemplar, can I make one request?

3748 Yes, machine.

3749 I've just noticed that Mister Fletcher has a notebook with him.

3750 Yes, we were not provided with the same notebook, but if it has anything other than  
3751 the exhibits that have been admitted into evidence, I would just ask that we're  
3752 provided with.

3753 Why don't you look through it, Michelle, and see what you find. Excellent. In the  
3754 meantime, would you have a seat, Mr. Paul?

3755 We're going to try and get you out of here.

3756 Thank you.

3757 Sure. So I've already sworn you in Mr. Ball, but you've not been.

3758 Admitted.

3759 Is an expert yet.

3760 Do you have a resume that you can show us?

3761 I believe I do.

3762 What is it marked exhibit 1?

3763 This will be exhibit C.

3764 While they're getting the exhibit up, I remind you that you're under oath what you  
3765 want to be admitted as a petroleum geologist. Is that correct?

3766 That's correct.

3767 All right, very good.

3768 All right, let's see what we have here.

3769 Mr. Xamarin, this is page 133 of our PDF and it's exhibit #1B.

3770 I'm sorry C exhibit C, just C, just C.

3771 No C1 or anything.

3772 Can you go up now please?

3773 I read this.

3774 Further.

3775 Perfect, Mr. Mr. Savage.

3776 Do you have any?

3777 Do you have any reason to dispute the qualification of this person? No objection.

3778 Thank you.

3779 Thank you.

3780 Mr. Ball, you are from here on in. Admitted as an expert before this division in  
3781 petroleum, geoscience or geology. All right, Mr. Parrot. Go ahead. Thank you.

3782 We're going to start at the bottom of page 129 of the PDF packet, which is page one  
3783 of the self affirm statement of Nathanael Ball.

3784 And Mr. Ball, do paragraphs 5 through 9 summarize your exhibits C1 through C5  
3785 accurately.

3786 Yes. Is there anything that you need to add to the information that's set forth in your  
3787 affidavit here with respect to exhibits C1 through C5?

3788 No, Sir. I just would have re summarized those. OK, then in the interest of time, let's  
3789 not have you go through those individually and we'll turn directly to exhibit C6,  
3790 which is page 145.

3791 Of the exhibit packet.

3792 And would you please explain why you've provided this exhibit and what it means?

3793 Yes, so this was meant to convey many of the considerations that Exxon Mobil, XTO  
3794 is operator of the Big Data unit has to take into account when we formulate our  
3795 development plan for the for the unit and we have it kind of grouped into kind of  
3796 4CH.

3797 Here surface regulatory.

3798 Industry leasing unit with some sort of specific.  
3799 Examples underneath which I'll walk through here very quickly so it turns the surface.  
3800 We have multiple federal leases of course across the Big Eddy unit and this can come  
3801 with Nsos or other stipulations as well as timing restrictions. The same is true of fee  
3802 and state acreage as well in the in the Big Eddy unit, we have to share surface with.  
3803 The potash mines and be mindful of our activity.  
3804 So there are portions of the Big Eddy unit where we do not have surface access.  
3805 I also have to take into account topography 130,000 plus acres and so there's a  
3806 significant topographical relief across the unit.  
3807 It inhibits where we can get surface access and where we can put pads and facilities  
3808 and infrastructure.  
3809 In that area, there's also numerous archaeological sites that we have to take into  
3810 account when we're situating our surface locations as well as wildlife habitats that are  
3811 either known or that we discover in the on site.  
3812 Process.  
3813 In terms?  
3814 In terms of of interfacing with the regulatory agencies.  
3815 Multiple permitting multiple permits.  
3816 Excuse me that we have to obtain some multiple permit timelines that we have to  
3817 manage depending on the specific portion of the unit that we're in. And then of  
3818 course NSP's where we need them and the delays that that could cause if we were to  
3819 be prot.  
3820 Specifically to last point, how that impacts our ability to obtain a commingle  
3821 approval and and flow our wells.  
3822 In terms of of quote industry issues, this is just simply to acknowledge that Exxon  
3823 Mobil runs an integrated Permian Basin.  
3824 Operation currently we're operating over 30 rigs in the Greater Permian Basin, 8 plus  
3825 frac crews depending on on the day.  
3826 So drilling rig completion, crew availability, supply chain logistics in relatively remote  
3827 parts of New Mexico.  
3828 Weather again, all of this has to come together.  
3829 To really balance our activity across the basin and and we maintain a a pretty  
3830 integrated and say pretty a very integrated.  
3831 Between all disciplines and long term, two to three years schedule that we're  
3832 constantly in maintenance of and moving things around and then finally leasing unit

3833 issues that we have to consider such as primary term expirations, assigned acreage  
3834 drilling commitments of course existing horizontal and vertical wells in the.  
3835 Unit and how that impacts where and how we put our wells. And then all while  
3836 balancing our development to achieve maximum or sorry our mandate to achieve  
3837 maximum development of the unit.  
3838 Pardon.  
3839 In the absence of approval of this application, would XTO be required to establish  
3840 multiple non standard spacing units to fully develop the spigot unit? As my  
3841 understanding yes.  
3842 Would those be just the exterior of the unit, or would it also be more efficient to  
3843 establish non standard units on the interior of the unit?  
3844 Now it would be just as efficient.  
3845 Or needed in the interior of the unit as well.  
3846 What an example of that be for?  
3847 Just as an example of a 12180 or a 19120 acre spacing unit for some bone spring  
3848 wells, that is an example, yes.  
3849 And as an example of why that might happen, are there commingling or?  
3850 Service facility issues that come up, yes.  
3851 So because of our limited surface access, especially in and around potash, we are  
3852 actively seeking commingle on the majority of our drilling.  
3853 Islands functionally, where we have to drill DSU's both East and West or in multiple  
3854 directions, but don't have surface rights to create large enough facilities to have  
3855 segregated facilities.  
3856 So coming up becomes very important when managing our surface access.  
3857 And in so far as planning for comprehensive development of the Big Eddy, did XTO  
3858 consider the option of initially at the outset say now establishing?  
3859 30 or 40 non standard units blanketing the entire unit.  
3860 It was considered, but that's very inefficient.  
3861 We are a learning organization and so our comprehensive development plan will  
3862 change over time as we attempt to balance the factors that I have listed here as well  
3863 as other sort of events that happen over the the the course of development.  
3864 And so we're constantly drilling wells.  
3865 We drill new wells, we employ new technologies.  
3866 All of that comes together into our comprehensive development plan and  
3867 functionally necessitates changes to that overtime and do those changes involve, for

3868 example, changes in lateral lengths of wells.

3869 Objection. I think this outside the scope of his expertise.

3870 I don't think he's qualified as a petroleum engineer or a drilling engineer.

3871 He is qualified as a petroleum geologist and a petroleum geoscientist.

3872 Mr. Jeff, I mean Mr. Parrot.

3873 I believe that petroleum geologist is more than intimately familiar with the reservoir

3874 characteristics and the lateral links that are best suited.

3875 It's a necessary part of the job to be able to interface with the engineering team and

3876 plan wells, and I can ask, sorry.

3877 Mr. Ball, are you familiar with this?

3878 Is this part of your?

3879 Is this part of what you do on a regular basis? Yes, Sir.

3880 Mr. Savage, it's part of what he does. So I would say that XTO is large enough and

3881 sophisticated enough company that if they wanted to provide expert witness, they

3882 have plenty of petroleum engineers and plenty of drilling engineers and they should

3883 have prepared to provide somebody with that.

3884 Kind of resume.

3885 I'm not disagreeing with you, but if this question is within his expertise and he deals

3886 with it professionally on a regular basis then.

3887 What's to stop him from testifying? 'cause we we don't.

3888 We don't.

3889 We don't know that the objection really is about relevance, because if it's outside his

3890 expertise, then his answer is not relevant or is it reliable, credible.

3891 It's a credibility issue and and we don't know.

3892 We we we see the resume and the qualifications for geology.

3893 We don't see a list or litany of qualifications for petroleum engineering, reservoir

3894 engineering or drilling.

3895 I'm going to allow this question.

3896 And Mr. Savage, if it goes further and it seems like maybe we're getting outside an

3897 area that I think he has expertise in that I'll, then I'll sustain your objection. But for

3898 now it's overruled.

3899 Go ahead and ask the question. Can you repeat it please?

3900 Yes. So would the evolutionary learning process at XTO deploys in well planning

3901 potentially result in for example changes to lateral length?

3902 Yes, it would.

3903 And I'll phrase the question slightly differently.  
3904 In your experience working with XTO has xtos process in the past resulted in changes  
3905 to lateral lengths.  
3906 Yes, it has and has it also resulted in changes in the spacing between well laterals.  
3907 Yes, thank you.  
3908 No more questions.  
3909 Thank you, Mr. Savage.  
3910 Yes, Mr. Ball, thank you for your time and expertise today.  
3911 I'm ask just a a series of questions here, hopefully rather quickly.  
3912 Looking at your exhibit C2 and C4 for the Bone Spring and Wolfcamp.  
3913 Do the bone spring pools and wolfcamp's pools in and stop at the border of the Big  
3914 Eddy feu denoted by the black dotted lines in those exhibits.  
3915 I'm I'm unaware of the borders of the pools.  
3916 I do not know the borders of the specific pools.  
3917 OK.  
3918 So. So then they they could very well you did not.  
3919 You do not know that whether the pool extends beyond that border.  
3920 Objection. It's outside the scope of direct, direct testimony was limited to the  
3921 boundaries of the FEU.  
3922 Mr. Savage, so the scope of this is.  
3923 The geology that the adjoining owners would be dealing with at the border and  
3924 beyond the border, and if the pools extend beyond the border, then I would say that  
3925 that's going to affect the owners correlative rights, the owners of the adjoining  
3926 tracks.  
3927 And units, I'm not defeating you, Mr. Savage.  
3928 And you may be correct, but he said he doesn't know where the pools are.  
3929 He said he doesn't know where the borders of the pools are, so how can he testify to  
3930 more than that if he doesn't know?  
3931 Well, I could say, you know then that you agree that it's possible that they extend  
3932 well beyond the borders.  
3933 You can ask the other question you want if it's objected to. I have to rule on.  
3934 Do you agree that given the nature of pools in general, that these pools could extend  
3935 well beyond the borders?  
3936 And I'll object to that.  
3937 It's outside the scope of the application and the witnesses testimony, which was

3938 limited to within the boundaries of the FEU. Mr. Savage, can you stick to questions  
3939 within?  
3940 I'll go on.  
3941 I believe that the division has been informed of my concern with that question. Thank  
3942 you.  
3943 In paragraphs 5 of Xtoe application and then later in paragraph B of XTO pre hearing  
3944 statement in both places it states that the FEU covers all depths and formations  
3945 below the Dakota Sands.  
3946 We're in. We're in the Big Eddy feu is the code of sans formation located?  
3947 I am unaware of a Dakota sand in the Bay Yeti Fu.  
3948 Does Dakota sand exist at all in the Big Eddy?  
3949 At all in Lee and Eddie counties.  
3950 Objection. Beyond the scope, Mr. Savage.  
3951 Can you keep it to within the unit please?  
3952 And just to be clear, who drafted the pre hearing statement?  
3953 That was drafted by Betty and Wozniak, OK.  
3954 So are you.  
3955 Did you draft the Prehearing statement?  
3956 No, not in reference to the Dakota Sand as it's been asked.  
3957 OK.  
3958 Thank you.  
3959 Go ahead, Mr. Savage.  
3960 OK, in paragraph 11B of your statement, you state that the horizontal spacing.  
3961 Horizontal spacing proposed for the FAU is justified from a geological.  
3962 Standpoint has xto's application proposed any specific or defined?  
3963 Horizontal spacing units in the FEU that you were able to analyze based on the  
3964 geology itself.  
3965 Can you repeat that?  
3966 I think I understand, but can you try again so?  
3967 Did XTO in this application propose any specific?  
3968 Non standard horizontal spacing units that you were able to analyze the geology of.  
3969 So no, this application does not specify any specific non standard spacing units.  
3970 I believe that was the first part.  
3971 OK.  
3972 I have your question and your professional expertise as a geologist.

3973 Is it possible?

3974 That if you looked at the details of a proposed non standard horizontal spacing unit  
3975 that your conclusions could be very different based on the specific facts than your  
3976 generalizations that you presented in your exhibits and statement speculative.  
3977 It's expertise.

3978 He can extrapolate.

3979 We just established that there are no spacing units proposed and so this requires  
3980 consideration of spacing units that are not proposed and may never be proposed.  
3981 So. So, Mr. Parrot, please don't add on if you're going to make an objection, just  
3982 make it understood.

3983 Mr. Savage, I'm not even sure I understood the question. I mean, I thought I did in  
3984 verse, but then it kept sort of going in, sort of turning. And then it came back.  
3985 Here's the question.

3986 OK.

3987 So he has asked me so I can understand. OK, so this expert has a lot of experience  
3988 looking at looking at the geology of spacing units, specific spacing units, OK.  
3989 His testimony his exhibits has provided generalizations across 133,000 acres in his  
3990 experience.

3991 Could generalizations that he as a geologist provide be very different when you  
3992 apply the observations to a specific non standard spacing unit? That's the question.  
3993 The problem is the problem is and I can understand where the objection comes from.  
3994 It's it's a vague.

3995 It's a vague question and it's not even giving him the data he needs to use his  
3996 expertise on it. It's about.

3997 Some.

3998 Unspecified specific that you call specific, but it's not specific.

3999 So I sustained the objection.

4000 Could you rephrase the question or move on?

4001 No, I'll move on.

4002 Thank you.

4003 Under the rules.

4004 Under the rules, the building blocks for guest pools 160 acre tracks and the building  
4005 blocks for oil pools are 40 acre tracks.

4006 Do you agree with that? If you're familiar with the?

4007 OK. No, I'm not.

4008 You're not familiar with the this the the building blocks of the units for the different  
4009 forms of gas versus oil.  
4010 Not in detail now, OK.  
4011 So when you propose the 48.  
4012 When you describe the 40 acres in in your statement, you were unaware that that is  
4013 the current building block for oil. So I I'm.  
4014 I was aware that those are the building blocks, but I'm not familiar with the rule  
4015 beyond that. OK.  
4016 So you, but you're aware of the fact that.  
4017 The building block for gas.  
4018 160 acres in the building block for oil.  
4019 Is 40 acres correct?  
4020 That is my working knowledge.  
4021 OK, so from a geological standpoint and I'm a geologist, but you know I've had some  
4022 classes science classes in in college, so I'll just go based on the knowledge I have to  
4023 formally have a question from a from a geological standpoint would be fair to say  
4024 that the.  
4025 Difference in the density and expansion of the hydrocarbon. The oil, whether oil or  
4026 gas.  
4027 Is what should justify and determine the proper size of the building block for that  
4028 hydrocarbon for the unit.  
4029 Let me let me let me add a rephrase and add to every phrasing of it.  
4030 In other words, because gas is less dense and more expansive that it needs larger  
4031 building blocks, such as the 160 and because oil is more testifying.  
4032 Can you ask a question please?  
4033 Do you agree?  
4034 That because gas is less dense and more expansive that it needs larger ones, 60 acre  
4035 building blocks. And because oil is more dense and less expansive, it needs smaller  
4036 building blocks.  
4037 No.  
4038 Can you explain that?  
4039 I think the density of the fluid is one of the factors that should be considered in the  
4040 size of the building block. There are likely others.  
4041 OK, so that is one of the one of the criteria.  
4042 So let's assume that that's the only. That's the only criteria you can look at.

4043 Would you then view gas needing a larger?  
4044 Building block and oil not necessarily needing as large of of a building block. If that is  
4045 the only.  
4046 Factor.  
4047 Objection. Calls for speculation, assumes facts not in the record.  
4048 Mr. Savage, where are you going with this?  
4049 This is important.  
4050 Where are you going with it?  
4051 Let's let's let's put our cards on the table.  
4052 Well, that, that, that, that that loses my opportunity to to surprise.  
4053 Well, not surprised, but to lead up to, you know, some questions that will rely on that  
4054 foundation. I mean what? Why?  
4055 Why? Why do I have to?  
4056 I mean is it?  
4057 Is it?  
4058 Would you ask the witness?  
4059 About this and he said no. Then he explained why he said no.  
4060 Now you're asking it, he said. I'm sorry.  
4061 Excuse me for interrupting.  
4062 Now you're asking him yet again, and you want him to sort of assume that no other  
4063 factors apply. In his answer, he said. That is a factor.  
4064 So then I narrowed it down to that factor and I said if you exclude all other factors  
4065 and you just looked at that factor, no other factors were relevant.  
4066 Then would it be true that gas would probably need a larger building block?  
4067 And oil would have a smaller ball.  
4068 Can you answer this question?  
4069 Are you able to? Yes or no?  
4070 Are you able to answer the question?  
4071 Yes, OK. Overruled.  
4072 Answer the question.  
4073 OK. Can we start again, Sir?  
4074 You're gonna miss your plane if he starts again.  
4075 I would never just assume that this is the only factor.  
4076 So that's the premise of the question.  
4077 So let's assume it's the only factor.

4078 Let's assume it's the only factor.  
4079 Sure, two different phases may require two different building blocks.  
4080 OK.  
4081 So.  
4082 Have you ever played the game of Tetris?  
4083 You fit.  
4084 You fit little blocks into.  
4085 All right, just out of left field.  
4086 Yes, I've played the game of Tetris.  
4087 So is it fair to say that xdio's application and proposed building blocks that the sizes  
4088 of the building blocks in this case quarter quarter sections for gas?  
4089 Is justified and determined, not necessarily by the scientific nature and physical  
4090 characteristics of the kyber carbon, but solely by the arbitrary geometric shapes.  
4091 And sizes of the irregular border that that you is it?  
4092 Do you agree that you for the convenience of avoiding objections and delay, you  
4093 want to have 40 acre tracks for gas fit into the niches of the irregular border?  
4094 No.  
4095 OK.  
4096 But wouldn't you agree that maintaining 140 acre building block for gas? If that is  
4097 the primary factor?  
4098 As currently set by the rules.  
4099 Would result in more optimal production and development from a unit built on that  
4100 if if there were no objections. Do you mean 160 acres?  
4101 160 acre tract.  
4102 Yes. OK. So.  
4103 Why would?  
4104 A-40 acre track for gas let's say so.  
4105 Let's say hey a 300, a 40 acre, let's say let's say a 40 acre tract, a unit built on 40 acre  
4106 tracks for gas.  
4107 So you would have.  
4108 Let's say you have 66 building blocks versus 6 building blocks of 160 acre tracks for  
4109 gas.  
4110 Which would be provide more optimal production?  
4111 The likely many things at play there.  
4112 Let me put it this way then.

