

STATE OF NEW MEXICO OIL CONSERVATION COMMISSION

OIL CONSERVATION COMMISSION
MEETING

MEETING

DATE: Thursday, September 10, 2026

TIME: 1:00 p.m.

LOCATION: Hybrid Proceeding

Wendell Chino Building

1220 South St. Francis Drive

Pecos Hall

Santa Fe, NM 87505

REPORTED BY: Ryan Auten

JOB NO.: 8406080

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

ALSO PRESENT:

Dr. William Ampomah, Commissioner

Greg Bloom, Commissioner (by videoconference)

Sheila Apodaca, Commission Clerk

Jonathan Samaniego, American Energy Resources,
LLC (by videoconference)

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E X H I B I T S

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Description

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(None marked.)

1 P R O C E E D I N G S

2 MR. CHANG: Good afternoon. This is
3 Albert Chang, Chair of the New Mexico Oil Conservation
4 Commission. It is currently September 10, 2026, at
5 1:00 in the afternoon. 1:00 p.m. I'd like to call
6 this meeting of the New Mexico Oil Conservation
7 Commission to order, please.

8 Commission Clerk, may I please have a
9 roll call of the commissioners in attendance today?

10 MS. APODACA: Yes.

11 Commissioner Greg Bloom?

12 MR. BLOOM: Present. Online.

13 MS. APODACA: Okay.

14 Commissioner Ampomah?

15 MR. AMPOMAH: Present.

16 MS. APODACA: Commission Chair Chang?

17 MR. CHANG: Present.

18 MS. APODACA: Okay. We have a quorum.

19 MR. CHANG: Thank you very much.

20 With that, have the commissioners had a
21 chance to review the proposed agenda?

22 MR. BLOOM: Yes, Mr. Chair. That
23 looked good to me. I would move to adopt the agenda
24 unless there are any other suggestions.

25 MR. AMPOMAH: Mr. Chair, I do second.

1 MR. CHANG: Moved and seconded that we
2 adopt the agenda for today. Is there any opposition
3 from any commissioners? Hearing no opposition, the
4 agenda is adopted.

5 With that, I will move on to the
6 approval of minutes of a series of prior OCC meetings
7 from June, July, and August. Is there any -- have
8 commissioners had a chance to review, and are there
9 any comments or debates?

10 MR. BLOOM: Mr. Chair, Ms. Apodaca and
11 I exchanged a couple of emails, and I think we got the
12 minutes in pretty good shape, so I don't have any
13 other edits at this point. It was a lot of work.

14 Ms. Apodaca, thank you so much.

15 MR. AMPOMAH: Mr. Chair, I do not have
16 -- I did review the latest version that Sheila shared
17 with us together with the other ones. I do not have
18 any further comments on it. Thank you.

19 MR. CHANG: Okay. If there are no
20 further concerns, I will entertain a motion to approve
21 the series of minutes.

22 MR. BLOOM: Mr. Chair, I so move.

23 MR. AMPOMAH: Mr. Chair, I second.

24 MR. CHANG: Moved and seconded to
25 approve the minutes from -- between June 3rd to August

1 13th. Any opposition from -- any no votes from
2 commissioners? Without opposition, the minutes are
3 approved. Thank you very much.

4 I will move on to pending cases. And I
5 will call consolidated OCD cases 26053 and 26082.

6 MS. HARDY: Good afternoon, Mr. Chair,
7 Commissioners. Dana Hardy with Hardy McLean on behalf
8 of Select Water Solutions, LLC.

9 MR. CHANG: Thank you very much.
10 Appearances from other parties?

11 MR. SUAZO: Good afternoon, Mr. Chair.
12 This is Miguel Suazo with Beatty & Wozniak, appearing
13 remotely today on behalf of Pilot Water. I seem to be
14 having some issues getting my camera to click on.

15 MR. CHANG: Oh.

16 MR. SUAZO: Boom. There it goes.

17 MR. CHANG: You just -- oh.

18 MR. SAYER: Mr. Chair, Matthias Sayer
19 appearing on behalf of Desert Ram.

20 MR. CHANG: Appreciate it.

21 Thank you all very much. We're just
22 here for a status conference. My understanding is the
23 current case here at the OCC is currently held in
24 abeyance, right? Because there was -- we had
25 discussed this earlier. I presume there's no further

1 need at this time from the Commission to hold the
2 abeyance, but I will take the position of the parties
3 as to where we are at and where we should go from
4 here.

5 MS. HARDY: I think that's correct, Mr.
6 Chair. Since the division issued its recommended
7 orders to the Commission and transferred the cases to
8 the Commission that were pending at the division, I
9 think the cases can proceed. And I would propose to
10 file motions regarding standing because I think that's
11 the threshold issue that has to be addressed.

12 MR. CHANG: Sure.

13 MS. HARDY: So we would propose to file
14 briefs on standing, and we could do that within the
15 next two weeks. And then I suppose the other parties
16 will want to respond, and if the Commission would like
17 to hold a hearing, certainly we can answer any
18 questions. And I would make that proposal before any
19 proceedings on the merits occur.

20 MR. CHANG: Okay.

21 Mr. Sayer, Mr. Suazo, which of you
22 would like to go first?

23 MR. SUAZO: Well, I think, you know,
24 what Ms. Hardy recommends sounds reasonable, I think,
25 on the surface. But because there are a number of

1 issues, you know, pertaining to the merits that I
2 think go towards standing and whether the Commission
3 actually, you know, hears our de novo applications, my
4 concern is that bifurcating the standing issue from
5 the rest of the issues that we would like to have the
6 opportunity to present evidence on, I think that might
7 bleed into each other. And so I think we would prefer
8 to have a single hearing. I'm fine agreeing to a
9 briefing schedule of some sort for the various issues
10 and proceeding that way. But I think that we should
11 probably address standing and the merits at a single
12 hearing, whenever that can be scheduled, giving us a
13 reasonable time to actually brief the Commission on
14 the issues so we can move forward.

