

1 STATE OF NEW MEXICO  
2 ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT  
3 OIL CONSERVATION DIVISION  
4

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

8 APPLICATION FOR AN ACCOUNTING FROM  
9 MEWBOURNE OIL COMPANY UNDER ORDER  
10 NOS. R-21292 AND R-21293 AND TO DECLARE  
11 CERTAIN ACCOUNTING PRACTICES IMPROPER

12 Case No. 22378

13 REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS  
14 July 8, 2022  
15 SANTA FE, NEW MEXICO

16 This matter came on for virtual hearing  
17 before the New Mexico Oil Conservation Division,  
18 HEARING OFFICER WILLIAM BRANCARD and TECHNICAL  
19 HEARING OFFICER DEAN McCLURE on Thursday, July 8,  
20 2022, through the Webex Platform.

21 Reported by: PAUL BACA COURT REPORTERS  
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1 HEARING OFFICER BRANCARD: With that, we  
2 are on Case 22378, Siana Oil & Gas.

3 Can I have entries of appearance for  
4 Siana?

5 Ms. Shaheen, I think you're muted.

6 MS. SHAHEEN: Good morning everyone, can  
7 you hear me now?

8 HEARING OFFICER BRANCARD: We can.

9 MS. SHAHEEN: Great. Thank you. Sharon  
10 Shaheen on behalf of Siana Oil & Gas.

11 HEARING OFFICER BRANCARD: Thank you.

12 We have Mewbourne Oil Company.

13 MS. HARDY: Good morning, Mr. Examiner,  
14 Dana Hardy with the Santa Fe Office of Hinkle Shanor  
15 on behalf of Mewbourne Oil Company.

16 HEARING OFFICER BRANCARD: Thank you.

17 Are there any other interested persons for  
18 Case 22378?

19 Well, that's disappointing, this is an  
20 exciting case.

21 All right. With that, let's see where  
22 we're going here. We have a contested hearing, I  
23 believe both sides have submitted testimony. We  
24 have witnesses available for questioning. But I  
25 think we kind of need to lay some ground rules. And

1 I went through the arguments and the exhibits last  
2 night as best as I could. There were about 2,000  
3 pages of exhibits.

4 And so let me explain where I am on these  
5 cases. And then you can try to perhaps shape your  
6 performances today to answer the questions that I  
7 have. And so my concern is with compliance, with  
8 the orders that have been issued in this case.

9 We have two compulsory pooling orders. In  
10 each of these compulsory pooling orders that were  
11 granted to Mewbourne as operator, Siana Oil & Gas is  
12 the pooled party. I think it is undisputed that  
13 Siana Oil & Gas was operating opportunity to  
14 participate in the wells and that Siana Oil & Gas  
15 did participate in the wells.

16 After that, it gets confusing. So we just  
17 need to go through the requirements of the order to  
18 see whether they've been complied with. And the  
19 point here is that these are not original conditions  
20 in this order. It's the same conditions that are in  
21 every compulsory pooling order. They have been in  
22 the every compulsory pooling order for years. So  
23 there's nothing terribly unique here. We just --  
24 and there's a series of deadlines. There's a whole  
25 lot of "shalls" in the order. So we need to see

1 whether the parties complied will all the "shalls"  
2 in the order.

3           It appears that the parties managed to get  
4 through Paragraph 23 of the order which leaves them  
5 with Paragraph 24, which is the provision about  
6 actual well costs. So we need to start from the  
7 beginning to determine whether Mewbourne complied  
8 with the actual well cost provisions. And then from  
9 then on other requirements that Mewbourne has about  
10 providing lists of charges annually, I believe under  
11 the order.

12           Now, Siana is wanting to debate the  
13 reasonableness of charges in this case. There are  
14 specific provisions in the order about when a pooled  
15 party can challenge those. We need to determine  
16 whether Siana met those conditions, before we even  
17 get to discussing whether it's reasonable or not.

18           Now, like I said, the order is pretty  
19 clear, pretty well-known to all the operators here.  
20 There's a lot of "shalls." There are no provisions  
21 for excuses in here. Nothing about getting a note  
22 from your doctor, your mother. You have to comply.  
23 So that's what I'd like to hear today about whether  
24 the parties have complied with the basic provisions.

25           If not, we may need to go back and start

1 from zero with some of these provisions and start  
2 the clock over again. And if not, in other cases,  
3 parts of this case may disappear. So depending on  
4 who's not complying with the order. So that's what  
5 I'd like to hear today more than a lot of debating  
6 about whether, you know, the widget is appropriately  
7 apprised or not.

8           So with that, I will start the case off  
9 and I will allow for opening statements from each of  
10 the parties. And please explain who your witnesses  
11 are and how they're going to help us understand this  
12 case today.

13           Is Siana prepared to go ahead with an  
14 opening statement?

15           MS. SHAHEEN: Yes, I am, Mr. Examiner.

16           HEARING OFFICER BRANCARD: Thank you.

17           Please proceed.

18           MS. SHAHEEN: First, I'd like to just  
19 briefly address the scope of hearing that you've set  
20 out for today. And, respectfully, I believe we  
21 sought an accounting which is a little bit broader  
22 than determining whether Mewbourne and Siana have  
23 complied with the provisions of the orders. Of  
24 course, the provisions of the orders are at issue  
25 here, which we've identified in our application and

1 in our testimony.

2 But in addition, the application very  
3 plainly talks about reserving our right to challenge  
4 the cost whether they're reasonable or not. It also  
5 addresses whether Mewbourne acted wrongfully by  
6 holding a hundred percent of Siana's interest in  
7 suspense. It also addresses a number of other  
8 issues, including whether Mewbourne can refuse to  
9 allow Siana to take its production in kind.

10 And I can briefly state a few other --  
11 whether Mewbourne has engaged in specific improper  
12 accounting practices aside from the violations of  
13 the order. And whether Mewbourne should be required  
14 to allow Siana to participate in subsequent wells in  
15 light of its failure to provide the monies that were  
16 due to Siana.

17 So with all due respect, I hope that you  
18 will allow us to include some of that testimony into  
19 the record because I think it's important to  
20 providing a fair and equitable relief to Siana. I  
21 would note that -- I'm looking for my opening  
22 argument paper here. I would note that the Division  
23 has broad authority under the Oil and Gas Act under  
24 Section 70-2-6 and 70-2-11. The Division shall have  
25 jurisdiction, authority and control of and over all

1 persons, matters or things necessary or proper to  
2 enforce effectively the provisions of this act or  
3 any other law of the state relating to the  
4 conservation of oil and gas.

5           The Division has a duty to prevent waste  
6 and to protect correlative rights, which is exactly  
7 what we're asking the Division to do here and that  
8 is to protect Siana's correlative rights. And the  
9 Division is empowered to do whatever may be  
10 reasonably necessary to carry out the purpose of  
11 this act.

12           The application more than satisfies the  
13 requirements of 19.15, I believe it's 4.9, with  
14 respect to providing Mewbourne with notice of what's  
15 at issue here. In fact, the Commission has even  
16 recently in Order No. R-21631-A explained that  
17 19.15.4.9 simply requires the applicant's name, the  
18 applicant's address, the name or general description  
19 of the common source or sources of supply. Briefly,  
20 the general nature of the order sought. A proposed  
21 legal notice for publication in any other matter,  
22 Division rules or the Division order requires. The  
23 application more than satisfies 19.15.4.9 in that  
24 regard.

25           Compulsory pooling is governed by a

1 Section 70-2-17 which requires the Commission to  
2 ensure that all compulsory pooling orders, "are just  
3 and reasonable" and that a party who is force pooled  
4 has, "The opportunity to recover or receive without  
5 unnecessary expense, his just and fair share of the  
6 oil or gas."

7 And we believe that all the issues that  
8 are raised in the application and that we would like  
9 to present evidence for today fall within the scope  
10 of that authority and that obligation of the  
11 Division.

12 As for some of the improper accounting  
13 practices that Mewbourne has concerned -- has  
14 engaged in Section 20-70-2-17 limits cost to those  
15 in drilling the well not another well. And we are  
16 raising this issue in the application as well.

17 So with that, I'll briefly summarize  
18 Mewbourne has engaged in improper accounting  
19 practices under the force pooling orders, including  
20 but not limited to demanding payment of estimated  
21 cost that far exceeded cost reasonably anticipated  
22 at the time drilling was to occur. Instead of  
23 returning the overages that resulted, they used the  
24 excess payment to net operating charges for these  
25 wells. They used the excess payment to net

1 operating charges for other unrelated wells. They  
2 netted LOE or lease operating expenditures from the  
3 OJ and the PI wells from the overage and from other  
4 Mewbourne operated wells. They netted LOE for the  
5 Inland, OJ, PI wells at issue here from production  
6 from other wells.

7 This is clearly in violation of 70-2-17.  
8 And we believe that the Division has authority and  
9 an obligation to ensure that Mewbourne is not  
10 engaging in practices that are outside of what is  
11 permitted under 70-2-17.

12 Those accounting practices are also  
13 contrary to the orders, particularly Paragraphs 24  
14 through 28. With that, Siana -- I summarize Siana's  
15 ask today -- we ask that the Division order Mewborne  
16 to provide an accounting by paying for and arranging  
17 for an independent auditor, that the Commission  
18 enforce the provisions of the order that Mewbourne  
19 has violated requiring Mewbourne to submit itemized  
20 statements for actual well costs and operating  
21 charges, that the Division order Mewbourne to cease  
22 its proper netting of lease operating expenditures,  
23 that the Division order Mewbourne to immediately  
24 refund the overages for estimated costs for the two  
25 inland wells at issue here, OJ and PI, with interest

1 under Section 56-8-3 and I note that I have two  
2 orders, one in which the Commission and the Division  
3 both ordered interest, that interest be paid.  
4 That's Order No. R-10154-A and our Order  
5 No. R-1960-B, in both of those cases, the Commission  
6 and Division ordered that interest be paid under the  
7 Proceeds Payment Act. Here with respect to the  
8 overages, a different interest provision would  
9 apply. And that is Section 56-8-3.

10 We ask that the Division order Mewbourne  
11 to allow Siana to exercise its right to take its  
12 production in kind, which is not prohibited under  
13 the order. We ask that the Division retain  
14 jurisdiction to consider the reasonableness of cost  
15 after Mewbourne has provided the accounting. And  
16 finally, we ask Siana to -- excuse me, we ask the  
17 Division to require Mewbourne to provide a fair  
18 opportunity for Siana to participate in the  
19 subsequent Inland Wells that were drilled and  
20 completed while Mewbourne was improperly withholding  
21 monies and revenues due to Siana.

22 Thank you.

23 HEARING OFFICER BRANCARD: Ms. Shaheen,  
24 can you give us who your witnesses are today?

25 MS. SHAHEEN: Yes, absolutely. Mr. Tom

1 Ragsdale will be testifying first. And after that  
2 we will have Siana's accountant Danielle Caldwell.

3 HEARING OFFICER BRANCARD: Thank you.

4 Does Mewbourne have an opening statement?

5 MS. HARDY: Yes, Mr. Examiner, I do.

6 Thank you.

7 HEARING OFFICER BRANCARD: Please proceed.

8 MS. HARDY: As previously outlined in our  
9 prehearing statement, many of Siana's claims are not  
10 within the scope of the Division's authority under  
11 the Oil & Gas Act and they also are not within the  
12 scope even of Siana's application in this case. And  
13 I'll get into those in just a minute.

14 The backdrop for this dispute is the fact  
15 that Siana elects to participate in Mewbourne's  
16 wells under pooling orders and thereby avoids the  
17 risk penalty and then refuses to pay joint interest  
18 billings for the well costs. As a result, Mewbourne  
19 is forced to front costs associated with Siana's  
20 interest even though Siana has elected to  
21 participate. Siana's application in this case is  
22 part of this ongoing effort and dispute in which  
23 Siana avoids paying its JIBs.

24 With respect to the specific claims here,  
25 Siana's claim that the estimated well cost were

1 inflated has no merit. Siana waived any right to  
2 challenge the estimated well cost. It did not enter  
3 an appearance in the pooling cases where the AFEs  
4 were deemed reasonable and were approved. Under the  
5 pooling order, the AFEs were valid for the one-year  
6 time period afforded to commence drilling. The  
7 pooling orders do not require an operator to update  
8 estimated well costs. A JOA would normally include  
9 requirements regarding updated well costs but Siana  
10 declined to sign one. Instead they elected to be  
11 pooled which required them to pay the estimated well  
12 cost.

13 Mewbourne did provide Siana with itemized  
14 statements of the actual well cost. I think it's  
15 undisputed that Mewbourne provided Siana with JIBs  
16 and daily drilling reports. Those documents include  
17 detailed information on the well cost. In fact,  
18 Mewbourne provided Siana with far more detailed  
19 information than is required by the pooling orders.

20 Mr. Ragsdale's written testimony concedes  
21 that he determined the actual well cost based on the  
22 daily drilling reports. The spreadsheets provided  
23 by Siana also confirm that Mewbourne provided Siana  
24 with extremely detailed information regarding the  
25 actual well cost. Siana could have objected to the

1 cost under the pooling orders but did not do so.

2 Moreover, the actual costs were  
3 approximately 40 percent under budget, so it's  
4 unclear what any type of objection would state.

5 Mewbourne also provided Siana with  
6 itemized statements of the operation and maintenance  
7 charges for the wells. This is the same concept as  
8 the actual well cost. Mewbourne provide JIBs that  
9 include an extremely detailed breakdown of the cost  
10 and we have included those in our exhibits, and our  
11 accounting witness will address them.

12 Siana's application had raised a claim  
13 regarding the charging of supervision cost under the  
14 pooling orders. It's not clear to me whether that  
15 claim is still being raised. It's not addressed in  
16 Siana's testimony, but to the extent it is raised,  
17 Mewbourne complied with the pooling orders in that  
18 regard and that's what our witnesses will say.

19 With respect to the netting of LOEs, lease  
20 operating expenses from Siana's prepayment for the  
21 B2OJ B2PI wells, that action was entirely  
22 appropriate. LOEs are part of the expenses for  
23 operating wells. They include things like pumping  
24 and SWD fees that are required to operate the wells.  
25 Our witnesses will explain that. Under the pooling

1 orders, LOEs are operating costs that are  
2 appropriately deducted from the pooled party's  
3 payment of estimated well cost.

4 Furthermore, if LOEs were not netted from  
5 the prepayment, Mewbourne would have to invoice  
6 Siana for the cost. It does not make sense for a  
7 party to invoice cost on one side and then refund  
8 costs on another. It just doesn't make any sense.  
9 And in addition, those costs will be charged through  
10 the JIBs. And as I mentioned, Siana did not pay  
11 JIBs. And, in fact, has not paid its JIBs since  
12 approximately November of 2018.

13 With respect to the netting of LOEs for  
14 other wells from Siana's prepayment for these Inland  
15 Wells, Mewbourne's accounting witness will explain  
16 that Mewbourne does not normally net expenses for  
17 other wells from a prepayment, but did do so here  
18 due to a software change. Regardless Mewbourne  
19 acted appropriately based on Siana's nonpayment of  
20 JIBs. A pooling order assumes that when a party  
21 elects to participate and avoids the risk penalty,  
22 the party will pay ongoing costs through JIBs. The  
23 pooling orders certainly do not preclude the  
24 deduction of lease operating expenses from payments.

25 With respect to the treatment of Siana's

1 prepayment overage, as I've explained, as a pooled  
2 party, Siana elected to pay estimated cost which  
3 could result in an over or underpayment.

4 Mewbourne appropriately deducted LOEs from  
5 that prepayment. With respect to Siana's claim for  
6 interest on the prepayment overage, as we've stated  
7 in our prehearing statement, the Division does not  
8 have authority to award that type of interest under  
9 the statute Ms. Shaheen is referring to, which is  
10 the general provision that allows interest under New  
11 Mexico law, that it would be determined by a court.

12 I'm not aware of any cases where the  
13 Division has awarded interest under that statute. I  
14 don't think it's appropriate here. Siana's claim  
15 that Mewbourne refers -- refused to return the  
16 prepayment overage is incorrect. Mewbourne did  
17 return the payment to Siana but Siana refused to  
18 accept the check.

19 Siana's allegations regarding the holding  
20 of revenues in suspense are also not within the  
21 Division's authority to address. The Division does  
22 not enforce the Oil & Gas Proceeds Payment Act.  
23 That is not included in the terms of that Act or any  
24 Oil & Gas Act. The Division has authority to  
25 protect correlative rights and prevent ways not to

1 determine whether it's appropriate to hold interest  
2 in suspense.

3           Regardless, Mewbourne's actions are  
4 entirely appropriate given the pending Harris County  
5 lawsuit that challenges Siana's interest. Mewbourne  
6 cannot definitely determine from the lawsuit the  
7 percentage of Siana's interest that is in dispute.  
8 If Mewbourne were to pay Siana and then Siana loses  
9 the lawsuit, Mewbourne would be subject to liability  
10 to the petitioners in the case.

11           With respect to Siana's claim that  
12 Mewbourne should not hold revenues in suspense while  
13 demanding payment of costs, Siana has not informed  
14 Mewbourne that it is relinquishing its interests in  
15 the wells, it claims that interest. Accordingly,  
16 it's a pooled party under the orders and is required  
17 to pay a share of cost.

18           With respect to the right to take  
19 production in kind, the pooling orders designate  
20 Mewbourne as operator of the wells and the units.  
21 As the operator, Mewbourne is responsible for  
22 allocating and controlling production. The pooling  
23 orders' references to the owner's share of  
24 production are referring the owner's economic share  
25 of production, not a physical share of production.

1 This is necessarily true because the operator, not  
2 the interest owner is responsible for controlling  
3 production and also complying with the Division's  
4 regulations. The orders do not establish any  
5 parameters that would apply to the taking of  
6 production in kind, including liability, payment of  
7 taxes and royalties in compliance with the  
8 Division's regulations. Those issues would be  
9 addressed in the JOAs but they are not addressed in  
10 the pooling orders.

11           Neither the pooling orders nor any other  
12 provision of New Mexico law give Siana the right to  
13 take its share of production in kind. Siana could  
14 have signed a JOA if it wanted that right but it did  
15 not do so. Furthermore, Siana seeks to take its  
16 share of production in kind to subvert Mewbourne's  
17 authority to hold revenues in suspense under the Oil  
18 & Gas Proceeds Payment Act. New Mexico law does not  
19 allow Siana to do so. Siana's claims lack merit and  
20 its application should be denied. And in support of  
21 our position, we will provide the testimony of  
22 landman Brad Dunn; petroleum engineer, Travis Cude;  
23 and our accounting witness, Don Russell to address  
24 these issues.

25           And also I wanted to mention on an

1 evidentiary hearing issue, if I may Mr. Examiner?

2 HEARING OFFICER BRANCARD: Yes.

3 MS. HARDY: That it seems that most --  
4 many, if not most of Siana's exhibits are intended  
5 to show that Mewbourne deducted lease operating  
6 expenses for other wells from Siana's prepayment for  
7 the B20J and B2PI wells and Mewbourne has determined  
8 that that did occur. We'll explain that that is  
9 appropriate, but since it did occur, I don't know  
10 that the Division needs to be spend considering  
11 exhibits and testimony on that issue.

12 And that's all I have. Thank you.

13 HEARING OFFICER BRANCARD: Thank you.

14 Do we have Mr. Dunn on?

15 MR. DUNN: Yes.

16 HEARING OFFICER BRANCARD: Okay. Thank  
17 you. I know we were having some problems earlier.  
18 Thank you.

19 MR. McCLURE: Yeah, Mr. Brancard, it won't  
20 let me make him a panelist. I don't know if there's  
21 some trick that Marleen was using for that. So I  
22 don't know if I'm going to have to manually unmute  
23 them every time or not.

24 HEARING OFFICER BRANCARD: Okay. Well,  
25 well burn that bridge when we get to it.

1 MR. McCLURE: So currently they're  
2 unmuted. So maybe they can mute on their own device  
3 and unmute that way. Maybe that will work.

4 HEARING OFFICER BRANCARD: Ms. Hardy, I  
5 guess I got a little confused in all of that.

6 Has Mewbourne provided the itemized  
7 schedule of actual well costs as required under the  
8 order?

9 MS. HARDY: It's -- yes, because we  
10 provided Siana with all of the JIBs and the daily  
11 drilling reports that gave them the actual well  
12 cost. In fact, they include much more information  
13 than is required by the pooling orders. They're  
14 very detailed.

15 HEARING OFFICER BRANCARD: Okay, but I  
16 mean these ongoing costs, these are the well cost  
17 which are in response to the estimated well costs,  
18 right? The actual, not the day-to-day stuff, but  
19 the actual drilling of the well.