4113 If you reduce the building blocks for gas to 40 acres and you use it to fit into a  
4114 crevice on the border, and then you create a unit of contiguous building blocks of 40  
4115 acres.  
4116 Versus the opportunity to use 160 acre tracks on the border, which you can under  
4117 the rules you just you might get a check.  
4118 You have to do a non standard unit using 160 acre contiguous tracks, which would  
4119 be the better unit.  
4120 For production of gas.  
4121 I don't know that I could tell you that with what you have presented me. OK, what  
4122 would you need to know additionally to be able to answer that question, I think we  
4123 would have to have a conversation on the number of wells in the development.  
4124 The benches that we are developing.  
4125 The surface locations accessible to develop the subsurface resources in part OK.  
4126 So let's let's assume.  
4127 All surface access.  
4128 Is available.  
4129 Let's assume that both 2 both wells are drilled in the middle of the unit equally based  
4130 on the building blocks.  
4131 And let's assume that's it's in the middle of the Wolfcamp. Purple, Sage Wolf camp  
4132 pool.  
4133 Objection. This is Suman Saxon. Not not only not in evidence, but actually directly  
4134 contrary to the evidence, as the witness was just a few moments ago testifying that  
4135 there are all of these restrictions in the unit that necessitate adjustments to, well,  
4136 planning, spacing, lateral length, etc. And that.  
4137 Is the purpose of the application.  
4138 Mr. Savage, why are you assuming facts that are the opposite of what's in evidence?  
4139 I don't think I am assuming facts are oppositely. In the end, the evidence based on  
4140 his testimony, and I heard it Mr. Parrot was correct in the way he characterized it.  
4141 These are the opposite facts that are in the record the the the facts in the record is  
4142 that they want to use 40 acre tracks for a gas pool and they want the reason they  
4143 want to use it because it fits into the niches of the border I.  
4144 Understood that. OK, if you if you compare that if you compare that to.  
4145 A unit under the Rules for gas that would be contiguous 160 acre tracks.  
4146 They would.  
4147 It would overlap parts of the border.

4148 It would overlap some adjoining units and you would have to get.  
4149 You'd have to do an NSP application, but if you got approval of that non standard  
4150 unit then you don't need an ASP application.  
4151 Not if you get approval of that non of that non standard unit. Then the question is  
4152 which is the better unit for optimal production of the lands?  
4153 On the border, which is the better unit?  
4154 The the one built on 160 acres.  
4155 Tracks, or the one built on smaller 40 acre tracks.  
4156 That's supposed to be for oil, but they're using it for gas. That is the question.  
4157 OK, Mr. Ball.  
4158 Are you able to answer that question, Mr. I object to that question as it was already  
4159 asked and answered, Mr. Ball clearly said he can't answer that question without  
4160 additional details, including what are the service restrictions, etc.  
4161 And that's when we got to the issue of assuming certain.  
4162 I guess idealized conditions that Mister Ball clearly testified don't exist in this unit.  
4163 Mr. Saab, you got that.  
4164 Fair enough.  
4165 You know if if we can't get a good record on this because of these kinds of trivial  
4166 objections that ignore the substance and don't allow for full exploration of the facts  
4167 and the nature of this that they are wanting to just not be able to have any object.  
4168 And do what they want within this area, then so be it.  
4169 But I'll finish with one question, one final question.  
4170 Mr. Ball, you, you.  
4171 Pointed out that.  
4172 One of the benefits of being able to do this this application is that you would be able  
4173 to create like 1280 acre units in 1920 acre units that would otherwise be non  
4174 standard. But in this case it'd be standard and therefore you'd be able to do.  
4175 Commingling and that would be more efficient.  
4176 Is that correct?  
4177 I believe the increasing size of the units isn't related to lateral length.  
4178 Not commingling you.  
4179 You mentioned the the benefit of allowing commingling.  
4180 I I did, yes.  
4181 Sorry, so that is you're able to get a a unit developed faster that allows for  
4182 commingling, is that correct?

4183 Umm.

4184 I guess I'm. I'm I'm I'm lost in in the your reference to the the 1320s and the 1960s as  
4185 it relates to commingling.

4186 Well, that's you.

4187 That was the the amount, the size of the non standard unit that was brought up  
4188 when you when the question was it discussed commingling A1280 acre unit would  
4189 be non standard correct 1920 acre would be non standard OK.

4190 So in the alternative you would have to do smaller units.

4191 And you would have to if you wanted to, just do a number of small lesser facilities.

4192 You agree that you would have to address the commingling issue.

4193 Yeah. So so commingling is is an issue where we share surface as a requirement in  
4194 really potash and drill island space, right.

4195 So if if if all the surface if if the entire surface of the of the 1280 or the 1920 acre unit  
4196 were one unit, you wouldn't you agree?

4197 You wouldn't have to worry about commingling restrictions.

4198 Not necessarily.

4199 So in potash and drill island space, we have to share surface facilities.

4200 With adjacent units, so regardless of the size of a single unit, we still have to address  
4201 commingling concerns. OK, at surface, like shared surface facilities.

4202 So there's no benefit to this application in terms of commingling. I wouldn't say that,  
4203 Sir.

4204 You wouldn't say that.

4205 No, Sir. OK.

4206 So what is the benefit that this application provides for commingling?  
4207 Issues.

4208 So as I understand it right, this application allows us to size units with flexibility so  
4209 that we can determine the most economic development of a given unit, whether that  
4210 includes commingling or not is still to be determined because we haven't drilled all  
4211 of the spacing units in the.

4212 So would.

4213 Getting approval of non standard units to fit into the spaces that you want to  
4214 develop to allow for better commingling and better production if you if you got  
4215 approval of NSP applications, would that not also provide all those benefits?

4216 I believe it would. It would. OK.

4217 So the only reason because of that the only reason that you want.

4218 To bypass the NSP application is to prevent owners from objecting. Is that correct?

4219 No, Sir.

4220 OK. All right.

4221 That's that's all my questions.

4222 Thank you, Mr. McClure.

4223

4224  **McClure, Dean, EMNRD** 2:45:39

4225 Thank you, Mr. Herring. Examiner, Mr. ball.

4226 Quick question.

4227 I guess keying back to what I was asking Mr. Fletcher, in regards to what formations  
4228 are covered under the Big Eddie unit, he'd reference that. Maybe there's a TVD depth  
4229 like like 5000 feet and deeper and he thought there might be a formation LinkedIn  
4230 there do.

4231 You know the answer to that Mister Ball.

4232

4233  **Pecos Hall** 2:46:07

4234 I do not, Sir.

4235 My working operational knowledge of the unit is, is that it's greater than 5000 feet.

4236 Mr. Examiner, I'm prepared to answer the question by reading a provision from the  
4237 unit agreement if that would be helpful for Mr. McClure. OK, Mr. McClure, would you  
4238 like Mr. Yes, go ahead.

4239

4240  **McClure, Dean, EMNRD** 2:46:27

4241 Yeah, that would be.

4242

4243  **Pecos Hall** 2:46:28

4244 Section 3 of the unit agreement, which is a matter of.

4245 The divisions records and you know can be taken administrative notice of states all  
4246 oil and gas and any the unitized substances includes all oil and gas in any and all  
4247 formations below the base of the Delaware and or below a depth of 5000 feet,  
4248 whichever is the.

4249 Lesser underlying the unitized land are unitized under the terms of this agreement  
4250 and hearing called unitized substances.

4251 Does that answer your question, Mr. McClure?

4252

4253  **McClure, Dean, EMNRD** 2:46:59

4254 Thank you, Mr. Parrot.

4255 Mr. Ball, did you hear the passage that Mister Parrot just read off?

4256

4257  **Pecos Hall** 2:47:05

4258 Yes, Sir.

4259

4260  **McClure, Dean, EMNRD** 2:47:07

4261 So from that would it be accurate to say that?

4262 The formations that QO would be requesting relief for would be for formations  
4263 below the Delaware.

4264

4265  **Pecos Hall** 2:47:21

4266 Yes, Sir.

4267

4268  **McClure, Dean, EMNRD** 2:47:22

4269 OK. Thank thank you, Mr. Ball.

4270 Not to go down.

4271 This commingling trail, but just to confirm.

4272 You it is correct that XTO is only asking for relief from needing quarter section  
4273 spacing and it's not relief from meeting NSPS entirely.

4274 Is that correct, Mr. Ball?

4275

4276  **Pecos Hall** 2:47:51

4277 I.

4278 I believe so, Sir.

4279

4280  **McClure, Dean, EMNRD** 2:47:54

4281 OK.

4282 So then it'd be your understanding that XTO could not establish a, quote UN quote  
4283 standard spacing unit that is in fact too large then?

4284 Is that correct?

4285

4286  **Pecos Hall** 2:48:07

4287 I don't know what too large is, forgive me.

4288

4289  **McClure, Dean, EMNRD** 2:48:11

4290 Larger than a standard spacing unit.

4291

4292  **Pecos Hall** 2:48:14

4293 How how large is a standard spacing unit?

4294

4295  **McClure, Dean, EMNRD** 2:48:18

4296 A standard spacing unit for a gas. If you bring in proxy tracks would be one mile  
4297 wide.

4298

4299  **Pecos Hall** 2:48:30

4300 I don't know the answer to your question, Sir.

4301

4302  **McClure, Dean, EMNRD** 2:48:33

4303 OK.

4304 Thank you, Mr. Ball.

4305 I'm going to assume that the application itself speaks for itself, so maybe there was  
4306 some misunderstanding in earlier testimony.

4307 I guess whatever was going on more than following that questioning.

4308 Very good.

4309 I guess might be the way to say it.

4310 Do you have reason to believe?

4311 Mr. Ball that.

4312 Wells drilled within the Big Eddy.

4313 Will only drain the quarter quarter in which the completed lateral is.

4314

4315  **Pecos Hall** 2:49:14

4316 Think it would be a function of targeting completion design, Sir.

4317 There's other factors at play.

4318

4319  **McClure, Dean, EMNRD** 2:49:26

4320 Have you provided any evidence?

4321 To go into detail about that.

4322

4323  **Pecos Hall** 2:49:33

4324 No, Sir, I do not provide a drainage analysis.

4325

4326  **McClure, Dean, EMNRD** 2:49:39

4327 Would it surprise you to know that the purple Sage Wolf Camp has testimony in  
4328 which it is determined that the reservoir is a retrograde condensate reservoir?

4329

4330  **Pecos Hall** 2:49:55

4331 No, Sir. It would not surprise me.

4332

4333  **McClure, Dean, EMNRD** 2:49:57

4334 Do you believe that wells that XTO would be completed within that reservoir would  
4335 only drain the quarter quarter in which the completed lateral exists?

4336

4337  **Pecos Hall** 2:50:09

4338 Again, I think it's a function of not just the the well spacing, but the targeting and the  
4339 completion design.

4340

4341  **McClure, Dean, EMNRD** 2:50:25

4342 So then is it your testimony that depending upon the completion design, the wells  
4343 would only drain from 1/4 quarter that the completed lateral is in?

4344

4345  **Pecos Hall** 2:50:37

4346 And it's my testimony that that would be one of the factors.

4347

4348  **McClure, Dean, EMNRD** 2:50:43

4349 Well, considering that the division needs to consider the krill of rights of the quarter  
4350 quarter surrounding the edge of the Big Eddy unit.

4351 We'll need a little bit more than that to go off of.

4352 Was, has there been any?

4353 So let me back up within the current submitted exhibit.

4354 Do you include anything at all about?

4355 Drainage.

4356 Based off your reli answer, it seemed like no, you do not. Is that correct?

4357

4358  **Pecos Hall** 2:51:17

4359 That's correct, Sir.

4360

4361  **McClure, Dean, EMNRD** 2:51:20

4362 We're standing here today and what's on record there is no evidence that would  
4363 suggest that a well drilled in the Purple Sage Wolf camp is only going to drain from  
4364 the quarter quarter in which it's completed in.

4365

4366  **Pecos Hall** 2:51:41

4367 Sorry was there.

4368 Are you asking if I confirm that statement?

4369

4370  **McClure, Dean, EMNRD** 2:51:45

4371 Yes. Is that correct?

4372

4373  **Pecos Hall** 2:51:45

4374 Yeah. Yes, Sir. I've only I've. I've only presented the geological analysis.

4375

4376  **McClure, Dean, EMNRD** 2:51:54

4377 Are you aware of any faults or other impediments that would prevent?

4378 Hydrocarbons from crossing the boundary of the Big Eddy unit.

4379

4380  **Pecos Hall** 2:52:13

4381 So are you asking if there are faults or other subsurface impediments in line with the  
4382 boundary of the Big Eddy unit?

4383

4384  **McClure, Dean, EMNRD** 2:52:23

4385 That is my question.

4386

4387  **Pecos Hall** 2:52:24

4388 Yeah, I am not aware of specific geological discontinuities in line with the boundary  
4389 of the big etih unit.

4390

4391  **McClure, Dean, EMNRD** 2:52:56

4392 Thank you, Mr. Ball.

4393 Thank you, Mr. Herring examiner.

4394 I don't have any further questions for this expert witness.

4395

4396  **Pecos Hall** 2:53:01

4397 Mr. Parrot redirect.

4398 No, thank you, Mr. Examiner.

4399 All right, may this witness be excused?

4400 Yes, thank you, Mr. Examiner, Mr. Ball.

4401 Does that conclude your case in Chief?

4402 Yes, thank you, Mr. Examiner. All right.

4403 Mr. Savage.

4404 We have one exhibit from you.

4405 And you have no witnesses, so I'm assuming that concludes your case in Chief. That  
4406 is correct.

4407 Thank you. And I don't believe there's any rebuttal case from anyone.

4408 No, thank you, Mr. Examiner. All right.

4409 Mr. McClure, do you want to tell the parties or or EXCO really what you want from  
4410 them at this point?

4411

4412  **McClure, Dean, EMNRD** 2:53:47

4413 Hey, yes, I can, Mr. herring examiner.

4414

4415  **Pecos Hall** 2:53:49

4416 And I believe and and excuse me, Mr. McClure, but I believe based on the order I  
4417 handed out this morning, we're going to have to come back again.

4418 We can come back October 8th if that gives enough time for that to cure. But you  
4419 got to give them what they need, the unredacted.

4420 I forgot B2. Is it B2 OK very good and see if there's any objection to that.

4421 I suspect, but anyway. Go ahead, Mr. McClure. Sorry.

4422

4423  **McClure, Dean, EMNRD** 2:54:18

4424 Mr. herring examiner.

4425 I mean no.  
4426 Unless I missed something in my note and maybe Mr. Parrot can correct me if I'm  
4427 wrong.  
4428  
4429  **Pecos Hall** 2:54:24  
4430 Sure.  
4431  
4432  **McClure, Dean, EMNRD** 2:54:25  
4433 But the only thing that's come into mind is that.  
4434 The notice for outside of the unit and that depiction.  
4435  
4436  **Pecos Hall** 2:54:31  
4437 OK, right. Right. I remember that.  
4438 Yes, OK.  
4439 Mr. Parrot, are you clear?  
4440 What the division needs at this point I am. And just to make sure that my clarity is  
4441 consistent with your clarity, I believe we have two deliverables.  
4442 One is the unredacted B2 after.  
4443 Conferral with my colleagues about any possible protective order and then the  
4444 second would be the table of the parties who are the lessees adjacent to the unit, per  
4445 Mr. McClure's request?  
4446 And if there's something else I'm not aware of it.  
4447 Yes, you're correct about that.  
4448 I also issued an order based on the motion about the exhibit 10.  
4449 It's OK that's been filed in the case, so you can you both can see it in the case.  
4450 I apologize, Mr. zamor.  
4451 You said your order can now be seen in the case yes, thank you.  
4452 Yes, we, we filed and served that.  
4453 It's it's a as a record at this point.  
4454 OK.  
4455 Mr. Savage, is there anything else?  
4456 No, thank you, Mr. hearing examiner.  
4457 All right, Miss Shaheen.  
4458 Not from pride. Thank you.  
4459 All right.

4460 Thank you. Mr. Perry will be permitted a written or a verbal closing statement?  
4461 Let's talk about that, OK.  
4462 Let's talk about that.  
4463 This is a 2 week turn around for the for the verbatim transcript.  
4464 So that's about the 30th of September.  
4465 How many weeks do you want after that to provide closing arguments?  
4466 If you're asking me, Mr. Examiner, I am asking both. I would like 3 weeks please.  
4467 Mr. Savage, how do you feel about 3 weeks? That that's three weeks after it's  
4468 published, correct? OK, sure. That the 30th of September is when I think the  
4469 transcript will be available. At that point there.  
4470 To provide your written closing argument, anything in your written closing argument  
4471 needs to cite to the record. OK does the record include?  
4472 Status conference and the other Preadministrative records administrative record, yes.  
4473 It's it'll have, you know, status conference comments will have less weight than, let's  
4474 say, evidence that's been admitted into the record.  
4475 Yeah, Underoath, but sure you can.  
4476 You can get creative.  
4477 Mr. Examiner, I have two questions for you.  
4478 First of all, with regard to a deadline for the closing statements.  
4479 I am out of the office and largely incommunicado the week of October 12th.  
4480 So on the off chance that the transcript comes out.  
4481 Early. Could we maybe say the the later of October 23rd or three weeks after the  
4482 transcript in case it comes out late?  
4483 Hold on. Let me. Let me look at my calendar and let me try to understand what the  
4484 OK question is before I go to Mr. Savage, OK?  
4485 All right, so the 30th is 2 weeks from now and so Wednesday and three weeks from  
4486 the 30th.  
4487 Would be the 21st and you're saying the later of three weeks from the transcript or  
4488 the 21st?  
4489 So if the transcript comes out, let's say in the off chance the transcript comes out  
4490 next week, then I I wouldn't be prepared to submit a closing statement on the 21st or  
4491 on on three weeks after the transcript comes out 'cause that would be during the  
4492 week.  
4493 That I'm out.  
4494 I understand what you're saying.