15 MR. CHANG: Mr. Sayer?

16 MR. SAYER: Mr. Chair -- yeah. Thank
17 you, Mr. Chair. My comments align nearly identically
18 with Mr. Suazo's. I do perceive, you know, not just
19 potential but likely overlap between the argument and
20 presentation as it pertains to standing and, you know,
21 the merits of the matter. So would also recommend
22 that we have one consolidated hearing where standing
23 was addressed at the outset, and potentially that
24 standing be taken under advisement after presentation
25 of an argument on standing and presentation of

1 testimony and evidence as to the merits. And
2 similarly, you know, I'm certainly willing and
3 comfortable to establish a briefing schedule, but --

4 MR. CHANG: So I'm hearing at least --
5 it seems like at least some of you feel that the
6 question of standing is going to turn on some sort of
7 factual dispute as opposed to a merely legal question.
8 Is that the -- is that an accurate summary of your
9 thinking at the moment, Mr. Suazo or Mr. Sayer?

10 MR. SUAZO: I think that's a fair
11 characterization. I mean, I think what underlies all
12 of this is, you know, how useful the area of review
13 actually is or isn't for determining whether or not
14 there's potential for injury as part of these types of
15 applications going forward. And so one of the
16 criteria under the rule is, you know, we can show
17 standing by having an injury-in-fact, and we'd like
18 the opportunity to present our evidence from actual
19 experts in-house and externally to Pilot, which is
20 going to take some time to assemble, and demonstrate
21 that if these select applications are allowed to
22 proceed, it is likely, if not certain, that Pilot
23 would be injured. And I also think the second way to
24 show standing under the rule, which is to contribute
25 substantially to the prevention of waste and

1 protection of correlative rights and so on, are things
2 that we're going to have to put evidence in front of
3 the Commission on that ties directly to our underlying
4 concerns in the first place.

5 And, you know, just another point for
6 efficiency purposes, if I recall, Chairman Chang, in
7 May, when we were talking about this issue and
8 deciding what to do, I think that you wanted to, or at
9 least indicated that you wanted to, let the OCD
10 proceeding conclude so that maybe this process could
11 be more efficient. And I think if that is still where
12 the chair and the Commission sit on that, I think it's
13 going to require Mr. Sayer and Ms. Hardy to sit down
14 and review the record and figure out what we can
15 actually stipulate to on the underlying record that
16 can actually be carried forward to the current
17 proceeding, just so that we don't have to reinvent the
18 wheel entirely. But keeping in mind that, you know,
19 Pilot and Desert Ram, if we're allowed to proceed,
20 deserve the opportunity to put the best evidence that
21 we can in front of the Commission for its
22 consideration.

23 MR. CHANG: Ms. Hardy?

24 MS. HARDY: Yes, I would like to
25 respond.

1 MR. CHANG: Please.

2 MS. HARDY: Mr. Chair, standing is
3 always a threshold issue. It's a threshold issue in
4 every court that I've ever appeared in front of. It's
5 a threshold issue before the Commission and the
6 division. These parties were determined not to have
7 standing by the division, and they're asking the
8 Commission to reevaluate that, and they are wanting to
9 avoid the rule that's been established on the half-
10 mile Area of Review that's been in place for a long
11 time. So standing is absolutely a threshold issue.
12 It should be addressed first. There probably will be
13 facts, but those can be addressed through affidavits
14 and motions and answering questions if the Commission
15 has them. I think if -- it would waste resources of
16 the parties and of the Commission to have a combined
17 hearing on standing and the merits. I think if Select
18 prevails on standing, like it did at the division,
19 then there will not be a hearing on the merits because
20 these are the only two parties challenging the
21 application.

22 So I think standing is absolutely a
23 threshold issue that should be addressed on legal
24 briefs and potential oral argument.

25 MR. SAYER: And, Mr. Chair, I do not

1 disagree that, you know, standing is indeed a
2 threshold issue. However, and as it has occurred in
3 this matter, the -- you know, the order that dismissed
4 Desert Ram from the proceeding was not simply a legal
5 inquiry, right? There was discussion of presentation
6 of -- and ultimately an order that relied, to some
7 degree, on whether or not the evidence supported the
8 standing argument. And so while it's a threshold
9 issue, you know, the evidentiary record has become --
10 and is a very relevant part to that threshold issue,
11 and there's been some blurring of the lines as it
12 pertains to: Are we talking about a merits
13 presentation and a decision on the merits as to
14 whether or not we've established standing, or whether
15 we've established it at the -- you know, as a
16 threshold issue satisfying, you know, the elements of
17 injury, causation, and redressability?

18 So I -- not disagreeing that it's a
19 threshold issue, but I do disagree that it's entirely
20 separate in this case from the presentation of the
21 evidence that goes to the merits of the applications
22 themselves.

23 MR. CHANG: Okay. Let me ask a
24 question. So I kind of see all of your respective
25 points, and they're going to be a little challenging

1 to reconcile. So let me ask a separate question.
2 Other than standing, are there any potential
3 preliminary motions more broadly beyond -- besides the
4 obvious standing issue that's already in front of us?

5 MS. HARDY: I can't think of any right
6 now, but I haven't focused on that because standing
7 was the issue that was addressed --

8 MR. CHANG: That was the elephant in
9 the room.

10 MS. HARDY: That was the elephant in
11 the room, right? And so I think standing does involve
12 facts, but that's true in every court case as well.
13 It's always factual. And a preliminary evaluation is
14 always made on standing. In fact, I think it would
15 violate Select's due process to have to litigate a
16 case against parties who don't have standing, if
17 that's to be determined. So I think it has to be made
18 first, a determination on standing.