20 MS. HARDY: Yes.

21 HEARING OFFICER BRANCARD: In  
22 Paragraph 24.

23 MS. HARDY: And those costs are included  
24 and identified in the JIBs.

25 HEARING OFFICER BRANCARD: Okay. And so

1 then did those actual well costs come in less than  
2 the estimated well costs?

3 MS. HARDY: Yes, they did.

4 HEARING OFFICER BRANCARD: And so did  
5 Mewbourne pay Siana the difference?

6 MS. HARDY: Mewbourne -- because Siana  
7 still owed on the JIBs, Mewbourne netted the lease  
8 operating expenses from the prepayment overage, but  
9 yes, Mewbourne did also send a check to Siana that  
10 Siana declined.

11 HEARING OFFICER BRANCARD: But it was a  
12 check -- but was it an amount that had deductions  
13 from it based on day-to-day costs?

14 MS. HARDY: No, it did not actually. The  
15 check that Mewbourne returned to Siana was for the  
16 entire amount of the overage.

17 HEARING OFFICER BRANCARD: Okay. Thank  
18 you.

19 I hope we have documentation of that in  
20 your records in your testimony today.

21 MS. HARDY: We can certainly provide that.

22 HEARING OFFICER BRANCARD: Okay. I'm  
23 trying to get down to the basics here.

24 MS. HARDY: I appreciate it.

25 HEARING OFFICER BRANCARD: We are off in

1 the weeds.

2 All right. Ms. Shaheen, again, you can go  
3 ahead with your testimony. I am -- we'll say on the  
4 record, dubious of the Division having a role in  
5 being a referee between companies debating about  
6 their costs beyond what is provided in the order, so  
7 that's all. I'll just let you know that.

8 We are not a court of general jurisdiction  
9 here, the district court or small claims court,  
10 wherever you want to go. So we are limited by the  
11 rules and our orders. So with that, I hope I'm  
12 trying to give everybody a framework here of where  
13 we're going today.

14 So please proceed, Ms. Shaheen.

15 MS. SHAHEEN: Thank you. We'll need to  
16 juggle just a minute as Mr. Ragsdale is here in  
17 person.

18 MS. SHAHEEN: Can you hear me?

19 HEARING OFFICER BRANCARD: Yes.

20 MS. SHAHEEN: Mr. Ragsdale's testimony is  
21 attached as Exhibit B and so we can walk through  
22 that testimony if that's helpful and perhaps answer  
23 any questions obviously that the Hearing Examiners  
24 have.

25 THE COURT REPORTER: Mr. Ragsdale, will

1 you please raise your right hand.

2 TOM RAGSDALE

3 having been first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. SHAHEEN:

6 Q. Mr. Ragsdale, could you please state your  
7 full name for the record?

8 A. Tom M. Ragsdale.

9 Q. And what is your occupation?

10 A. I have a background in petroleum  
11 engineering. I've been managing oil and gas  
12 properties and interests since 1992.

13 Q. And what is your relationship with the  
14 applicant in this case, Siana Oil & Gas?

15 A. I'm the president and the 100 percent  
16 owner of Siana.

17 Q. And as the president, are you familiar  
18 with the issues that have been raised by the  
19 application at issue?

20 A. Yes, I am.

21 Q. And do you seek to have your testimony in  
22 this matter admitted as an expert witness and as a  
23 fact witness?

24 A. Yes, I do.

25 Q. And have you previously had your

1 credentials accepted by the Division or the  
2 Commission and your testimony allowed as expert  
3 witness testimony?

4 A. Yes, I have.

5 Q. Could you just briefly describe your  
6 education and work experience?

7 A. Yes, I can. I've received a petroleum  
8 engineering degree from Texas A&M in 1985. My kind  
9 of work experience since that time as follows: I  
10 worked for a South Louisiana drilling company, Gray  
11 Wolf Drilling in the mid-'80s. I then went to work  
12 for a production company Petroleum Engineers, Inc.,  
13 in the late '80s.

14 And in the early '90s, I went to work for  
15 IP Petroleum. IP was a wholly-owned subsidiary of  
16 International Paper. I worked for them for about  
17 three years and I went to work for Meridian Oil as a  
18 drilling engineer for one year.

19 And then I went to work for Costilla  
20 Petroleum for several years.

21 And then in 1992, I went out on my own and  
22 began consulting and then started up our company  
23 Siana in 1994. We drilled our first well and then  
24 in a few years later, we started operating in New  
25 Mexico and acquired some interest in properties.

1 And had been, you know, operating properties in  
2 Texas and New Mexico and North Dakota, you know,  
3 since that time. So I managed minerals and  
4 properties in New Mexico, you know, since the '90s.

5 Q. So it's fair to say you've been in the  
6 business for almost 40 years; is that right?

7 A. Yes, that's correct.

8 Q. And in this particular application, the  
9 orders that are at issue are Order Nos. R-2192 and  
10 R-21293; is that correct?

11 A. Yes, that's correct.

12 Q. And then Order No. R-21292 --

13 HEARING OFFICER BRANCARD: Ms. Shaheen, it  
14 appears you've lost your video.

15 MS. SHAHEEN: Lost our video?

16 HEARING OFFICER BRANCARD: Your audio is a  
17 little garbled.

18 MS. SHAHEEN: Okay. Let's see. I'm not  
19 sure what's happening here. Let me see if I can --  
20 should I get a tech person? Can you hear me now?  
21 Is it garbled? Oh, and now you're garbled. I  
22 wondering if it's the Webex program.

23 (Discussion off the record.)

24 HEARING OFFICER BRANCARD: Okay. Please  
25 proceed.

1 Q. (By Ms. Shaheen) Thank you.

2 Order No. R-21292 pooled the west half of  
3 the east half of Section 26 and the west half of the  
4 southeast quarter of Section 23 in Township 21  
5 South, Range 34 East; is that correct?

6 A. Yes, that's correct.

7 Q. And it was dedicated to the Inland 2623  
8 B2OJ State Com Well No. 1H; is that also correct?

9 A. Yes, that's correct.

10 Q. And will we be referring today to that  
11 well as the OJ well?

12 A. Yes, we can.

13 Q. And then Order No. R-21293 similarly  
14 pooled section in this case the east half of the  
15 east half of Section 26 and the east half of the  
16 southeast quarter of Section 23, all in Township 21  
17 South, Range 34 East dedicated to the Inland 2623  
18 B2PI State Com Well No. 1H; is that right?

19 A. Yes, that's right.

20 Q. Will we be referring to that well as the  
21 PI well today?

22 A. Yes, that will be the PI, yes.

23 Q. And Siana owns a mineral interest at issue  
24 in those two spacing units; is that right?

25 A. Yes, we do.

1 Q. And what is the nature of that interest?

2 A. We're the record title owner of 10 percent  
3 working interest in the spacing units and wells at  
4 issue in this proceeding.

5 Q. And Siana elected to participate in both  
6 the OJ and the PI wells; is that right?

7 A. Yes, that's correct.

8 Q. And you paid the estimated drilling and  
9 completion costs?

10 A. Yes, we did.

11 Q. And you were deemed a participating or  
12 consenting working interest owner in the wells under  
13 those force pooling orders; is that right?

14 A. Yes, that's correct.

15 Q. And now we've identified two overarching  
16 broad issues in this proceeding. Can you tell the  
17 Hearing Examiners what those two issues are?

18 A. Yeah, first, Mewbourne is improperly  
19 accounting for its cost, you know, to drill,  
20 complete, and operate the wells, you know, for their  
21 related revenues.

22 Second, Mewbourne has violated several  
23 provisions in the Division's orders which have  
24 adversely affected us in our mineral interest out  
25 there.

1 Q. Can you talk to us about some of the  
2 accounting issues?

3 A. Yes, I can. There are a number of  
4 accounting issues, some of which relate to  
5 Mewbourne's violations of the orders. For example,  
6 Mewbourne has failed to submit to OCD or to Siana an  
7 itemized schedule of that actual well costs as  
8 required by Paragraph 24 of the orders.

9 Q. And how has this affected Siana?

10 A. Among other things, it has precluded us  
11 from challenging the reasonableness of the actual  
12 well costs as provided by Paragraph 24 of the  
13 orders.

14 Moreover, Mewbourne failed to pay Siana  
15 its share of estimated drilling completion costs  
16 that exceeded -- we use the term overage. The  
17 overage of the reasonable oil cost as required by  
18 Paragraph 25 of each of the orders.

19 Mewbourne circumvented the deadline by  
20 paying the overage when it failed to submit the  
21 required schedule of actual well costs.

22 Q. And how else has this failure to submit  
23 actual well costs affected Siana?

24 A. Mewbourne has just continually refused to  
25 submit that schedule order. So we have had to have

1 our accounting folks -- we were forced to closely  
2 examine numerous pages of joint interest billings  
3 that included many other wells. Revenue statements,  
4 daily drilling reports in an effort to determine  
5 what costs had been charged for drilling and  
6 completion, as opposed to costs for operating the  
7 wells. And whether the costs for property  
8 attributed to the correct category. Category being  
9 drilling, completion and production. Because they  
10 threw them all at us into the correct wells.

11 It was a difficult process. And we cannot  
12 confirm that we had all the information necessary to  
13 determine the extent of Mewbourne's improper  
14 accounting practices. Only Mewbourne has the  
15 capacity to accurately produce an accounting.

16 Q. Can you tell me how much time Siana's  
17 accounting folks had to spend in order to identify  
18 the accounting issues -- accounting problems at  
19 issue?

20 A. Yes, we've spent somewhere in the  
21 neighborhood of 140 to 150 hours.

22 Q. And you had three people working on that;  
23 is that right?

24 A. Yes, that's correct.

25 Q. And your accountant will be testifying in

1 a little while about the specifics of the improper  
2 accounting practices; is that right?

3 A. Yes, she will.

4 Q. Now in the course of this extensive  
5 review, you did take a look at the daily drilling  
6 reports that Mewbourne provided for the PI and OJ  
7 wells, right?

8 A. Yes, I did.

9 Q. And turning to Exhibit J, and I may need  
10 to do a little bit of juggling here. I'm going to  
11 try to share my screen, if that's okay?

12 HEARING OFFICER BRANCARD: Mr. McClure,  
13 can you handle this?

14 MR. McCLURE: Yeah, she should have  
15 presenter now.

16 Q. (By Ms. Shaheen) Is this an example of one  
17 of the daily drilling reports that you've reviewed?

18 A. Yes, it is.

19 Q. And it's -- let's see, it's about -- would  
20 you say it's about ten or 11 pages?

21 HEARING OFFICER BRANCARD: Are you sharing  
22 your screen, Ms. Shaheen?

23 MS. SHAHEEN: Oh, I'm sorry. Let me go  
24 back here. I think it's this one. I'm not sure  
25 what's happening here.

1 HEARING OFFICER BRANCARD: Seems to be  
2 working.

3 MS. SHAHEEN: Yes. Except this is not the  
4 correct exhibit. And for some reason it's not  
5 showing me the correct exhibit. Let me try again.

6 HEARING OFFICER BRANCARD: Well, if all  
7 else fails, you can tell us what page it is.

8 MS. SHAHEEN: I'm not sure why it's not --

9 HEARING OFFICER BRANCARD: Is this  
10 Mewbourne's exhibits?

11 MS. SHAHEEN: This one is Mewbourne's  
12 because I want to come back to that later, but for  
13 some reason I'm not -- it's not allowing me to  
14 select the other one. Let me see.

15 Can you see that?

16 HEARING OFFICER BRANCARD: Yes.

17 MS. SHAHEEN: Does this say, "Daily  
18 Reports?"

19 HEARING OFFICER BRANCARD: Yes.

20 A. Yes, ma'am.

21 Q. (By Ms. Shaheen) Okay. Mr. Ragsdale, this  
22 is an example of the daily drilling reports,  
23 correct?

24 A. Yes, that's correct.

25 Q. And these daily drilling reports, they

1 don't reveal actual costs, do they?

2 A. No. They're estimated because it's  
3 happening here during the process of the drilling  
4 and completion.

5 Q. Okay. And so this is an example of what  
6 you've looked for and here it's highlighted here.  
7 What can you tell us about this highlighted portion?

8 A. The highlighted portion shows that on one  
9 of the two wells, the B2PI well on March 17, 2021,  
10 the PWOL means "put well on line," so that's when  
11 they put the well down to production.

12 So actually they've got a gas meter,  
13 they're selling the gas so they've actually finished  
14 completing the well for the most part. They've  
15 already fracked it. It is ready to flow so they put  
16 it down the flow line.

17 They put it on the flow line and you see a  
18 series of numbers below. And the numbers are like  
19 estimated daily completion costs, completed -- I  
20 mean completion, no, cumulative total completion  
21 costs, estimated daily drilling costs and then  
22 cumulative total drilling costs and the fifth one,  
23 the final one, that's the summary of all the cost to  
24 date. And that cost shows to be, that's cumulative  
25 total well costs. And that shows to be 4.5 million.

1 Q. And you've compared that to the estimated  
2 cost that you paid; is that right?

3 A. Yes, I have.

4 Q. And what was the difference in those two  
5 numbers by percentage?

6 A. This represents about 55 percent  
7 approximately. I mean give or take, it's about 55  
8 percent as I recall of the amount we paid, that  
9 Mewbourne demanded that we pay.

10 Q. And the AFE that was overestimated by  
11 about 44 percent; is that right?

12 A. That's correct.

13 Q. And you also reviewed the daily drilling  
14 report for the OJ well, correct?

15 A. Correct. The second well, yes.

16 Q. And you identified similar facts and  
17 reached similar conclusions?

18 A. Yes, it's very, very similar. It's almost  
19 a replica. It actually -- it may have been about  
20 4.4 on that one, I believe. So they're very, very  
21 close in the well costs and they actually put them  
22 online on the exact same date, March 17, 2021.

23 Q. And so in this case with respect to the OJ  
24 well, that AFE was overestimated by about  
25 44 percent; is that right?

1           A.    Yes.  Yes.  As per the daily drilling  
2 reports.  The estimated daily drilling completion  
3 reports.  Yes, that's correct.

4           Q.    And Mewbourne kept that overage until you  
5 alerted them to the fact that you had overpaid the  
6 estimated cost by 44 percent; is that right?

7           A.    Yes, that's correct.  They never reached  
8 out to us.  They never said they were holding, you  
9 know, they're going to refund our money.  There was  
10 no communication whatsoever from Mewbourne on our  
11 overage.

12          Q.    And instead they deducted costs for  
13 operating expenses from that overage; is that right?

14          A.    Yes, that's correct.

15          Q.    And they -- let's take a look now at the  
16 orders.  The two orders read the same, right?  They  
17 have the same provisions; is that correct?

18          A.    I believe so, yes.

19          Q.    And here we're looking at, this is  
20 Exhibit, for the record, I think I left my list over  
21 there.  I'm going to say Exhibit M, and we're on  
22 Page 3 of 7.  Do you see that, Paragraphs 24 through  
23 28?

24          A.    Yes, I do.

25          Q.    And could you read Paragraph 24 for the

1 Hearing Examiners, please?

2 A. Sure. "No later than 180 days after  
3 operator submits a form C-105 for a well, operator  
4 shall submit to OCD and to each owner of a pooled  
5 working interest, an itemized schedule of the actual  
6 well costs."

7 Q. Now did Mewbourne ever provide you with  
8 that itemized schedule within 180 days after  
9 submitting the C-105?

10 A. No, they did not. And I'd like to  
11 elaborate, we requested it. We requested it  
12 numerous times. Their accounting department refused  
13 to give it to us. They would not provide it. They  
14 wouldn't give it to us.

15 And then after numerous requests, the  
16 accounting department said we can no longer talk to  
17 y'all. We're not going to answer any questions.  
18 It's in the legal department now. So y'all are  
19 going to have to ask our legal department now to --  
20 if you want any information on accounting or the  
21 wells, anything, you have to go through legal.

22 Q. Going on in Paragraph 24 that second  
23 sentence, the actual well costs, could you read that  
24 to the Hearing Examiners, please?

25 A. "The actual well costs shall be considered

1 to the reasonable well costs unless OCD or an owner  
2 of a pooled working interest files a written  
3 objection no later than 45 days after receipt of the  
4 schedule."

5 Q. So you were unable or Siana was unable to  
6 file any written objections because it had never  
7 received the schedule; is that correct?

8 A. Yes, that's correct.

9 Q. And so you -- go on and read the final  
10 sentence of Paragraph 24.

11 A. "If OCD or an owner of pooled working  
12 interest files a timely written objection, OCD shall  
13 determine the reasonable well costs after public  
14 notice and hearing."

15 Q. So Mewbourne's failure to provide that  
16 itemized schedule prevented you from asking the  
17 Division to determine the reasonable well costs at  
18 that time; is that right?

19 A. Absolutely. That's correct.

20 Q. And that's one reason why you filed this  
21 application that's at issue today is so that you  
22 would have that opportunity, correct?

23 A. Yes, that's correct.

24 Q. Turning to Paragraph 25, could you read  
25 that first sentence into the record, please?

1           A.     Yes.  "No later than 60 days after the  
2     expiration of the period to file a written objection  
3     to the actual well costs or OCD's order determining  
4     the reasonable well costs, whichever is later, each  
5     owner of a pooled working interest who paid its  
6     share of the estimated well costs shall pay the  
7     operator its share of reasonable well costs that  
8     exceed the estimated well costs or operator shall  
9     pay to each owner of a pooled working interest who  
10    paid its share of the estimated well cost its share  
11    of the estimated well costs that exceed the  
12    reasonable well costs."

13           Q.     Now did Mewbourne provide you, pay your  
14    share of the estimated well costs that exceeded the  
15    actual well costs?  I don't want to call them  
16    reasonable well costs because we were never able to  
17    ascertain that.  But in other words, did Mewbourne  
18    comply with Paragraph 25 of the order?

19           A.     No, they did not.

20           Q.     Turning to Paragraph 26, could you read  
21    this paragraph into the record, please?

22           A.     Sure.  "The reasonable charges for  
23    supervision to drill and produce a well (supervision  
24    charges) shall not exceed the rates specified in  
25    Exhibit A provided however that the rate shall be

1 adjusted annually pursuant to the Copas form  
2 entitled, 'Accounting procedures joint operations.'

3 Q. And now your accounting folks took a look  
4 at those supervision charges; is that right?

5 A. We closely examined them. That's correct.

6 Q. And we'll be cross-examining Mewbourne's  
7 witnesses about those supervision charges later in  
8 this hearing; is that right?

9 A. Yes, that's correct.

10 Q. Turning to Paragraph 27. Could you read  
11 into the record Paragraph 27, please? At least just  
12 do the first sentence.

13 A. Sure. "No later than 90 days after  
14 operator submits a C-105 for a well, operator shall  
15 submit to OCD and each owner of a pooled working  
16 interest, an itemized schedule of the reasonable  
17 charges for operating and maintaining the well  
18 (operating charges) provided however that operating  
19 charges shall not include the reasonable well costs  
20 or supervision charges."

21 Q. Now did you ever receive from Mewbourne an  
22 itemized schedule of the reasonable charges for  
23 operating and maintaining the well?

24 A. No, they refused to do that. They did not  
25 do that.

1 Q. And go on and read the next sentence there  
2 beginning with "the operating charges shall..."

3 A. Right. I want to make sure I am going to  
4 say the right -- the correct sentence. "The  
5 operating charges shall be considered final unless  
6 OCD or an owner of a pooled working interest files a  
7 written objection no later than 45 days after  
8 receipt of the schedule."

9 Q. And go on and read the final sentence  
10 there.

11 A. "If OCD or an owner of a pooled working  
12 interest files a timely written objection, OCD shall  
13 determine the operating charges after public notice  
14 and hearing."

15 Q. So if Mewbourne did not provide you with  
16 that itemized schedule of the reasonable charges for  
17 operating charges, you were unable to determine  
18 whether you should file a written objection; is that  
19 correct?

20 A. Yes, that's correct.

21 Q. Finally, let's take a look at  
22 Paragraph 28. Could you read this into the record,  
23 please?

24 A. You bet. "Operator may withhold the  
25 following charges." I'm sorry. "Operator may

1 withhold the following costs and charges from the  
2 share of production due to each owner of a pooled  
3 working interest who paid its share of estimated  
4 well costs: (a) the proportionate share of the  
5 supervisor charges; and (b) the proportionate share  
6 of the operating charges."

7 Q. Now when your accounting folks did their  
8 deep dive into all of those joint interest billings  
9 and all of the revenue statements, did they  
10 determine that Mewbourne was deducting or  
11 withholding more than the proportionate share of  
12 supervision and operating charges?