4495 Thank you.

4496 So there's no chance that the transcript comes out in one week, right?

4497 Unless someone pays extra, that's not gonna happen. That's correct.

4498 It's not gonna happen, Mr. Paris, OK?

4499 Then I withdraw the question.

4500 My second question is.

4501 The only order that we're currently able to see in this case file is the one that you

4502 printed out and handed out to us this morning.

4503 Let me ask because I I I sent it.

4504 Freya, did you happen to file and serve?

4505 Maybe you could e-mail it to Mr. Savage machine and Mr. Parrot and Mr. Everhart.

4506 I thought I did earlier today, but I will double check.

4507 Oh, I have you.

4508 I have it.

4509 It looks like it's housing.

4510 I think maybe there is.

4511 We're just trying to find it.

4512 We we have the order on preliminary objections of petroleum, I believe that was

4513 handed. You handed out this morning and it's in the record. Yes. And it's in the

4514 record.

4515 Was there a second order?

4516 There was right after lunch.

4517 OK.

4518 I apologize, Mr. Examiner.

4519 I am not seeing that in my e-mail and we're not seeing it on the website.

4520 So what time did you get that e-mail?

4521 I apologize.

4522 Gotten multiple emails from this chance today. Who you have?

4523 I think the the attached order that I have was at 10:24.

4524 No, it's not the right one.

4525 When I was referring to, I don't have a second one.

4526 Oh, I emailed you one at 1:00 or 1:15 as I was rushing back.

4527 Let me see if it's in my sent folder. That's odd.

4528 And Mr. Examiner, if you would prefer, we're happy to deal with this as a post

4529 hearing matter if that's easier for you so.

4530    Hmm, this is interesting.  
4531    Hold on a minute.  
4532    Let me figure.  
4533    Oh, it's still in the outbox somehow. You know, when I unplug from upstairs and  
4534    came downstairs, the connection didn't continue.  
4535    For some reason I don't know why.  
4536    Let's see. Is this gonna work or not?  
4537    I guess not.  
4538    Let me see why I don't have a connection here.  
4539    It says connected and secured.  
4540    I don't know why I wouldn't have it.  
4541    Says connected.  
4542    Huh.  
4543    I'm going to restart my computer because it's not going out of my outbox.  
4544    And sometimes that's what happens when you.  
4545    Come from 1:00.  
4546    So anyway, I'll get that to you.  
4547    You know, I think what I'll do is I'll e-mail it. I think I have your e-mail.  
4548    I have Mr. set.  
4549    You know, I have Mr. Savage's e-mail.  
4550    Micheem's for sure.  
4551    When I e-mail to Miss Chance, I'll copy everyone.  
4552    So everyone, thank you, Mr. Examiner.  
4553    Basically, I granted the motion basically because Mr. Savage had already filed and  
4554    amended hearing packet or or whatever you want to call it. Omitting that document,  
4555    and I believe Miss Chance has already removed the document from other.  
4556    Folders in our public facing understood.  
4557    Thank you.  
4558    Is that right?  
4559    I'm asking you.  
4560    I haven't.  
4561    I haven't checked today, OK, but I will.  
4562    Why don't you ask her if she's right here, Freya.  
4563    Yes, I did remove some files from.  
4564    I believe it was case 365.

4565 An older case I was also asked to remove a document from this case.  
4566 I don't recall the date I can of the thumbnail PDF, but I can look it up.  
4567 If needed.  
4568 I think we can rely on that understanding that it will be taken down, if not already.  
4569 It will be taken down.  
4570 Thank you.  
4571 I'd like to make sure it has been taken down since we have a few minutes before we  
4572 need to begin.  
4573 Mr. Beck, is Mr. Rankin coming back?  
4574 He is if we're ready for him.  
4575 Let me tell him. Get over here.  
4576 Yeah. Thank you. Mr. What? What is the page limitation on the closing statement?  
4577 We haven't figured out why do you want. You wanna suggest one?  
4578 I would say 15 to 20 for this complication of I get it 15 to 20, Mr.  
4579 Perry, do you care?  
4580 That's it's what you want, Mr. Savage. You want.  
4581 2020 within 20 within 20.  
4582 No, seriously, no, I hear you.  
4583 We don't want to over text, Mr. McClure and everything. Every argument you make  
4584 must be cited to the record as always, and Mr. McClure, do you see any benefit to  
4585 proposed findings and conclusions?  
4586  
4587  **McClure, Dean, EMNRD** 3:03:27  
4588 I don't see any benefits to it, Mr. Herring examined.  
4589  
4590  **Pecos Hall** 3:03:28  
4591 Perfect. OK.  
4592 Yeah, it's. It's what helps you.  
4593 And Minister examiner, the document is still part of the record in public portal, yes.  
4594 And for this chance benefit it's it's.  
4595 VF's filing on September 9th.  
4596 Gray, does that help you find it?  
4597 It does.  
4598 I was asked to remove an exhibit packet that was uploaded on July 30th.  
4599 That was the one that I removed 426248.

4600 So I need to also remove something from. I'm sorry, September 9th.  
4601 9th and it's an exhibit packet.  
4602 I don't know, Mr. Paris.  
4603 It it is VF Petroleum Incx exhibits case number 26248.  
4604 Timestamp.  
4605 4:56 PM on September 9th.  
4606 Sorry, it's received on September 8th.  
4607 Time stamped, but for some reason in the imaging portal it has a date of September  
4608 9th.  
4609 I see it.  
4610 What is going on and it's a.  
4611 177 page PDF document.  
4612 And it was Mr. Savage.  
4613 You filed that right.  
4614 Yes. And you filed an amended exhibit packet.  
4615 I included an amended exhibit packet as part of an exhibit on the response.  
4616 So it wasn't filed.  
4617 And separately, it's but it's in there, yes.  
4618 So I mean, I guess it would be the next step I would be to file it as an amended a  
4619 separate minted exhibit.  
4620 Or you said, but you said it's already in there and amended exhibit packets in there,  
4621 but it's attached to some attached to a response. OK, I mean is.  
4622 That's OK, but it's in there.  
4623 It just doesn't look like it.  
4624 Yeah, but you wouldn't know it if you were like browsing through.  
4625 And and of those documents that you filed, only one of them is has been admitted  
4626 to evidence anyway.  
4627 Oh oh, I thought we were talking about the amended packet that way.  
4628 I took out the exhibit 10, right?  
4629 So we had admitted Exhibit 8 earlier today.  
4630 Well, that's that's a different. That's a different set of exhibit.  
4631 That's I didn't know that.  
4632 OK.  
4633 That's for the.  
4634 For the case here that we heard.

4635 So I had one.  
4636 I had one through.  
4637 I think I had one through 9.  
4638 On on that, maybe I should look.  
4639 Give me a second.  
4640 Let me finish this because it finally, yeah, I was able to finally send this out, but now  
4641 I'm going to a lot of moving parts in this. That's OK.  
4642 We'll figure it out.  
4643 And Mr. Beck, did you get in touch with Mr. Rankin?  
4644 I sent him a text message. I expect he got it.  
4645 He didn't respond back, but I I take that as a as a good sign because he's usually  
4646 quick.  
4647 So I told him just to get over here and I expect that's what he's doing, OK?  
4648 OK, I have Miguel Suazo's e-mail but I don't have yours or Jacob Everhart's. If I send  
4649 it to Miguel Suazo, will you get it?  
4650 Absolutely. I thought you would, alright.  
4651 And there's Mr. Savage and Miss Shaheen.  
4652 And there's miss Shaheen, OK.  
4653 So I'm forwarding that order to those 3 emails and Mr. Parrot just get it for Mr.  
4654 Swazil now, Mr.  
4655 Mr. Savage, let's go back and take a look.  
4656 Yeah, it'd be good to clarify exactly what you're admitting for the exhibits.  
4657 So I can have. Did you say that you filed that?  
4658 Confidential document in another case.  
4659 So so the chronology is the confidential document was filed by the division in case  
4660 the only sheet has removed.  
4661 Right, right.  
4662 And and before it was removed, I downloaded it and used it as an exhibit and I filed  
4663 it as an exhibit in this case, in this case, OK, on what date?  
4664 You at the time at the time the pre hearing order said it was due so.  
4665 OK.  
4666 Let me look, Mr. Examiner, I can help clarify.  
4667 You can. Good. Go ahead. Yes.  
4668 So Mr. Savage filed the document that I referred to earlier, time stamped on the 8th,  
4669 but actually marked on the 9th, and Mr. Chance just indicated that she has found

4670 that.  
4671 And then there was another filing from VF on September 14th approximately noon.  
4672 And that includes.  
4673 It's not stylized as an amended pre hearing.  
4674 Statement or exhibits and stylized as a response to motion, and that includes an  
4675 amended hearing packet that amended hearing packet has the exhibits that Mister  
4676 Savage referred to today.  
4677 At least one of which was admitted without any restrictions, and then also the exhibit  
4678 B2 that was part of Xto's amended hearing.  
4679 Redacted amended hearing packet and that is the one that you refer.  
4680 Two in your order shall be admitted, subject to any right protective orders that that  
4681 may be, you know, agreed upon by the parties. We we would ask that perhaps it's  
4682 best to, because that exhibit itself is part of the confidential plan of development that  
4683 you just told us.  
4684 Is now not admitted freely, but that.  
4685 Particular part of the plan of development you ordered to be admitted subject to.  
4686 A protective order.  
4687 So right now it is just freely available to the public.  
4688 I see that.  
4689 So we would ask that that be taken down and that VF submit.  
4690 The motion to the response and limiting without that exhibit and then an amended  
4691 hearing packet with the exhibits that are supposed to be admitted.  
4692 That's exhibit 8, right?  
4693 And then XTO will submit an amended hearing packet. OK. So Mr.  
4694 I understand, Mr. Savage.  
4695 I'm looking at the document that you filed on the 8th of September at 4:56 PM.  
4696 It's 177 pages long in a table of contents.  
4697 Nancy clearly says Exhibit 10, Big Eddie Unit 2026 plan of development letter. OK.

4698 **OCD Special Docket September 15, 2026-**  
4699 **20260916\_210121UTC-Meeting Recording**

4700 September 16, 2026, 9:01PM

4701 4h 0m 0s

4702

4703  **Pecos Hall** 0:04

4704 Nancy clearly says Exhibit 10, Big Eddie Unit 2026 plan of development letter. OK.

4705 So that's in there that Frey is going to remove that, right.  
4706 And then we would then we would add the whatever amended whatever exhibits we  
4707 want to add for the case we heard today that's exhibit A.  
4708 Exhibit 8 has been admitted in evidence the others have not.  
4709 OK.  
4710 All right. So Freya, you can remove this document completely. OK, I it should be gone  
4711 now.  
4712 Maybe if you refresh, I'll refresh. Thank you.  
4713 I apologize.  
4714 Am I also supposed to remove something from September 14th?  
4715 Mr. Perry? Yes. Which one?  
4716 It is the VF response to motion and limiting filed on September 14th by VF at  
4717 approximately noon.  
4718 But you would just.  
4719 You would remove just the exhibit.  
4720 Exactly right.  
4721 I didn't know that was even possible.  
4722 Will Fray is a magician when it comes to Adobe.  
4723 So she can do anything, but I don't know that it's her responsibility to it.  
4724 So hold on a second.  
4725 Yeah, this is 68 pages.  
4726 Mr. Savage, this was received 9/14 at 12:14.  
4727 It's your response.  
4728 And what is the document in here that you're objecting to, Mr. Parrot?  
4729 It is the document that is going to be submitted under protective order, which is B2.  
4730 I don't think that's in there because that's been amended to take that out.  
4731 I apologize.  
4732 Yeah. Yeah, no, that's correct.  
4733 It's not in there, so I'm. I'm sorry. OK, sounds good.  
4734 OK. And and exhibit and and the exhibits in here, he doesn't have exhibit 10 and that  
4735 was part of his response is that, hey, I.  
4736 I resubmitted right without it.  
4737 So the question would be, I mean I don't think this is submitted as exhibits for the  
4738 case.  
4739 So I think that could stay as an exhibit to the.

4740 Response and then and then we file Exhibit 8 as evidence. OK, exactly with the cover  
4741 letter. With the cover letter, please.

4742 And then Mr. Parrot's gonna work out something with you, with exhibit B2, as is in  
4743 my order from this morning.

4744 OK. All right.

4745 Is there anything else, Mr. Parrot?

4746 No, Mr. Examiner, thank you for all of your consideration.

4747 This is a very, as Mr. Savage aptly put it, a lot of moving parts and appreciate your  
4748 consideration, especially a lot of at at last minute parts, which really I have to caution  
4749 the parties in the future. I might just say, you know what, this isn't timely sub.

4750 And I'm not going to hear this argument from either of you.

4751 Yours was standing based on their interest.

4752 Yours was. Well, you know what yours was.

4753 And so really, I mean if you.

4754 Want the forum to to really consider your arguments, especially if their threshold  
4755 arguments that could remove your right to due process.

4756 You really should give me opportunity.

4757 Anyway, there it is. There's that.

4758 So anyway, Frey, you don't have to remove the document from the 14th.

4759 It's really only the one document that you've already removed and it's gone.

4760 OK, now is there a time? A week?

4761 Is there is a week enough time for you to confer about B2 and and also get that  
4762 other exhibit that the table of parties together?

4763 Yes, OK. If that's agreeable with, it's up to you to do it.

4764 You can't do it.

4765 No week is is is sufficient for XTO. I would think it would be OK, Mr. And your exhibit  
4766 knows what to do if we find something in B2 that raises a question.

4767 Well then, sure.

4768 So how would we address it in the closing statement?

4769 I mean, well, obviously I guess it depends on why don't you file a motion. If you find  
4770 something in B2 that rises to the level of hey, this is more than a closing argument,  
4771 paragraph, OK. And we need to deal with it.

4772 File a motion.

4773 We'll get a response.

4774 We'll go from there, OK?

4775 Fair enough. All right.  
4776 Probably could just do it in the closing statement. I would guess maybe, but who  
4777 knows.  
4778 I'm glad you asked the question.  
4779 Yeah. So one week from today.  
4780 For the amended exhibit packet with cover letter.  
4781 Two weeks from today, we have the verbatim transcripts 3 weeks after that is the  
4782 closing arguments are due.  
4783 Anything not cited to the record will not be considered in your closing arguments.  
4784 So I'm just letting you know.  
4785 OK.  
4786 That's all I can think of for today. Thank you everyone.  
4787 Thank you, Mr. Examiner. Thank you.  
4788 Thank you.  
4789 And Mr. Rankin, we're ready for you.  
4790 Do you need a few minutes? Yeah, yeah.  
4791 Yes.  
4792 Yeah. Anybody else want?  
4793 Mr. Rankin, I think your witness is here.  
4794 Is there?  
4795 Is there a new link for today?  
4796 Ah, Freya.  
4797 Is there a new link for today?  
4798 Are we using the same one from yesterday?  
4799 It's the same one from yesterday.  
4800 Mr. Rankin, do you remember your case number?  
4801 226365.  
4802 Thank you.  
4803 I think I can find it if I can.  
4804 Thank you.  
4805 Mr. Beck, did you file anything since yesterday?  
4806 No. OK.  
4807 Mr. Rankin, did you file anything since yesterday?  
4808 OK.  
4809 No.

4810 OK, fine. I just wanted to know if I needed to review something. I would not have had  
4811 an opportunity until now.  
4812 I'm gonna go use the well anyway.  
4813 We're gonna take a 5 minute break.  
4814 All right, we're back on the record.  
4815 We have finished QO Energy 26248 and we.  
4816 Are recalling case 26365 enduring resources entries of appearance please.  
4817 Good afternoon, Mr. hearing officer.  
4818 Adam Rankin, appearing on behalf of Enduring Resources.  
4819 Thank you, Matt.  
4820 Back on behalf of Epic Energy LLC.  
4821 Thank you.  
4822 Let's recap where we are here yesterday. Both parties finished their cases in chief and  
4823 we left off with Mr. Rankin deciding whether he was going to have a rebuttal case.  
4824 Mr. Rankin.  
4825 Mr. Hearing officer, as we indicated yesterday.  
4826 Or this morning, rather we we will have.  
4827 Do you think there's I turn my microphone off microphone online somewhere?  
4828 That close.  
4829 Yeah, we do have a a short rebuttal to that.  
4830 We're prepared to present today, OK.  
4831 Which witness are you going to call? Mr. Travis whittem. OK, very good.  
4832 Please.  
4833 Mr. Rankin, will there be any rebuttal exhibits?  
4834 We have two rebuttal exhibits that I shared with Mr. Beck.  
4835 I don't know if he's has objections to them or not.  
4836 OK. And assuming they get admitted, we can move forward getting them filed and  
4837 why don't you eat after we deal with any objections. Why don't you e-mail me a copy  
4838 and e-mail Mr. McClure a copy and then when we're done, you'll do an amended  
4839 exhibit packet, of course.  
4840 Including your rebuttals. If they are admitted.  
4841 Mr.  
4842 Beck, have you seen the rebuttal exhibits?  
4843 I have the first ones lengthy.  
4844 I don't.

4845 Umm.

4846 Adam, you wanna turn the mic off for a second?

4847 I.

4848 I don't have a problem with limited admission of the portions, Mr. Rankin said. He

4849 intends to admit of a hearing transcript.

4850 The second exhibit are production numbers. It seems like a chart.

4851 I don't think it's it's admissible unless we have the underlying data, which I'm not

4852 familiar with.

4853 I also don't know what the relevance is with production numbers, since I don't think

4854 there's been any, at least.

4855 It's been a quick two days.

4856 But I don't recall any any testimony about production numbers. So. So, Mr. Rankin, it

4857 sounds like one is conditionally admitted in part and the other is not admitted based

4858 on objection.