19 MR. CHANG: I don't think -- at least
20 Mr. Sayer didn't disagree with you on that. I think
21 there -- it's just the logistics of do we have this
22 big, drawn out, to -- or is it the morning that we --
23 and do we roll straight into a hearing afterwards?
24 How about if I take briefing on the matter so that Mr.
25 Suazo and Mr. Sayer can proffer what evidence -- I

1 think -- because I think one of the issues that came
2 up during the division hearing, if my -- if I
3 understand it correctly, was that the hearing
4 examiner, rightly or wrongly, felt that Mr. Suazo and
5 Mr. Sayer's clients did not proffer sufficient or
6 allege sufficient facts to have a prima facie case
7 that they have standing, right?

8 So perhaps Mr. Sayer and Mr. Suazo,
9 would it be possible for you to at least treat a
10 briefing as a proffer so that we can see at the
11 outset, right, if we -- because then obviously there's
12 going to be a battle of the experts if the -- if
13 alleged facts on the two sides are different, right?
14 And you guys would present alternating witnesses,
15 alternating affidavits, or competing evidence. But I
16 think it might be helpful for us to understand what
17 each side is proffering. So I think a briefing
18 schedule would be helpful for me to at least
19 understand the -- an outline of the case. And then
20 that way, maybe we will -- maybe we'll hold the --
21 this -- yeah. It just seems like right now, I don't
22 have enough information to even figure out what's the
23 most efficient way to proceed here.

24 So maybe for today, and I'll let other
25 commissioners weigh in, but my current inclination is

1 to ask the parties to meet and confer and see if you
2 could at least all brief any preliminary -- any
3 prehearing motions, preliminary motions, standing or
4 otherwise, so that this -- the Commission can at least
5 wrap our heads around what live issues of dispute, the
6 scope of the dispute, so that we can better figure out
7 what the procedural mechanisms are, and the timing,
8 and the scheduling of any proceeding.

9 MS. HARDY: And, Mr. Chair, if I may?

10 MR. CHANG: Please.

11 MS. HARDY: I think that that process
12 may be best served by us filing a motion on standing.
13 I mean, I think it would be a motion to dismiss their
14 applications based on standing, and they would respond
15 with the evidence that they would present, and the
16 Commission could determine how it wants to proceed.

17 MR. CHANG: Does that --

18 MR. SUAZO: So if I can --

19 MR. CHANG: Yeah.

20 MR. SUAZO: -- weigh in --

21 MR. CHANG: Mr. Suazo, yeah.

22 MR. SUAZO: -- to address that?

23 MR. CHANG: Does that sound logical to
24 you, or do you have -- or what's the -- yeah.

25 MR. SUAZO: Well, I think it's a

1 potential path. I think that I'd like to be mindful -
2 - sorry, my camera is doing this thing again. You
3 know, when we were in front of the Commission earlier
4 this year, I think that, you know, the hearing
5 examiner decided based upon, you know, the rule that
6 he wasn't going to recognize standing from Desert Ram
7 or Pilot. And when we took that issue in front of
8 this commission subsequently, it was my takeaway that,
9 you know, the Commission would allow the parties to
10 present evidence to it that we were seeking to present
11 at the division level. And, you know, it was pretty
12 clear that the factual development did not occur in
13 front of the division with respect to Pilot and Desert
14 Ram. And so I think it really bleeds into, you know,
15 what impact is -- are these select applications, you
16 know, potentially going to have on Pilot and Desert
17 Ram? And because those are so heavily factual, I
18 don't want the -- you know, the standing determination
19 necessarily to just bleed over into, you know, a
20 really heavy, fact-finding, you know, witness-
21 intensive type of process. Which I think for Pilot
22 and for Desert Ram to really be able to put on their
23 case and demonstrate the harm, they would need to kind
24 of go down those paths, which takes us far beyond kind
25 of these gateway standing issues. Because this is a

1 very technical matter, and I think that it is exposing
2 a limitation in the rule as to whether the Area of
3 Review and other considerations remain a structure
4 that accommodates development as it exists today.

5 And so I think that the briefing on
6 these standing issues and arguments is largely already
7 in the record in front of the division. We can
8 certainly repackage that, but what I don't want the
9 position of Pilot to be in is that these are all legal
10 arguments for the most part. And the determination of
11 standing, at least in my mind, requires considerable
12 technical, you know, background that only the client
13 can produce that is going to be a difficult thing to
14 include in that briefing, you know, in and of itself.
15 So I want to be mindful of making sure that we give
16 everybody the best information, but also the best
17 opportunity to present the technical merits of their
18 case, which I think directly relates to whether or not
19 standing should or should not be granted.

20 MR. CHANG: Okay. I mean, I agree with
21 you. I'm just trying to figure out the best way to
22 organize it on a procedural level so that we can
23 figure out the best way to do this. Commissioners, do
24 you have any thoughts as to how you would like -- is
25 there any particular way you'd like counsel to

1 organize and proceed on this case?

2 MR. BLOOM: Mr. Chair, if I might?

3 MR. CHANG: Please.

4 MR. BLOOM: A question for Mr.
5 Shandler.

6 Mr. Shandler, do we need to address
7 the, in your view -- or should we address the standing
8 issue as a threshold issue initially, or can we hear
9 this whole thing at once?

10 MR. SHANDLER: Mr. Chair,
11 Commissioners, I'm here to provide options. And I
12 would say, in my experience, I've seen district court
13 judges do it both ways. So it's really your
14 discretion.