13 A. Yes, they did.

14 Q. And, in fact, they were withholding a  
15 proportionate share of supervision charges and  
16 operating charges for other wells; is that correct?

17 A. Yes, they were.

18 Q. And, in fact, they're not deducting it  
19 from your share of production in these wells are  
20 they?

21 A. No.

22 Q. They were deducting it from the overage  
23 that was owed to you; is that correct?

24 A. That's correct.

25 Q. And they were also deducting it from

1 production or revenues due for other unrelated  
2 wells; is that correct?

3 A. Yeah. I want to point out to the  
4 Examiners that I have multiple other wells and  
5 properties with Mewbourne. And we have revenues  
6 from them. And they would have deducted them from  
7 those revenues as well, from other wells, other  
8 properties' revenues.

9 Q. And your accountant will be testifying  
10 later about the specifics of these improper  
11 deductions; is that correct?

12 A. Yes, she will.

13 Q. Now turning back to your written testimony  
14 on Page 5 in the middle of the page there, another  
15 issue that has arisen from the Mewbourne is the fact  
16 that they are holding 100 percent of Siana's  
17 revenues on both of the OJ and the PI wells; is that  
18 correct?

19 A. Yes, that's correct.

20 Q. And when did Mewbourne notify Siana that  
21 it was holding its revenues in suspense?

22 A. They never did notify us. They didn't  
23 contact us. There was no notification whatsoever  
24 from Mewbourne.

25 Q. And do you know why Siana's revenues are

1 being held in suspense?

2 A. I believe its due to certain parties  
3 claiming an interest in a portion of our record  
4 title interest.

5 Q. And is Mewbourne holding in suspense only  
6 that portion of Siana's record title interest that  
7 has been challenged by these other parties?

8 A. No. Mewbourne has made their decision to  
9 withhold 100 percent of our revenues while demanding  
10 that we pay 100 percent of the costs.

11 Q. And in your experience, has any operator  
12 ever withheld 100 percent of a working interest  
13 owner's revenues but required that owner to pay  
14 100 percent of the related costs?

15 A. We've never seen that happen in all of our  
16 years of operating properties, never seen it happen.  
17 No.

18 Q. Did you take Siana's production in kind?

19 A. Yes. On many, many occasions. Even an  
20 in-person meeting with Ken Waits, the president, who  
21 I've known for many years, we've requested it  
22 numerous times.

23 Q. How did Mewbourne respond to that request?

24 A. They were not -- they were just, they have  
25 a wall up about that. That's a total -- they won't

1 even discuss it. They won't even talk about it.  
2 They want control of everybody's crude oil and  
3 natural gas. They want total control of all, the  
4 100 percent stream of the products being sold.

5 Q. And is it your understanding that  
6 Mewbourne takes the position that the orders do not  
7 allow you to take your production in kind; is that  
8 Mewbourne's position?

9 A. Yes, that's my understanding. They have  
10 lots of excuses but they -- that's one of the  
11 reasons or excuses.

12 Q. But you've not found any language in the  
13 orders that prohibits a working interest owner who's  
14 paid its estimated well costs from taking production  
15 in kind, have you?

16 A. No. And I'd like to point out to the  
17 Examiners, we've read the orders numerous times and  
18 we've even hired a few people to interpret the  
19 orders. And --

20 Q. And I'm sorry, go ahead.

21 A. And we don't see it. It's not -- we don't  
22 see it. Like Bill Brancard said earlier, it's  
23 pretty clear, the orders. There's nowhere in there  
24 where you cannot market in kind. Nowhere.

25 Q. And, in fact, I think I'm still sharing

1 the order here, Paragraphs 28 and 29. Could you  
2 read just the first line of Paragraph 28?

3 A. "Operator may withhold the following cost  
4 and charges from the share of production due to each  
5 owner of a pooled working interest who paid its  
6 share of the estimated well cost."

7 Q. And so this refers to the share of  
8 production, correct?

9 A. Correct.

10 Q. It doesn't refer to the share of revenues?

11 A. That's correct.

12 Q. And similarly in Paragraph 29, just the  
13 first line.

14 A. "Operator may withhold the following costs  
15 and charges from the share of production due to each  
16 owner..."

17 Q. Okay. Thank you. And so here again it's  
18 "share of production." There's no reference to  
19 revenues; is that correct?

20 A. Yes, that's correct.

21 Q. And have you discovered anywhere else in  
22 the order a reference to share of revenues?

23 A. We have not, no.

24 Q. What relief -- what relief does Mewbourne  
25 seek from the Division in this proceeding? We're

1 looking for our notes here.

2 A. The relief that we're asking from the  
3 Division, from the Examiners, to order Mewbourne to  
4 provide an accounting, that's one.

5 Two, to enforce the provisions of each  
6 order that Mewbourne has violated. Require  
7 Mewbourne to do three things: Submit itemized  
8 statements for the actual well costs and operating  
9 charges. They never gave it to us. We made  
10 multiple requests. We ask that the Division please,  
11 you know, give us some relief on that.

12 Number two, to cease improper netting of  
13 our revenues, our monies, and our overages and to  
14 immediately refund the overages for the estimated  
15 well cost for both wells, the OJ and the PI with  
16 interest under the statute 56-8-3. Those are three  
17 parts to number two.

18 The third thing we'd ask is order  
19 Mewbourne to refrain from engaging in specific  
20 improper accounting practices that will be later  
21 identified in much more detail through testimony.

22 The fourth thing, order Mewbourne to allow  
23 us to exercise our right to take our production in  
24 kind.

25 Number five, retain jurisdiction to

1 consider reasonableness of cost after, once  
2 Mewbourne has finally provided an itemized schedule  
3 accounting. The actual oil cost for each well.

4 And sixth, the last one here, to require  
5 Mewbourne to provide us a fair opportunity, fair I  
6 say, to participate in the subsequent Inland Wells  
7 that were drilled and completed while Mewbourne was  
8 improperly withholding our monies and our revenues  
9 that were due to us. Thank you.

10 Q. Does that conclude your testimony for now?

11 A. I believe so, yes.

12 MS. SHAHEEN: And we may be back on  
13 redirect if the Hearing Examiners will allow that.  
14 Thank you.

15 Mr. Ragsdale will stand for questions from  
16 Ms. Hardy.

17 HEARING OFFICER BRANCARD: Thank you.

18 Ms. Hardy, do you have any questions? I'm  
19 just wondering.

20 MS. HARDY: I do, Mr. Examiner. Thank  
21 you.

22 HEARING OFFICER BRANCARD: Thank you.

23 CROSS-EXAMINATION

24 BY MS. HARDY:

25 Q. Mr. Ragsdale, first I want to talk about

1 your claim that the initial AFEs were inflated.

2 Siana chose not to sign a JOA for these wells,

3 correct?

4 A. Oh, we -- yes. We elected -- we chose not

5 to sign. It was an egregious JOA and we were not

6 going to sign it. Like most of the JOAs that

7 Mewbourne presents to us. That's correct.

8 Q. If Siana had signed a JOA contract,

9 provisions would have governed payment and cost,

10 correct?

11 A. Rephrase that.

12 Q. If Siana had agreed to a JOA, contract

13 provisions would have governed cost and payments?

14 A. That's right.

15 Q. Siana, instead, chose to be pooled,

16 correct?

17 A. As I said earlier, that's correct, yes.

18 Q. And Siana didn't enter an appearance in

19 the pooling cases, did it?

20 A. I don't believe we did. No.

21 Q. Siana could have entered an appearance and

22 objected to the applications in the AFE, couldn't it

23 have?

24 A. Yes, we could have. At that point in

25 time, we could have.

1 Q. Siana's familiar with the terms of the  
2 Division's pooling order, isn't it?

3 A. Yes. We're somewhat familiar with them,  
4 yes.

5 Q. Under the pooling orders, a pooled party  
6 who elects to participate is required to pay  
7 estimated well costs, correct?

8 A. Right.

9 Q. The pooling orders gave Mewbourne one year  
10 to commence drilling the wells, correct?

11 A. Yes. Phrased another way, they can sit on  
12 our money for one year, yes.

13 Q. And that's allowed by the pooling orders,  
14 correct?

15 A. Yes, it is.

16 Q. And Siana did, in fact, pay its share of  
17 the estimated well costs even though it believed the  
18 costs were inflated; is that correct?

19 A. Yes.

20 Q. With respect to the actual well costs,  
21 Mewbourne provided Siana with JIBs on a monthly  
22 basis, correct?

23 A. Yes.

24 Q. And in this case, Siana has provided  
25 spreadsheets that included detailed analysis of the

1 JIBs, correct?

2 A. I don't recall being provided detail  
3 analysis by Mewbourne. No, I don't remember being  
4 provided that. You said, "detailed analysis" didn't  
5 you?

6 Q. My question was actually whether Siana has  
7 provided spreadsheets that included detailed  
8 analysis?

9 A. Provided to who?

10 Q. In this case. You filed them in the  
11 record.

12 A. I can't remember offhand if that's been  
13 provided.

14 Q. Okay.

15 A. I don't know about all the exhibits. So  
16 I'm not sure --

17 Q. Okay.

18 A. -- if we did or not.

19 MS. SHAHEEN: I would just say for the  
20 record that Ms. Caldwell will be testifying about  
21 those spreadsheets.

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

23 Q. (By Ms. Hardy) Thank you. I would like to  
24 share my screen here.

25 MS. SHAHEEN: Oh, I need to stop sharing

1 mine.

2 MR. McCLURE: You should have presenter  
3 now, Ms. Hardy.

4 MS. HARDY: Thank you, Mr. McClure.

5 MR. McCLURE: Let's see if this is going  
6 to cooperate today.

7 MS. HARDY: Okay. Can you all see that?

8 MS. SHAHEEN: It's small.

9 MR. McCLURE: We can see it but, yeah, it  
10 is pretty small.

11 MS. HARDY: Okay. Let me -- I'm trying to  
12 expand it here.

13 MS. SHAHEEN: Ms. Hardy, could you let us  
14 know what exhibit we're looking at here.

15 MS. HARDY: Sure. This is Mewbourne  
16 Exhibit C-2.

17 Q. (By Ms. Hardy) Okay. And I believe this  
18 is the JIB statement for the Inland Wells at issue  
19 here.

20 Does that look correct to you,  
21 Mr. Ragsdale, if that's what it is?

22 A. I think -- like the Examiner said, I can  
23 see it, but I can't really read it. It's pretty  
24 darn small, Dana.

25 MS. SHAHEEN: And, Dana, that doesn't look

1 like what I have as Exhibit C-2, well, unless you're  
2 farther into the document maybe than the first page.

3 MS. HARDY: Yes. I was looking at  
4 actually, I think it's the second page of the  
5 document.

6 MS. SHAHEEN: Okay. Let's see if ...

7 MS. HARDY: Now trying to blow it up, I  
8 lost the actual page.

9 MS. SHAHEEN: We have C-2 as landscape  
10 view. So I don't know if that's saying ...

11 MS. HARDY: Okay. Just give me one second  
12 here. I'm sorry. It is just taking me a minute  
13 to -- okay, here it is. I was trying to blow it up  
14 and it changed to a different view so.

15 MS. SHAHEEN: Yeah. So you've  
16 considerately Bates numbered these pages. If you  
17 tell us what Bates number, we can look at a --

18 MS. HARDY: Sure. So it's starting, I  
19 think it's at Page 159 actually.

20 MS. SHAHEEN: Okay. I think we found it.

21 MS. HARDY: Okay.

22 Q. (By Ms. Hardy) And is this the JIB  
23 statement for the Inland Wells, Mr. Ragsdale?

24 A. It's a JIB. And, yes, I do see Inland,  
25 yes, because everything else is blacked out. I

1 guess the other wells are all blacked out.

2 Q. Okay. And if you scroll or look -- I'm  
3 scrolling through the pages here. Following that  
4 first page, looking at Page 161, Page 162, and it  
5 goes on Page 163, those are the actual well costs  
6 for this specific instance, it's the B2PI well,  
7 correct.

8 A. Okay. Which page?

9 Q. Well, starting at Page 161 here.

10 A. Let's see.

11 Q. Continuing on.

12 A. PI that's up here.

13 Q. That's a cost, right?

14 A. I don't know what this is. Yeah, what  
15 month are you referring to?

16 Q. Well, the page I'm looking at is  
17 July 2021. I'm looking at Page 161, for example.

18 A. Yeah, I'm looking at 161 as well and I do  
19 see -- how about you see the -- it's the PI wells  
20 listed twice on the higher section. And then  
21 there's a line like it's another well. But then it  
22 shows a cash call. It's listed cash call, but it  
23 doesn't show any of the well -- I don't know what  
24 well that is.

25 Q. Okay.

1 A. On 161. Do you see what I'm saying?

2 Q. I see what you're saying. The top of the  
3 page says it's for the Inland Wells, though, doesn't  
4 it?

5 A. Show me where at the top of the page.

6 Q. So this header here, "Operator" it says  
7 and then "AFE Cost Center" and it says "Inland B2  
8 PI."

9 A. Okay. That's -- usually a line means that  
10 it's final for that well.

11 Q. And then if you look at Page 161. Are you  
12 looking at Page 161?

13 A. Yes.

14 Q. Okay. Yes. That's what I'm referring to.

15 A. Okay.

16 Q. And that page lists costs, actual cost for  
17 the Inland Well, doesn't it?

18 A. It actually lists a number of costs, yeah  
19 costs and credits, it looks like.

20 Q. Okay.

21 A. Charges and credits as we say.

22 Q. Okay. Thank you.

23 Okay. Now let's look at the daily  
24 drilling report that I know Ms. Shaheen asked you  
25 about.

1 (Discussion off the record.)

2 Q. (By Ms. Hardy) I can try to pull it up  
3 here. Okay. Can you see it now?

4 MS. SHAHEEN: That's C-1, correct?

5 Q. (By Ms. Hardy) Now I am showing you the  
6 daily drilling report. Can you see that?

7 A. Yeah. I can see it. I can barely read  
8 it. It's pretty small.

9 MS. SHAHEEN: And we're look at exhibit  
10 C-1; is that right?

11 MS. HARDY: I'm actually showing you  
12 Siana's exhibits now.

13 MS. SHAHEEN: Oh, okay.

14 A. Our exhibits. Okay.

15 Q. (By Ms. Hardy) Your exhibits. So the  
16 daily drilling report, let me get to the Siana  
17 Exhibit J, which I believe is the daily drilling  
18 report for the B2PI well. Okay.

19 Do you see it there?

20 A. Let's see, I think that's the, yeah, the  
21 PI well?

22 Q. Yes.

23 A. Uh-huh. I see it.

24 Q. Okay. And the daily drilling report looks  
25 to me like it's about 22 pages; is that right?

1           A.    It's a lot of pages.  There's a lot of  
2 days so it's a lot of pages.

3           Q.    Right.  And it gives you the daily  
4 activity and estimated costs; is that right?

5           A.    That's correct.

6           Q.    Okay.  And then I think you mentioned when  
7 you were testifying in response to Ms. Shaheen's  
8 questions, that the March 17, 2021 entry shows the  
9 actual cumulative well cost; is that right?

10          A.    It shows that up to that point in time,  
11 Dana, is what it does.

12                   MS. SHAHEEN:  I'm sorry.  I just have an  
13 objection because it's not actual costs.  It's  
14 estimated costs.

15          Q.    (By Ms. Hardy) Well, let me pull it up  
16 here.  So March 17, 2021 entry.  I think  
17 Mr. Ragsdale testified earlier that this states  
18 these numbers are the cumulative total well costs.  
19 Is that -- as of that date, right?

20          A.    No.  What I said, though, I said the last,  
21 the cumulative cost is at that point in time and  
22 there's five categories of costs.  And that final  
23 number which is the, you know, the CTWC, the way  
24 it's labeled, that's the cumulative cost for the  
25 drilling and completion of the well at that point in

1 time.

2 Q. Understood.

3 A. Okay. Thank you.

4 Q. And the daily drilling report for the B20J  
5 well is similar, correct?

6 A. Yes, it is.

7 Q. And you determined the actual well cost  
8 for these wells based on the daily drilling reports,  
9 didn't you?

10 MS. SHAHEEN: Objection. Form.

11 MS. HARDY: Well, I can show Mr. Ragsdale  
12 his written testimony.

13 MS. SHAHEEN: Hold on. My objection is to  
14 use of the word "actual" because these are estimated  
15 costs in the daily drilling reports. Mr. Ragsdale  
16 testified to that just earlier and so you're  
17 referring them as an actual well costs when they're  
18 not actual well costs.

19 HEARING OFFICER BRANCARD: Well,  
20 Ms. Shaheen, I believe the witness can probably  
21 answer that. Clarify. In other words, he can  
22 defend himself.

23 Q. (By Ms. Hardy) Okay. Let me show you your  
24 testimony. Okay. This is on Page 3 of your  
25 testimony here, and it says, "What did you learn

1 from your review of the daily drilling report for  
2 the PI well?"

3 ANSWER: "Siana determined that the  
4 cumulative total well cost for drilling and  
5 completion were estimated after completion fracking  
6 were finished to approximately 56.1 percent of the  
7 estimate cost."

8 Is that correct?

9 A. Yes, that's correct.

10 Q. And you determined that the actual well  
11 cost for the PI well were approximately 43.9 percent  
12 under the AFE; is that right?

13 A. No. That's not right. Did you just use  
14 the word "actual?"

15 Q. That the actual -- yes. Didn't you  
16 determine the actual?

17 A. You shouldn't that use word "actual."  
18 We're talking about drilling reports. Use the word  
19 "estimated." If you're trying to trick me, do not  
20 use the word "actual" okay? Because it's estimated.  
21 It's written there but I think I explained that  
22 earlier, didn't I? This was the first indication  
23 that we could get from Mewbourne of what the wells  
24 were going to cost. It is estimated. I clearly  
25 stated that to you earlier and now you're throwing

1 in the word "actual." I don't --

2 Q. Okay.

3 A. -- I don't understand what you're doing  
4 here.

5 Q. Yeah, Mr. Ragsdale, I'm not trying to  
6 trick you. What I'm trying to understand is what  
7 you're saying in your testimony. And you've stated  
8 that, I think it speaks for itself, really. You're  
9 saying that the AFEs were overstated by  
10 approximately 56.1 percent. Actually, it's 43.9  
11 percent, correct? You've got that right here on  
12 Page 4.

13 A. Well, yes. We're saying that that was at  
14 that point in time based on the daily drilling  
15 reports. They were estimates, but that's the only  
16 information that we had go on at that point in time.  
17 I'd like to point out that we didn't have the actual  
18 costs because they hadn't been tabulated. All those  
19 costs had not come in yet. And later on, when we  
20 made numerous requests for the actual well costs,  
21 you know, the itemized schedule, Mewbourne refused  
22 to give it to us. So at the time, though, and every  
23 day we are reading the daily drilling reports and  
24 we're going off those estimates, which is the only  
25 information we have at that time because it's the

1 freshest, most available information. There's no  
2 publishing of actual well cost at the time. It  
3 simply -- it wasn't there.

4 Q. And Mewbourne isn't required to give you  
5 daily drilling reports under the pooling orders, is  
6 it?

7 A. I don't -- I don't want to agree with  
8 that. You know, I think that -- I prefer to let the  
9 Examiners decide that. I believe they are required.  
10 And that's -- anybody that drills a well,  
11 participates in a well, you're supposed to submit  
12 the drilling reports to each and every owner. So I  
13 think if you want get technical with me, let the  
14 Examiners decide that, not me.

15 Q. Okay. Well, orders don't say that  
16 Mewbourne's required to give daily drilling reports,  
17 do they?

18 A. I don't remember it being -- I don't  
19 remember seeing that in an order specifically  
20 addressing that. I don't know why this is a point  
21 though right now, the drilling reports, we did get  
22 them. And, you know, I don't know why you're going  
23 off on this tangent. We did get the drilling  
24 reports. We should have gotten them. We've gotten  
25 them on every well that we've ever participated in.

1 And every well that we drilled with our partners,  
2 we've submitted daily drilling reports and  
3 completion reports to the partners.

4 Q. Thank you. And, Mr. Ragsdale, if you can  
5 just answer my questions that would, I think we'll  
6 get through this a lot faster.

7 Okay. Let's talk about the treatment of  
8 the prepayment overage. Again, Siana elected not to  
9 sign a JOA; is that correct?

10 A. Yes, it is.

11 Q. And when a party is pooled, it is required  
12 to pay estimated well costs that can be over or  
13 under the actual costs, correct?