4859 But you can of course provide a foundation and we can see where that goes.

4860 Sure. Happy to do that.

4861 It's the second one is all based on public data, and so we just took a list of the we

4862 took the exhibit G that we discussed from Mr. McClure. All the wells, vertical wells

4863 that are within the exterior boundaries of the unit took their production publicly

4864 available product.

4865 Data for the last three years and and put it on a chart so we can e-mail the

4866 documents to Mr. McClure and I.

4867 It doesn't.

4868 It won't constitute that it's accepted at this point, but at least we'll be able to see it

4869 as.

4870 You're talking about.

4871 About it with your witness.

4872 Yeah. And just as I'm doing that, I'm happy to just address the one.

4873 The first exhibit is a transcript of the horizontal well rule making in 2011, and I

4874 included the full transcript from that day.

4875 In order to ensure that the context was available.

4876 All right, so the did you mark these, I've they're marked.

4877 What is it, Mark?

4878 This first one that you're talking about, it's exhibit 1 rebuttal. One. Yeah. Yeah, sorry.

4879 And during rebuttal one, let me just write this down. Is a transcript from 2011.

4880 How many pages of a transcript is it?  
4881 Oh, it's lengthy, as Mr. Beck said.  
4882 One moment I can tell you.  
4883 I think it's 204 pages of transcript of transcript and.  
4884 OK.  
4885 OK.  
4886 This is enduring rebuttal.  
4887 One, what is the purpose?  
4888 What is the purpose of this?  
4889 The purpose of the trip?  
4890 Well, first of all, because the division has authorized the evidence relating to notice  
4891 of compliance notice issues.  
4892 This particular portion of the testimony from the rulemaking explains the horizontal  
4893 well rule and the notice requirements and the exceptions to notice requirements in  
4894 the horizontal well rule.  
4895 Except it 200 Pate.  
4896 You need it really is.  
4897 No, I don't need 200 pages, but I didn't want anyone to object that I was only  
4898 providing a hard transcript. I see.  
4899 So you're gonna focus in on particular section?  
4900 So I am providing the full data transcript.  
4901 I will modify it as I submit it now. One thing I did raise with Mr. Beck and I'll raise  
4902 here now as preliminary matter, that at the end of this day, at the end of our  
4903 presentation, I will ask.  
4904 The the division to take administrative record notice of the corresponding law rule  
4905 making in in the case in the case file. I do think it's very relevant and important to  
4906 understand and I don't know if if anybody needs the whole record or not.  
4907 But I want to make it available so that anybody can cite to it if they if Mr. Beck finds  
4908 something that he thinks counters or is important. For context, I just want him to be  
4909 able to do that and and I want for me to be able to.  
4910 Do that as well in that vein.  
4911 I think in light of, I think in light of the testimony that we're going to provide and.  
4912 This issue I do believe is and the issues that the legal issues that fall from it.  
4913 I.  
4914 I believe it would be helpful for the parties to submit briefing at the close of of this

4915 hearing.

4916 I know that Mister McClure indicated that he didn't think it would be helpful, but but

4917 I just want to point out that at the end of this, if there's time at the end of the day, I

4918 would like to just have a discussion with hearing officer and Coun.

4919 On my request that the division revisit its decision.

4920 Our recommendation request not for the parties not to provide closing briefings.

4921 I think it would be helpful given the nature of the additional evidence. So the

4922 purpose of taking administrative notice of the rulemaking.

4923 You described the purpose of the transcript with the notice requirements and

4924 exceptions for horizontal wells.

4925 You didn't tell me. What is the purpose of taking administrative notice of the entire

4926 thing?

4927 Yeah. No, I just so that at the end of all this in, in the case that the division does want

4928 us to brief it, Mr. Beck or myself, we can go to the record that.

4929 Is related to this horizontal well roommaking and the testimony.

4930 I'm providing to give a context explain what this how this relates to, the to the rule

4931 making itself, and the provisions that relate to it.

4932 I just don't wanna.

4933 I wanna make sure that anybody I understand, Mr. Kennis, I told him.

4934 So I guess what?

4935 I'm having trouble with understanding at least.

4936 Maybe you'll explain it is that you know, there was a rulemaking.

4937 We have a rule.

4938 Or rules that came out of the rulemaking.

4939 How do you feel like it helps your case?

4940 Well, I think we'll have to see, but I think it does.

4941 And this is part of the testimony.

4942 He's going to testify based on. Yes, he will.

4943 He will testify to this, OK.

4944 That's this, all right.

4945 And then the other rebuttal.

4946 Exhibit 21 suspect.

4947 Yeah, the other rebuttal is rebuttal exhibit #2.

4948 It's a one page table, OK.

4949 It shows the years 20, 2023-2024, 25 in columns OK and shows total production.

4950 Per well average production.  
4951 Average daily oil production for each well.  
4952 Each of Epic's wells, each of Epic's wells, and this is public data.  
4953 It's off of public data.  
4954 It comes from our our database. Correct. OK, yeah. Or or like it may be IHS which is  
4955 pulls data from OCD, yeah.  
4956 OK.  
4957 Well, we'll, we'll deal with it.  
4958 Yeah. OK.  
4959 So did you e-mail them?  
4960 I believe they've been sent. OK, fine. Timmy and Mr. McClure as well.  
4961 Oh, I'm sorry.  
4962 I sent them to Freya.  
4963 Let me forward them to who do freelance? I did OK? Well, she'll send him just prayer.  
4964 Would you forward those two documents to Mr. McClure and I?  
4965 You should have it, Mr. Shekalian.  
4966 I have it now. I mean, Mr. McClure may not yet.  
4967 OK so.  
4968 Mr. Rankin, go ahead.  
4969 Thank you, Mr. Mr. Whittem. You heard epics witness testify.  
4970 No. I was about to remind you of something. When you turn on the microphone,  
4971 please.  
4972 Thank you very much.  
4973 I remind you you're still Underoath from yesterday. OK. OK.  
4974 Very good. Thank you.  
4975 Go ahead, Mr. Rankin.  
4976 Thank you. Mr. Whittem, you heard epics witness testify yesterday regarding  
4977 concerns over endurance anti collision reports that are part of Enduring's Apds.  
4978 And also argue that enduring should give Epic advance notice of its Apd's.  
4979 Yes, and has enduring done anything in response to the concerns that Epic has  
4980 raised.  
4981 Yes, we started listing epics vertical wells in our anti collision reports.  
4982 And listening to epics testimony yesterday, it sounded to me like enduring at least  
4983 the message is that enduring is being cavalier and its drilling safety and ignoring epic  
4984 swells when it, when it drills its own wells.

4985 Do you agree with that sentiment?  
4986 I do not.  
4987 Is it an enduring interest to hit or even get too close to epics, wells when it's drilling  
4988 its own wells?  
4989 No, it's not in our interest.  
4990 Now you're not an engineer or drilling engineer.  
4991 But is it your understanding that if enduring as well as too close to epics wells that it  
4992 can impact endurance well performance?  
4993 Yes, my understanding is it would be a negative impact.  
4994 And are you aware whether endurance drilling engineers use drilling tools and  
4995 technology to actively avoid epic swells while while drilling its its wells?  
4996 Yes, my understanding is that they do.  
4997 Now how long has enduring been drilling horizontal wells in the San Juan Basin?  
4998 New Mexico.  
4999 Since 2018.  
5000 And for as long as enduring has been drooling horizontal wells there, there have  
5001 been legacy vertical wells in the same target formations that enduring targets with its  
5002 horizontal wells, correct.  
5003 Yes, these vertical walls are all throughout the San Juan Basin.  
5004 So since ever since that time and during his has been practiced at avoiding these  
5005 vertical wells, when it drills correctly, yes. Now I want to move off of the anti collision  
5006 topic because you're not a anti collision guy or an engineer but move on to the to  
5007 the.  
5008 Notification issues that Epic raised.  
5009 I asked to those conditions as to those concerns has enduring.  
5010 Anything in response to epics concerns about notification?  
5011 Yes, we've started to provide them notice of our drilling operations.  
5012 So previously had had enduring only been providing notice of its completion  
5013 operations to enduring epic. Rather, yes, just of completions previously OK. And and  
5014 Epic had complained that they weren't getting notification of drilling. And so now  
5015 Epic is giving notice of drilling when it's going to commence Dr.  
5016 Operations or time frame and and I'm going to object to that evidence coming in  
5017 because.  
5018 There's a lot more background to what led up to the.  
5019 August 27th.

5020 First notice of drilling a lot of background, I don't think is pertinent to this, but I think  
5021 it would be misleading.

5022 To represent to the division that it was only epics, complaints that led to drilling  
5023 notice. And I think that there would be other information which we can't get into.  
5024 That would inform the background of that. OK now before I come to you, Mr. Rankin,  
5025 I want to understand the objection.

5026 So what is the basis?

5027 I understand what you just said, but what is the basis?

5028 Well, so, so we heard.

5029 We heard earlier, I think, Mr. Mr. Rankin said, that.

5030 Epic contends enduring was cavalier and that and that Mister Widom's testimony is  
5031 that enduring is not cavalier right.

5032 Which again, if we're talking about opening the door, you've already excluded the  
5033 Ridge unit.

5034 I was about to jump out of my seat and say you should reconsider that, but I don't  
5035 want to be here all night and I don't want to argue with that again.

5036 So I think we need to tread carefully on what.

5037 Is admissible and is not.

5038 There are other proceedings that happened and concluded just before August 27th  
5039 that we we don't need to get into that morass.

5040 What's protected from those?

5041 I just think it's.

5042 I think it's unfair.

5043 To to lead the division into the belief that the reason enduring provided notice for  
5044 the first time on August 27th, 2026 was because Epigast and I don't want to get into  
5045 the back epic \*\*\* for notice.

5046 I didn't hear you.

5047 So so I just I think before we lead to that discussion and to that testimony and and  
5048 what doors that opens, I think that that enduring should should think about.

5049 Whether whether it wants to open that door now as a trial attorney, Mr. Beck, when  
5050 when someone asks you for the evidentiary basis of an objection that doesn't quite  
5051 qualify.

5052 So give me the evidentiary objection? Sure.

5053 The evidentiary objection is that to explore why in reality, that drilling notice was  
5054 provided on August 27th, we would need to get into ancillary proceedings which are

5055 confidential, and I would need to explore what happened in those and what is  
5056 happening in those which is protected it.

5057 An arbitrations confidential and and So what I'm saying is that a full and fair cross  
5058 examination would require us to get into information which we don't need to fight  
5059 about the confidentiality and.

5060 Make that heard.

5061 So. So, Mr. Rankin, I'm gonna give you an opportunity, but I want to understand. First  
5062 of all, we're here for a rebuttal case.

5063 What does this line of question go to rebut?

5064 Let's start there.

5065 Well, Mr. Thompson testified repeatedly that enduring should be giving notice of its  
5066 APDS to epic, and so.

5067 In response to those concerns, my question is what has enduring done and if, if Mr.  
5068 Beck is concerned that there's more at issue there.

5069 There are other reasons I guess I can refer if it to the extent that satisfies Mr. Beck, I  
5070 can say not that it's the only reason, but as part was part of the reason to, you know,  
5071 to address, endure epics, concerns over notifications.

5072 So go back to the question first.

5073 I know you're sort of trying to reword it on the fly here, but I would appreciate being  
5074 able to rule on the objection and and and and it sounds like the objection is more of  
5075 a caution than an objection.

5076 So I mean, because that's not really an evidence basis for an objection, because  
5077 ultimately, Mr. Rankin, if he asks the question would be opening the door to you.  
5078 On which you feel you know you can. You can go down that rabbit hole or not.  
5079 Anyway, that's not the point.

5080 Let's go back, Mr. Rankin. So I understand.

5081 So rebuttal would be about what happened yesterday and I understand where you  
5082 are rebuttal wise I I get that I think it's a valid rebuttal.

5083 Mr. Beck's caution, I think, is well is well placed.

5084 I it's not something for me to rule on, Mr. Beck.

5085 You haven't correct.

5086 So Mr.

5087 Rankin proceed at your caution.

5088 I guess my my question is, you know if I'm being if I cannot elicit rebuttal testimony  
5089 to direct statements from epics on witnesses that they had concerns or complaints

5090 about enduring, not giving notifications of its of its drilling activities, I'm confused  
5091 why I can't ask my my witness.  
5092 To to respond, at least what have they done in response?  
5093 To those concerns, you can you can ask any, I'm not.  
5094 There's no objection here, Mr. Rankin.  
5095 You're way too good of an attorney to know that. And. And he's Mr. Beck is, I think  
5096 giving you a a caution here that you can take or not take and and we may be here a  
5097 lot longer than we thought. But there it is. So go ahead.  
5098 With your questions, Mr. Rankin, there's no objection here.  
5099 Well, I guess I'm trying now.  
5100 I don't remember what I asked. I rejected.  
5101 So I don't know if it's possible to get a read back on that, but I'm sure there is. I have  
5102 no idea.  
5103 Do you want to? Would you read back the question that Mister Rankin asked before  
5104 the objection?  
5105 Sure, of course.  
5106 By all means, take your time.  
5107 Alright, so I'm gonna read back and then give me just a moment. Restart my  
5108 recording. Mm-hmm. Thank you.  
5109 So.  
5110 Mr. Rankin asked.  
5111 Epic had complained that they weren't getting notification of drilling.  
5112 It's now Epic is giving notice to drilling that's going to commence drill timeframe.  
5113 And that was the adjustment.  
5114 Does that refresh your memory and you meant enduring not of ex.  
5115 Yes, I knew.  
5116 I knew he had OK.  
5117 That's OK.  
5118 I knew what you meant.  
5119 Well, I think so. Did the witness.  
5120 Very good.  
5121 Let me know when I can start up again. Yes.  
5122 Oh, sorry.  
5123 Go ahead.  
5124 I think that was a follow on question to my original question, so I don't. I think I can

5125 leave it there and I'll I'll withdraw the question and if it comes up again, Mr. Beck has  
5126 any concerns.

5127 About any doors that might be open that I'll let him raise it down the road, but I  
5128 don't think I need to follow up with that question at this point in time.

5129 Now.

5130 On the notification issues, Mr. Widham, you heard Examiner McClure.

5131 Ask epics witness yesterday that if enduring is required to provide a 20 days advance  
5132 notice of its APDS, whether that would satisfy or address epics concerns. Do you  
5133 recall that?

5134 Yes, I recall now.

5135 Do you have an understanding of where that 20 days comes from? That Mister  
5136 McClure referenced?

5137 Yes, my understanding is that that that is from the.

5138 Well rule.

5139 Yeah.

5140 I have a just a couple demonstratives.

5141 Put them on the screen, Mr. Chair.

5142 Thank you.

5143 Are you gonna give one to the witness?

5144 Thanks. Thank you.

5145 Your understanding is that that reference of the 20 days derives from the the  
5146 horizontal well rule, correct?

5147 Yes.

5148 And I've got on the screen here and I hand it out sheet of paper that has some of the  
5149 regulations in it, including to start on page 2, the horizontal well row which is  
5150 19151615.

5151 Is that your understanding of the row? Well rule that you're referencing?

5152 Yes. And if I look at at least the portion of the horizontal.

5153 Rule and it's a subpart B, paragraph 9.

5154 Little B and if you go down to room and at three it goes on to say that the notice  
5155 procedures of subsection B of 19151512 NMAC shall apply to notices required  
5156 pursuant to items ruminant one or woman at two. Do I read that portion correct?

5157 Yes. Yeah.

5158 And that's so that when I look at what those notice provisions are reciting,  
5159 referencing, which is the next page of the demonstr.

5160 Regulations 19151512 B. The notice requirements is that your understanding as well.  
5161 Yes, that's my understanding.  
5162 And when you go down to paragraph B3 little a it states that a statement of testing  
5163 that at least 20 days before the date that the application was submitted to the  
5164 division the applicant sent notices to designated parties and goes on from there.  
5165 Correct.  
5166 Yes, is your understanding that the 20 days that Mister McClure was referencing  
5167 when he was conversing with Epic's witnesses is this provision is incorporated by  
5168 reference into the horizontal well rule.  
5169 Yes. OK now.  
5170 But.  
5171 What I heard from you this morning is that.  
5172 Enduring has not been providing this notice and does not is not now providing this  
5173 notice.  
5174 20 days in advance of its APDS. Why is that?  
5175 Because of the subject to language listed there.  
5176 So you're you're referring back to the horizontal well rule itself 19151615.  
5177 Page 2 of this demonstrative under paragraph B9, little B, where it says subsequent  
5178 wells and existing space units.  
5179 Yep. And I've highlighted that language.  
5180 Here it says subject to the terms of any applicable operating agreement, yes.  
5181 That's correct now.  
5182 And your understanding is that that that provision provides an exception to the  
5183 notification requirements incorporated in the horizontal well rule.  
5184 Yes, that is my understanding.  
5185 OK.  
5186 Now I want to just kind of walk through that with you a little bit and this is where I'm  
5187 going to introduce.  
5188 Enduring rebuttal exhibit number #1.  
5189 Which I've marked and I've got on the screen.  
5190 Here this is a lengthy document.  
5191 It's a 200 plus page transcript from.  
5192 Case number 14744 and the divisions records and it's a portion of testimony from  
5193 the Oil Conservation Division's witness in the horizontal well rule making Mr. David  
5194 Brooks.