15 MR. BLOOM: I don't know that, yeah, I
16 have clarity on this either yet myself to the --

17 MR. CHANG: Here's what --

18 MR. BLOOM: -- to hear both sides here,
19 certainly. So.

20 MR. CHANG: Yeah. And it's -- look,
21 ultimately, there will need to be factual development,
22 and the Commission will make sure that there is some
23 factual development before any final rulings is on
24 standing. I think, for me personally, at this point,
25 because the -- I know you guys have all lived with

1 this case for a while, so you're very familiar with
2 its contours. At least speaking for myself, I don't
3 want to speak for the other two commissioners, it
4 would be helpful if I could at least have some written
5 briefing that sort of helps me wrap my head around
6 where -- a summary of where we're at and how we -- you
7 know, how we got here and where we're at and what the
8 scope of the disputed facts are. I think it may very
9 well be that we take that briefing under advisement
10 and not rule on standing right away until we, you
11 know, have more factual or that -- but I think just
12 having some briefing that outlines the scope of what
13 the dispute is may help me figure out what the best
14 way is to schedule this.

15 And I don't know whether that means
16 that Ms. Hardy -- it sounds like Ms. Hardy wants to
17 file a motion, has already decided that she wants to
18 file a motion. And -- but -- Mr. Suazo and Mr. Sayer,
19 I guess I'll let you weigh in on how -- any other
20 recommendation -- or actually, you know what?

21 MR. AMPOMAH: Yeah. Yeah.

22 MR. CHANG: Let me turn to Commissioner
23 Ampomah for a minute.

24 MR. AMPOMAH: So, Mr. Chair, I -- you
25 know, I read through some of the documents that have

1 been provided to us. Now, the question is: If there's
2 no standing, why would we spend time to really dig
3 into the case? So if we are combining all of them
4 together, and, you know, companies already spent a lot
5 of time getting witnesses ready, and we find out that
6 first day, day 1, there's no standing, then we wasted
7 a lot of people's time. And even for us to listen to
8 all the evidence, one after the other, and at the end
9 of the day, it's all about standing, I feel like we
10 need to take that off. I feel like we need to deal
11 with that. And if we believe that they do have
12 standing, then the case can proceed. I mean, if you
13 read through OCD's ruling, or order, I mean, straight
14 away, the examiner said, no, you do not have standing,
15 right? So we need to really address that. That is my
16 opinion.

17 MR. CHANG: Oh, I think we all agree
18 with you on that point. I certainly do. The only
19 question is: Do we want any written briefing before we
20 get to witnesses?

21 MR. SAYER: Mr. Chair?

22 MR. CHANG: I think, right?

23 Mr. -- Mr. Sayer?

24 MR. SAYER: Yeah. And just -- I guess
25 just two thoughts. One, and I think to some degree,

1 Mr. Suazo mentioned this, but putting a -- maybe a
2 finer point on it, which is, you know, and to Mr. --
3 Commissioner Ampomah's comment as well, but it would
4 definitely be more efficient if there -- if the
5 question of standing were -- it did not require
6 meaningful factual development in order to rule on
7 that. However, in the case before the division, there
8 was some development of facts, and ultimately, you
9 know, inquiry into facts that were very technical in
10 nature. For example, the degree of connectivity
11 between a -- the aquifer and the injection formation,
12 right? That is -- that's very technical and would
13 require, you know, robust engagement from technical
14 experts to demonstrate that connection.

15 I don't necessarily think that that is
16 what is necessary to prove standing, but those were
17 the types of questions that were asked in front of the
18 division, which leads us to believe, you know, sitting
19 here at Desert Ram, you know, we feel somewhat
20 compelled to prepare some of that testimony and some
21 of that evidence to support our standing demonstration
22 and standing argument, which, to Mr. Suazo's point,
23 means that so much of what we would be developing to
24 argue standing would also be the exact evidence and
25 testimony that we would present as to the merits. And

1 so I think, you know, we are going to have to expend,
2 you know, non-trivial resources to develop the
3 standing testimony, and a good portion of that is also
4 going to be the testimony we would be presenting in
5 the merits part of the proceeding.

6 And then just the other point, which is
7 that there was already a motion to dismiss for -- that
8 argued the lack of standing in these matters, which
9 the Commission denied previously. So I'm -- I guess
10 I'm not sure if new motions to dismiss, as they
11 pertain to standing, are necessarily the right
12 approach. In my mind, it does seem most efficient to
13 have a hearing to present the evidence that goes to
14 both standing and to the merits, and then for the
15 Commission to take under advisement -- you know, the
16 first question after hearing that evidence is: Do we
17 find standing, yes or no? If yes, then you have the
18 remainder of that testimony already in front of you.
19 If no, then the matter is closed either way.

20 MR. SUAZO: Yeah, I agree with that.
21 Thanks, Mr. Sayer, for those words. But yeah, I
22 think, you know, to address Commissioner Ampomah's
23 concern, I think, you know, on the surface, he's
24 exactly right. If there's no standing, then why waste
25 anybody's time? But to determine whether or not

1 standing, you know, is, in fact, an issue, it's going
2 to take significant resources to develop those facts.
3 And I think that the Commission should hear all of
4 that, the standing arguments and the technical merits
5 of the impact that Pilot alleges Select's applications
6 will have on it. And if at the back end of this, if
7 the Commission decides to deny, you know, us based on
8 standing without getting to the technical merits, at
9 least we're able to put the technical merits and
10 concerns on the record. And as a reminder, you know,
11 this is exactly what we discussed in May. And, you
12 know, the Commission indicated that the de novo
13 applications would be held in abeyance, and that, you
14 know, if we got this -- we got back to the Commission,
15 we'd have the chance to develop the factual record in
16 front of the Commission that we did not have the
17 opportunity to do in front of the division.