14 A. Yes, that's correct.

15 Q. And Siana's claiming a right to earn  
16 interest on its prepaid overage, correct?

17 A. Yes, we are.

18 Q. And the pooling orders don't say that any  
19 party is entitled to interest, do they?

20 A. The pooling parties? How did you phrase  
21 that?

22 Q. The pooling order doesn't say that any  
23 party is entitled to interest?

24 A. I don't believe it's spelled out that way.  
25 I'm not sure, you know, the exact language.

1 Q. Mewbourne offered to refund the prepayment  
2 overage to Siana on more than one occasion, didn't  
3 it?

4 A. That's not quite correct. They made a  
5 real weak attempt to doing it. You know, of trying  
6 to offer us a partial refund.

7 Q. I'm going to share my screen here again so  
8 you all can see this. Can you see what I'm showing  
9 here on my screen?

10 A. Yes.

11 Q. Okay.

12 MS. SHAHEEN: For the record, can you tell  
13 us what exhibit this is?

14 MS. HARDY: This is not an exhibit that's  
15 addressed in our testimony, but I'm happy to  
16 introduce it as an exhibit if that will be  
17 acceptable to the Division.

18 MS. SHAHEEN: I'm going to object to the  
19 use of an exhibit that wasn't previously identified.

20 MS. HARDY: Well, we discussed it in our  
21 testimony and I think the Hearing Examiners have  
22 asked us to provide it.

23 MS. SHAHEEN: This was not identified as  
24 an exhibit or filed with the Division at the time of  
25 the exhibits were due. So I'll object to this being

1 entered into evidence.

2 HEARING OFFICER BRANCARD: Well, again,  
3 this is the kind of evidence that we really need to  
4 see here. But, you know, I prefer, Ms. Hardy, that  
5 you produce this through your own witness.

6 MS. HARDY: Okay. I'm happy to do that.  
7 And I will just ask Mr. Ragsdale a question.

8 Q. (By Ms. Hardy) Mewbourne sent Siana a  
9 check in the amount of \$406,000, a little more than  
10 that, in December of 2021; is that correct?

11 A. I believe it was sent to our counsel, not  
12 to us. It wasn't sent to us at all. That's not  
13 correct.

14 Q. Well, at that point, your counsel was  
15 interacting with Mewbourne on your behalf; is that  
16 correct?

17 A. Right, because Mewbourne refused to  
18 interact with us.

19 Q. Okay. And with respect to the holding of  
20 Siana's ownership interest, revenues in suspense,  
21 Siana hasn't relinquished its interest in these  
22 wells, correct?

23 MS. SHAHEEN: Objection. Form.

24 A. No, we have not relinquished our interest.  
25 No.

1 Q. (By Ms. Hardy) Under the pooling order,  
2 Siana is a pooled party, correct?

3 A. Yes, we are.

4 Q. And the pooling orders require pooled  
5 parties to pay estimated costs?

6 A. To participate in the wells, yes, it does.

7 Q. Let's talk about the filing of Mewbourne's  
8 completion reports. Your application claims that  
9 Mewbourne did not timely file completion reports of  
10 these wells; is that correct?

11 A. Yes, that's correct.

12 Q. Have you reviewed the completion reports  
13 for these wells?

14 A. No, I have not.

15 Q. Okay. So you don't know the dates on  
16 which they were filed with OCD?

17 A. No, offhand, I do not know.

18 Q. With respect to taking Siana's production  
19 in kind, the pooling orders designate Mewbourne as  
20 operators of the wells and units, correct?

21 A. Yes.

22 Q. And a JOA would typically contain  
23 requirements regarding the right to take production  
24 in kind, wouldn't it?

25 A. Yes.

1 Q. And there's specific requirements that  
2 would be negotiated that would apply to that type of  
3 a right, aren't there?

4 A. Yes.

5 Q. Things like metering. Would that be one?

6 A. That would be one of many, yes.

7 Q. Liability?

8 A. I'm not too familiar with the liability  
9 side.

10 Q. Okay. What about responsibility for  
11 compliance with OCD regulations?

12 A. That would be one.

13 Q. And what about responsibility for payment  
14 of royalties and taxes?

15 A. Those are also responsibilities, yes.

16 Q. And the pooling orders don't say anything  
17 about those issues, do they?

18 A. I don't believe they do.

19 Q. With respect to Siana's participation or  
20 an opportunity to participate in the Infill Wells  
21 that you had raised, Mewbourne did provide Siana  
22 with an opportunity to participate in those wells,  
23 correct?

24 A. Yes, as I'd say, an unfair opportunity.

25 Q. And you had requested that the Division

1 extend the time for Siana to make its payment, its  
2 prepayment on those wells, correct?

3 A. Yes.

4 Q. And the Division denied your request,  
5 didn't it?

6 A. I believe it did.

7 Q. Thank you.

8 MS. HARDY: Those are all of my questions  
9 for now. Thank you for your time.

10 HEARING OFFICER BRANCARD: Thank you.

11 Let me see, Mr. McClure?

12 MR. McCLURE: Mr. Brancard, I have no  
13 questions at this time.

14 HEARING OFFICER BRANCARD: Okay. I have a  
15 few.

16 Mr. Ragsdale, I think your counsel tried  
17 to qualify you as an expert. I'm not sure she did,  
18 but I'll treat you as one.

19 So I'm going to ask dumb lawyer questions,  
20 dumb in the sense that I don't understand how this  
21 industry works. Is this the first time that you  
22 have participated in a well strictly through the OCD  
23 order as opposed to a JOA?

24 THE WITNESS: No, it is not.

25 HEARING OFFICER BRANCARD: So you've done

1 this before?

2 THE WITNESS: Yes, we have.

3 HEARING OFFICER BRANCARD: Right. So have  
4 you, therefore, received an accounting of actual  
5 well costs as provided in an OCD order in another  
6 situation?

7 THE WITNESS: In another situation you  
8 said?

9 HEARING OFFICER BRANCARD: Yes.

10 THE WITNESS: Yes, we have.

11 HEARING OFFICER BRANCARD: Okay. So my  
12 question then is, what does that look like? My  
13 naive idea is that I know what an AFE looks like and  
14 I'm just sort of assuming there's a document similar  
15 to the AFE with the actual costs; is that your --

16 THE WITNESS: You're exactly right. You  
17 know, the AFE contains just a drilling and  
18 completion cost for one particular well. It does  
19 not complain -- contain other multiple wells, other  
20 multiple wells, LOE costs mixed in with revenue and  
21 things like that. So an itemized schedule, the way  
22 we see it, it's a similar document --

23 (Discussion of the record.)

24 HEARING OFFICER BRANCARD: I would assume  
25 that part of the value of that is you could take the

1 AFE and you can compare it to a similar document and  
2 look line by line to see what was underestimated,  
3 what was overestimated.

4 THE WITNESS: Yes, sir. You're correct.  
5 And, you know, I appreciate the way you opened this  
6 up. I refer -- I ask a lot silly questions so I  
7 call them silly, but I'm trying to learn something.  
8 And your question is a great question.

9 When we drill a lot of wells in the past  
10 we would actually submit, you know, we'd have the  
11 AFE because that was -- that was performed, you  
12 know, prior to drilling the well. And then we have  
13 it -- after we finished the well, we would provide a  
14 document that showed, you know, the actual, the  
15 predicted cost, you know, the estimated predicted?  
16 And next to it, it showed the estimate. I mean the  
17 actual cost.

18 And, you know, there's so many numerous  
19 categories of cost within the drilling, completion,  
20 tangible and intangible that you could see, you  
21 know, okay, we were lower in this amount. We were  
22 lower here, higher here, because you're striving to  
23 be a good operator and watch your cost to come in  
24 under the AFE.

25 HEARING OFFICER BRANCARD: All right. And

1 if somebody had a question, they could ask you for  
2 more details of any of those line items?

3 THE WITNESS: Yes, sir, that's correct.  
4 And on a particular item, if they had a question  
5 about that certain charge, they could zero in on it  
6 real easily because it's like you said, it's a  
7 simple statement and it's usually a document  
8 produced by whatever company, whatever software  
9 system they're using. And it's very easy to  
10 generate. They say it takes anywhere from 10  
11 minutes, 15 minutes, to 30 minutes just to generate  
12 those actual well costs. You know, which are going  
13 to be just nothing but drilling costs and completion  
14 costs.

15 HEARING OFFICER BRANCARD: So I'm leading  
16 up to the question which I think you've already  
17 answered, have you, in this case, did you receive  
18 such a document from Mewbourne?

19 THE WITNESS: No, sir. Not never. We  
20 made a lot of requests, a lot of emails, and they  
21 just continually refused to do it and they  
22 eventually said, "It's in our legal department."  
23 And so I want to point out that's why we had to  
24 engage Ms. Shaheen because, you know, the legal  
25 department wouldn't answer our questions so here we

1 are without anything. They just wouldn't give us  
2 any documents. No, sir.

3 HEARING OFFICER BRANCARD: Okay. I will  
4 let Mewbourne respond to this, but I'm telling you  
5 right now that some ways I think this is sort of the  
6 end of part of this case if it's correct that if we  
7 don't have an actual well cost document from  
8 Mewbourne in compliance with this order, we need to  
9 have one. Because as you've pointed out,  
10 Mr. Ragsdale, that triggers two things: One is, you  
11 can deal with an overage or underage [sic] but it  
12 also triggers a right to protest. And can't have  
13 either of those if we don't have the actual well  
14 cost document.

15 So just saying, Ms. Hardy, this is a big  
16 deal, okay? And let's look at the order and maybe  
17 you can help me with this, too, because I get lost  
18 in the jargon pretty easily here.

19 But it seems to me, if you have the order  
20 in front of you, Ms. Shaheen. And I know you hadn't  
21 recited it.

22 MS. SHAHEEN: Did you want me to share it  
23 or just have it in front of --

24 HEARING OFFICER BRANCARD: Yeah, sure. If  
25 you could share, you know, Page 3 of whatever order.

1 So we're looking at Paragraph 24 on.

2 MS. SHAHEEN: If Mr. McClure will allow me  
3 to do that, I think I can figure it out again.

4 HEARING OFFICER BRANCARD: Maybe even  
5 Marlene could do that.

6 MS. SHAHEEN: Oh, Mr. McClure has helped  
7 me.

8 HEARING OFFICER BRANCARD: Marlene is now  
9 host.

10 MS. SHAHEEN: Oh.

11 HEARING OFFICER BRANCARD: Okay. So,  
12 again, I'm seeing Paragraphs 23, 24 and 25 are a  
13 discrete process from Paragraphs 26, 27, 28 and 29;  
14 that is, that 23, 24, and 25 are the drilling and  
15 completion costs, and that 26, 27, 28 and 29 are the  
16 operating costs. Am I off-base there or...

17 Mr. Ragsdale?

18 THE WITNESS: I believe you're on base.  
19 I believe you're correct. But I'll be happy to walk  
20 through each of them with you to make sure we're in  
21 complete agreement, as we should say.

22 HEARING OFFICER BRANCARD: Okay. So that  
23 the process of determining an actual well cost, is  
24 the actual drilling of production process, and it  
25 comes to an end with the completion of the well.

1 THE WITNESS: Right. You just  
2 accidentally said, "drilling and production." And I  
3 think you meant to say, "drilling and completion."

4 HEARING OFFICER BRANCARD: I did. Thank  
5 you.

6 THE WITNESS: And it does come to an end.  
7 You're absolutely correct. It comes to an end once  
8 they've kind of finished the completion process and  
9 they're moving -- immediately they move into the  
10 production process.

11 HEARING OFFICER BRANCARD: All right.

12 There is an interesting paragraph that was  
13 not discussed here. Paragraph 30, just hidden on  
14 the next page. So 28 and 29 talk about how you deal  
15 withholding of costs from the participating pool  
16 interest owner and the nonparticipating, I'll call  
17 it, right? And the nonparticipating not only has  
18 the normal supervision and operating charges  
19 deducted, but they also get the risk charge  
20 deducted. Am I correctly characterizing that,  
21 Mr. Ragsdale?

22 THE WITNESS: Yes, sir. I believe we've  
23 referred to that more customary, that 200 percent  
24 risk charge.

25 HEARING OFFICER BRANCARD: Paragraph 30

1 says, "The operator shall distribute a proportionate  
2 share of the cost and charges withheld pursuant to  
3 Paragraph 29. Paragraph 29 is the non-consenting  
4 parties, the nonparticipating parties to each pooled  
5 working interest that paid its share of the  
6 estimated well costs."

7 So in other words, when the operator  
8 withholds that risk charge in a nonparticipating  
9 party, the operator doesn't get all of that. The  
10 operator has to share that with the other pool  
11 parties; is that correct?

12 THE WITNESS: Yes, sir, that's correct.

13 HEARING OFFICER BRANCARD: Has any of that  
14 happened in this case?

15 THE WITNESS: No, sir. We've talked to  
16 Mewbourne about that numerous times in the past.  
17 We've had meetings with them in person, and they've  
18 never offered us a share of other non-consenting  
19 parties' interests and we've asked about it and --

20 HEARING OFFICER BRANCARD: Thank you. I'm  
21 sorry. I should have asked the first question which  
22 is, are there nonparticipating parties in these  
23 wells?

24 THE WITNESS: There -- you know, it's --  
25 Mewbourne is the operator so I don't have all those

1 details and records in front of me. But generally  
2 there's also some non-consenting partner -- parties.

3 HEARING OFFICER BRANCARD: But you're not  
4 aware of how many or what interests there are?

5 THE WITNESS: No, sir, I can't state the  
6 facts. No, sir.

7 HEARING OFFICER BRANCARD: Okay. Thank  
8 you.

9 Okay. And okay. Ms. Hardy asked all the  
10 questions that I was interested in also so that's  
11 enough for now. Thank you.

12 THE WITNESS: I'd like to clarify one  
13 thing if I could, with you, please.

14 HEARING OFFICER BRANCARD: All right.

15 THE WITNESS: There was a fair amount of  
16 talk about the estimated well costs, the AFEs, and  
17 I'd like to clearly state for the record that the  
18 point being that she did not address or talk about  
19 is our point when we challenged the AFEs, is that  
20 the AFEs were prepared in January of 2020. And as  
21 most of us know, COVID was not a word. It wasn't  
22 known. And the oil and gas activity was fairly busy  
23 at that time. COVID came along a month or two  
24 later, February, March and activity just went to a  
25 standstill and oil plunged. You know, it plunged in

1 the teens, in the single digits. It even went  
2 negative one day in April.

3           And if you look closely, I mean, everybody  
4 was shutting down because oil was, didn't have much  
5 value at all. There was no economic sense. There  
6 was -- it did not make any sense to drill and  
7 complete a well because simply the economics would  
8 have been a loss. And it was well-known that one of  
9 the largest categories of cost -- and I'm going to  
10 tell you accurately -- it's about 40 percent of a  
11 well cost will be the frac job and frac jobs were  
12 off, it was well-known 30 to 40 percent. Nobody was  
13 doing any activity. The costs were down and so all  
14 the service companies said slash their costs. It  
15 was a well-known fact, everybody knew that.

16           So what happened was, the market had  
17 changed and we pointed out to Mewbourne when they  
18 gave us the AFEs that were basically -- they were  
19 pre-COVID AFEs. They were about \$8 million apiece  
20 and we just knew they were too high. And, yet, so  
21 we even went to the extent of talking to them. I  
22 even wrote a letter to Ken Waits asking him to  
23 reconsider or refile. It's an industry norm to  
24 adjust the AFEs if you're too high or too low for  
25 market conditions, for current market conditions.

1 So I do want to point out that there was a drastic  
2 change because of the COVID and because the related  
3 oil field activity that fell off that we knew the  
4 costs to drill and complete a well were  
5 significantly lower. And I went to the extent to  
6 write that letter to Ken Waits. And they totally  
7 ignored us and just struck with the preCOVID of much  
8 higher COVID and what, you know, the rates were, the  
9 prevailing rates were at the time.

10 So I want to clarify that was all the  
11 reasoning for us challenging or us saying, hey, we  
12 think these costs are too high, would you please  
13 reconsider them. And I have talked to Ms. Shaheen  
14 about my letter and she's following the rules. She  
15 said she did not admit it for evidence, but we did  
16 write a letter to Ken Waits, the president of  
17 Mewbourne, who's my main contact there. And they --  
18 he ignored it. They did not lower those. And I  
19 think if you look at that, that time will tell the  
20 wells came in much lower and less. So I'm not  
21 saying we were right. We thought we were right but  
22 the proof was the wells did cost significantly less  
23 than what the preCOVID AFEs that Mewbourne insisted  
24 on sticking with. Thank you.

25 HEARING OFFICER BRANCARD: Thank you.

1           This not a new issue. We get people  
2 coming into pooling hearings grumbling about AFEs.  
3 But I will say, you know, for purposes of this  
4 hearing that's kind of water under the bridge. You  
5 know, we're going to deal with the actual well cost  
6 issue here, not whether the original AFE was correct  
7 or not.

8           So with that, I guess Ms. Shaheen, did you  
9 have any redirect?

10           MS. SHAHEEN: I do not, thank you though.

11           HEARING OFFICER BRANCARD: Okay. I guess  
12 we can proceed with the next witness. I don't know,  
13 again, I'm a little dubious about getting too deep  
14 into the weeds here, but please proceed with your  
15 next witness.

16           MS. SHAHEEN: Could I request we take a  
17 bio break for five minutes?

18           HEARING OFFICER BRANCARD: Yes. Sorry.  
19 Thank you. We've been going for awhile. 10:30,  
20 we'll be back.

21           MS. SHAHEEN: Thank you.

22           (Recess taken at 10:20 to 10:30.)

23           HEARING OFFICER BRANCARD: We're back on  
24 the record. New Mexico Oil Conservation Division  
25 hearing Case 22378.

1 Ms. Shaheen, your next witness.

2 MS. SHAHEEN: I'd like to call Ms.  
3 Danielle Caldwell, if the court reporter wants to  
4 swear her in.

5 THE WITNESS: Hi. I'm just making sure  
6 you can hear me.

7 THE COURT REPORTER: Will you please raise  
8 your right hand?

9 DANIELLE CALDWELL

10 First being duly sworn, testifies as follows:

11 DIRECT EXAMINATION

12 BY MS. SHAHEEN:

13 Q. Good morning, Ms. Caldwell. Could you  
14 please state your full name for the record?

15 A. Hi. My name is Danielle Susan Caldwell.

16 Q. And where do you work?

17 A. I'm currently working for Siana Oil & Gas.

18 Q. And how long have you been there?

19 A. I started in October of 2021.

20 Q. And what work do you do for Siana?

21 A. I was hired to work on revenue accounting,  
22 but being in a smaller oil and gas company, I kind  
23 of touch everything.

24 Q. And do you seek to have your testimony in  
25 this matter admitted as an expert witness and as a

1 fact witness?

2 A. Yes.

3 Q. Could you please describe your education  
4 and experience prior to working at Siana?

5 A. Yes. I received my BBA in accounting from  
6 Sam Houston State University in 1996. From there, I  
7 started working for Pennzoil as a revenue  
8 accountant, then I moved to Burlington Resources  
9 where I was for 15 years.

10 Then I was on the 18-month transition when  
11 ConocoPhillips acquired Burlington. There, I was a  
12 volume accountant, production accountant, and  
13 marketing accountant. And then after that, I sort  
14 of transitioned to a consultant role working for EAG  
15 Services consulting in revenue accounting,  
16 production accounting, and basic system functions.

17 There, I moved on to Linn Energy as a  
18 consultant and worked for over ten years, which  
19 later became Riviera Resources where I went back and  
20 worked until Riviera was no longer.

21 Now, I did have a two-year period at  
22 Talisman which later became Repsol where I was a  
23 system implementation coordinator working with the  
24 production group, revenue group, and a roll seeker,  
25 and implementing a new system.

1                   And then from there, I ended up at Siana.

2           Q.     And so would it be fair to say that you've  
3     been doing oil and gas accounting for approximately  
4     25 years now?

5           A.     Well, don't age me, but yes.

6                   MS. SHAHEEN: I would ask that  
7     Ms. Caldwell's testimony be admitted as an expert in  
8     oil and gas accounting.

9                   HEARING OFFICER BRANCARD: Any objections?

10           MS. HARDY: No objection.

11                   HEARING OFFICER BRANCARD: Thank you. So  
12     admitted.

13           Q.     (By Ms. Shaheen) Ms. Caldwell, in your  
14     work for Siana, did you become familiar with Siana's  
15     interest relating to this matter and the  
16     circumstances?

17           A.     Yes.

18           Q.     And what will be -- what will you be  
19     talking about in your testimony today?

20           A.     Basically the information I pulled  
21     together from Mewbourne, ran summary reports, and  
22     basically the findings that was talked about  
23     previous in the opening.

24           Q.     And what documents did you review in  
25     conducting your analysis?

1           A.     The documents I reviewed were the detailed  
2 JIB statements from Mewbourne Oil and our revenue  
3 statements from Mewbourne Oil.