5195 He was OCD's legal counsel, division, legal examiner, and.  
5196 Just going to object to all testifying by opposing counsel here, OK.  
5197 I'm not Mr. Beck.  
5198 I don't take that as testimony.  
5199 I mean, I think he's just setting the stage and giving us some context by telling us,  
5200 and I know Mr. Brooks is anyway, that's not new to me, nor is it to Mr. McClure.  
5201 But Mr. Rankin, be careful not to testify. I understand.  
5202 I appreciate Mr. Beck's concern and I really am not trying to testify. I'm trying to just.  
5203 I am literally just trying to set the stage.  
5204 Who's testifying?  
5205 Where does this record come from?  
5206 You know, I just want to.  
5207 It's clear for the record and clear for for the division.  
5208 I would expect if the witness is testifying about that, that would come from the  
5209 witness who's testifying about this document.  
5210 I can ask him as well.  
5211 I'll just try to speed along the process.  
5212 Um.  
5213 But if if I think I'm almost done so I'll just finish it up. In any event, Mr. Mr. Brooks  
5214 was testifying on behalf of the division in this horizontal world, roommaking.  
5215 Now I'm gonna read, Mr. Widom, the portions that I've highlighted here in this  
5216 exhibit, OK. And I'm gonna ask you to comment based on your understanding on  
5217 what those entries are. The testimony means with respect to the the rule provisions.  
5218 We just discussed, OK.  
5219 Understood.  
5220 So he this comes up in the middle of his testimony, he goes on, he states.  
5221 I've highlighted here in this exhibit no, and I'll read it aloud.  
5222 He was brought to my attention that the standard form of AAPL operating  
5223 agreement, which of course can be modified, so it's not necessarily every joint  
5224 operating agreement that exists, but the standard form of joint operating agreement  
5225 provides that no subsidy well.  
5226 Will be drilled.  
5227 No second well will be drilled in the area covered by the joint operating agreement  
5228 to the same formation in which there is an existing producing well unless it conforms  
5229 to the existing spacing pattern, excluded some testimony here and and go to the

5230 next relevant portion. He states that.  
5231 Quote Noel will be drilled to a formation in which there is an existing producing well  
5232 without the consent of all working interest owners.  
5233 And then I'll skip some testimony to the next page.  
5234 63 of the exhibit.  
5235 She goes on to state quote. So what we have done is basically adopt this provision of  
5236 the operating agreement by rule, we said quote subject to the terms of any  
5237 applicable joint operating agreement.  
5238 End Quote We said that because we didn't want to impose on parties a joint  
5239 operating agreement, we did not want to impose on parties to a joint operating  
5240 agreement, some kind of provision that they didn't agree to.  
5241 And they may have modified the AAPL form in a specific respect.  
5242 So their own contractual rights are preserved, but are subject to that, and we have an  
5243 OCD rule that says that a subsequent well cannot be drilled in the project area  
5244 without the consent of all the working interest owners, or by order of the OCD. The  
5245 question so in.  
5246 Some in some.  
5247 A new well in this project area can only be drilled pursuant to a joint operating  
5248 agreement.  
5249 For consent of all working interest owners, or pursuant to OCD, order the answer.  
5250 Yeah, that's right. Question. And if these provisions are adopted, would correlative  
5251 rights be protected?  
5252 Question answer.  
5253 I believe they would question why do you believe that answer? Well, the working  
5254 interest owners retain all the rights they have under the joint operating agreement  
5255 and what we have done is by rule effectively provided that if a joint operating  
5256 agreement is compulsory pooled then the people who.  
5257 Are the pool parties will have the advantage of the same consent requirement that  
5258 exists under the standard form of operating agreement?  
5259 To the project to the JOA.  
5260 Now Mr. Whittem, based on that entry from the horizontal well rule in the testimony  
5261 from Mr. Brooks, what's your understanding?  
5262 With respect to the exception to the horizontal well rule that you just pointed out  
5263 and I'll go back to it, so you can refer to it.  
5264 Yeah. So my understanding from Mr. Brooks is testimony is that the division did not

5265 want to insert itself.  
5266 Into operating agreements between two or more working interest parties.  
5267 And in the specific concept now.  
5268 And that they were OK. So now in the specific context of the of the of this case in the  
5269 Bobby B unit, explain how you understand the quote, subject to provision in the  
5270 horizontal well rule creates an exception to the horizontal well notice requirement  
5271 that Mister McClure is.  
5272 Referencing in the context of this for Bobby B. Now I know you're not a lawyer, but I  
5273 want.  
5274 I'm just asking for what your understanding is.  
5275 Yes, because we have an agreement in place, the Bobby B unit agreement.  
5276 With the.  
5277 Full commitment and the committed tracks of all of the working interest owners.  
5278 OK.  
5279 So because you have that that operate, that's a unit agreement, an operating  
5280 agreement, yes, and you've got 100% commitment in the committed tracks of all the  
5281 working interest owners, yes.  
5282 Now.  
5283 Because of that, it's your opinion.  
5284 That epic does not have to give consent to enduring proposed horizontal well wells.  
5285 Correct, correct.  
5286 And Epic does not have any working interests in the nankos unitized interval  
5287 anywhere within the boundaries of the Bobby B unit.  
5288 Correct, that is correct.  
5289 And they have the wells that they do operate.  
5290 They have a wellbore only interest.  
5291 Yes, and an override overriding interest in two leases and those leases have been  
5292 committed to the unit agreement, correct.  
5293 Yes. Now I want to bring up another provision from the the Divisions regulations and  
5294 this is a definition.  
5295 Of working interest owner that Mister Brooks is referring to, and I'll read it again to  
5296 the record here. This is under 1915 to 7.  
5297 Under part W, Paragraph 10 and it defines working interest.  
5298 Runner who says working interest runner means the owner of an operating interest  
5299 and oil and gas lease who has the exclusive right to exploit the oil and gas, minerals,

5300 working interests or cost bearing.  
5301 Is that your general understanding of in the industry?  
5302 Of what?  
5303 Our working interest is, yes, that is my understanding.  
5304 Does Epic have an exclusive right to drill in the Manus formation anywhere within the  
5305 boundaries of the Bobby B unit?  
5306 No, they do not.  
5307 Does Epic have a cost bearing interest in the Bobby B unit area, but within the  
5308 unitized interval?  
5309 No, they do not.  
5310 And the applicable operating agreement here the Bobby B unit agreement, it  
5311 expressly excludes all of epics vertical wells.  
5312 Correct. Yes, it does. And when?  
5313 When did enduring first give epic notice that Epic's existing vertical wells would be  
5314 excluded?  
5315 From the Bobby B unit in the summer of 2025, July 2025.  
5316 And then what?  
5317 How did you get how was notice given?  
5318 Jackson asked and answered.  
5319 We've already testified about this yesterday.  
5320 Twice I think.  
5321 No, actually he didn't.  
5322 He didn't testify when they were first given notice.  
5323 Of the horizontal, I mean of the what proposal?  
5324 I don't remember.  
5325 I'm sorry of the the first time they gave notice of the of the operating agreement we  
5326 we did because I have it.  
5327 I have it in my notes yesterday.  
5328 I didn't know it was July 2025 until it was testified about yesterday.  
5329 Well, yeah, I think we did actually.  
5330 Great. Then I withdraw it. I made that easy.  
5331 I'm glad it's in the record.  
5332 Subsequent to that, and Mr. Beck can correct me if this has already been on the  
5333 record. I don't mean to you tread ground, but I'm sure he will.  
5334 Subsequent to that, did enduring provide epic additional notifications of the Bobby B

5335 unit and the exclusions of its vertical wells.  
5336 I'm sure that Mister Whitem remembers he testified about that to yesterday.  
5337 Wait, is that so?  
5338 We I think we mentioned the October 2025 date then there was a one we did not.  
5339 There was a also a February February 2026 notice that we sent and this was due to  
5340 the changing boundaries of the body B unit, OK.  
5341 So.  
5342 The most recent notification was in January of 2026.  
5343 February. Sorry, February 2026, OK.  
5344 Now.  
5345 Prior to filing its objection in this case in front of the division, did epic raise any  
5346 concerns or objections to the Bobby B unit to endure objection.  
5347 This is going outside the scope it was testified due yesterday.  
5348 We can stipulate to the testimony yesterday that we didn't until we filed this  
5349 objection.  
5350 No problem. I'll withdraw.  
5351 Moving off the Bobby de Unit agreement itself.  
5352 Is the Bobby B unit agreement the only operating agreement in the Bobby B unit that  
5353 you understand would qualify as an exception for enduring under the horizontal law  
5354 rule?  
5355 No, my understanding is there's also a joint lease operating agreement jloa.  
5356 Between.  
5357 Epic and enduring.  
5358 And and did epic and enduring actually themselves reach? Objection. I think he can  
5359 say that there are other ones.  
5360 I think that the the hearing examiner has been deliberate about limiting this to the  
5361 Bobby B unit. And so I think that the hearing examiner should maintain that  
5362 consistency if we're going to limit the evidence here to the Bobby B unit, then I think  
5363 I think he can.  
5364 Testify that his understanding is that there are other agreements that that apply, but  
5365 if we're going to get into.  
5366 Other agreements outside Bobby B then.  
5367 I think we're going outside the.  
5368 Limitation of the Bobby B. Mr. incan? Yeah, sure.  
5369 OK, the Jlo A applies to acreage in the Bobby B unit. OK, OK. And that's the next

5370 question.  
5371 OK, that that's fine.  
5372 I was unaware of that. Yeah.  
5373 Now, did you ask the question?  
5374 No, I haven't yet.  
5375 Go ahead.  
5376 But that's coming up.  
5377 Now that jloa Mr. Beck referred to this, that it was the subject of the of the party's  
5378 arbitration dispute. Correct. That is my understanding now.  
5379 And and.  
5380 You're you don't.  
5381 You just have a general from the radio with the Joaquin.  
5382 Yes, I'm I'm aware of it.  
5383 You're aware that it exists?  
5384 Correct. OK.  
5385 But you you haven't yourself reviewed it, have you?  
5386 I have not. OK, but you're also aware that it covers some acreage and operations in  
5387 the Bobbi B unit?  
5388 I have been made aware of that, OK.  
5389 Do you know how much of the Bobby B unit it covers?  
5390 No, not specifically. OK. And you don't know which acreage or operations it covers,  
5391 right?  
5392 No, just that there are. There is acreage within the unit that it does cover.  
5393 Now.  
5394 To the extent the jloa itself does not serve as an operating agreement for the  
5395 exception.  
5396 Under the horizontal well rule that we've been just discussing.  
5397 Because it does not cover all the acreage or operations within the unit.  
5398 The Bobby B unit agreement itself would apply for the exception under the  
5399 horizontal well rules.  
5400 That your understanding, yes.  
5401 Now, now withstanding the exception to the horizontal well rule that we were we've  
5402 been discussing on the subject too.  
5403 Language.  
5404 And during is willing to give notice of its drooling operations to epic at least 30 days

5405 in advance of drilling, correct.  
5406 Yes, we are.  
5407 And you're willing to do that going forward for all upcoming bodybuild?  
5408 ING 1/4 Quarter section of epics wells.  
5409 Yes, we are.  
5410 And you did that.  
5411 That was the approach you took for the Bobby B48 well patent, correct?  
5412 Yes, we provided notice.  
5413 Now that's that's the notification that epic Exhibit 1 reflects attached to Mr.  
5414 Thompson's statement.  
5415 Is that right?  
5416 I believe that that was the August 27th e-mail then yes, OK.  
5417 Now moving away from the horizontal well rule and notification, I want to raise  
5418 another of the rule provisions that were brought up in EPIX pre hearing statement.  
5419 Now this other regulatory provision that Epic raises in its pre hearing statement  
5420 regards rule 1915149. Do you recall that in epics pre hearing statement? Yes.  
5421 I've got the rule language up here.  
5422 Is that the rural language that you saw in the preview that was referred to in the pre  
5423 hearing statement?  
5424 Yes. Now, after the division yesterday and hearing Xamarin made his ruling allowing  
5425 evidence of the notice rule compliance issues and following Mr. Thompson's  
5426 testimony yesterday, did you have a chance to review this rule provision?  
5427 Yes. And based on the language of the law, again, no, you're not a lawyer and you're  
5428 not a regulatory expert.  
5429 You're a land man, but based on the language of the rule.  
5430 What's your understanding of its applicability?  
5431 To enduring Apd's that it filed for its federal horizontal wells in the Bobby B unit, that  
5432 that this rule is not applicable because they're all federal APDS OK, and tell me what  
5433 about the language indicates that it wouldn't be applicable to federal agencies.  
5434 Because they didn't highlight and operate herself out of complete form.  
5435 C101 that is a state form, not a federal form.  
5436 And so the the C1 O1 is the state.  
5437 Equivalent APD to the federal APD. Correct. OK.  
5438 So your understanding is that this provision and.  
5439 It's.

5440 And its underlying parts would be applicable only in the instance where an operator's  
5441 filing state APD form on AC101.  
5442 Yes, that's my understanding now.  
5443 Is there any other basis for your understanding that it wouldn't be applicable to the  
5444 horizontal wells that enduring has filed in the in the Bobby B unit?  
5445 Yeah. What we previously discussed, the horizontal well role.  
5446 And why is that?  
5447 Why do you understand that?  
5448 To be the case. Oh, every well that we're drilling within Bobby B unit is a horizontal.  
5449 So I guess your is your understanding then that the horizontal bar rule would apply  
5450 in place of these provisions.  
5451 Yes, my understanding is that it supersedes these provisions.  
5452 Now.  
5453 Umm.  
5454 The next portion of this testimony.  
5455 Mr. Witten, that I want to address is a portion that addresses the production and  
5456 concerns around waste that Epic and Mr. Thompson raised in the testimony  
5457 yesterday, and this is maybe where all lodge my objection that I don't see the  
5458 relevance in this since there is no test.  
5459 To production from Epic Wells.  
5460 Mr. Rankin.  
5461 Sure. Maybe I'll ask the question 1st and then it may elicit the objection, but I haven't  
5462 yet asked my question.  
5463 But I will.  
5464 But that you have a table here that deals with production and I think he's objecting  
5465 to this table and this exhibit.  
5466 So do you want?  
5467 You want to deal with this now.  
5468 Sure. Yeah.  
5469 Basically, Mr. Mr. hearing officer that EPIC in its witness testified that.  
5470 Enduring swells if, unless the division steps in.  
5471 To impose additional conditions or recommendations for conditions on the unit  
5472 agreement that.  
5473 Endurance horizontal wells are likely going to harm epics, wells and cause waste. OK.  
5474 And So what the underlying that statement is is the assertion that actually epics wells

5475 are economic and they're actually being productive.  
5476 And they shouldn't be plugged.  
5477 And So what I or that there that they're not in the near term shouldn't be bugs.  
5478 So this production table shows average production values for all of 80.  
5479 Of epic swells that it operates within the unit and shows that the average daily  
5480 production per well.  
5481 Per day is is now approaching nearly half a barrel only.  
5482 And so when you look at that and you calculate the value, it's it's on the verge of not  
5483 being economic.  
5484 So the harm is minimal, if at all. If there's any harm.  
5485 And so that's the point of the production data. And I think the testimony yesterday  
5486 was that if.  
5487 The enduring that the new enduring wells come too close.  
5488 To the existing epics within one, whatever that one was, that separation, where is it  
5489 again? Separation factor, separation factor, the one the magic #1.  
5490 So I think it was qualified in that way.  
5491 So you're OK.  
5492 So that's what this is, OK?  
5493 And so your objection to this is?  
5494 You're not. Turn off your mic there.  
5495 So this would it's it's not rebuttal you heard.  
5496 Enduring other witness yesterday, whose last name Italian last name.  
5497 I'm not going to try to pronounce now the geology Italian.  
5498 Yes, you heard him agree that a spill of any nature is waste.  
5499 We've got that.  
5500 If this gets in, it creates a trial within a mini trial because then in rebuttal we would  
5501 need to bring in Epic witnesses who would testify about the production of gas from  
5502 these wells, including liquefied natural gas, the total production, the economics of  
5503 that and so.  
5504 I don't think it's. It's rebuttal. I think it's a trial within a trial.  
5505 Well, we can stipulate.  
5506 I mean, we can't stipulate because I don't know where these numbers come from. I  
5507 heard Mr. Rankin and I take him at his word as the division does, but I just think for  
5508 purposes of of this rebuttal testimony.  
5509 Unless it's going to be salient to your decision enough that you want to permit us to

5510 have the trial within the trial, then I think properly it should be excluded at this point.  
5511 But it's it's OK.  
5512 So back to the evidentiary objection to it.  
5513 You are saying that it's not proper rebuttal.  
5514 I mean, ultimately, are you not saying, yeah, I'm saying it's not proper rebuttal and  
5515 then I'm using what would be in the in the Rules 403 which is.  
5516 Right. Thank you.  
5517 That's the trial.  
5518 That's the trial, yes. But but it's not proper.  
5519 I'm I'm focusing on. It's not proper rebuttal, right? Right now not the rule of  
5520 evidence.  
5521 For now.  
5522 And your argument to why this is not proper rebuttal evidence.  
5523 Mr. Reagan made the argument, at least the way I understood it is you were claiming  
5524 harm from enduring wells.  
5525 I heard even that some had gotten mud in them, etcetera.  
5526 OK, I remember that testimony from yesterday and I think.  
5527 Mr. Rankin is is showing us this.  
5528 Because he's saying, well, if there is harm, it's very small.  
5529 Not that there is no harm, but that it's it's minimal.  
5530 Why isn't that proper rebuttal evidence?  
5531 Because, again, the testimony yesterday which was uncontrdicted, is that any any?  
5532 Lack of production here. Any spill is is waste and and and so now he's going against  
5533 what his own witness said. And again, if if we're talking about whether this is not  
5534 waste because these these numbers aren't impressive to whoever that may be.  
5535 I would be need.  
5536 I would need to be afforded the opportunity to bring in other witnesses to prove that  
5537 that is not true, which again I don't think is is salient to the question before the  
5538 hearing officer in the division today, and and you'll be allowed to put on a REB.  
5539 Case if you feel it's necessary to put on a rebuttal case.  
5540 But I need to understand why this isn't now.  
5541 You said we had a witness yesterday. Who said?  
5542 Any spill is a waste.  
5543 I heard that sure, this isn't about spill though.  
5544 This is about.