18 So I think Mr. Shandler is right that
19 you can do it either way. In this case, I think the
20 situation lends itself to doing it in a way that
21 allows the standing and the technical merits of the
22 case to be presented at once. And then the Commission
23 can decide how far it wants to take its determination
24 of that proceeding and how it wants to decide it. But
25 I do think it is important for Desert Ram and Pilot to

1 have that technical factual record developed, even if
2 we're ultimately denied based upon, you know, your
3 interpretation of standing.

4 MR. CHANG: Oh. And yes, I think we're
5 all circling around the scheduling issue, but in
6 violent agreement on the various issues of -- yes.
7 You'll get your opportunity to get it on the record.
8 It's just a matter of, do we want written briefing
9 first or do we want to go straight into hearings, and
10 how we schedule and move things around, right? And of
11 course, yes, you're going to want to develop that --
12 your factual record, but if you do a -- frontload it
13 by developing most of your factual record for -- on
14 the standing issues, I would imagine then all of your
15 factual development is all -- is there and you don't
16 need to reinvent the wheel, should we get -- for when
17 you get to the merits hearing. Either way, you're
18 developing the facts, presumably once, and then just
19 whether we do it in a two-step hearing or a one-step
20 hearing.

21 But let me back up. And it seems like
22 perhaps I could ask the parties to confer and maybe
23 try to hammer out a plan instead of us trying to sort
24 this out for you here live because I'm not sure that
25 if -- you know, if Ms. Hardy and her client wishes to

1 file a motion at this point, I don't know that I would
2 have the ability to tell her that she can't file
3 prehearing motions to narrow the issues. Likewise, I
4 -- you know, if Mr. Suazo or Mr. Sayer, if you guys
5 see that there might be other issues where you wish to
6 file a preliminary motion of some sort to narrow the
7 issues or whatnot, presumably, I don't have -- I don't
8 believe I should be in the position of telling any
9 party that they can't file motions, right, prehearing
10 motions.

11 So my suggestion is perhaps if the
12 parties and the -- or respective counsel for the
13 parties could meet and confer and figure out what you
14 guys want to do and perhaps come back to me with a
15 proposed schedule of some sort or work with Sheila to
16 figure out, depending on whether we're going to do the
17 bulk of the factual development as part of a hearing
18 on standing, whether we're going to do it primarily as
19 part of the merits hearing. Ultimately, we also need
20 to know how many witnesses, respectively, you
21 anticipate needing to present, how much time you need
22 to present your witnesses, so that we can also figure
23 out the Commission's calendar as to how many days you
24 think you might need to develop this total record, and
25 -- so that we can figure out Commissioner Bloom and

1 Commissioner Ampomah and my respective schedules to
2 hold some dates.

3 So is -- would it be all right with the
4 parties if I asked counsel to meet and confer and
5 figure out a proposed, or competing, if you guys -- I
6 -- it would always, always, always help if the parties
7 can agree. But of course, I'll -- I'm happy to take
8 competing proposals of -- for a prehearing order that
9 lays out a timeline and, you know, a procedural
10 timeline. If you guys can't come to agreement though,
11 I -- if you wouldn't mind, counsels, I would really
12 appreciate if you -- if the three of you wouldn't mind
13 meeting and seeing if you could come to some sort of
14 mutual understanding.

15 MS. HARDY: Sure. Absolutely. We can
16 do that. And I think --

17 MR. SUAZO: Yeah. That's fine.

18 MS. HARDY: Yeah. I just wanted to
19 mention, the Commission didn't rule on standing
20 previously, right? The Commission --

21 MR. CHANG: Held it.

22 MS. HARDY: -- stayed it?

23 MR. CHANG: Yeah.

24 MS. HARDY: Yeah. Yes. We moved to
25 dismiss --

1 MR. CHANG: Held it to be decided on
2 now. Yeah.

3 MS. HARDY: Right. We moved to dismiss
4 primarily on the fact that the division hadn't issued
5 orders yet, final orders. That was the basis for the
6 motion, the primary basis of the motion to dismiss.

7 MR. CHANG: So I suppose we stayed --
8 so -- and this is where you guys may have to remind me
9 on the procedural posture too, right? So is that
10 motion -- do we merely stay the motion or -- so is
11 your motion -- well, yeah. So are you just amending
12 the motion that's -- or reviving the motion that's
13 already in the record? Should they respond to your
14 original motion?

15 MS. HARDY: No.

16 MR. CHANG: Are you filing a -- you
17 know?

18 MS. HARDY: Yeah.

19 MR. CHANG: Point is, if the three of
20 you could meet and figure this out as to how you best
21 wish to present the case here, that would be helpful.

22 MS. HARDY: Sure. We will do that.

23 MR. CHANG: Awesome. Can we leave it
24 there for today? Is that --

25 Mr. Sayer, is that okay with you?

1 MR. SAYER: Definitely. Thank you, Mr.
2 Chair.

3 MR. CHANG: Okay. And please, just
4 reach out to Sheila, I think, or myself, but probably
5 Sheila. You'll probably have an easier time reaching
6 our commission clerk. And then we'll go from there.
7 I will pencil you guys in for another -- at the very
8 minimum, another just check-in status conference for
9 the next regularly scheduled Commission hearing. But
10 presumably, I hope we'll hear from you -- the -- from
11 you in the meantime, so.

12 MS. HARDY: Thank you.

13 MR. CHANG: Does that work?

14 MR. SUAZO: That works. Thank you, Mr.
15 Chair and Commissioners.

16 MS. HARDY: Yes. Thank you.

17 MR. CHANG: Great. Thank you all very
18 much.

19 In that case, I will move on to Case
20 Number 26385. May I have -- this is application
21 American Energy Resources to reopen for de novo
22 hearing and stay of division orders. May I have
23 appearances of the parties?