4           Q.     And the joint interest billing statements  
5 for the record, those were submitted as Exhibits D,  
6 E, F and I; is that correct? Actually, that might  
7 be not be correct.

8           A.     It's not -- it's D. D is 2020, E is 2021  
9 and F is 2022 JIB details. And then G, H, and I are  
10 the same thing or G and H are 2021 and 2022 revenue  
11 statements.

12          Q.     And then I is the operator invoice and  
13 statement that it's just a more detailed JIB; is  
14 that correct?

15          A.     It's the JIB we received on Energy Link  
16 where it has D, E and F are the more detailed  
17 Mewbourne JIBs we received by mail.

18          Q.     And did you also create spreadsheets with  
19 the data that are in these documents?

20          A.     Yes, I did.

21          Q.     And the spreadsheets that you created,  
22 we've submitted those as Exhibits P, Q, and R; is  
23 that right?

24          A.     Yes.

25          Q.     And how did you import the data when you

1 created the spreadsheets?

2 A. So there is a service called Energy Link  
3 where Mewbourne uploads their JIB details and  
4 revenue details to Energy Link. From there, I'm  
5 able to download the data into an Excel format and I  
6 copy and paste it into our spreadsheets.

7 Q. And how did you use the information in the  
8 joint interest billings as compared to the  
9 information in the revenue statements?

10 A. We just perform pivot table to sum it up  
11 to see, as in the exhibits, you see there's a  
12 thousand, 1200 pages of detail. So it takes that  
13 thousand pages of details, puts it in an Excel  
14 format and then we can sum it up to see by total,  
15 here's our total cost for drilling. Here's our  
16 total cost for LOE. On the revenue side, here's the  
17 total revenue for this well. These were the  
18 deductions. So it's a way to take that  
19 thousand-page lines of detail and sum it up to a  
20 more condensed format.

21 Q. I'm going to share now Exhibit R. Let's  
22 see. Is this the right one, Danielle? I'm sorry.

23 A. Yes, that is.

24 Q. And there are a number of tabs here. Can  
25 you just briefly talk about the various tabs?

1           A.     Yes.   So it seems like a lot of data if  
2 you were looking over this last night, but  
3 Mr. Commissioner, but it all kind of repeats itself,  
4 but the meat and bones of everything that is -- it  
5 goes, all the -- oh gosh, sorry. All the pivot  
6 tables relating come down to these yellow  
7 highlighted tabs.

8                     So if you scroll on the one, the yellow  
9 tab called "Revenue Data," this is all the revenue  
10 data from Mewbourne with Siana's interest pulled  
11 from Energy Link. And from there each month was  
12 copied and pasted into here (indicating). And this  
13 is all our Mewbourne Oil wells which is the Inland  
14 Wells Creedence, Gazelle, Ibex, and Pronghorn, which  
15 you will see that Inland Wells aren't included here.  
16 It's just our other wells.

17                    Now if you scroll over to that last tab  
18 called JIB Data which is highlighted.

19           Q.     I'm going to interrupt just for a second,  
20 Ms. Caldwell. Can you tell us why the Inland  
21 Revenue is not included here?

22           A.     Our Division order is in legal suspense as  
23 was discussed earlier.

24           Q.     All right. So moving now to the JIB data;  
25 is that the right one?

1           A.     Yes.   And this is all the data pulled from  
2   Energy Link from Mewbourne Oil for the Siana wells  
3   that we have our interest in.   And these include all  
4   our wells, which is the Creedence, Gazelle, Ibex,  
5   Pronghorn, and the Inland.   And these are all the  
6   costs associated with these wells.   So this is  
7   basically all those data, all those thousands of  
8   paper of detail is now in an Excel format.   So from  
9   this format, all the other tabs that aren't  
10  highlighted in yellow are just pivot tables that sum  
11  it up to a -- by month, by well, and different  
12  costs.

13           Q.     Should we take a look at just one as an  
14  example revenue pivot or JIB pivot?

15           A.     If you want that JIB summary pivot, the  
16  third one over, this just shows you that for  
17  Mewbourne Oil, May 31st, 2022 is our JIB date.   The  
18  JIB number is 202205.   It's kind of far away from  
19  me.   And this was our total amount, any cash calls  
20  and then this was our sum of our invoice.   So for  
21  May we were invoiced 106 or 105,000 roughly.   And  
22  you can see how all that data is now summed up in  
23  pivot tables.

24           Q.     And that 105,000, that's for all of the  
25  wells that are operated by Mewbourne in which Siana

1 has an interest; is that right?

2 A. Yes. So if you go over to the second tab  
3 next to it, the tab next to it, the JIB Summary  
4 Pivot No. 2, here you see the breakout of that one,  
5 that one each JIB statement and then here's your  
6 wells. If you wanted to dig into the weeds, we can  
7 get more and more and more. But basically it's just  
8 a pivot table.

9 So these -- this spreadsheet particularly  
10 started my next analysis where I just took the  
11 summed-up numbers that continued to -- that we'll  
12 discuss in the next exhibit. But this is just to  
13 show you how the numbers I came up with in the next  
14 summary spreadsheets.

15 Q. Turning now to Exhibit Q. Do I have the  
16 right one up?

17 A. Yes.

18 Q. And can you explain to the Hearing  
19 Examiners what you've done here?

20 A. So I just copied and pasted the pivots we  
21 just were talking about, but I colored -- they're  
22 kind of, they're color-coded. So green talks about  
23 our JIBs in total. And then orange talks about,  
24 it's broken out by more detailed costs. And then  
25 yellow is our revenue summed up and it just sums it

1 up, which then goes to our next exhibit that kind of  
2 analyzes it, analyzes this in total. But these are  
3 the backup to the ones on this spreadsheet, which is  
4 where we can dig more into what we're discussing.

5 Q. So we'll turn now to Exhibit P and I'll  
6 just note for the record that we filed an amended  
7 Exhibit P yesterday and circulated that to the  
8 hearing's email and Ms. Hardy. And the only  
9 difference here is that, well, with respect to the  
10 PDF, I think it's a different size. In the original  
11 Exhibit P, there was some yellow highlighting here  
12 that blocked out some data so we just removed the  
13 yellow highlighting and resubmitted it and  
14 everything else is the same. So Ms. Caldwell, I'll  
15 let you take over here and explain what we have.

16 A. Okay. So, Sharon, I have that other  
17 spreadsheet that walks it through a little better.

18 MS. SHAHEEN: Oh. Right, the  
19 demonstrative. Okay so we also circulated a  
20 demonstrative yesterday that shows how Ms. Caldwell  
21 compared the JIBs and the revenue statements. And  
22 let me see if I could find that one now.

23 Can everyone see that? Is it big enough?  
24 Should I make it bigger? Do you see it?

25 A. Yeah, I'm good.

1 Q. (By Ms. Shaheen) Okay. All right.

2 Whenever you're ready.

3 A. Okay. So this takes the line by line that  
4 kind of shows you a more visual representation of  
5 those numbers. And I started with the others since  
6 I got some massive data but X is a day. Each  
7 detailed line kind of represents this if you're  
8 more -- to see it visually. So the first -- it's  
9 hard not presenting and talking but the diagram to  
10 the left is Mewbourne's JIB. And if you scroll down  
11 just a little bit, Sharon, you can see in total our  
12 JIB amount. Our total due for the month is \$21,530  
13 which includes all of our wells including the Inland  
14 Wells with the PI being 25, us owing \$2,532.35 and  
15 the OJ well owing \$6,700 or \$6,744.33 for our total  
16 JIB for this month is \$21,530, if you scroll down a  
17 little bit more, Sharon.

18 Q. Oh.

19 A. And if you scroll over to the right to the  
20 second little spreadsheet, the next month, you can  
21 see we had a balance forward of \$21,530.76, the  
22 balance forward and then that amount was netted. So  
23 you can see that netting amount was including the  
24 Inland Wells. So if you scroll down past these  
25 spreadsheets.

1 Q. And just one quick question for you, these  
2 are details, pages that we -- or you extracted from  
3 Exhibit F; is that right?

4 A. Yes.

5 Q. Okay.

6 A. So here is our Mewbourne revenue statement  
7 if you scroll over. And as you see, the first line  
8 is our JIB offset so here's where you see the  
9 \$21,530.76 that was netted against our revenue. And  
10 if you scroll over, it's just the last page. If you  
11 scroll to the left, I mean to the right, here it is  
12 in total. You can see our total revenues were, if  
13 you scroll down ...

14 Q. I'm sorry. All right. All the way down  
15 to the next page?

16 A. Oh, just right there. So you can see our  
17 total revenues are -- I'm sorry, I can't read that.  
18 107,000 but that's, you see the 21,530 was deducted.  
19 Now on these revenue statements, there's no Inland  
20 Wells, but as you can see, the 21,000 makes up some  
21 of the Inland Wells.

22 So if you scroll down to the next  
23 spreadsheet, that is our -- this is Exhibit P. And  
24 so you can see in the sample months how those  
25 numbers are there. So in Column C, Row 5, that's

1 yellow highlighted. Here is our balance forward of  
2 the 21,000 and here is it netted which we saw in the  
3 statement that it was netted. And then if you go  
4 down a line to see the next highlighted, here is our  
5 total invoice, the current charges within the month  
6 prior. And of those charges, the 21,530.76 about  
7 6700 relates to the Inland OJ. 2500 relates to the  
8 PI and the 12,254.08 relates to all the other wells.  
9 But that 10,607 -- that 8,000 was netted against the  
10 revenue of the other wells.

11 And so as you see, if you scroll down,  
12 that's just one little example, but that's how the  
13 data lines up. And so in total, about 106 in that  
14 red, yellow highlight, about \$106,365.24 was Inland  
15 OJ and PI LOE charges that were netted against other  
16 well revenue.

17 Q. And when you say "LOE," you mean lease  
18 operating expenditures, right?

19 A. Yes.

20 Q. And that's basically the same thing as  
21 operating charges; is that correct?

22 A. Yes.

23 Q. Okay. So I'm going to turn now back to  
24 your testimony. What did you determine from your  
25 comparison of the data in the JIBs and in the

1 revenue statements?

2 A. I'm sorry. We missed one little, if you  
3 scroll down a little further in that ...

4 Q. Oh, I'm sorry. Going back to Exhibit P?  
5 Oh no, sorry, going back to the demonstrative. All  
6 right.

7 A. This just shows the revenue in total so  
8 the JIB in the first spreadsheet, here is the  
9 revenue and here is in that example month you can  
10 see how there is no Inland and no revenue, which  
11 we've already talked about.

12 Q. And just for the record, this sample month  
13 was March of 2021? Or is -- no March of ...

14 A. 2022?

15 Q. '22. Thank you. So turning now back to  
16 your written testimony, bottom of Page 2, top of  
17 Page 3, what did you determine from your analysis in  
18 comparison of the data and the JIBs and in the  
19 revenue statements?

20 A. Well, we see the overage of the cash call  
21 for the AFEs being applied to the current month --  
22 or sorry. We see the overage of his cash call that  
23 gets deducted for LOE from, at one time, all the  
24 wells and the Inland Wells. And then it was  
25 corrected and then put back, but we're now seeing

1 that that revenue of other wells, the LOE of the  
2 Inland Wells is being deducted.

3 Q. And so did you determine that Mewbourne  
4 was netting LOE from that overage for estimated  
5 costs?

6 A. Yes, they were.

7 Q. And they were deducting LOE for the Inland  
8 Wells, the PI and the OJ wells from that overage; is  
9 that right?

10 A. Yes.

11 Q. And they were also deducting LOE for other  
12 unrelated wells from that overage as well; is that  
13 right?

14 A. Yes, until we, I guess in December 2021,  
15 it was corrected.

16 Q. So you called it to their attention and  
17 then it was corrected; is that right?

18 A. I'm not sure on that.

19 Q. Okay. Were you able to determine how  
20 much -- were you able to estimate how much Siana is  
21 owed by Mewbourne for the overpayments for drilling  
22 and completion costs related to the PI and OJ wells?

23 A. We had, I believe in December maybe pulled  
24 together this information and our -- we're only as  
25 good as the data we had in Energy Link and

1 calculated the amounts that we thought we were being  
2 paid, but we never had anything from Mewbourne  
3 saying this is your overage. Here, in a summary  
4 this was your total cost. This was your estimated  
5 cost and this was your overage. It was just  
6 something I pulled together based on the data I had  
7 at that time and probably in December or January.  
8 And then from there, I believe we sent that to  
9 Mewbourne and that's when they issued us a check for  
10 the 406. But now looking back, there's been PPAs on  
11 prior months so that amount has actually changed.  
12 So we've never received anything from Mewbourne  
13 saying, okay, here's your overage. It's just been  
14 me pulling this data from Energy Link, putting in a  
15 spreadsheet, summing it up, and doing all the  
16 exhibits before to come up with that 406 back in  
17 January and now I believe it's like 412. I'd have  
18 to look at the spreadsheet.

19 Q. And when you say 406, you mean \$406,000,  
20 correct?

21 A. Yes.

22 Q. In your experience, is it proper to net  
23 lease operating expenses for an overage paid on  
24 estimated costs to drill and complete?

25 A. I have never seen it before.

1 Q. In your experience, is it proper to net  
2 LOE from other wells, unrelated wells from estimated  
3 costs paid for drilling and completion of different  
4 wells?

5 A. I've never seen that before.

6 Q. And did you also determine that Mewbourne  
7 was deducting the costs, the LOE for the Inland  
8 Wells from other unrelated wells?

9 A. Yes. And --

10 Q. And in your -- I'm sorry. Go ahead.

11 A. Well, I've seen where, and I see why it  
12 happened, it's because our revenue for the Inland  
13 Wells is in legal suspense due to the lawsuit that  
14 was talked about earlier. And if our working  
15 interest is in revenue suspense, I would think our  
16 JIB working interest should be in suspense too and  
17 then this wouldn't be an issue both revenue and JIBs  
18 would be in suspense and then whenever the thing is  
19 fixed, then they would come together with the right  
20 interests or the wrong -- or the right interest, and  
21 then everything would be settled.

22 Q. So in your experience, you've never seen  
23 LOE for one well deducted from revenues for another  
24 well; is that right?

25 A. On a working interest, no, because

1 normally that whole Division order would be in  
2 suspense on both the JIB side and the revenue side.

3 Q. So in your experience, is it proper to net  
4 LOE for one well from production related to other  
5 wells?

6 A. No. I think we just talked about that.

7 Q. Oh, I'm sorry. How much did it cost to  
8 obtain the data from Energy Link?

9 A. Oh, well Energy Link is a service company,  
10 so you can download the PDF version for free which  
11 would be what you would receive by mail. But to get  
12 it in an Excel format it's like 20-\$25 per month  
13 well pull, and we pulled about two years worth of  
14 data.

15 Q. So because Mewbourne refused to provide  
16 you with the data, you had to pay to get it from  
17 Energy Link; is that right?

18 A. They provided us the data. I mean after I  
19 had already started, we received the PDF version --

20 Q. Oh.

21 A. -- of the data by mail. They mailed us  
22 all the statements that we needed, but we didn't  
23 receive them prior to me being there. I know we had  
24 an accountant that constantly tried to get the  
25 information and finally I think -- I'm not sure when

1 we received it, but I was already there which was --  
2 I started in the end of October 2021.

3 Q. I believe I may have asked all my  
4 questions.

5 MS. SHAHEEN: I believe I'm finished with  
6 my questions for Ms. Caldwell and I would just  
7 reserve the right to recall her for redirect if need  
8 be. Otherwise, I'll pass Ms. Caldwell as a witness  
9 to Ms. Hardy.

10 HEARING OFFICER BRANCARD: Thank you.

11 Any questions, Ms. Hardy?

12 MS. HARDY: I do have a few, Mr. Examiner.  
13 Thank you.

14 CROSS-EXAMINATION

15 BY MS. HARDY:

16 Q. Good morning, Ms. Caldwell.

17 A. Hi.

18 Q. With respect to the holding of revenues in  
19 suspense, Mewbourne is not questioning Siana's  
20 ownership interest, is it? Do you know?

21 A. I'm not sure.

22 Q. Okay.

23 A. I just know we're in legal suspense and I  
24 know there is a pending lawsuit that relates to ...

25 Q. And that lawsuit wasn't filed by

1 Mewbourne, was it?

2 A. No, it wasn't.

3 Q. So if Mewbourne weren't holding the  
4 revenues in suspense, it could be subject to  
5 liability to the parties in the lawsuit; is that  
6 correct?

7 MS. SHAHEEN: Objection. I believe she's  
8 calling for a legal conclusion here.

9 HEARING OFFICER BRANCARD: I agree.

10 MS. HARDY: Okay, that's fine. I will  
11 withdraw the question.

12 Q. (By Ms. Hardy) Ms. Caldwell, my  
13 understanding of your testimony just now is that  
14 it's improper to hold revenues in suspense while  
15 you're asking for cost under JIBs; is that correct?  
16 Is that what you said?

17 A. Yes. And the point that if there's a  
18 legal suspense on the working interest on the  
19 revenue debt, there should be a question on the  
20 working interest on the JIB debt. So if it comes  
21 out that it's actually still 10 percent, then, yes,  
22 we owe that 10 percent on the JIBs. But if it comes  
23 out that it's just 5 percent, then we only owe  
24 5 percent. So we both take a -- I mean y'all run  
25 the risk. If you release the revenue and it comes

1 out we owe 5 percent -- we have a 5 percent  
2 interest, then you now run that risk of getting that  
3 money back. Vice versa, we pay you on a 10 percent  
4 debt and then we end up owing 5 percent. We need  
5 that 5 percent back. So we both have a liability.

6 Q. So that theory --

7 A. Hypothetically talking.

8 Q. Oh, sorry. So that theory would require  
9 Mewbourne to pay the cost associated with Siana's  
10 interest with respect to drilling and operating the  
11 well, correct? It would have to front those costs.

12 A. Well, and we're -- we've already -- I mean  
13 that's just opinion. We're fronting the cost of  
14 when we pay the cash call and we have the overage  
15 just sitting there. And then now you're wanting  
16 essential -- more money about each JIB, and we  
17 haven't received one ounce of revenue from this  
18 1.6 million that we paid to have these wells  
19 drilled.

20 Q. And I'm not sure if my question was clear.  
21 Really, what I'm asking is if Mewbourne was not  
22 submitting the JIBs to Siana, and it's holding  
23 Siana's revenues in suspense, Mewbourne would be  
24 having to pay the costs? Because Mewbourne has to  
25 pay the cost to drill and operate the well, correct?

1 I mean it's paying the vendors and the contractors.

2 A. Uh-hmm.

3 Q. Okay. So if --

4 A. Correct. It's an operator.

5 Q. Right.

6 A. That's running the risk of being an  
7 operator.

8 Q. Uh-huh. And Siana elected to participate  
9 in the wells, correct?

10 A. Yes.

11 Q. Okay. The spreadsheets you provided  
12 include a detailed analysis of the JIBs; is that  
13 fair?

14 A. Yes.

15 Q. And they analyze the actual well costs; is  
16 that correct?

17 A. Yes. There's a spreadsheet that has that.

18 Q. And you've testified that it's improper to  
19 net LOEs from drilling and completion costs; is that  
20 correct?

21 A. Yes.

22 Q. Okay. I would like to show you  
23 Paragraph 28 of the pooling orders. This is in  
24 Siana's exhibits so it will just take me a second.  
25 I have to adjust my computer screen, I was looking

1 at your spreadsheets. Can you see that?

2 A. It's really little but I think I can zoom  
3 in.

4 Q. Okay. I'll try to zoom in too.

5 A. And, Dana, what is this? I'm sorry. I --

6 Q. This is the Division's pooling order on  
7 the Inland Wells. It's on one of the wells, but the  
8 provisions are the same. And if you look at the --

9 MS. SHAHEEN: I'm sorry. This is  
10 Exhibit M, correct?

11 MS. HARDY: Yes, it is.

12 MS. SHAHEEN: Siana's Exhibit M?

13 MS. HARDY: Yes.

14 MS. SHAHEEN: If that helps, Danielle, if  
15 you want it bigger maybe you can pull it up.

16 A. Okay. I have it.

17 Q. (By Ms. Hardy) Okay. I'm looking  
18 specifically at Paragraph 28. And that paragraph  
19 states, "Operator may withhold the following costs  
20 and charges from the share of production due to each  
21 owner of a pooled working interest who has paid its  
22 share of estimated well cost."

23 And Siana did that, correct?

24 A. Uh-hmm.

25 Q. Okay. And it states, "Those costs: (a)

1 the proportionate share of the supervision charges;  
2 and (b) the proportionate share of the operating  
3 charges."