5545 This is about minimal production in, in other words, so this is about minimum  
5546 production, not about spill. So why?  
5547 Again, why is this? Mr. Rankin? You make the argument of why it is a rebuttal  
5548 evidence.  
5549 No, we'll hear Mr. back again.  
5550 Well, I mean, I didn't understand Mr. Thompson's testimony to be.  
5551 Limited to concerns about ways to be limited to spills, right.  
5552 So I mean, I guess that's one aspect of his testimony about waste and it was.  
5553 I guess a disputed interpretation of what our Mr. Sessra Dodie testified about, but  
5554 but there are other elements. As I understood Mr. Thompson's testimony to be about  
5555 waste and concerns around waste. And so this is simply again to show that the the  
5556 part of the and also.  
5557 Part of the motivation for.  
5558 Epics activities.  
5559 And opposition to enduring.  
5560 Are not simply about.  
5561 Concerns to impacts to their wells, but the ultimate liability.  
5562 And plugging liability for the wells in those costs.  
5563 So they're on the verge of filing 96 applications to revoke.  
5564 Enduring previously permitted producing wells because.  
5565 They have legacy vertical wells that are producing now. In the case of Bobby V unit.  
5566 Just over a half a barrel a day on average, and so this is intended to show a couple of  
5567 things.  
5568 I think not. Just direct rebuttal testimony to the issue waste, but also to show  
5569 motivation and and that's part of it too, that we have concerns that Epic is looking at  
5570 this and.  
5571 Broader scale for other reasons than just impacts to their wells.  
5572 I withdraw my objection.  
5573 You can admit it.  
5574 I'm good with it. I withdraw.  
5575 Let's we'll get it out there.  
5576 I withdraw my objection.  
5577 I think we can get through OK.  
5578 OK, ask your question.  
5579 But he's smiling, so he may have a trick up his sleeve, I'm sure.

5580 Mr. Beck test.

5581 Just reviewing this table, Mr. Widdeb on Exhibit 2. Explain to me what it is, where it

5582 came from and what it shows.

5583 Yeah, and I guess.

5584 You've kind of already summarized it, but yeah, we took publicly available

5585 information.

5586 Derived from the OCD's website through IHS and it shows you the picture right there

5587 for the and we didn't use 2026 'cause.

5588 It's not a full year, so the last three full years, you can see the total oil production and

5589 then per well average production. And then just to further summarize that so.

5590 The combined 80 wells each the average of the 80 wells daily.

5591 Oil production is less than a barrel and it's trending towards half a barrel.

5592 And we didn't put the natural gas in Mr. Beck, but we we could definitely do that. My

5593 driver case home even further because it's also minimal natural gas production.

5594 So yeah, I mean just to be clear, this doesn't include.

5595 It's not a barrel of oil equivalent. It is not a. It doesn't include the MCF or the

5596 quantities of natural gas that are produced during those same periods, correct?

5597 We didn't put that in.

5598 Now.

5599 How do those production numbers compare to what enduring's horizontal wells are

5600 expected to produce based on your offsetting existing production offsetting?

5601 Units.

5602 They don't compare at all.

5603 Just for just for a conservative estimate, just one of the new Bobby B unit wells. If if it

5604 came on at 500 a day, 500 barrels of oil a day, which is a reasonable estimate.

5605 Let me just do a quick math.

5606 Over one month, 30 days, that one well would produce one. Just one of those wells

5607 would produce 15,000 barrels of oil in one month.

5608 And we, as we stated yesterday, there's six wells on the 1st pad.

5609 There's seven wells on the second pad.

5610 Now, if enduring is not allowed to locate its wells at the optimal locations, with the

5611 preferred spacing, and again you're not a drilling engineer.

5612 Patrolling engineer.

5613 But you're a land man and you're familiar with how this all works.

5614 In your understanding and based on.

5615 Your understanding with your colleagues that would leave endurance position  
5616 reserves in the ground resulting in waste, correct that is correct.  
5617 And that's because if you look at tell me why.  
5618 That is just looking at this chart.  
5619 Why is that your opinion?  
5620 Because these the epic vertical walls aren't adequately producing from the  
5621 Mecoscalp formation.  
5622 And in the production actually is declining every year, right?  
5623 Correct. OK, now.  
5624 And just to be clear, if if.  
5625 And during is prohibited from Duling under its unit agreement.  
5626 Epic can't drill any new wells.  
5627 In the Manus formation.  
5628 Was that correct?  
5629 That is correct.  
5630 And why is that?  
5631 Because they they own well bore only interest, they own no working interest rights in  
5632 the Mako scalp formation. Now based on the divisions, continuing jurisdiction and  
5633 supervisory authority that they reference in some of their previous orders.  
5634 For enduring.  
5635 Umm.  
5636 That they cite to to give them authority to oversee and regulate well specific  
5637 operations.  
5638 Which would apply here.  
5639 Is that your understanding as well?  
5640 Yes, that is my understanding.  
5641 Do you think it's appropriate or necessary for the division to impose any additional  
5642 conditions or recommendations on enduring that are not already required by rule?  
5643 Objection. Relevance. Thank you.  
5644 Relevance, Mr. Franken?  
5645 Well, the issue before the division.  
5646 Is whether they should be imposing any additional conditions or requirements on  
5647 enduring, and the relevance is whether they should be or not based on their  
5648 continuing supervisory authority.  
5649 I agree that it's relevant whether the division should or should not impose additional

5650 restrictions.

5651 I don't agree that no disrespect to Mr. Whitman, but I don't agree that his opinion of  
5652 whether the division should is relevant.

5653 That's what you meant, OK?

5654 Umm.

5655 I would agree.

5656 I was gonna just say I can withdraw the question.

5657 That's fine, it's fine.

5658 So I think I think the enduring position on that point is pretty clear.

5659 Mr. Widdeem is enduring willing to work cooperatively with the division to address  
5660 any specific general concerns or specific rather any specific or general concerns the  
5661 division might have about enduring's operation plans or specific well plans in the  
5662 Bobby B unit, including on well specific issues. Yes, we.

5663 Are.

5664 Mr.

5665 Hearing Officer I mentioned this earlier and we can deal with it again at the end.

5666 I just didn't want to forget that. I'm going to ask again that the division or the  
5667 hearing officer take administrative notice of the horizontal well rule case. And the  
5668 reason I'm asking for that again, it's just because I think given.

5669 The legal issues and the issues that arise from the notice.

5670 Issues that have been raised through the evidence, I think it'd be helpful for both  
5671 parties and Council to provide additional briefing on that point for the Committee  
5672 division as they take this matter into consideration.

5673 So before I go to you, Mr. Beck, for your position on this.

5674 What I'm trying to understand is, so we have a rule that came out of that rule or a  
5675 group of rules that came out of that rule making.

5676 Why? Why doesn't the rule itself stand for what it stands for?

5677 This is this reminds me of almost like legislative.

5678 Well, it does, right?

5679 I mean, it sounds like when a court looks to see what where the legislature's arguing  
5680 about it, it it could be helpful.

5681 But I mean, even what you showed me today, the testimony of of our attorney, Mr.  
5682 Brooks.

5683 Ultimately, the the Commission.

5684 Looked at all the evidence and decided this is what the rule is gonna be. Why should

5685 we look outside the the the words of the rule?  
5686 Well, you may not need to be on what?  
5687 What the rule says, just provide it provides context.  
5688 The division itself was the proponent of the rule, and this indicates exactly what the  
5689 division intended when they when they proposed the rule. And so I think it is useful  
5690 and you know.  
5691 I think reading the rule out of context.  
5692 Isn't always helpful.  
5693 And so I think providing that context and what the division intended is important in  
5694 this situation.  
5695 That's that's my my urging on the on the divisions to allow the parties to to brief the  
5696 issues around around as part of closing and file closing statement a written closing  
5697 statement that would allow the parties to explore this issue.  
5698 I'm not saying I don't know that I'm going to go in and cite anything in the  
5699 administrative record or not.  
5700 I just want to make sure that's available for myself or for Mr. Beck in the event that  
5701 there's something useful or important or critical or helpful to provide that context.  
5702 Mr. Beck.  
5703 If it's OK with the hearing officer, I'd like to reserve my response.  
5704 I'm still thinking about your request.  
5705 To me, to me.  
5706 The testimony of an individual who worked at the OCD, I mean, I can see how that's  
5707 his opinion about why things should be that way, and ultimately it looks like the  
5708 Commission must have agreed.  
5709 With part of what he said.  
5710 Because here it is in the rule, at least the rule that you have in front of me.  
5711 Beyond that, I'm not sure if Mr. McClure, do you find that helpful?

5712

5713  **McClure, Dean, EMNRD** 1:07:12

5714 And as a legal brief on interpretation of the rules, is that what you're asking about,  
5715 Mr. Examiner?

5716

5717  **Pecos Hall** 1:07:17

5718 Well, ultimately we're gonna.

5719 I mean, ultimately, we haven't decided whether we're allowing closing arguments

5720 because yesterday you said you didn't think that they would be helpful.  
5721 It sounds like the part.  
5722 At least one party would like to provide a closing argument.  
5723 I don't know how Mr. Mr. hearing examiner.  
5724 I don't mean to interrupt you or or you, Mr. McClure.  
5725 I do because I understood.  
5726 If we are going to discuss this now as opposed to later, I can give you my thoughts  
5727 now.  
5728 I was going to reserve that because I think my cross examination may be helpful in  
5729 forming your opinion, whether it's going to be OK.  
5730 We'll have this discussion now.  
5731 I understand the point.  
5732 OK. Are you done with your direct?  
5733 This hearing is now. Yes, I passed the witness recross.  
5734 Very good. Go ahead, Mr.  
5735 I don't have access to this electronic PowerPoint, but.  
5736 The I think the penultimate slide or I guess no it is.  
5737 It is the last slide in here talks about 1915149 applications.  
5738 Remember talking about that with Mr. Rankin.  
5739 Yes. And and you said it came from an ethics pre hearing statement?  
5740 Yes. Now, I didn't recall that.  
5741 And you probably know that I wrote it.  
5742 I reviewed it again while you were testifying, and I can't find anywhere in here where  
5743 it's cited.  
5744 Do you know where that's cited in our pre hearing statement?  
5745 I would have to take a look, OK.  
5746 Let me bring it up for you.  
5747 So it's. I don't see it on page one.  
5748 Do you 1915149 doesn't look like there's any numbers like that on one.  
5749 It's always been going too fast on on page 2.  
5750 It might be.  
5751 I don't know if you can put in the PDF search bar if we can just type that in. Maybe  
5752 sure just that is it.  
5753 Is it from this or is it from somewhere else outside of the pre?  
5754 Vious, do you know?

5755 I believe I believe it was discussed at some point yesterday and maybe it was.  
5756 Your client, Mr. Thompson's testimony that possibly so. So when you said it was in  
5757 the pre hearing statement earlier you you didn't. You didn't know that you were just  
5758 answering his question.  
5759 Yes, when he asked you that, that is correct.  
5760 Let me see if I can. I think I've got.  
5761 The exhibits, because they were just emailed to me.  
5762 Exhibit 2 Here, the annual oil production of Epicop operated wells in the Bobbi B unit.  
5763 We talked about this.  
5764 This is just barrels oil, right?  
5765 That is correct.  
5766 And do you know at all whether and how much epic produces and and gas?  
5767 We could easily do the same search and query, bring it up, but just spot checking  
5768 one while just now 3000 MCF's and.  
5769 25, OK, and and you're much more familiar with this than I am, are the MCS.  
5770 I include gas and liquified gas.  
5771 That's natural gas, I guess.  
5772 I'm not.  
5773 I couldn't speak to the liquefied.  
5774 I can't speak to liquid. I'd guess that you mentioned.  
5775 And what's the what's the purpose of discussing this with the division today?  
5776 I was a little unclear on that.  
5777 What's your? What's your thought about these numbers?  
5778 Many times yesterday, prevention of waste was brought up so that that's why we  
5779 brought this in to show.  
5780 Hey for the Mako scallop formation, if our wells are not able to produce that  
5781 formation, these current epic vertical wells that are within the gall formation aren't  
5782 officially producing it.  
5783 Did did someone.  
5784 I guess it's just Mr. Thompson yesterday, although maybe one of you testified to and  
5785 I can't remember, but did someone testify that that epic swells are producing all the  
5786 oil in the in the Makos formation?  
5787 That they're producing all of it right?  
5788 No, not that I recall that they are producing all, but I don't recall that.  
5789 Yeah. The testimonies that they're just producing, I think, Mr. Thompson said.

5790 Just what flows into those wells, right?

5791 And so so this document is showing the oil that just flows into those wells, right?

5792 That is correct. OK and.

5793 I guess is enduring, intending to to capture the oil that would otherwise flow into

5794 epic swells.

5795 Our intention is to.

5796 Produce through our working interest operating rights, the Manco scalp formation.

5797 That is not being produced by epics, walls, OK. And so what's the relevance of

5798 showing these numbers that they're producing?

5799 That's what? That's what I'm asking, right?

5800 If our if endurance wells are not able to be produced if all our APDS get revoked.

5801 Then that that production won't happen.

5802 OK. Do you remember what Mr. Thompson testified about that yesterday?

5803 As far as whether the OCD should just totally refuse and not not grant you the Bobby

5804 B application, remember what he testified about that about waste.

5805 That it.

5806 That it would be wise if we weren't able to, right?

5807 So it sounds like he sounds like he agrees with you on that point.

5808 And so so these numbers you're showing to the division, I'm still unclear on what

5809 what they should take from from this chart?

5810 The production of epics walls should our wells not be developed OK?

5811 So this is just showing that that if yours aren't produced, then you're not getting that

5812 15,000 barrels a month from 1:00. Well, instead, we're left with 249 from all these

5813 wells. If we were unable to produce our wells that, yes, I agree with.

5814 That so?

5815 So you're not trying to show the division that.

5816 Epics wells are useless.

5817 And and they should just not care about him during drilling through epic swells,

5818 right?

5819 That's not what this is intended to show.

5820 That's not our intent, right?

5821 Because because that's not in during his position, right?

5822 Our position is that we want to produce our wells and we're and as to in the OCD,

5823 the divisions responsibilities to prevent waste.

5824 So we're just showing we're doing a comparison, a comparison, OK. And so would

5825 you agree with me, best case scenario is that Epic can continue producing the oil that  
5826 flows into its well bores and enduring can produce from its well bores.  
5827 Yes, that is that is that would be the best case scenario and I guess on top of that  
5828 ideally for Epic, you know that they when we complete our wells and I'm not a  
5829 technical expert, but I've been told by our technical experts.  
5830 Their well, their vertical wells could see a benefit from our horizontal wells within the  
5831 unit. OK.  
5832 You wouldn't consider a benefit from your wells enduring's wells if enduring.  
5833 Uh.  
5834 As happened with the first couple, Bobby B. Wells we heard about yesterday when  
5835 they they they drilled and and cement flowed into the I think it was stage A2 four  
5836 and six and shut down those wells. So they can never produce again.  
5837 That's not a benefit to epics, wells.  
5838 Be with me on that.  
5839 I don't.  
5840 I don't think we were presented with direct.  
5841 Written testimony on those walls yesterday.  
5842 No, definitely not written.  
5843 That's that's true, Mr. Thompson said.  
5844 That so?  
5845 Yeah, hypothetically, if that did happen, which I can't speak to, I don't have the  
5846 evidence.  
5847 Obviously that would not be great. OK. And that's something that enduring would  
5848 want to avoid, right?  
5849 Shutting down epics wells.  
5850 Our intent is not to shut down their wells. OK. And and you heard from Mr.  
5851 Thompson yesterday.  
5852 That anticulation reports that.  
5853 A separation factor of 1 or less, or just stop drilling.  
5854 Go back to the drawing board and rewrite the wells, right?  
5855 My expert, I'm not a technical expert in that.  
5856 I heard a bunch of discussion about it yesterday, but I I'm not going to speak to that.  
5857 I don't know yet.  
5858 You don't know if you heard that yesterday.  
5859 No, I heard it.

5860 I don't.  
5861 I don't know what's accurate as far as the separation factor goes.  
5862 I really had never heard of separation factor before yesterday.  
5863 Yeah, and. And so you're not.  
5864 You're not saying he's wrong.  
5865 I'm saying I don't know, right and and enduring.  
5866 I think you know your enduring is only rebuttal witness to that testimony, right?  
5867 Today. Yeah. And and if he was right, that that is go back to the drawing board  
5868 reroute.  
5869 He's done that. You can do that.  
5870 That's something enduring would want to know and want to do to make sure it  
5871 didn't affect epic swells, right?  
5872 Yeah, yes, yes.  
5873 And.  
5874 I think Mr. Thompson yesterday said that if, if enduring, shared, those antique  
5875 collision reports before it submitted the APDS, it would have brought that to during  
5876 his attention.  
5877 Remember that testimony?  
5878 That is what I recall hearing yesterday.  
5879 OK. And then if I'm, I'm clear on what you testified to earlier and during has never  
5880 provided its anti collision reports before submitting them to the BLM for an APD.  
5881 Right. Not disputing that. OK.  
5882 And it doesn't have any plans to do that in the future.  
5883 Are.  
5884 Based on, you know, our belief in the horizontal well rule and our subject operating  
5885 agreements that overlay the unit, our position is that we're not required to pre filing.  
5886 Yeah. No, I I didn't.  
5887 My question wasn't whether you're required to. We'll we'll probably talk about that in  
5888 a second.  
5889 My question is whether enduring has any plans to do that in the future.  
5890 I.  
5891 I can't predict the future, so I I don't know at this point.  
5892 OK.  
5893 Well, you're testifying here for enduring, right?  
5894 That is correct.

5895 And as far as you know, they have no plans to do that in the future.  
5896 Again, I can't predict the future.  
5897 Right. As of right now, I don't know.  
5898 You don't have any plans, right?  
5899 Correct. OK. But you do in response to Mr. Thompson's testimony about not  
5900 submitting those before the Apds you did learn last night?  
5901 And you came in here saying that?  
5902 Enduring now plans to provide drilling notices 30 days in advance of every well it's  
5903 drilling, right?  
5904 Yes. And and those drilling notices would be provided.  
5905 I think you misspoke.  
5906 Earlier you said that happened with the the August 27th drilling. Notice that that  
5907 wasn't provided 30 days before drilling, was it?  
5908 Yeah. And I didn't specifically say 30 days before that one. I think what we said is,  
5909 hey, we started to and now we plan on going forward with the 30 days for for future  
5910 pads where epics wells would be affected by one of our horizontal.  
5911 And then if if those wells.  
5912 Had the separation factor of less than one presented a collision risk?  
5913 I assume then enduring would not go forward with that drilling and then would work  
5914 out with EPIC how to reroute the wells to make sure that they're not potentially  
5915 colliding with epics wells.  
5916 Right. Objection. Mr. Wittem already testified that he's not an expert on the  
5917 application of the anti collision.  
5918 Analysis and that's not his area of expertise.  
5919 Cheese.  
5920 I'll withdraw that and ask a different question.  
5921 If when you provide those drilling notices to Epic, Epic raises concerns and says this is  
5922 unsafe, you're going to hit one of our wells. And that proved true or or they raised  
5923 that concern, not even prove true. They raised that concern.  
5924 I assume that enduring as a a prudent operator or sorry, I think it was a responsible  
5925 operator.  
5926 They would then stop drilling and make sure it proceeded in a way that epic the  
5927 division and during all agree would make sure that it's not going to collide with epic  
5928 swells.  
5929 Sorry that that was kind of a lengthy question.