24 MR. SAMANIEGO: Jonathan Samaniego,
25 representative of American Energy Resources.

1 MR. CHANG: Thank you very much.

2 MS. VANCE: Good afternoon. Paula
3 Vance with the Santa Fe office of Holland & Hart on
4 behalf of Permian Resources Operating. And we entered
5 an appearance and objected to this de novo
6 application.

7 MR. CHANG: Thank you.

8 Mr. Samaniego, you had filed -- we're
9 just doing a status conference today, so -- but you
10 had filed -- I see your application here.

11 I don't know why I haven't gotten
12 something in writing back from Ms. Vance.

13 But, Ms. Vance, would you have anything
14 that you'd like to put on the record at the moment?

15 MS. VANCE: Sure. Yes. I would love
16 to. So Mr. Samaniego refiled what he originally filed
17 at the division level, and I just wanted to walk
18 through a couple of points on that. At the division
19 level, the division limited their final hearing on Mr.
20 -- sorry. My bag is falling over on me, making weird
21 noises. The division limited the hearing in that case
22 to two of the cases that Mr. Samaniego sought to
23 reopen, and so -- and made a final decision on that.
24 And so if we do need to move forward at all with this
25 case, I would just ask that we mirror that and limit

1 the scope to what was heard at the division level and
2 the two cases that were heard at the division level.
3 And those cases are 25137, and the Order Number is R-
4 23748. And the other case is 24837, and the Order is
5 R-22893-A.

6 The other thing I do want to point out
7 is that Mr. Samaniego, his -- and -- well, let me back
8 up. The particular scope that the division heard in
9 that case was really around this question of whether
10 notice was satisfied. And on that point, the division
11 did find that Permian did satisfy the notice
12 requirements. And at the hearing, Mr. Samaniego did
13 not file any testimony. He relied on the record. He
14 did not comply with any of the procedural requirements
15 at the division level, such as turning on his camera,
16 and was unable to provide any testimony to -- for his
17 case. That being said, again, I would ask that we, if
18 we do need to move forward, that we limit it to those
19 two cases and also what was heard, the limited scope
20 that the hearing examiner outlined in his prehearing
21 order. And I'm glad -- and I would just ask that the
22 Commission take administrative notice of that order if
23 we are going to move forward with any kind of case.

24 One other thing I did want to point out
25 is that Permian Resources submitted an extension -- a

1 one-year extension request in one of these cases,
2 which is the 25137. They do not dispute that Mr.
3 Samaniego has a small interest there. And so they --
4 Mr. Samaniego, he finally, at the division level,
5 during one of our status conferences, said that he
6 wanted to have an opportunity to participate. Well,
7 now that there's an extension, he will get a proposal
8 under the pooling order. So hopefully that does
9 satisfy any kind of issues that Mr. Samaniego has with
10 that particular case. And perhaps we --

11 MR. CHANG: Which particular case again
12 was that?

13 MS. VANCE: It was case 25137. And a
14 one-year extension was just granted for that.

15 MR. CHANG: Okay.

16 MS. VANCE: So again, I'm just trying
17 to maybe limit the scope here to the cases and to what
18 we're -- what we would need to go to a hearing on.
19 And as -- again, I would just ask that if we -- if
20 that -- if we are allowed to do that, that we just
21 limit it to the one case in that -- in -- which would
22 be just the 24837, and again, just limit it to the
23 matters that were heard by the division.

24 MR. CHANG: Mr. Samaniego, I'll turn to
25 you because I presume you have a different position.

1 I'll let you summarize your case briefly, but just so
2 you know, this -- we're just only doing a status
3 conference to figure out when and how, like we did
4 with the previous case, trying to organize around what
5 -- you know, what's under dispute and how we can best
6 organize it. So I'll let -- I'll give you an
7 opportunity to summarize the -- your filing here for
8 the record. But if you could keep it brief so that
9 then we can talk a little bit about logistics about
10 how we move forward to resolve your -- to adjudicate
11 and resolve your application here.

12 MR. SAMANIEGO: Okay. First, I'd like
13 to -- American objects. Second, before any
14 summarizing is done, I'd like to respond.

15 First, Mrs. Vance's rants are
16 irrelevant, totally irrelevant to the matter at hand.
17 I want -- those need to be thrown out, should not be
18 heard. They're irrelevant. American has shown
19 ownership. Ms. Vance, again, is contorting and trying
20 to mislead the Commission.

21 Also, American objects to Mrs. Vance
22 request to not reopen the already dismissed cases.
23 She's asking the Commission to further violate New
24 Mexico law, statutes, rules, for those cases have not
25 been heard. They were erroneously dismissed. And for

1 her to request to keep those dismissed that have not
2 been heard is just continuing damages, harm, future
3 damages, and also abating Permian and Mrs. Vance's
4 acts, bad acts as bad actors.

5 So American objects to all that, all
6 those requests and rants of Mrs. Vance.

7 And then I'll get down to the summary.

8 MR. CHANG: Okay.

9 MR. SAMANIEGO: Summarizing this,
10 American requests that the -- is requesting that the
11 dismissed cases by Chakalian be reopened because they
12 were not heard. Mrs. Vance stated that there was no
13 ownership. American provided proof of ownership on
14 those dismissed cases, and for them to continue to be
15 dismissed on the Commission level would be continually
16 -- and it would be gross negligence. So American is
17 requesting that the dismissed cases be reopened with
18 the case that's being reopened today.

19 Permian referenced giving notice to a
20 Jennifer Roper [ph]. Jennifer Roper is a previous
21 owner. Black Gold is the owner. No notice was sent
22 to Black Gold or American. And they're referencing
23 that notice is sent to Samaniego, who was not a party
24 of ownership of record, was proper notice. So there's
25 numerous ownerships in many different tracts, in many

1 different pools, and American has presented numerous -
2 - even exhibit as far as -- which is it? Give me a
3 minute.