4 Did I read that correctly?

5 MS. SHAHEEN: Danielle, can you see it?

6 THE WITNESS: Yes.

7 MS. SHAHEEN: Okay.

8 A. Now, I didn't separate the supervision. I  
9 only identified the drilling and completion costs  
10 after drilling and in the LOE.

11 Q. (By Ms. Hardy) Okay. And my question  
12 really is just whether that paragraph and it  
13 specifically states, doesn't it, that the  
14 proportionate share of operating charges can be  
15 deducted from the share of production, correct?

16 A. Yes.

17 Q. Thank you. And you've testified about the  
18 JIBs that Siana receives from Mewbourne, correct?

19 A. Yes.

20 Q. And I think when you were talking earlier,  
21 you referred to the balance forwards in the JIBs,  
22 correct?

23 A. Yes.

24 Q. So the JIBs show the cost and revenues,  
25 correct?

1           A.     No, the JIBs just show the JIB costs and  
2 then any prior balance and then if there was any JIB  
3 netting.

4           Q.     Okay.  Yes, that's correct.

5                     And the JIBs show, don't they, that Siana  
6 owed Mewbourne for those costs?

7           A.     Yes.  Uh-hmm.

8           Q.     And Siana has --

9           A.     There was a point that that cash, that  
10 overage of the cash call was applied to our balance  
11 and so for six months we had that big credit balance  
12 carried forward that each current month JIB of all  
13 the wells was just gradually being deducted and  
14 deducted from it.

15          Q.     Right.  And you don't dispute, do you,  
16 that Siana did owe Mewbourne the cost that are  
17 detailed in the JIBs?

18          A.     Oh, yes.

19          Q.     And Siana has not paid a JIB on any active  
20 Mewbourne well since November of 2018 has it?

21          A.     Well, I'm seeing some receipts in 2020 on  
22 those JIB statements.  There's some receipts that  
23 were credited.  I can't say because I wasn't here  
24 and dug deep enough into the kind of fact, but I'm  
25 showing some payments after 2018.

1 Q. And JIBs are submitted on a monthly basis,  
2 correct?

3 A. Yes.

4 Q. And since you've worked for Mewbourne, has  
5 Siana paid any of its JIBs to Mewbourne on a monthly  
6 basis?

7 A. Since I worked for Siana, we have not  
8 because this is, when I started there, there was an  
9 overage of over 400,000 that was estimated based on  
10 just what Mr. Ragsdale talked about earlier with  
11 COVID costs and things being down. He was guessing  
12 that he paid about 40 percent more than he should  
13 have, so he's just taken -- they're sitting on some  
14 money, why should I pay or why -- I want this  
15 resolved before I give them even more money and even  
16 more money.

17 Q. Okay. I'm sorry, I realized I asked since  
18 you work for Mewbourne, so I apologize.

19 A. I know what you're talking about.

20 Q. Okay. Thank you. So and I'm not really  
21 asking just with respect these Inland Wells. I'm  
22 asking with respect to all of the wells that Siana  
23 holds an interest in because there are a number of  
24 them, right?

25 A. Yes.

1 Q. Okay. And JIBs are submitted on a monthly  
2 basis for all of those wells, correct?

3 A. Yes.

4 Q. Okay. And since you've worked for Siana,  
5 has Siana paid any of its JIBs to Mewbourne?

6 A. I take this stance like there's a half a  
7 million dollars owed to us that you don't want to  
8 keep adding to that until this all gets resolved.  
9 And as I wouldn't want to pay somebody ten more  
10 dollars if they owe me a thousand on a smaller  
11 scale. And then it's -- we wanted to get this  
12 resolved before we can start figuring things out  
13 because our revenue was -- our revenue on the other  
14 wells, the Inland Wells were being co-mingled into  
15 that to pay those wells or to pay the Inland Wells  
16 when the Inland Well should have been just treated  
17 separately.

18 Q. Okay.

19 A. So we're receiving less revenue on those  
20 other wells currently. So currently like for our  
21 current paycheck, we're getting 10,000 to 12,000  
22 less in revenue because the Inland Wells are coming  
23 across and being deducted against that revenue.

24 Q. Okay. And, Ms. Caldwell, I think you've  
25 given the explanation for your answer, which I

1 appreciate. I think the answer to the question  
2 though, my understanding is that it's no, that Siana  
3 has not paid a JIB on any Mewbourne well since  
4 you've worked for Siana; is that correct?

5 A. Uh-hmm.

6 Q. Okay. And if Mewbourne had not netted the  
7 LOEs, do you know if Siana would have paid  
8 Mewbourne?

9 A. Yes. We recently, since I've been there,  
10 have implemented some controls and a monthly  
11 calendar and implementing a new system so that we  
12 can start paying our JIBs and get back in line.

13 Q. And I think my understanding of your  
14 testimony a few minutes ago is that it wouldn't make  
15 sense to be refunding money at the same time you're  
16 invoicing someone or vice versa; is that correct?

17 MS. SHAHEEN: Objection. Form. I'm a  
18 little confused.

19 Q. (By Ms. Hardy) Do you understand the  
20 question, Ms. Caldwell? Or I can rephrase it if  
21 you'd like.

22 A. Well, it comes back to companies do it all  
23 the time. You pay your JIB and then you received a  
24 revenue. And so we're constantly doing that just on  
25 a current month basis with a company that isn't

1 withholding payment so it's just a matter of it  
2 happens every month. We get the revenue in and then  
3 we pay on our JIBs. We get the revenue in, we pay  
4 on our JIBs. So it's constantly happened just in a  
5 normal scenario.

6 Q. And that wasn't happening here because  
7 Siana wasn't paying its JIBs, correct?

8 A. And it is because we weren't paid our  
9 overage of our cost from the cash call to -- and  
10 they were, Mewbourne was sitting on 400,000 of our  
11 money.

12 Q. And are you aware that Mewbourne did  
13 actually return the 400,000 check to Siana?

14 A. Yes. I didn't see it but I know it was.

15 Q. Okay.

16 A. And I can see it in my spreadsheet. You  
17 see the 406,000 in the correction that was made.

18 Q. Thank you. Those are all of my questions.

19 HEARING OFFICER BRANCARD: Thank you.

20 Mr. McClure?

21 MR. McCLURE: Mr. Brancard, I have no  
22 questions for Ms. Caldwell.

23 HEARING OFFICER BRANCARD: All right. I  
24 know I shouldn't, but I'm trying to understand this  
25 spreadsheet.

1 THE WITNESS: Okay. I could have gone  
2 deeper and gone into more detail. I just didn't  
3 know how much y'all wanted.

4 HEARING OFFICER BRANCARD: So I think I'm  
5 on your demonstrative here.

6 THE WITNESS: Okay.

7 MS. SHAHEEN: Would you like me to share  
8 or are you going to share, Mr. Brancard?

9 HEARING OFFICER BRANCARD: If you could  
10 share. I don't know how to do that stuff.

11 MS. SHAHEEN: If Marlene or Mr. McClure  
12 will allow me to. Okay. Let me find the right one  
13 now.

14 HEARING OFFICER BRANCARD: Yeah, that's  
15 the one.

16 MS. SHAHEEN: Okay. This is it. Tell me  
17 if you want me to scroll up or down.

18 HEARING OFFICER BRANCARD: So there is  
19 a -- the columns that seem to be important are  
20 owner -- looking at this 3/15/22, owner revenue is  
21 98,000. And then there's this thing called a JIB  
22 offset. So as I understand your conversation with  
23 Ms. Hardy, that normal practice is that a  
24 participating party like Siana would get a JIB and  
25 they would pay that 21,530.

1 THE WITNESS: Yes.

2 HEARING OFFICER BRANCARD: And then they  
3 would receive at some point that \$98,000?

4 THE WITNESS: Yes. Assuming, yes, that's  
5 all the same wells too.

6 HEARING OFFICER BRANCARD: Right. So but  
7 what's going on right now is that Siana is not  
8 paying that 21,500?

9 THE WITNESS: It's being netted against  
10 that revenue.

11 HEARING OFFICER BRANCARD: Right. So  
12 instead of you sending a check, Mewbourne is simply  
13 deducting it from the revenue?

14 THE WITNESS: Yes.

15 HEARING OFFICER BRANCARD: Okay. If we go  
16 down a few months to, say, November '21, the JIB  
17 offset is zero so does that mean at the point in  
18 time Siana was paying the JIB?

19 THE WITNESS: At that point that's where  
20 the current JIB amounts were being offset against  
21 the overage of our cost, our estimated cost versus  
22 the actual on the Inland Wells. And so there wasn't  
23 any netting done those months because they were  
24 getting -- our balance, we didn't have a balance  
25 because our beginning balance on the JIB was a

1 credit, and then at that point in time, there was no  
2 balance. There was a credit balance that got  
3 carried forward. So in those months, there was no  
4 JIB netting against our revenue because, in a sense,  
5 that JIB didn't have anything due because that cash  
6 call overage was being applied in our balance on our  
7 JIBs.

8 HEARING OFFICER BRANCARD: Okay. So does  
9 that get us up to the previous page?

10 THE WITNESS: Yes. And so where you see  
11 the previous --

12 If you scroll up, Sharon.

13 So we look at, if we just want to focus  
14 on -- like we can start with July 16.

15 HEARING OFFICER BRANCARD: Keep going up.  
16 There you go.

17 THE WITNESS: So if you look at August,  
18 it's Row 115. If you can see that it's August 31,  
19 2021 JIB the Invoice No. is 202108-28495.

20 HEARING OFFICER BRANCARD: Right.

21 THE WITNESS: And you see our balance  
22 forward is negative \$343,028.13. And so there was  
23 no netted revenue, which this column ties to that  
24 bottom spreadsheet we were just looking where you  
25 agree it was zero -- or where you saw that there was

1 no JIB netting. But our invoice total for current  
2 month was, we had \$39,213.98 total charges. We had  
3 an applied advance of \$1,500 which that just relates  
4 to our Creedence Wells so that's not important right  
5 now.

6 So our total invoice total for all the  
7 wells that Siana owns is \$37,704.34, but our balance  
8 to be carried forward is \$305,323.68 which got  
9 applied to the balance forward in September of 2021,  
10 so that's why there was no netting. And this is  
11 what happened at that time.

12 And then you see in December 2021, that's  
13 where there, I'm assuming, was the correction and  
14 everything was kind of applied back and then the  
15 check and that's where we started again now owing,  
16 but then it's -- that's where we started the netting  
17 again.

18 HEARING OFFICER BRANCARD: I just want to  
19 make clear when you're talking about the netting  
20 here, this is netting being done by Mewbourne?

21 THE WITNESS: Yes. And netting owner  
22 isn't uncommon. I mean, it's -- I don't want y'all  
23 to think that it's like -- there's certain owners  
24 that are netted and there's certain owners that are  
25 not.

1           Normal business is not to be net and pay  
2 your JIBs and get your revenue. That's the majority  
3 of what I've seen. What I've seen. But there is --

4           HEARING OFFICER BRANCARD: I want to make  
5 clear whether this is Mewbourne's netting or your  
6 netting, but it appears to be Mewbourne's netting.

7           THE WITNESS: Yes.

8           HEARING OFFICER BRANCARD: So they're  
9 netting the JIB off this balance and therefore Siana  
10 is getting the full revenue minus the Inland Wells.

11          THE WITNESS: Yes.

12          HEARING OFFICER BRANCARD: Okay. So  
13 looking at those columns and you go over to the  
14 columns L and M, right, which is current charges  
15 applied advances. So the applied advances, the  
16 bottom number 803,750, that appears to be what was  
17 paid by Siana as its participation.

18          THE WITNESS: Yes.

19          HEARING OFFICER BRANCARD: Right?

20          THE WITNESS: So that 80 --

21          HEARING OFFICER BRANCARD: Sorry. What  
22 you were saying about things being unusual, the  
23 first two months, say, were where it's the 315 and  
24 190, those are probably drilling and completion  
25 costs.

1 THE WITNESS: Oh, yes.

2 HEARING OFFICER BRANCARD: Right? So it's  
3 normal to net those against your contribution.

4 THE WITNESS: Yes.

5 HEARING OFFICER BRANCARD: What you're  
6 saying is not normal is when you go in later and  
7 they're now netting your contribution against  
8 operating costs?

9 THE WITNESS: Yes. And when you're  
10 netting that cash, that overage. Sorry, I keep  
11 calling it cash call, the overage against other  
12 wells' JIBs, too.

13 HEARING OFFICER BRANCARD: So when you go  
14 to -- sorry. I've lost myself here. But say that  
15 215, right, there I guess we have to go down then,  
16 when the 215 on the bottom is netted against the  
17 98,000 on the revenue if you scroll down ...

18 MS. SHAHEEN: Scroll down to the next  
19 spreadsheet?

20 HEARING OFFICER BRANCARD: Yeah.

21 THE WITNESS: Okay. That's why I was like  
22 what?

23 HEARING OFFICER BRANCARD: And the  
24 highlighted, the 215 JIB --

25 THE WITNESS: Yes.

1 HEARING OFFICER BRANCARD: -- is netted  
2 against the 98.3 revenue.

3 THE WITNESS: Yes.

4 HEARING OFFICER BRANCARD: What you're  
5 saying is that that 215 includes costs for the  
6 Inland Wells?

7 THE WITNESS: Yes.

8 HEARING OFFICER BRANCARD: But the revenue  
9 does not include revenue from the Inland Wells.

10 THE WITNESS: Yes.

11 HEARING OFFICER BRANCARD: So effectively  
12 the revenue from the other wells is paying for the  
13 costs on the Inland costs?

14 THE WITNESS: Yes. And if you scroll over  
15 to the right, I have Column K that that's our Inland  
16 Revenue for the OJ which is zero. And then Column L  
17 which is an Inland PI revenue which is zero. And  
18 then Column M is all the other wells. And you can  
19 see the total revenue is 98,360. So the 98,360  
20 makes up all the other wells and then as you saw  
21 when we were looking up at the actual JIB statement,  
22 that 21,530.76, we saw it included 6,000 and 3,000  
23 of the Inland Well costs, PJ and OJ.

24 MS. SHAHEEN: Should I scroll back up?

25 HEARING OFFICER BRANCARD: No. I think

1 that's -- I think I'm getting the hang of it.

2 On this issue of the LOE charges, that's  
3 come up and whether LOE charges from one well are  
4 being applied to another well, is Siana saying that  
5 Mewbourne is double charging LOE costs?

6 MS. SHAHEEN: Do you want me to answer  
7 that question, Mr. Brancard?

8 HEARING OFFICER BRANCARD: Well, I would  
9 prefer it if the witness would know that but if she  
10 doesn't ...

11 MS. SHAHEEN: Go ahead, Ms. Caldwell.

12 THE WITNESS: Oh, I was hoping you would  
13 answer that. It's not -- I mean the charges are the  
14 charges that we're seeing on the statement, that's a  
15 whole other issue that Mr. Ragsdale was talking  
16 about. I'm just supplying the numbers, here they  
17 are. I mean are you thinking that it's being  
18 double-dipped and you're like seeing it's doubled in  
19 the spreadsheet?

20 HEARING OFFICER BRANCARD: Yeah, what I'm  
21 saying is, is that you've got these other wells and  
22 you can throw out a name of one of them if you want.  
23 But you have another well, the Billy Bob Well, we'll  
24 call it. And you have an LOE attributable to the  
25 Billy Bob, is that being charged to both the Billy

1 Bob and the Inland or is the cost being spread  
2 across them?

3 THE WITNESS: No. I mean it's being  
4 charged to the Billy Bob Well. And then you add up  
5 all those wells and we come up -- you add up the  
6 Inland Well and the Billy Bob and they come to  
7 21,530.76.

8 HEARING OFFICER BRANCARD: Okay.

9 THE WITNESS: But then you have the  
10 revenue from Billy Bob of a hundred that's being  
11 applied and against the 21,000 that included the  
12 Inland.

13 HEARING OFFICER BRANCARD: I'm just a  
14 little confused by Mr. Ragsdale's claims that the  
15 LOE from one well is being charged to another well  
16 and what that means. Does that mean that the LOE is  
17 being charged double to both the original well or  
18 another well, or just being moved from one well to  
19 another?

20 THE WITNESS: I think it means in total,  
21 like the LOE from all the wells, are being applied  
22 to revenue of -- oh, I said that wrong. The LEO of  
23 all the wells is being applied to, in the beginning,  
24 to the overage of the Inland Wells. So our overage  
25 of the Inland Wells was paying for the LOE of all

1 the wells.

2 Now, that each current month of the JIBs  
3 is each well. There's no double charging like, like  
4 what you were thinking -- or it's our overage was  
5 paying for everything. So it would be like Billy  
6 Bob paying for me to go to dinner when I needed to  
7 pay for myself. And so this well should offset its  
8 own revenue.

9 HEARING OFFICER BRANCARD: Okay. So it's  
10 an accounting problem?

11 THE WITNESS: Yes. And it comes --

12 HEARING OFFICER BRANCARD: I don't mean to  
13 diminish it like that but it's in accounting.

14 THE WITNESS: Well, and it's because our  
15 working interest percent or our working interest  
16 debt is being held in suspense on the revenue side  
17 and the working interest debt on the JIB side is  
18 free and clear. So we're paying our JIBs even  
19 though our revenues because of this legal expense.  
20 And my -- and what I've seen is normally when your  
21 working interest is in question or in suspense for  
22 whatever reason, it could be a bad address, it's in  
23 suspense on both sides.

24 HEARING OFFICER BRANCARD: Okay. In  
25 looking at the revenue statements that you get, I

1 don't know if you can figure this out, but our  
2 pooling order says the operator shall distribute a  
3 proportionate share of the cost and charges withheld  
4 from nonparticipating working interest owners to  
5 each pool working interest owner that paid their  
6 costs.

7 Do you see any evidence of that revenue in  
8 those revenue sheets, or is it just strictly revenue  
9 from the wells that you see?

10 THE WITNESS: It's our -- it's Siana's  
11 revenue of the Mewbourne wells, but it's only the  
12 Creedence or it's only the four other wells -- well,  
13 there's -- or it's like 16 other wells.

14 HEARING OFFICER BRANCARD: Okay.

15 THE WITNESS: I don't know if I answered  
16 that. I'm not seeing any nonparticipating or it's  
17 just Siana's share of our other well income.

18 HEARING OFFICER BRANCARD: Okay. Thank  
19 you. I think that's it for me.

20 THE WITNESS: Oh. And I guess we're  
21 not -- we don't have any burden owners below us that  
22 are proportionate; is that what you're asking?

23 HEARING OFFICER BRANCARD: I'm talking  
24 about nonparticipating owners. I don't know that  
25 you would even have to be aware that those exist

1 but ...

2 THE WITNESS: Yeah, I'm not sure of that.

3 But I'm just seeing Siana's working interest of --  
4 but I'm only seeing the revenue of our other wells.

5 HEARING OFFICER BRANCARD: Right.

6 THE WITNESS: That are not in legal  
7 suspense and not suspended. And it's our -- it's  
8 Siana's interest.

9 HEARING OFFICER BRANCARD: Okay. Thank  
10 you.

11 Ms. Shaheen, do you have any redirect?

12 MS. SHAHEEN: If I could very briefly with  
13 respect to a couple of Ms. Hardy's questions.

14 REDIRECT EXAMINATION

15 BY MS. SHAHEEN:

16 Q. Ms. Caldwell, do you recall Ms. Dana  
17 asking you about who would front those costs if they  
18 didn't charge Siana with their JIBs for the Inland  
19 Wells? Do you recall her asking you about that?

20 A. Oh, yes.

21 Q. And wouldn't it make sense for them to be  
22 charging those JIBs costs to the folks who are  
23 claiming they have an interest in it rather than  
24 charging it to Siana?

25 MS. HARDY: I actually object to that

1 question. I think that calls for a legal opinion.

2 I don't know that Mewbourne can even charge parties.

3 THE WITNESS: That's what I was just going  
4 to say.

5 A. I was going to say they can't do anything  
6 until the debt is -- the Division of interest is  
7 approved and ...

8 Q. (By Ms. Shaheen) Which is why I believe  
9 you're saying they should be holding the JIBs in  
10 suspense, correct?

11 A. Uh-huh.

12 Q. And then they could debit and credit when  
13 the title issue is sorted out, correct?

14 A. Because if the title issue comes out that  
15 we're not a 10 percent owner and we're a 1 percent,  
16 we've just paid out all this, you know, \$1 million  
17 or, and we only should have paid 100,000. So it's  
18 the same liability on both sides. And that's where  
19 I see where they were both put in suspense, both the  
20 Division and the interest for the JIB debt and the  
21 revenue debt.