5930 I think can you just repeat that again?

5931 Sorry, yeah, just some short. So so let's walk through it this way. When you provide a

5932 drilling notice, you've already been approved for those APDS, right?

5933 Yes, you understand that the only way to to stop those.

5934 That the division has would be to revoke them, right?

5935 Yes, OK. And have you ever been involved in a revocation proceeding before the

5936 OCD?

5937 I have not. OK.

5938 Is this the first OCD proceeding that you've been involved in?

5939 It's not.

5940 No, you've been involved in the other unit hearings, right?

5941 That's where I got your resume.

5942 Yeah, this is the first time testifying. OK, on the witness stand. I guess I should say.

5943 And. And this application for the Bobby B unit was filed in middle of July.

5944 Does that sound right?

5945 This current one.

5946 And and here we are today.

5947 Not two months because I'd be tomorrow, but one day less than two months later,

5948 right?

5949 I'd have to look at the exact date, but.

5950 And and so if you you agree with me and during doesn't do anything to change the

5951 routing, the only option is is a revocation proceeding.

5952 30 days drilling notice is is not going to be sufficient to protect damage to epic

5953 swells.

5954 You're saying that? Objection, Mr. Whittem doesn't know the full range of the

5955 divisions authority.

5956 And what it can or can't do?

5957 Under the regulations, it's a good thing I didn't ask him that question.

5958 OK.

5959 So what is the evidentiary objection?

5960 What's the basis, Mr. Mr. Beck is asking questions about what the, you know, the only

5961 option for EPIC to proceed. And I'm I'm saying that.

5962 Mr. Widom doesn't understand or know what the options are for the I'm gonna

5963 interrupt talking over Mr. Rikon because he's providing his witness the answer to the

5964 question that his answer that his witness should give.

5965 So if if he wants to tell him what he thinks, I'm asking him.  
5966 Then we can do that in front of you without the witness hearing.  
5967 Otherwise he can.  
5968 He can say what my question was and why it's objectionable.  
5969 That's uh, quite an allegation to make, Mr. Beck that Mister Rankin is not being, you  
5970 know.  
5971 I'm not saying he's doing it.  
5972 I'm not saying he's doing it intentionally.  
5973 I'm not calling his honor into question.  
5974 I'm saying that if his witness gave that answer, it would be troubling. What I'm saying  
5975 is, is that if he has a problem with my question, as it was stated and he doesn't know,  
5976 he can ask the court reporter.  
5977 But this is an important thing and and and I think the division hearing officer should  
5978 hear.  
5979 The question itself.  
5980 The objection to the question, though, is that you're asking this witness to surmise  
5981 what the division will do.  
5982 What the no. What is the question?  
5983 Can I have my question rudder? Sure.  
5984 Sure.  
5985 Yeah. No, take your time.  
5986 Can I speak? No, not yet.  
5987 Sorry, I had my jump on me. So we just had a moment here.  
5988 You know, I have a great question.  
5989 Actually, it's Mr. Rankin.  
5990 You should ask if he has the right question, OK, because he objected to it.  
5991 Thank you for that.  
5992 And so if you agree with me, insurance doesn't do anything to change the routing.  
5993 The only option is a revocation.  
5994 Proceeding 30 days drilling notice, it's not going to be sufficient to protect damage  
5995 at Epic flows.  
5996 Right. And so my question, I think that is I believe so. And so my objection is that  
5997 Mister, Mr. Beck is, is is telling Mr. Widdeb that the only option for Epic is a  
5998 revocation hearing. And my my response is that that's I object to the premise of.  
5999 The question that there are other regulatory options for the division to protect

6000 operators and interest owners and so Mr. Wittem is not an expert in regulatory.  
6001 Matters. I get it.  
6002 But I can see why Mr. Beck is objecting to what you just said.  
6003 Because ultimately you are.  
6004 You are giving him the answer to the question.  
6005 I know you're not trying to, but you are ultimately.  
6006 So I think this whole line needs to needs to be revised.  
6007 So I'm gonna sustain the objection.  
6008 You rephrase your question.  
6009 Yeah, I'm sure you can get there. You're clever.  
6010 So if a revocation proceeding takes 60 days, if it's opposed.  
6011 30 days drilling notice wouldn't give anyone time to address the potential collision  
6012 risk.  
6013 Agree.  
6014 I don't know what the revocation process is.  
6015 But Ben, can we walk back to the question you were asking before that that question  
6016 was objected to?  
6017 No, the one that I asked him to rephrase.  
6018 Then he switched it.  
6019 He completely switched the question.  
6020 But now you're complicating things, OK?  
6021 Alright, alright.  
6022 I'm just gonna say I I don't know the revocation process.  
6023 I'll move on.  
6024 I want to talk to you about the the horizontal drilling rules now.  
6025 Umm.  
6026 Do you remember my my questions to you yesterday?  
6027 Uh.  
6028 You'd have to be more specific.  
6029 We talked about whether.  
6030 You knew from researching the first line of questioning was whether Epic owns  
6031 Wellborne interest. Remember that.  
6032 You asked me does epic on a wellbore interest?  
6033 I asked you whether you knew that from records you said you didn't go and research  
6034 that right.

6035 I I need to look at my actual response to recall.  
6036 Sorry, not important.  
6037 The most important thing here was the second line of questioning. When I asked you  
6038 about why you, you told Mr. Anken.  
6039 Y to the application you remember that line of questioning and it's OK if you don't.  
6040 I don't remember my exact answer but.  
6041 Dave.  
6042 Do your do you remember when I asked you about whether you have any  
6043 involvement in submitting APDS?  
6044 I do recall that OK. And do you remember when I asked you?  
6045 Do you know what New Mexico law requires for notice to offset operators like EPIC?  
6046 I didn't.  
6047 I don't specifically know.  
6048 Yeah, that was your answer.  
6049 That was your answer yesterday.  
6050 And then.  
6051 Today, it seems like you have a very good understanding.  
6052 Of what?  
6053 New Mexico law requires for notice to offset operators.  
6054 I have a better understanding, I would agree.  
6055 Well, you testified about.  
6056 A number of rules about notice offset operators just now, right? Yes. OK.  
6057 And I would ask you about that yesterday, if you would have said you didn't know,  
6058 but now you do.  
6059 So now I'm gonna ask you about that fair.  
6060 So, Mr. Rankin, if you'll bring up his slides.  
6061 We can talk about the first slide first.  
6062 One moment let me stop sharing.  
6063 I you probably need that.  
6064 So this rule, what's your understanding of this this rule in terms of notice?  
6065 If you have one, no.  
6066 That it ties to the second page in here that were required to provide 20 day notice of  
6067 APDS.  
6068 To whom?  
6069 To.

6070 Officer offset operators.  
6071 Within a certain area.  
6072 OK. And this rule right in front of you it it says the area right, it says spacing units.  
6073 Yes, OK. And and does Epic have is epic an offset operator?  
6074 Yes, they are.  
6075 And it's in enduring spacing unit.  
6076 Yes, in the Bobby B, right?  
6077 Within the Bobby B unit.  
6078 And and that's how you that's how you read 19151615.  
6079 Yes, but I also read it as that requirement is subject to operating agreements that are  
6080 in place. OK.  
6081 Is that so?  
6082 Let's get into that.  
6083 I think you're getting that from 191516 B, right?  
6084 Yes. And so. So the way enduring is reading this rule currently, if I'm understanding  
6085 your testimony, is that only parties or excuse me, only working interest owners.  
6086 Subject to you and an agreement in the Bobby B.  
6087 Unit. It has to give notice to under this rule, right? Objection. Mischaracterizes  
6088 testimony.  
6089 Mr. Beck.  
6090 I asked if I'm understanding right.  
6091 That's what I'm asking.  
6092 I'm just making sure I understand.  
6093 I'll allow the question just as long as the witness understands that.  
6094 This is his on.  
6095 He's asking you, based on this understanding, he's not.  
6096 He's not saying that you said this before that you believe this.  
6097 He's just asking, is this your understanding?  
6098 Can you just sorry repeat it for me again, just so I can't.  
6099 So. So maybe if we can just, I'll, I'll go on to a different question. But if if if everyone  
6100 can just listen to the question appropriately because it's not like a deposition where  
6101 the court reporter can read it back quickly.  
6102 What is your understanding of who? Epic or excuse me, who enduring has to give  
6103 notice?  
6104 Of of these two in the Bobby B unit, if it's approved.

6105 Our endurance position is that we would give notice to offset operators.  
6106 But subject to operating agreements that are in place.  
6107 No, I understand.  
6108 That's that's your reading of the rule.  
6109 I'm going beyond that and I'm saying understanding that reading of the rule.  
6110 Who is in during giving notice to under the terms of this rule on the Bobby B.  
6111 But.  
6112 It would be epic.  
6113 So why isn't and during giving notice to Epic before it submits its Apd's 20 days  
6114 before?  
6115 Because there are existing agreements in place.  
6116 And that's what I'm asking.  
6117 There's existing agreements in place.  
6118 What are those existing agreements say enduring has to do and you don't need to  
6119 look at Mr. Rankin?  
6120 He's not going to help you now.  
6121 Well, I I personally have not wet read through the joint lease operating agreement,  
6122 but there would be provisions within there and seeing that it's getting late, let me  
6123 see if I can help you. What I understand from your conversation with Mr. Rankin,  
6124 where he was walking you through.  
6125 These and asking very detailed questions that you answered yes to is that enduring  
6126 interprets these to say only working interest owners who are.  
6127 Agreed in the Bobby B unit agreement, whatever.  
6128 Get this notice required by the rule, right?  
6129 Objection. Mischaracterizes the evidence.  
6130 In what way?  
6131 In what way?  
6132 Your microphone.  
6133 I don't want to answer the question.  
6134 I can ask him the question.  
6135 You can.  
6136 Help me. I assume it's going to help the division.  
6137 Well, what the rule provides that there's an exception to the notice and approval  
6138 requirements.  
6139 If there's a applicable operating agreement in place.

6140 And as Mr. Brooks explained.  
6141 We're all working.  
6142 Interested owners have consented or party to that working operating agreement,  
6143 then no notice is required because all parties have agreed and consented to those  
6144 wells and your your by saying that you're saying that epic is not a party.  
6145 Well, they they're not obligated to get notice under this horizontal law rule because  
6146 they're not a working interest owner, right?  
6147 So that's what I just said.  
6148 So that's what I was trying to get from him. Thank you.  
6149 Well, we all understand.  
6150 Maybe I, maybe I guess. Let me move on to my next question.  
6151 Do you agree with Mr. Rankin?  
6152 Yeah, that's the right answer to that question.  
6153 Accepting that that it's only working interest because it's only working interest  
6154 owners as far as you know who are parties to the Bobby B agreement, right?  
6155 That is correct. OK.  
6156 You agree with me when you're looking at the document right in front of you, right  
6157 there that under.  
6158 Little one, the eye and little eye. Two, it says operators and working interest owners  
6159 agree with me. It says that in both of those places.  
6160 Yes. Do you agree with me and you don't have to because you're not a lawyer. But  
6161 you've testified a lot about this today.  
6162 You agree with me that if it was limited to just working interest owners, there'd be no  
6163 reason to put in operators and right before that.  
6164 I don't wanna speculate. OK, that's fair.  
6165 And as we heard and you agree with Mr. Rankin, the way that enduring is reading  
6166 this, this rule to apply.  
6167 Epic not. Not a member of the Bobby B Agreement.  
6168 Epic would never get this 20 days prior notice, right?  
6169 The answer to that question is yes to that's reasonable. OK.  
6170 So so next I want to show you.  
6171 I want to go to and again just in the interest of time. Let me speed this along a little  
6172 bit.  
6173 I want to show you.  
6174 Exhibit 1.

6175 That Mister Rankin talked about today and you're you're there.  
6176 Also.  
6177 We talked about.  
6178 Mr. Rankin walked you through pages 62.  
6179 And 63 talking about this person's understanding of the rules, right.  
6180 Mr. Brooks.  
6181 Mr. Brooks.  
6182 Yeah, and this was 2011, right?  
6183 I believe so.  
6184 That's what we heard.  
6185 And you weren't working in the oil and gas business in 2011?  
6186 No. OK.  
6187 You weren't there for this.  
6188 I was not there.  
6189 I wasn't a lawyer, so we're on the same page here.  
6190 If we go up.  
6191 And I just want to put this in context with you and and you can tell me if you  
6192 reviewed this portion.  
6193 This is just a couple pages earlier.  
6194 This discussion was ongoing on on slide 17 of what I guess was Mr. Brooks  
6195 presentation.  
6196 Did you? Did you recognize that? If you read through this?  
6197 The slide 17/19/19.  
6198 Yeah. OK. You you see that there and. And so the context of this is Mr. Rooks is being  
6199 asked. This is relating to notice to existing subsequent wells in the project areas.  
6200 See that at line 20.  
6201 And then the person asked Mr. Brooks what is the provision in the present rule for  
6202 notice to existing and subsequent wells in the project areas. You see that at lines 21  
6203 and 22 on page 60 here.  
6204 Yes, and and you understand from from presenting and endorsing this exhibit one  
6205 that we're now talking about what became Rule 19151615, the horizontal well Rule  
6206 B9 that we testified about.  
6207 Do you understand?  
6208 That's what this portion of the transcript here's let's talk about.  
6209 And so, in response to that, he says.

6210 When asked about the present rule, he says I believe there isn't any.  
6211 See that on line 23 or excuse me 22.  
6212 Yes. Question. Oh, is that why using subsequent wells and project areas in this  
6213 provision was injected?  
6214 Right. And the answer to that is it is.  
6215 Now Mr. Brooke. Mr. Brooks, right. Am I saying that? Correct. Goes on to say now  
6216 there is an existing order which I drafted. And Mr. Pressmeier, of course signed it. So  
6217 I can't call it my order. But there is an existing order which provides much the same  
6218 thing.  
6219 As this proposed rule, but there is not a rule.  
6220 Did you see that?  
6221 You see that testimony in pages 60 through 61.  
6222 OK. And does that indicate to you?  
6223 That before this 2011 hearing and before this, this rule was provided.  
6224 The division had an order.  
6225 That provided requirements on parties.  
6226 For notice to sub to drilling subsequent wells.  
6227 I mean that's that's what it's stating, yeah.  
6228 So at that time, at least, the division thought that it could place notice requirements  
6229 in an order that governed horizontal wells and spacing units like the Bobby B.  
6230 True.  
6231 Objection that calls for speculation with the division thoughts that calls for  
6232 speculation. What?  
6233 What the division thought of what the division thought Mr. Pick, isn't that the whole  
6234 purpose that we're talking about exhibit one, and it was introduced into evidence.  
6235 And Mr. Rankin wants to put the whole the whole record in.  
6236 I agree that that I agree that here it is and and and and it is provided by Mr. Rankin.  
6237 But you are are you asking this witness to surmise about something that's not in the  
6238 transcript?  
6239 No, I'm asking him to surmise what's in the transcript, just like he did when he was  
6240 testifying earlier.  
6241 What's in the what's in the transcript itself, correct?  
6242 Sorry to repeat it real quickly. Sure having so I haven't lost the objection, but I want  
6243 to hear your question again.  
6244 I can't repeat it, but it was something to the effect of. Do you take from this

6245 testimony from the OCD director? I guess Mr. Brooks at this time who said he put in  
6246 place an order for notice of subsequent wells that became the rule that applied.  
6247 To exploratory units for notice and drilling lateral wells that the OCD at that time  
6248 thought it could put in place those requirements in order.  
6249 That there was a previous order speaking to that.  
6250 I think that's a valid question. I mean, he can use this transcript and and answer that  
6251 question. I I think that's valid.  
6252 By the way, he wasn't the director.  
6253 He was just a lawyer here. OK, just to be clear. Right, Mr. Rankin?  
6254 Yeah, that's right.  
6255 OK, just to be clear, so can you answer the question now?  
6256 My understanding from looking at there was a previous order.  
6257 I.  
6258 I'm not disagreeing with that.  
6259 Thank you.  
6260 I think I made my points here.  
6261 I think I'm done with this witness, OK?  
6262 Thank you, Mr. Mr. McClure.

6263

6264  **McClure, Dean, EMNRD** 1:42:52

6265 Thank you, Mr. Herring. Examiner, Mr. whittem.

6266 Is it your understanding?

6267 That an APD submitted to the division on Form 3160-3.

6268 Is not required to meet all the requirements of a state APD.

6269

6270  **Pecos Hall** 1:43:15

6271 That a BLM APD is not required to meet all the requirements of the state APD.

6272 Is that the question?

6273

6274  **McClure, Dean, EMNRD** 1:43:22

6275 Yes, that's my question.

6276 That is my question.

6277

6278  **Pecos Hall** 1:43:27

6279 Hi.

6280 I guess I don't know answer that way.

6281

6282  **McClure, Dean, EMNRD** 1:43:37

6283 A party to a joint operating agreement.

6284 Would it be accurate to say that they're provided notice of wells prior to being drilled

6285 as a part of that JLA?

6286

6287  **Pecos Hall** 1:43:48

6288 Yes.

6289

6290  **McClure, Dean, EMNRD** 1:43:50

6291 Would it then seem appropriate that?

6292 Perhaps.

6293 What the Commission was thinking was they're already receiving notice because of

6294 the JLA.