4 MR. CHANG: Take your time.

5 MR. SAMANIEGO: While I'm reviewing
6 this, may I ask the Commission, have you reviewed
7 American's 257-page package?

8 MR. CHANG: We've reviewed your filings
9 for this case, but we're just at a status conference
10 right now. So while I wanted to make sure you had an
11 opportunity to summarize your case, the --

12 MR. SAMANIEGO: Okay.

13 MR. CHANG: -- the evidence will come,
14 presumably, if we get to an evidentiary hearing, but
15 we're not doing a full evidentiary hearing today yet.
16 We're trying to figure out, you know, A, do we want to
17 -- are any parties going to file any preliminary, you
18 know, prehearing motions, any motions to narrow the
19 issues, to raise some -- whatever prehearing issues
20 each of you may want to raise, what you would like for
21 a briefing schedule so that motions can get responses
22 or cross responses. And then if there are no motions,
23 or if -- once all the motions are filed, and either
24 the Commission decides on them, or the Commission
25 takes them under advisement and proceeds to an

1 evidentiary hearing, presumably, then what evidence do
2 you need to present, how -- you know, how many days,
3 what witnesses, how much time do you need? And then
4 we'll try to schedule for everybody's availability if
5 -- so that's what we're trying to accomplish in a
6 status conference is just -- you know, I wanted to
7 give you an opportunity to summarize what you're
8 trying to do here, but -- for the record. But --

9 MR. SAMANIEGO: Okay. Well, I'd like
10 to --

11 MR. CHANG: -- for today, we're not
12 trying to evaluate your evidence. We're just trying
13 to make -- understand how this needs to be organized.

14 MR. SAMANIEGO: Yes, sir.

15 MR. CHANG: Okay.

16 MR. SAMANIEGO: Okay. And then I'd
17 like to respond to Mrs. Vance -- Mrs. Vance's remarks
18 on American relying on the evidence submitted by
19 herself and Permian. And does the Commission find
20 that to be wrong, or does the Commission deny
21 American's right to use the objecting party's evidence
22 as its own evidence?

23 MR. CHANG: We have not ruled on any
24 sort of merits issues today yet. This is -- like I
25 said, we're just trying to schedule and organize so

1 that if we get to -- you know, whenever we schedule
2 and get to an actual merits hearing, you know,
3 evidentiary hearing, presumably, you would raise those
4 issue -- you would proffer that evidence. If there's
5 any objections to evidence from the other parties, we
6 would then entertain that -- we would then make that
7 decision at that point, right? You would move to
8 admit some sort of evidence. If the other party has a
9 concern about the evidence that you're trying to
10 admit, they, presumably, would object at that point.
11 And then we would hear why they object, and then we
12 would decide then, you know, what is admissible and
13 what isn't admissible. Where we don't --

14 MR. SAMANIEGO: But --

15 MR. CHANG: -- make that decision
16 today.

17 MR. SAMANIEGO: But the Commission is
18 not denying American its right to use the objecting
19 party's submitted evidence against them as evidence,
20 correct?

21 MR. CHANG: So that's what I -- so I
22 was trying to explain that because we're just
23 scheduling today, you will -- so what will happen is
24 when we get to a merits hearing, you know, the
25 evidence that you're talking about, you can offer it

1 and move to admit it at that point. And then whether
2 or not -- like, then if there's no objection, then
3 yes, it would be admitted, right? If there is an
4 objection, then the Commission would, at that point,
5 have to hear what the objection is and then, you know,
6 what -- why do they object? Is there a basis for
7 their objection? Do you have a response to their
8 objection? And then we would make a determination on
9 what evidence is admissible during an evidentiary
10 hearing. Right now, we're not excluding anything, but
11 we're also not admitting anything today. Does that
12 make any sense?

13 MR. SAMANIEGO: I see.

14 MR. CHANG: Yeah. So for today's --

15 MR. SAMANIEGO: Okay.

16 MR. CHANG: -- purposes, I think the --
17 I mean, I'll let you have your -- you know, I'll give
18 you some time if you have anything else that you
19 really want to make sure that we get on the record
20 today. But if you're ready, I'd like to get to some
21 sort of schedule and set maybe enough -- a window, a
22 briefing schedule so that you guys can, if there are
23 any prehearing issues, for -- actually, you could
24 raise prehearing issues around exclusion of evidence,
25 for example, right? So you could bring motions to

1 propose that certain evidence be -- evidence that the
2 other parties want to introduce, you could potentially
3 ask that we consider excluding that.

4 But -- so I want to set a schedule for
5 if either party has any prehearing motions. First,
6 the -- a deadline for those motions, and then a
7 deadline for you to each respond to each other's
8 motions, if any.

9 MR. SAMANIEGO: Yes, sir.

10 MR. CHANG: Does that -- in that case,
11 I want to give everybody sufficient time, and I know
12 everybody is very busy.

13 What -- Ms. Vance, do you have proposed
14 dates for that?

15 MS. VANCE: Yes. I mean -- well, I
16 should say sort of. Yes, I'm very busy right now. We
17 definitely will plan on filing prehearing motions and
18 certainly -- hopefully -- yeah. So I would say, I
19 mean, at least until the end of the month. I'm not
20 sure how soon we are trying to get on to some sort of
21 -- set a hearing date, if that is really what the
22 intention is. I will say, you know, part of the --
23 part of what we wanted to do is actually hear from Mr.
24 Samaniego and understand his position today. But
25 yeah, I would ask until the end of the month to have

1 any kind of prehearing motions filed.

2 MR. CHANG: Does -- so I'm looking at
3 either Friday the 25th or the 2nd. Would 25th be
4 okay, or is that --

5 MS. VANCE: I would ask for the 2nd, if
6 that's okay?

7 MR. CHANG: Mr. -- it's up to you, Mr.
8 Samaniego. Is -- are -- Mr. Samaniego, are you okay
9 with the 2nd as the deadline to file any motions --
10 for you to file motions, for Ms. Vance to file
11 motions? And then probably my -- I would -- maybe two
12 weeks after that to respond to each other's motions?