22 Q. I just have one quick set of questions and  
23 it involves me sharing the order again. So if you  
24 don't mind, I'll do that real quick.

25 HEARING OFFICER BRANCARD: It's okay by

1 me.

2 Q. (By Ms. Shaheen) Okay. I think Ms. Hardy  
3 asked you some questions about Paragraph 28 and it  
4 says, "Operator may withhold the following costs and  
5 charges from the share of production due to each  
6 owner of a pooled working interest who paid its  
7 share of the estimated well costs. The  
8 proportionate share of the supervision and the  
9 proportionate share of the operating charges."

10 Do you see that there?

11 A. Yes.

12 Q. And so the way I read this order, and tell  
13 me if you agree with me, those -- the proportionate  
14 share of the supervision charges for that well, and  
15 the proportionate share of the operating charges for  
16 that well are what should be or what can be withheld  
17 by the operator.

18 Is that how you read it?

19 A. Yes.

20 Q. Is that what Siana -- I'm sorry. Is that  
21 what Mewbourne did?

22 A. No.

23 MS. HARDY: That's all the questions I  
24 have. Thank you, Ms. Caldwell.

25 HEARING OFFICER BRANCARD: Thank you.

1           Ms. Shaheen, did you have other witnesses,  
2 other exhibits?

3           THE WITNESS: There's another spreadsheet.  
4 Just kidding.

5           MS. SHAHEEN: Well, I don't believe -- I  
6 may have some rebuttal exhibits but I haven't  
7 identified those yet. I think I'll be able to do  
8 that after the direct testimony of Mewbourne's  
9 witnesses. So what I would like to do is move all  
10 the exhibits, including the demonstrative that we  
11 used today be admitted into the record.

12           HEARING OFFICER BRANCARD: All right. So  
13 this is exhibits -- so what were your prefiled  
14 exhibits?

15           MS. SHAHEEN: That are A through R and  
16 then there was amended Exhibit P.

17           HEARING OFFICER BRANCARD: We'll start  
18 with Ms. Hardy, any objections with A through R?

19           MS. HARDY: Well, I believe that the  
20 application that Siana provided in its exhibits is  
21 for the wrong case.

22           HEARING OFFICER BRANCARD: I believe  
23 that's correct.

24           MS. HARDY: So I --

25           HEARING OFFICER BRANCARD: I noticed.

1 MS. SHAHEEN: I thought we had corrected  
2 that.

3 MS. HARDY: I don't think it was.

4 MS. SHAHEEN: Thank you for reminding me.  
5 I believe we filed an amended set of exhibits and  
6 then we also filed an amended Exhibit P. And I say  
7 that because my paralegal prepared a notebook for me  
8 and it had the correct application in it. So it may  
9 have been --

10 Dana, I can't remember when you alerted me  
11 to it, but two or three days after that, we filed an  
12 amended set of exhibits, I believe. And I --

13 MS. HARDY: I didn't receive it. I don't  
14 know it wasn't served on us.

15 MS. SHAHEEN: Oh, and my apologies.

16 HEARING OFFICER BRANCARD: Okay. Yes.  
17 Yeah, I think I was looking at the one that was  
18 filed June 27th, but there's another set filed  
19 June 4th.

20 MS. SHAHEEN: June 4th?

21 HEARING OFFICER BRANCARD: Sorry.  
22 July 4th, that seems to have the correct  
23 application.

24 MS. SHAHEEN: July 4th. And I can confirm  
25 but I'm pretty sure my paralegal did fix that and

1 filed it as an amended or revised or corrected. I  
2 think that should be on the cover page.

3 HEARING OFFICER BRANCARD: Yes. It says,  
4 "corrected exhibit package."

5 MS. SHAHEEN: And then, I think I even put  
6 a footnote on the bottom of the cover page.

7 HEARING OFFICER BRANCARD: Yes. So that  
8 is in our case file.

9 MS. SHAHEEN: And my apologizes again,  
10 Dana, for not serving you.

11 MS. HARDY: That's okay. Is that the only  
12 change? I did get your Exhibit P that was --

13 MS. SHAHEEN: Yes.

14 MS. HARDY: -- amended.

15 MS. SHAHEEN: If you download it or I can  
16 send it to you in a share file link, you'll see  
17 there's a footnote on the cover page that says the  
18 only change was to replace the wrong application  
19 with the right application.

20 MS. HARDY: Okay. Then I don't object to  
21 the admission of the exhibits.

22 HEARING OFFICER BRANCARD: Okay, so we're  
23 admitting Exhibits A through R as, oh, it looks like  
24 it was filed on July 1 in our case system. And so  
25 then the only question is, we have a revised Exhibit

1 P; is that correct?

2 MS. SHAHEEN: That's correct.

3 HEARING OFFICER BRANCARD: Any objections  
4 to that, Ms. Hardy?

5 MS. HARDY: No objection.

6 HEARING OFFICER BRANCARD: All right. So  
7 that will be also admitted.

8 (Exhibits A through R and Amended P  
9 admitted.)

10 MS. SHAHEEN: And then could we admit the  
11 demonstrative, because it seemed to helpful to  
12 everyone?

13 HEARING OFFICER BRANCARD: I assumed we  
14 did, but ...

15 MS. SHAHEEN: Oh, did we? Okay. Thank  
16 you.

17 HEARING OFFICER BRANCARD: Exhibit P of  
18 the demonstrative of Exhibit P. Thank you.

19 Now those exhibits that you're sending us  
20 are sort of screenshots of an Excel spreadsheet,  
21 right?

22 MS. SHAHEEN: Well, I did circulate to  
23 everyone the actual Excel spreadsheet in Native  
24 format. That demonstrative is a screenshot in  
25 Excel. It's screenshots that are input into Excel

1 but the other two spreadsheets, they're the ones  
2 that I've been sharing today are actually  
3 Exhibits P, Q, and R but in Native format, if that  
4 makes sense.

5 HEARING OFFICER BRANCARD: Okay. What  
6 appears in our case file are PDFs.

7 MS. SHAHEEN: Right. Well, the only  
8 thing, too, is that the Exhibit Q was so large that  
9 we could not print that to PDF. It's got so much  
10 data, it couldn't be printed to PDF. I mean we  
11 could print it and it would kind of look like just a  
12 blur of black on the page.

13 HEARING OFFICER BRANCARD: So you sent  
14 that to all the parties? Did you send it to the  
15 Examiners?

16 MS. SHAHEEN: Yes. Did I copy you, I  
17 guess is the question if I may have only sent it to  
18 the OCD hearings' email.

19 HEARING OFFICER BRANCARD: Okay.

20 MS. SHAHEEN: I can't recall at this  
21 point. But I can forward it to you now if --

22 HEARING OFFICER BRANCARD: Mr. McClure, do  
23 you think we need that at some point, we'll try to  
24 get that.

25 MR. McCLURE: I'm sorry, Mr. Brancard.

1 Were you talking to me? I admit I didn't hear you.

2 HEARING OFFICER BRANCARD: I was just  
3 asking if we need the full Native spreadsheet as  
4 opposed to the PFD version.

5 MR. McCLURE: If you want us to perform a  
6 technical review of it, then the Excel will  
7 definitely be useful. Now it might be in the  
8 hearings' email. I'm not sure. I don't have it  
9 hooked into my Outlook here. It definitely wasn't  
10 sent to me directly, I know, but ...

11 HEARING OFFICER BRANCARD: Yes. So maybe  
12 in the hearings' email.

13 MR. McCLURE: Okay. I'm not sure on that.

14 HEARING OFFICER BRANCARD: I just wanted  
15 to clarify that.

16 All right. So what I'll -- anything else,  
17 Ms. Shaheen?

18 MS. SHAHEEN: Not that I can think of at  
19 the moment.

20 HEARING OFFICER BRANCARD: Okay.

21 Ms. Hardy, how many witnesses do you have?

22 MS. HARDY: I have three.

23 HEARING OFFICER BRANCARD: What are you  
24 thinking about time-wise for those witnesses?

25 MS. HARDY: Our accounting witness is

1 going to go first. So I think he would take the  
2 longest. I don't think our land witness will take  
3 all that long. And I don't think our engineering  
4 witness will take all that long. I think it's hard  
5 for me to estimate a time depending on the cross and  
6 the questions from the Division.

7 HEARING OFFICER BRANCARD: Okay.  
8 Mr. McClure, I'm thinking about a lunch break now  
9 until a quarter to 1:00.

10 MR. McCLURE: Makes sense.

11 HEARING OFFICER BRANCARD: And your  
12 witnesses, I assume, are on Houston time.

13 MS. HARDY: That's true.

14 HEARING OFFICER BRANCARD: All right. So  
15 why don't we take a lunch break from now to a  
16 quarter to 1:00?

17 MS. HARDY: Thank you.

18 HEARING OFFICER BRANCARD: Thank you.

19 (Recess taken at 11:45 to 12:47.)

20 HEARING OFFICER BRANCARD: And good  
21 afternoon. It is Friday, July 8th, 2022. This is  
22 the hearings of the New Mexico Oil Conservation  
23 Division. My name is William Brancard. With me is  
24 Dean McClure and we are on Case 22378.

25 Where last, we left our characters, we

1 were about to move into the presentation by  
2 Mewbourne. And so with that, I will pass the  
3 gauntlet to Ms. Hardy to introduce your first  
4 witness.

5 MS. HARDY: Thank you very much.  
6 Mr. Examiner. Our first witness is Brad Dunn.

7 Is Brad there?

8 THE WITNESS: Yes. Sorry. Can you guys  
9 hear me?

10 HEARING OFFICER BRANCARD: Yes.

11 MS. HARDY: Yes.

12 THE COURT REPORTER: Mr. Dunn, will you  
13 raise your right hand, please?

14 BRAD DUNN

15 Having been first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. HARDY:

18 Q. Mr. Dunn, can you please state your full  
19 name for the record?

20 A. It's John Bradley Dunn.

21 Q. By whom are you employed and in what  
22 capacity?

23 A. I'm employed by Mewbourne Oil Company and  
24 I'm a landman.

25 Q. Have you previously testified before the

1 Division as an expert in petroleum land matters?

2 A. Yes, by affidavit.

3 MS. HARDY: Mr. Examiner, I move to  
4 qualify Mr. Dunn as an expert in petroleum land  
5 matters.

6 HEARING OFFICER BRANCARD: Any objections?

7 MS. SHAHEEN: No objections, but I'll  
8 probably ask him some questions about his background  
9 in cross. If that's okay?

10 HEARING OFFICER BRANCARD: Okay.

11 Please proceed. So admitted.

12 MS. HARDY: Thank you.

13 Q. (By Ms. Hardy) Mr. Dunn, did you provide  
14 an affidavit in this case?

15 A. Yes.

16 Q. Has that affidavit been marked as an  
17 Mewbourne Exhibit A?

18 A. Yes.

19 Q. Is the affidavit true and correct to the  
20 best of your knowledge?

21 A. It is.

22 Q. Are you familiar with Mewbourne's dealings  
23 with Siana?

24 A. Yes.

25 Q. Has Mewbourne been dealing with Siana for

1 many years?

2 A. Yes.

3 Q. To start off, before we get into some of  
4 the details of the issues that the Division is  
5 considering, I'm going to ask you some questions  
6 about the statements of actual well costs.

7 Did Mewbourne provide itemized statements  
8 of the actual well cost to Siana?

9 A. Yes.

10 Q. And were those itemized statements the  
11 JIBs?

12 A. Yes, they were.

13 Q. And also the daily drilling reports?

14 A. Yes.

15 Q. Did Mewbourne provide the itemized  
16 statements to OCD?

17 A. No.

18 Q. And is Mewbourne willing to do that?

19 A. Yes, we are.

20 Q. Thank you.

21 Let's talk about the cost provisions in  
22 the order. And I actually was going to try to share  
23 my screen here, if I can. I'm going to try sharing  
24 a different screen so that it's a size maybe that  
25 people can actually read. So let's see if this

1 works. Okay, can you see that? And are you seeing  
2 my whole screen or just half of it?

3 MR. McCLURE: We're seeing your whole  
4 screen.

5 MS. HARDY: Okay. Can you read what  
6 I'm -- I can make it --

7 MR. McCLURE: Yes. Yes, ma'am. We can  
8 read it, but you could make it bigger. It's never a  
9 bad thing.

10 MS. HARDY: I can make it really big.  
11 This may blow everyone up, I don't know. Okay.  
12 Now, that worked.

13 Q. (By Ms. Hardy) Okay. So Mr. Dunn, let's  
14 talk about the provisions of the pooling order that  
15 applied to objections and the provision of costs.  
16 So can you tell me when the wells at issue here were  
17 completed?

18 A. So they were completed, let's see,  
19 February 8th of 2021.

20 Q. Okay. And when did Mewbourne file its  
21 C-105s?

22 A. April 19th of 2021.

23 Q. Okay. And then under the pooling order,  
24 it states that, "No later than 180 days after  
25 operator submits a C-105 for a well. Operator shall

1 submit to OCD and the pooled working interest an  
2 itemized schedule of the cost."

3 What date would that be?

4 A. I show that to be October 16th of 2021.  
5 It would be six months later.

6 Q. Okay. And then there are another 60 days  
7 for parties to file objections; is that right?  
8 Under paragraph 25.

9 A. I think it's 45 days.

10 Q. Forty-five days, yes, in Paragraph 24.

11 A. Right.

12 Q. So what date would that be?

13 A. So that would have been November 30th of  
14 2021.

15 Q. And then under Paragraph 25, no later than  
16 60 days after that date. Well, that's the deadline  
17 for a party to file objections, right?

18 A. Right.

19 Q. Okay. And what date would that be?

20 A. That would be January 29th of 2022.

21 Q. And is it your understanding that  
22 Mewbourne returned a check to Siana for its  
23 prepayment overage?

24 A. Yes, at the end of the 2021 well within  
25 that timeframe.

1 Q. Okay. Thank you.

2 So if Siana had objected to the well costs  
3 and OCD was going to address that objection, you  
4 actually returned that check to Siana before that  
5 timeframe would have run?

6 A. Correct.

7 Q. Thank you. Okay.

8 Now let's go back sort of to the overall  
9 chronology of this case. When did Mewbourne begin  
10 communicating with Siana about the Inland B20J and  
11 B2PI Wells?

12 A. It was June of 2018.

13 Q. And did Siana sign a JOA at that time?

14 A. They did not.

15 Q. And can you please identify the document  
16 that's marked as Exhibit A-1? I'm pulling these --

17 A. These are -- yeah. So these are the well  
18 proposals and the AFEs that were sent to Siana on  
19 January 30 of 2020.

20 Q. Okay. And did you have follow-up  
21 communication with Siana after sending the well  
22 proposal?

23 A. Yes.

24 Q. Can you briefly describe those  
25 communications?

1           A.    I reached out to them several times before  
2 the pooling and I never heard from them.

3           Q.    And did Siana agree to participate in the  
4 wells prior to the pooling?

5           A.    They did not.

6           Q.    So they didn't sign a JOA?

7           A.    Right.

8           Q.    Okay.  Can you please identify Mewbourne  
9 Exhibit A-2?

10          A.    Yes.  This is Order R-21292, which is the  
11 B20J well unit pooling order that was issued on  
12 April 28th, 2020.

13          Q.    And then can you please identify  
14 Exhibit A-3?

15          A.    Yeah.  This is Order 2129-A.  It's an  
16 order that was just correcting the checklist that  
17 was issued on April 30 of 2020.

18          Q.    Can you please identify Mewbourne  
19 Exhibit A-4?

20          A.    These are the initial and final C-102s for  
21 the B20J well.

22          Q.    Okay.  And all of these exhibits that you  
23 are referring right now are for the B20J well,  
24 correct?

25          A.    Yes.

1 Q. Okay. Was there a change in the C-102  
2 between the initial and as drilled versions?

3 A. There was, yes.

4 Q. And what was that change?

5 A. It was just a very minor footage  
6 difference.

7 Q. Okay. Can you please identify Mewbourne  
8 Exhibit A-5?

9 A. Yes. This was Order R-21293, which is the  
10 B2PI well unit order, pooling order that was issued  
11 in April 2020 as well.

12 Q. Okay. And then is Exhibit -- let's get  
13 there. As part of those pooling cases, Mewbourne,  
14 of course, provided its AFEs to the Division,  
15 correct?

16 A. Yes.

17 Q. Okay. And can you please identify  
18 Mewbourne Exhibit A-6?

19 A. These are the initial and final C-102s for  
20 the B2PI well.

21 Q. Okay. Okay. Let's talk about the post  
22 order timeline. Let me get back to the pooling  
23 orders.

24 Under Paragraph 23 of the pooling orders,  
25 can you tell me what your understanding is of what's

1 required?

2 A. Sure. So my understanding is after the  
3 order is received or after the order is issued, we  
4 send a proposal to the pooled parties along with the  
5 order. And they have 30 days to elect under the  
6 order to participate and then they have 60 days to  
7 pay their share of estimated well costs from the  
8 date they receive the well proposals under the  
9 order. It says it has 30 days and then 30 days past  
10 that, but 60 days to pay it.

11 Q. And can you please identify Exhibit A-7?

12 A. This is a post order well proposal that  
13 was sent to Siana on May 12, 2020.

14 Q. And what did you send along with the well  
15 proposal?

16 A. I sent the pooling orders along with it  
17 and the corresponding AFEs.

18 Q. And those were the estimated AFEs that had  
19 been submitted to the Division with the pooling  
20 cases, correct?

21 A. Right.

22 Q. And can you please identify Exhibit A-8?

23 A. This was Siana's signed AFEs that were  
24 dated May 20th of 2020?

25 Q. Okay. Did Siana sign the AFEs for both of

1 the Inland Wells?

2 A. They did, yes.

3 Q. And based on that signature, is it your --  
4 were they -- is it your understanding that were  
5 agreeing to pay those estimated costs?

6 A. Yes.

7 Q. And they did pay those estimated costs,  
8 didn't they?

9 A. They did, yes.

10 Q. Okay. And can you please identify  
11 Mewbourne Exhibit A-9?

12 A. Yes. This was Siana's transmittal letter  
13 regarding payment of well cost and one of their  
14 checks. And it was dated July 17th of 2020.

15 Q. And did Siana claim that the costs were  
16 inflated?

17 A. They did, yes.

18 Q. But did they pay the cost anyway?

19 A. Yes, they paid the cost.

20 Q. Let's talk about the treatment of Siana's  
21 revenues. I know that's been discussed a fair  
22 amount today. Can you tell me again what date the  
23 B2OJ and B2PI wells were completed?

24 A. Yes. February 8th, 2021.

25 Q. And can you please identify Mewbourne

1 Exhibit A-10 and let me share it.

2 A. So this is the petition for the JIBs case.

3 Q. And this is a true and correct copy of the  
4 petition?

5 A. It is, yes.

6 Q. How did you become aware of the petition?

7 A. The petitioners, they contacted me  
8 personally and they claimed that they owned Siana's  
9 interest. And --

10 Q. What was your general --

11 A. Sorry --

12 Q. Sorry, Brad. I think you cut out there.

13 A. Oh, I was just saying, yes, several of  
14 them contacted me.

15 Q. What is your general understanding of the  
16 issue raised by the petition?

17 A. It's that Siana's ownership interest in  
18 these Inland Wells is disputed.

19 Q. How does (audio cut out) Mewbourne's  
20 handling of revenues?

21 A. If Mewbourne pays Siana and then Siana  
22 loses the lawsuit, then Mewbourne would be liable  
23 for paying the petitioners in the lawsuit and then  
24 the petitioners could also sue us for that, for not  
25 paying them.

1 Q. So in that situation, Mewbourne would have  
2 paid out the revenues twice or potentially be liable  
3 for paying them out twice; is that right?

4 A. Exactly, yes.

5 Q. What did Mewbourne do in response to the  
6 petition?

7 A. We decided to hold Siana's revenues in  
8 suspense.

9 Q. Is Mewbourne holding Siana's entire  
10 claimed revenue interest in these wells in suspense?

11 A. Yes, we are.

12 Q. Why is that?

13 A. Siana claims that only part of this  
14 interest is in dispute but Mewbourne can't determine  
15 whether that's correct based on the lawsuit  
16 documents.

17 Q. Why is Mewbourne holding revenues in  
18 suspense while at the same time sending Siana JIBs  
19 for the payment of costs?

20 A. Mewbourne is responsible for distributing  
21 revenue and they can't distribute revenue to a party  
22 whose interest is disputed by another party. And  
23 with respect to cost, Mewbourne incurs cost to drill  
24 the wells and Siana claims an interest in the wells.  
25 And under the pooling orders, Siana is required to

1 pay the costs.

2 Q. So if Mewbourne were to suspend both the  
3 revenues and the JIBs, would Mewbourne have to pay  
4 all of the costs? Would it have to pay Siana's  
5 share of the cost?