6295 Therefore, we're not going to require separate notice. Does that make sense to you?

6296

6297  **Pecos Hall** 1:44:09

6298 Yes, that does.

6299

6300  **McClure, Dean, EMNRD** 1:44:13

6301 So then would it also make sense that if somebody is operating wells?

6302 Whose spacing unit?

6303 Your newlywell has completed lateral within. Does it not make sense to provide them

6304 notice?

6305

6306  **Pecos Hall** 1:44:34

6307 Yes.

6308

6309  **McClure, Dean, EMNRD** 1:44:38

6310 So then is it your?

6311 Is it enduring assertion then? Not so much that they shouldn't provide epic notice,

6312 just that they're not required to under rule.

6313

6314  **Pecos Hall** 1:44:51

6315 That's our current position.

6316

6317  **McClure, Dean, EMNRD** 1:45:05

6318 What would you consider to be the difference between a working interest and a well  
6319 bore interest?

6320

6321  **Pecos Hall** 1:45:13

6322 So in in this case in Bobby BA working interest within the target formation, the  
6323 Gallup is an owner that has, you know, cost bearing rights and ownership and a well  
6324 bore interest owner, which in this case is Epic only has rights to produce in the Gallup  
6325 to prod.

6326 From those existing vertical walls.

6327 They have no other rights.

6328

6329  **McClure, Dean, EMNRD** 1:45:40

6330 Do they have karelte frights within the minkles?

6331

6332  **Pecos Hall** 1:45:46

6333 No they don't.

6334

6335  **McClure, Dean, EMNRD** 1:45:58

6336 So then.

6337 Your assertion is that Epic does not have the right to produce production to its right  
6338 of production from the mankos then.

6339

6340  **Pecos Hall** 1:46:11

6341 Only as to their vertical.

6342 Well, existing vertical walls.

6343 What?

6344

6345  **McClure, Dean, EMNRD** 1:46:18

6346 So then Epic does have right to production from the mainkle.

6347

6348  **Pecos Hall** 1:46:25

6349 Just through those walls.

6350 They don't have a corral of right in the Mako scallop outside of what flows onto  
6351 those walls.

6352

6353  **McClure, Dean, EMNRD** 1:46:36

6354 So would it be more accurate to say they don't have the right to drill new wells, but  
6355 they have the right to continue producing from the existing wells?

6356

6357  **Pecos Hall** 1:46:44

6358 It.

6359 Yes, I I completely agree with that.

6360

6361  **McClure, Dean, EMNRD** 1:46:50

6362 Is it your contention that drilling new wells through the mangles could interfere with  
6363 production that's being derived from those vertical wells?

6364

6365  **Pecos Hall** 1:47:04

6366 I'm not a technical expert.

6367 So I'd.

6368 I don't want to speculate on that.

6369

6370  **McClure, Dean, EMNRD** 1:47:10

6371 Yeah. So the answer is you don't know then, Mr. Whittem.

6372

6373  **Pecos Hall** 1:47:13

6374 I know.

6375 Yeah, I don't know.

6376

6377  **McClure, Dean, EMNRD** 1:47:29

6378 I guess regardless of requirement under rules, it now my understanding that.

6379 Well, let me back up, I guess.

6380 Is it correct that?

6381 Enduring plans on providing epic notice of its APD in the future going forward.

6382

6383  **Pecos Hall** 1:47:52

6384 Yes, we we plan to provide them notice prior to drilling at least 30 days.

6385

6386  **McClure, Dean, EMNRD** 1:48:00

6387 And is it enduring?

6388 Does enduring agree that Epic would then have the right to protest those Apds?

6389

6390  **Pecos Hall** 1:48:13

6391 I think they're currently taking advantage of revocation rights that I'm aware of up to

6392 13 currently, and it sounds like more coming.

6393

6394  **McClure, Dean, EMNRD** 1:48:27

6395 Well, I guess what I'm trying to figure out is.

6396 Leaving aside whether there's a requirement under rule here, typically under rule

6397 there would be 20 days. Then with the operators and the operators and working

6398 interest owners could object to the APD.

6399 My question to you is under this agreed notice that enduring would be providing.

6400 Would you also be? Would enduring also be?

6401 Forwarding that same opportunity for protest.

6402

6403  **Pecos Hall** 1:48:59

6404 To to object to it.

6405 For epic, yes.

6406

6407  **McClure, Dean, EMNRD** 1:49:03

6408 Correct.

6409

6410  **Pecos Hall** 1:49:05

6411 Yes, I think there's a misunderstanding, Mr. McClure.

6412 I think you were asking about notice before submission of the APDS and I think the

6413 answer you got was notice before drilling.

6414

6415  **McClure, Dean, EMNRD** 1:49:19

6416 I think.

6417 Thank you, Mr. Beck.

6418 Yeah, I was.

6419 I know earlier we were talking about the drilling, but then I thought I was suspicious  
6420 about APDS. This time around, Mister Widom.

6421 Just to reiterate my question, make sure there's complete understanding what I'm  
6422 referring to now is notice to EPIC prior to submitting the APDS to the division.

6423 Is that what you understood my question to be?

6424

6425  **Pecos Hall** 1:49:41

6426 I thought you had said prior 30 days prior to drilling, but if you it's a restating. Sorry.

6427

6428  **McClure, Dean, EMNRD** 1:49:46

6429 OK.

6430 Well, thank thanks a lot, Mr. Beck.

6431

6432  **Pecos Hall** 1:49:49

6433 So you're restating that we provide notice 20 days before filing.

6434 And.

6435

6436  **McClure, Dean, EMNRD** 1:49:57

6437 Yeah, I guess.

6438 Irregardless to what I said before, my new question, Mr. Widom is, is it enduring's  
6439 intent to provide notice to epic at least 20 days prior to submitting the APD to the  
6440 division.

6441

6442  **Pecos Hall** 1:50:02

6443 Yeah.

6444 Our our current position, which we stated earlier is that where we don't believe we're  
6445 required to.

6446

6447  **McClure, Dean, EMNRD** 1:50:23

6448 So then is the answer no? I mean setting aside whether enduring is required to.

6449 Is enduring, intending to provide notice to epic prior to submitting the APDS to the  
6450 division.

6451

6452  **Pecos Hall** 1:50:37

6453 Pre filing.

6454 I would need to.

6455 I would need to consult with our.

6456 My superiors are management group.

6457

6458  **McClure, Dean, EMNRD** 1:51:12

6459 Thank you, Mr. Wade.

6460 I'm Mr. herring. Examine.

6461 I don't have any further questions.

6462

6463  **Pecos Hall** 1:51:16

6464 OK, Mr. Rankin.

6465 Does that include your?

6466 It does, Mr. Hearing Officer have? No, no further questions for Mr. Widde.

6467 Mike, how are we going to deal with the two revival exhibits?

6468 I I think they were admitted without object.

6469 I on without objection exhibit one, I, I said.

6470 Admission of the portions that he wanted to talk to the witness.

6471 About I have no problem admitting those.

6472 I would submit as our rebuttal.

6473 Epics rebuttal 1, the portion the full portion starting with that slide 19 that I asked  
6474 him about and then I think.

6475 That leads into the discussion which I said I thought we should have after my cross  
6476 examination about.

6477 Opening up the floodgates of things that were never presented in this hearing.

6478 No problem.

6479 Yep.

6480

6481  **McClure, Dean, EMNRD** 1:52:19

6482 Mr. hearing examiner.

6483

6484  **Pecos Hall** 1:52:21

6485 Yeah, you're right. I'm sorry.

6486 You're right, Mr. Thank you, Mr.

6487

6488  **McClure, Dean, EMNRD** 1:52:22

6489 Yeah. Yeah, I can.

6490 I couldn't hear your side.

6491

6492  **Pecos Hall** 1:52:26

6493 No, you're right.

6494 I, the Court reporter, was picking it up because I'm sitting next to him, but it's not  
6495 fair, OK?

6496 So thank you, Mr. McClure.

6497 So Mr. Beck exhibit rebuttal exhibit 1 from enduring is the 2011 204 page transcript.

6498 How? What is your position on that? My position is that we did not object to  
6499 admitting the portions.

6500 Highlighted in pages 62 through 64.

6501 OK, I think that depending on how Mr. Rankin wants to do it, we could either admit.

6502 The beginning of the discussion of that slide, which I went through page 60, line 17  
6503 through the portions that he talked about.

6504 Or alternatively, I could admit the beginning of that is epics rebuttal exhibit 1I.

6505 I think Mr. Rankin was willing to submit the entire thing.

6506 So if you're limiting it, why don't you tell me now what you want to limit it to?

6507 Well, what?

6508 I just said, which would be pages, pages, 60, lines 17 through.

6509 60 line 17 through 64 Line 5.

6510 Is there anything wrong with your saying pages 60 through 65?

6511 Uh, yes, I think it would be through page 64 if you were inclined to to not not have  
6512 us black out and append certain stuff and and there would be no problem with 60  
6513 through 64.

6514 So. So, Mr. Rankin, by stipulation.

6515 The transcript from 2011 rulemaking pages 60616263 and 64 come into evidence.

6516 Yeah, I mean, I I haven't.

6517 Gone back and reviewed those portions of the of the transcript as I sit here, I don't  
6518 have any concern.

6519 With limiting it to to those pages 60 to 64.

6520 But yeah, subject to our discussion about the administrative notice issue, I mean the  
6521 the division.  
6522 Administrative notice of the rule making.  
6523 May I respond?  
6524 Yeah, I'm just thinking about it first before you respond.  
6525 So give me a second here.  
6526 I mean, it occurred.  
6527 It's there's it's public record what happened.  
6528 I guess it depends on. It really comes down to relevance Rule 403, relevance and  
6529 reliability.  
6530 Obviously it's reliable for whatever it is.  
6531 Why is it all relevant?  
6532 Well.  
6533 I guess I to be honest, I don't know that it all is right. OK? But I'm just saying, you  
6534 know, just not preclude myself from being able to go back and rely on it or look at it  
6535 or cite to it for purposes of of submitting a Clos.  
6536 Statement or a legal brief at the end, Mr. McClure raised several issues.  
6537 In his examination of Mr. Widom that I think would be all very fruitful grounds for  
6538 counsel to address in the closing.  
6539 But I I would agree with that.  
6540 But I still don't.  
6541 I mean, I can understand pages 60 to 64 fine.  
6542 I just don't see the relevance of all of that. Other testimony from 2011 when we have  
6543 a rule or rules that spell out what should happen.  
6544 This is underlying legal research that you can do on your own.  
6545 And it's public record.  
6546 So, Mr. Beck, your position.  
6547 But it's the same as yours, Mr. hearing examiner.  
6548 It's not.  
6549 There's no testimony about it. It's not relevant.  
6550 I think, Mr. McClure, it sounded like to me yesterday, had a had had all that he  
6551 needed to hear to, to make a decision on this.  
6552 I don't expect that today changed his mind.  
6553 And it might have and. And if it did, then then we can talk about that.  
6554 But I think today, if anything clarified the issues and if and if.

6555 The hearing examiner's plural are still inclined to not have briefing and proposed  
6556 findings and conclusions.  
6557 Then Epic is still fine with that approach.  
6558 I take it thank you.  
6559 And so. So I'm gonna stick with MRI. Gonna stick with 60 to 64 for now. That's what  
6560 comes into the record.  
6561 Let's talk about your rebuttal. Exhibit 2, which is your table.  
6562 We had some testimony on it did that.  
6563 Mr. Beck, the table from rebuttal Exhibit 2.  
6564 I think I stated on the record and we don't need to make that court order go back,  
6565 but I think I withdrew my objection and didn't object to it being that's helpful.  
6566 That's my recollection.  
6567 Well, that's helpful.  
6568 Thank you.  
6569 So that comes in.  
6570 That's admitted into evidence.  
6571 So Mr. Rankin, besides those things that Mister McClure asked for yesterday, would  
6572 you, when you do file your amended exhibit and Freya brought up a good point  
6573 today that we didn't give any limit.  
6574 Time limit for amended hearing exhibit packets.  
6575 So is a week enough time or would you prefer two weeks? What do you want?  
6576 I think.  
6577 I have less to to manage on my end than Mr. Beck probably does, and neither of us  
6578 have all that much to do.  
6579 So I think probably a week is plenty of time for us to get what we need and submit it  
6580 to the division.  
6581 I think my understanding is it's a paragraph for Mr. Thompson's testimony.  
6582 So I think a week is as busy as I am.  
6583 I think I can fit that in. There was a paragraph and wasn't it also an exhibit?  
6584 No, it was part of the demonstratives which we didn't, which we didn't go over for  
6585 that for that reason.  
6586 So, but the demonstratives were not admitted, not at not offered admission.  
6587 So in terms of what's actually filed, it's it's a paragraph.  
6588 I thought that's interesting, Mr. Beck.  
6589 I could have sworn that your exhibit packet did have evidence about the rid incident,

6590 but you're saying it's only one paragraph.

6591 Yeah, Mr. Thompson, that's my belief. Having reviewed it yesterday and I'm sure that

6592 and I will commit, I'll go back and review it again. And I think Mr. Ranken will too and

6593 and he'll, he'll tell me if I'm wrong and we'll work through that like we have other.

6594 Things, but yeah.

6595 We that's a long way to say a week's fine.

6596 OK, weeks fine. Sounds good.

6597 And Mr. Rankin, a week's fine for you, right? Yeah. Alright.

6598 Sounds good.

6599 So now we've dealt with the freight in issue, Mr. McClure.

6600 Are you sure?

6601 A closing argument wouldn't be helpful here because it does seem like there's a lot

6602 of interpretation about the horizontal well rule here and how it affects someone with

6603 just a well bore interest.

6604 Well, I I shouldn't say it that way because.

6605 Mr. Beck did say that, didn't you say Mr. Beck in the beginning. And we're not? We're

6606 not taking evidence. The evidentiary part of this is closed.

6607 Didn't you say in your opening statement maybe was it yesterday that Epic had more

6608 than a well bore interest?

6609 No, I I think the testimony began that they had only overriding royalty interests and

6610 then it developed to that. There are well more interests as well, which Mr. McClure

6611 explored, because I didn't that those are working. But I thought you also said and it

6612 wasn't part of the.

6613 Witnesses testimony.

6614 But I thought you also asserted in your opening statement that.

6615 One or more of those well, more interests actually included more than that.

6616 Not even asked Mr. McClure about that yesterday while we were communicating.

6617 Back and forth. Didn't you say that?

6618 No, there wasn't an opening statement, I said.

6619 We were past that the 2nd portion of that was.

6620 I asked questions about whether the leases included as committed, partially included

6621 or not included may be included in the wellbore interest or vice versa.

6622 Right when you get a well bore interest, you get here's your lease.

6623 But in that lease you only have this.

6624 I thought I heard something more than that, so fine.

6625 I didn't. That's fine.

6626 OK, but Mr. McClure, Are you sure?

6627 Are you sure that you wouldn't like some sort?

6628 It could be brief.

6629 It could be a 10 page closing argument.

6630 Are you sure?

6631 A closing argument wouldn't be helpful.

6632

6633  **McClure, Dean, EMNRD** 2:01:10

6634 Mr. herring examiner.

6635 Yeah, yesterday when we were talking about this, I wasn't imagining.

6636

6637  **Pecos Hall** 2:01:18

6638 Right.

6639

6640  **McClure, Dean, EMNRD** 2:01:18

6641 This topic of exploring what the OCC may have intended when it made that rule.

6642

6643  **Pecos Hall** 2:01:24

6644 Right.

6645

6646  **McClure, Dean, EMNRD** 2:01:27

6647 As such, I mean I could see the purpose of having a some sort of closing argument

6648 that maybe briefed a little bit on that.

6649

6650  **Pecos Hall** 2:01:34

6651 OK.

6652

6653  **McClure, Dean, EMNRD** 2:01:36

6654 My only hesitance is is.

6655 Mean we don't need to get into the preamble of these upcoming APD cases. I mean,

6656 it just needs to be confined to our interest in this case. But with that in mind, as long

6657 as we don't get too carried on the page count.

6658

6659  **Pecos Hall** 2:01:45

6660 Right, right.  
6661 Right. Agree.  
6662 OK, OK.  
6663 I'll ask the parties page count.  
6664 What do you propose?  
6665 Mr. Mr. Rankin's looking at me, so I'll go first.  
6666 So is that you should look at each other and come up with something.  
6667 10 pages is fine for me and and I I I heed Mr. McClure's sage advice.  
6668 What I am going to say though is anything in your closing argument that doesn't cite  
6669 to the record will not be considered OK.  
6670 So you cite to the record that means exhibits that were admitted sworn testimony.  
6671 So this won't be due until after the transcript comes in.  
6672 Which will be two weeks from today.  
6673 So is that understood just to make it crystal clear?  
6674 Because I think it is.  
6675 But I just don't want any ambiguity.  
6676 10 pages.  
6677 Double spaced. Yes. All right.  
6678 And then it.  
6679 And then understand the citation. But of course, legal citations, statutory  
6680 construction, that kind of thing that that Mister McClure and you are interested in.  
6681 All good.  
6682 Meaning that we can cite legal authority as well.  
6683 Yes, yes, you said limitations.  
6684 You said only so I knew what you meant.  
6685 I just said remain. No, I'm glad you clarified. Thank you.  
6686 I had the same question you did, huh? OK.  
6687 Well, then I wasn't clear. I'm glad.  
6688 I'm glad you brought it up and I'm glad that we're at the end of this case.  
6689 Occupational hazard.  
6690 Yeah, yeah, of course it is alright.  
6691 Is there anything else before we go? Oh, so two weeks, three weeks after the  
6692 transcript that you usually want more time?  
6693 Mr. Rankin, how do you feel about this one?  
6694 3 is fine with me.

6695 Transcript is generally available the 30th, the 30th would be the transcript.  
6696 The 21st maybe or something like that. We're talking about earlier.  
6697 That was the three weeks earlier, so I assume it's the same couple hours later.  
6698 That's exactly what it is. Yes, exactly.  
6699 21st is good is good.  
6700 OK.  
6701 Very good.  
6702 Then we look forward to your post hearing submission and your amended exhibits.  
6703 And we can thank you for your efforts in this case.  
6704 Off the record, off the record.