13 MS. VANCE: That works for me.

14 MR. SAMANIEGO: Okay. And that's
15 October 2nd?

16 MR. CHANG: Yes, October 2nd to file
17 motions. And then October -- well, actually, you
18 know, Ms. Vance, I -- well, no, because we have a
19 meeting on the 16th, but that's for a different case.
20 So actually, yeah, the 16th for replies; is that okay?

21 MS. VANCE: That works for me.

22 MR. CHANG: Okay. So we'll see --
23 we'll get your -- both your motions in writing.

24 MR. SAMANIEGO: So that's October 16th,
25 or -- I'm not getting no -- I'm not -- you're giving

1 numbers, but no month.

2 MR. CHANG: Thank you. So, yes,
3 October 2nd for you to -- for both of you to file
4 motions, any prehearing issues you want the Commission
5 to decide on before we get to the evidentiary
6 hearings, and then October 16th to reply to each
7 other's motions. No objections?

8 MS. VANCE: No objection.

9 MR. SAMANIEGO: No objections.

10 MR. CHANG: Okay, great. In that case,
11 I will wait for your written filings. And then from
12 there, probably at a date in early October, we'll
13 coordinate to see when we need to have another status
14 conference or go from there.

15 MR. SAMANIEGO: Before we get off the
16 record, I want to also -- I want it on the record that
17 American has submitted evidence in its 257-page
18 application. And as part of the evidence, American
19 provided instructions to all interest owners. This is
20 by Permian, and it was sent to American. And it lists
21 all the interests or -- yeah, all the interests. I
22 think it's missing some in here, too, but all the
23 interests American is referencing and responding to in
24 this -- in its application. And this is Permian's own
25 submittal. This is what Permian sent to American.

1 And to say that -- to say that -- for them to say that
2 the cases should be dismissed or erroneously dismissed
3 because American has no ownership, but their mailing
4 to American says different. And this is the evidence
5 that American is talking about, among others, that Ms.
6 Vance is contorting --

7 MS. VANCE: I'm going to object to
8 this. He's getting into the merits of what he is
9 going to present at a hearing --

10 MR. SAMANIEGO: Well, I'm responding --
11 no, I'm responding to Mrs. Vance request on hearing
12 American's response on the matter. That's what she
13 said. And I'm responding to that.

14 MR. CHANG: Fair enough. And that's my
15 understanding as well, that the issues here are notice
16 -- you know, the disputed issues are ownership and
17 notice, right? So I presume both of you will provide
18 some sort of written filings that will help us define
19 those issues more narrowly and more specifically as we
20 move forward in the process.

21 MR. SAMANIEGO: Yes, sir. And I'm
22 sorry. I was just responding to Mrs. Vance request.
23 That's all I was doing.

24 MR. CHANG: That's fine. Well, thank
25 you. Appreciate it.

1 Is there anything else from either of
2 you today?

3 MS. VANCE: Nothing more.

4 MR. SAMANIEGO: No, sir.

5 MR. CHANG: Okay. Thank you very much.
6 We'll look forward to your written filings.

7 MR. SAMANIEGO: Thank you, Mr. Chair.

8 MR. CHANG: Moving on to the next case
9 or the next agenda item. I don't believe I have any
10 other business.

11 Mr. -- Commissioner Bloom or
12 Commissioner Ampomah, any other business to bring up
13 today?

14 MR. AMPOMAH: No.

15 MR. BLOOM: No, Mr. Chair.

16 MR. CHANG: Next meeting, I think we --
17 yeah, October 15th and 16th, we're on the calendar for
18 our next hearing. I believe we've got a contested
19 case set for those dates. Pending OCC litigation
20 matters, Mr. Shandler, do you have any updates for us?

21 MR. SHANDLER: I have not been
22 presented with any.

23 MR. CHANG: I'm sorry?

24 MR. SHANDLER: I have not been
25 presented with any new information.

1 MR. CHANG: Okay. In that case, I will
2 -- unless the -- do the commissioners wish to go into
3 closed session to discuss any litigation matters? If
4 not, we will -- I mean, if you guys have any questions
5 about litigation, I'm happy to entertain a closed
6 session. Otherwise, I'll take a motion to adjourn
7 because we've reached the end of our agenda.

8 MR. BLOOM: Mr. Chair, I would move to
9 adjourn.

10 MR. AMPOMAH: Mr. Chair, second.

11 MR. CHANG: Moved and seconded that we
12 adjourn. Any votes to the contrary? Without
13 objection, we are adjourned.

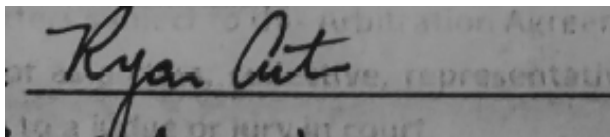
14 Thank you all very much.

15 MR. BLOOM: Thank you, all.

16 (Whereupon, at 1:53 p.m. the proceeding
17 was concluded.)
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25

CERTIFICATE

I, RYAN AUTEN, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

A handwritten signature in black ink, reading "Ryan Auten", is written over a horizontal line. The background of the signature area is a light gray, textured surface.

RYAN AUTEN

Notary Public in and for the
State of New Mexico

[& - albuquerque]

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[blurring - comment]

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New Mexico Rules of Civil Procedure for the
District Courts

Article 5, Rule 1-030

(e) Review by Witness; Changes; Signing.

If requested by the deponent or a party before completion of the deposition, the deponent shall have thirty (30) days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by Subparagraph (1) of Paragraph F of this rule whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

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ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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