6 A. Yes.

7 Q. And has Siana informed Mewbourne that it  
8 intends to relinquish its interest in these wells?

9 A. No.

10 Q. So they're claiming an interest in the  
11 wells and they're a pooled party under the pooling  
12 order?

13 A. Right.

14 Q. Is that correct?

15 A. Yes, that's correct.

16 Q. Okay. Let's talk about the Infill Well  
17 proposals because I know that's been raised as well  
18 by Siana. And let me just get to those, if I can.

19 Can you please go ahead and identify  
20 Mewbourne Exhibit A-12?

21 A. Let's see. These are the Infill Well  
22 proposal that was sent to Siana on February 11th,  
23 2022.

24 Q. And what did the letter propose?

25 A. Proposed three wells in addition to the

1 original B2PI and B20J wells.

2 Q. And can you please identify Exhibit A-13?

3 A. Yes. This is Siana's March 11th, '22  
4 election on the Infill Wells.

5 Q. Sorry. I'm just trying to get to the --

6 A. No problem.

7 Q. There are a lot of exhibits. Okay. So  
8 let me share those because I think I've got that.  
9 Is what -- are you seeing that on my screen?

10 A. Yes. Uh-huh. I can see it.

11 Q. Okay. Okay. So Siana -- did Siana elect  
12 to participate?

13 A. They did, yes.

14 Q. Okay. And they've signed the AFEs?

15 A. Right.

16 Q. Do you know what date they signed the  
17 AFEs?

18 A. Let's see. They signed it on March 11th,  
19 2022.

20 Q. Siana signed the election. Did Siana pay  
21 it's estimated well cost on Infill Wells?

22 A. They did not.

23 Q. When were the well costs due?

24 A. They were due March 24th of 2022.

25 Q. Did Siana ask the Division to extend its

1 payment deadline?

2 A. Yes.

3 Q. Did the Division deny Siana's request?

4 A. Yes.

5 Q. Is Siana now deemed a non-consenting  
6 pooled interest under the order?

7 A. Yes, they are.

8 Q. Mr. Dunn, let's talk about taking  
9 production in kind. Are you aware that Siana claims  
10 it has a right to take its share of production in  
11 kind?

12 A. Yes.

13 Q. And in your opinion, do the pooling orders  
14 give Siana that right?

15 A. They do not.

16 Q. Why not?

17 A. For many reasons. I think the first  
18 reason is that Mewbourne is the developing cotenant  
19 under the pooling order and New Mexico law does not  
20 allow for a tenant in common to take in kind. Siana  
21 is a tenant in common under the pooling order. And  
22 the orders designate Mewbourne as operator of the  
23 wells in the units and they require Mewbourne to  
24 account for a control production. And also because  
25 Siana's interest is currently disputed, how is Siana

1 even going to be able to take in kind when we don't  
2 even know what they currently own?

3 Q. And if Siana had signed a JOA, would the  
4 JOA typically establish requirements and govern the  
5 taking of production in kind?

6 A. Yes, absolutely.

7 Q. What types of requirements would be  
8 addressed?

9 A. I mean we've talked about this. You know,  
10 it's specification regarding process, payment of  
11 taxes and royalties, liability for spills and  
12 environmental issues. Responsibility for compliance  
13 with OCD's regulations. There's many provisions.  
14 It's many pages long that it's a long process of an  
15 agreement with parties that sign the JOA.

16 Q. And are those provisions important to  
17 determine the responsibilities associated with  
18 taking production in kind?

19 A. I think they are important and I think  
20 they are essential.

21 Q. Do the pooling orders include any of those  
22 requirements?

23 A. They do not.

24 Q. And did Siana choose to be pooled instead  
25 of signing a JOA that could have given up the right

1 to take its share production in kind?

2 A. Yes.

3 Q. And if Siana had a right to take its  
4 production in kind, would that subvert Mewbourne's  
5 ability to hold its revenues in suspense?

6 A. Yes.

7 Q. Mr. Dunn, based on your experience as an  
8 expert in petroleum land matters, has Mewbourne  
9 acted reasonably with respect to Siana?

10 A. Yes, we have.

11 Q. And has Mewbourne given Siana the  
12 information that it needed to evaluate the well cost  
13 under the pooling orders?

14 A. It has. We've given them the same  
15 information that we've given every other working  
16 interest owner and their -- it provides all of the  
17 actual well cost on a monthly basis.

18 MS. HARDY: Thank you. I have no further  
19 questions.

20 I would move the admission of Mewbourne  
21 Exhibit A and its attachments A-1 through A-13.

22 HEARING OFFICER BRANCARD: Any objections?

23 MS. SHAHEEN: No objections.

24 (Mewbourne Exhibit A and Attachments A-1  
25 through A-13 admitted.)

1 HEARING OFFICER BRANCARD: Thank you.

2 Ms. Shaheen, any questions?

3 MS. SHAHEEN: Yes, thank you.

4 CROSS-EXAMINATION

5 BY MS. SHAHEEN:

6 Q. I'd like to turn your attention -- good  
7 afternoon, Mr. Dunn.

8 A. Good afternoon.

9 Q. I'd like to turn to your testimony here  
10 and if I could share my screen.

11 A. Sure.

12 Q. I think I'd like to just walk through it.

13 MS. SHAHEEN: I'm not sure if Mr. McClure  
14 -- thank you.

15 Q. (By Ms. Shaheen) Okay. Can you see that?

16 A. Yes.

17 Q. Okay. First, I'd like to start by just  
18 getting a little bit of information about your  
19 background.

20 A. Sure.

21 Q. You want to just give me a brief overview  
22 of your education?

23 A. Sure. I graduated from Texas A&M in 2003.  
24 I spent ten years as a stock trader in Austin,  
25 Texas. And then had a change of career about nine

1 years ago where I went into oil and gas. I worked  
2 for a broker for a couple of years back in 2004,  
3 2005. And then I worked for a startup company --  
4 I'm sorry. From 2014, 2015, I worked for a starter  
5 company, starter a oil and gas company in 2016.

6 And then I started working for Mewbourne  
7 as a landman back in December of 2018.

8 Q. And how long have you been working on New  
9 Mexico matters?

10 A. Three-and-a-half years.

11 Q. And in that time, have you ever been  
12 charged with supervising or requiring or determining  
13 that someone's interest should be held in suspense?

14 A. Sorry. What's the question again?

15 Q. The question is, have you -- do you any  
16 experience at Mewbourne withholding working interest  
17 owners' production or revenues in suspense?

18 A. Yes. I mean, I'm a part of that process  
19 based on the information that, you know, that I see  
20 and that, you know, when I work with certain owners.  
21 Yeah, I work with the Division or department and,  
22 you know, they get information from me when we  
23 decide it makes sense to do that.

24 Q. So are you the person who determines  
25 whether something should be held in suspense?

1           A.    I wouldn't say I have the final authority  
2 to make that decision.  I'm a part of that process.

3           Q.    How many times have you been a part of the  
4 process?

5           A.    Many times.

6           Q.    Many times?

7           A.    Sure.

8           Q.    How many times have you been a part of  
9 that process when there was a working interest owner  
10 involved?

11          A.    I don't know the specific number.

12          Q.    More than ten?  Less than ten?

13          A.    Less than ten.

14          Q.    Less than five?

15          A.    No.  Probably between five and ten.

16          Q.    Between five and ten.  Okay.

17          A.    Sure.

18          Q.    So this is one of those cases between five  
19 and ten where a working interest owners' interest  
20 has been held in suspense; is that correct?

21          A.    Yes.

22          Q.    Of those five to ten, where does this one  
23 fall?  Is it one of the first ones or is it one of  
24 the last ones?

25          A.    Somewhere in the middle.

1           Q.     Okay.  In every instance, do you require  
2     that working interest owner to pay its JIBs even  
3     though the revenues are being held in suspense?

4           MS. HARDY:  I object to the form of the  
5     question.  I think there's been no testimony that  
6     Mr. Dunn decides what happens with JIBs.

7           MS. SHAHEEN:  Well, Mr. Dunn has just  
8     opined on how interests should be held in suspense  
9     and how JIBs must be paid even though the revenues  
10    are held in suspense.  I'm just trying get to  
11    the --

12          HEARING OFFICER BRANCARD:  Well, maybe the  
13    question is, does Mewbourne?

14          MS. SHAHEEN:  Well, I guess what I'm  
15    trying to get at is Mr. Dunn's experience in this  
16    area such that he can opine as he has opined today,  
17    which as I understand it, he's opining as an expert  
18    witness that a working interest owner whose revenues  
19    are held in suspense still is accountable for paying  
20    on a monthly basis their JIBs for that same interest  
21    that's held in suspense.  That's what I understand  
22    his testimony to be.  And I'm just probing to see  
23    whether he actually has the experience and the  
24    qualifications to make that opinion.

25          A.     Yeah, I mean I believe I do.  I mean, if

1 we -- if it's not put in suspense then Mewbourne is  
2 having to foot that bill.

3 Q. (By Ms. Shaheen) So my question is --

4 A. It's foreseen as interest.

5 Q. And so my question is --

6 A. Sure.

7 Q. -- when you hold a working interest  
8 owners' revenues in suspense, do you require each of  
9 them to pay their JIBs on a monthly basis?

10 A. Yes.

11 Q. And how many times in the past have you  
12 done that?

13 A. I've already answered that question.

14 Q. Well, just bear with me and answer it one  
15 more time.

16 A. I said many times.

17 Q. Well, I thought we were only talking about  
18 between five and ten working interest owners.

19 A. Yes. Typically many is more than three,  
20 or maybe I should have said several.

21 Q. Okay. So and just to make sure I  
22 understand, in your three-and-a-half years at  
23 Mewbourne, there's been several times when you've  
24 participated in a process where a working interest  
25 owners' revenues were put in suspense and each of

1 those working interest owners we required to pay  
2 their JIBs on a monthly basis; is that right?

3 A. Yes. I've been a part of that process,  
4 yes.

5 Q. Okay.

6 MS. HARDY: Oh, I'm sorry, I just wanted  
7 to offer, I think Mr. Russell is going to be  
8 testifying as our accounting and JIB witness, so I  
9 think he may be able to address more of these  
10 issues.

11 Q. (By Ms. Shaheen) Okay. So now I'm turning  
12 to Page 3 of your testimony. And first, I'd like to  
13 turn just to Paragraph 13 and clarify. Here you say  
14 that because Siana elected to participate in the  
15 wells and paid its share of the estimate well costs,  
16 Siana is deemed a "pooling working interest," under  
17 the terms of the orders.

18 Do you see that?

19 A. A pooled working interest owner, yes.

20 Q. Yes. And now because he's paid his share  
21 of the estimated well costs, he's a little more than  
22 just a pooled working interest, right?

23 A. No. I will still consider him a pooled  
24 working interest owner. That's what I would call  
25 him.

1 Q. Okay. Is he a participating pooled  
2 working interest?

3 A. Yes.

4 Q. Okay. So that would be as opposed to a  
5 non-consenting pooled working interest, correct?

6 A. Sure. Uh-hmm.

7 Q. Okay. Just want to make that clear.

8 Now I'm going to turn to the order and  
9 walk through the paragraphs with you. Give me a  
10 minute here. Do you see, do you recognize this as  
11 part of the order in Exhibit M in Mewbourne's  
12 Exhibits and I believe it's included in Exhibit A.  
13 It's also attached to your testimony.

14 A. It's A-2. I've got it pulled up.

15 Q. Okay. So we're taking a look at Paragraph  
16 24.

17 A. Okay.

18 Q. And so you see here, "No later than  
19 180 days after an operator submits a Form C-105  
20 operator shall submit to OCD and to each owner an  
21 itemized schedule of the actual well costs."

22 Have you ever submitted to each owner one  
23 schedule of the actual well costs? And I apologize.  
24 When I say "you," I mean Mewbourne. Has Mewbourne  
25 ever submitted an itemized schedule, just one

1 schedule with all of the actual well costs to the  
2 owners of the pooled working interest?

3 A. I think the question here is what exactly  
4 does itemized schedule mean. And I think that can  
5 be many different things to many different people.  
6 To Mr. Ragsdale it was, he referenced to something  
7 he got, in the past what he had, but our  
8 understanding is that every month when we submit  
9 JIBs, it's an itemization of what the actual costs  
10 were for the month. And every working interest  
11 owner receives those and they have the actual costs.

12 Q. So you're saying it's up to the owner to  
13 actually develop the itemized schedule of the actual  
14 well cost by looking at each monthly JIB; is that  
15 your testimony today?

16 A. Yes.

17 Q. And isn't it true, and perhaps this is a  
18 question better for Mr. Russell, let me know if it  
19 is. But isn't it true that you or Mewbourne, I  
20 should say. Whenever I say "you," I don't mean you  
21 Mr. Dunn, I mean Mewbourne.

22 A. That's okay. No problem.

23 Q. That Mewbourne -- JIBs that Mewbourne  
24 submitted after the 180 days also include actual  
25 well costs; isn't that right?

1           A.    What's the question?  Sorry.  Can you  
2 repeat it?

3           Q.    Yes.  I didn't ask it very well.

4                    Are you aware that JIBs post the 180 days  
5 actually post actual well costs for the OJ and the  
6 PI wells?

7           A.    I don't know the answer to that question.

8           Q.    If that were the case, and all of the  
9 actual well costs had not been identified on the  
10 JIBs that been received within the 180 days, would  
11 an owner of a pooled working interest know what all  
12 of the actual well costs are?

13                   MS. HARDY:  I object to the form of the  
14 question.

15                   MS. SHAHEEN:  Yeah, that was a poor  
16 question.  Let me try it again.

17           Q    (By Ms. Shaheen) If there are actual well  
18 costs that are not disclosed in the joint interest  
19 billings at the time of the 180 days, how could an  
20 owner know the actual well cost for those wells if  
21 you did not provide an itemized schedule, a  
22 cumulative schedule that included all of the actual  
23 well costs in one document?

24           A.    The owner knows basically a month after  
25 what we know on a monthly basis what the actual

1 costs are. That's what we provide to all the  
2 owners. They have the costs.

3 Q. So you're saying that you don't know what  
4 the actual cost of the wells are 180 days after you  
5 submit the form C-105?

6 A. I'll defer to our other witnesses for that  
7 question.

8 Q. So going on to the rest of Paragraph 24,  
9 I'm sure you've read it more than once, "The actual  
10 well costs should be considered to be the reasonable  
11 well costs unless OCD or an owner of a pooled  
12 working interest files a written objection no later  
13 than 45 days after receipt of the schedule."

14 How is that timeframe, the 45-day period  
15 triggered if your position is that the monthly JIBs  
16 constitute the itemized schedule?

17 A. I'll defer to the other witnesses for that  
18 question too.

19 Q. Did you not opine earlier that Mewbourne  
20 had complied with Paragraph 24?

21 A. Yes, I did.

22 Q. Turning to Paragraph 25, "No later than  
23 60 days after the expiration of the period to file a  
24 written objection to the actual well cost or OCD's  
25 order determining the reasonable well cost, each

1 owner of a pooled working interest who paid its  
2 share of the estimated well costs shall pay to the  
3 operator its share of those that exceed the  
4 estimated well costs," or here in the pertinent  
5 language, "Operator shall pay to each owner of a  
6 pooled working interest who paid its share of the  
7 estimate well costs its share that exceeded the  
8 reasonable well costs."

9 Now, if the time period hasn't run for the  
10 reasonable well costs to be determined because there  
11 hasn't been an itemized schedule, how do you  
12 determine the date that any overage to be paid?

13 A. What is -- what is Siana saying is an  
14 objectionable well cost?

15 Q. I'm sorry? I get to ask the questions.  
16 If you want me to reframe it, I'm happy to do that.

17 A. Yeah, could you say it again, please?

18 Q. Sure. And maybe I'm going to withdraw  
19 that question and ask a different one.

20 You testified earlier that in December of  
21 2021, Mewbourne sent a check to pay for that  
22 overage. Do you recall that testimony?

23 A. Yes.

24 Q. Do you recall what prompted that check  
25 that Mewbourne sent?

1           A.    I don't know the exact reason behind the  
2 exact timing of when that check was sent.

3           Q.    What do you know about what happened prior  
4 to the time that check was sent?

5           A.    I know that --

6           MS. HARDY:  Let me object to that  
7 question.  I think it's --

8           MS. SHAHEEN:  Well, let me ask.

9           MS. HARDY:  -- a little vague.

10          Q.    (By Ms. Shaheen) Are you aware of the  
11 circumstances prior to the time that Mewbourne --  
12 let me ask that better.  Are you aware of what  
13 circumstances prompted Mewbourne to send that check  
14 to Siana?

15          A.    There was an overage of cost from the  
16 original AFEs?

17          Q.    And who determined that there was an  
18 overage?

19          A.    It would be -- I mean, I'm assuming this  
20 is a question for the accounting witness.

21          Q.    Well, wasn't Siana the person who informed  
22 Mewbourne that there was an overage?

23          A.    I never saw that when they informed them  
24 so I don't know the answer to that specifically.

25          Q.    Who would?

1 A. It would be our accounting department.

2 Q. Who would know the answer to that  
3 question?

4 A. I would think it would be our accounting  
5 witness.

6 Q. Your accounting witness being Mr. Russell?

7 A. Yes.

8 Q. Would know what prompted Mewbourne to pay  
9 that -- to send that check to Siana?

10 A. That's my guess, yes. That would be the  
11 person I would think that would know that answer.

12 Q. Are you aware that I sent the letter to  
13 Mewbourne informing them about the overage?

14 A. Yeah, I mean I'm aware of it.

15 Q. And are you aware that that is what  
16 prompted the check that Mewbourne sent to Siana?

17 MS. HARDY: I object. I think Mr. Dunn  
18 has testified that the accounting witness is the  
19 appropriate person to address these questions to.

20 MS. SHAHEEN: Again, he testified about  
21 the check and that's why I'm asking him these  
22 questions, so I will save them for Mr. Russell.

23 HEARING OFFICER BRANCARD: Thank you.

24 Q. (By Ms. Shaheen) Turning now to  
25 Paragraph 27. "No later than 90 days after operator

1 submits a form C-105, operator shall submit to OCD  
2 and each owner of a pooled working interest an  
3 itemized schedule of the reasonable charges for  
4 operating and maintaining the well, 'operating  
5 charges'."

6 Do you see that?

7 A. Yes. Uh-huh.

8 Q. And has Mewbourne ever submitted to the  
9 owners of the pooled working interest an itemized  
10 schedule of the reasonable charges for operating and  
11 maintaining the well?

12 A. Again, I go back to Siana has had all of  
13 the same information that was provided to all the  
14 working interest owners of monthly itemized actual  
15 well costs.

16 Q. So you're saying that the joint interest  
17 billings satisfy Paragraph 27 to submit an itemized  
18 schedule of the reasonable charges for operating and  
19 maintaining the well 90 days after operator submits  
20 a Form C-105?

21 A. Yes.

22 Q. Can you point to a document in the record  
23 that is -- was submitted within 90 days to any  
24 pooled working interest owner with an itemized  
25 schedule of the reasonable charges for operating and

1 maintaining the well?

2 A. Again, I'd go back to the JIBs that were  
3 sent to every working interest owner of actual well  
4 costs every month.

5 Q. Right. But those came after 90 days after  
6 the submission of the Form C-105?

7 A. What do you mean?

8 Q. I mean, you're referring to JIBs for each  
9 month, correct?

10 A. Right.

11 Q. Okay. And this requirement requires you  
12 to make an itemized schedule, singular, itemized  
13 schedule of the reasonable charges for operating and  
14 maintaining the well.

15 Do you see that?

16 A. Okay. But what's the question?

17 Q. The question is are you saying that the  
18 JIBs that have been provided on a monthly basis over  
19 the past however many months satisfy this  
20 requirement that an itemized schedule be submitted  
21 within 90 days after the operator submits the  
22 Form C-105?

23 A. Yes. I still stand by that.

24 Q. Okay. So the JIB that was issued in --  
25 let's talk for a minute about that. The JIBs are

1 issued on a monthly basis, correct?

2 A. Yes.

3 Q. And are those JIBs relating to cost for  
4 the prior month?

5 A. I don't know the answer to this question.  
6 I'm going to defer to Don to answer that that.

7 Q. Okay. Did you not just testify that you  
8 had satisfied -- that Mewbourne satisfied  
9 Paragraph 27?

10 A. Yes, I did.

11 Q. Okay. But you can't answer my questions  
12 about it; is that right?

13 A. Yes.

14 MS. HARDY: Well, I object. I was going  
15 to object to that question. I think it misstates  
16 what Mr. Dunn has said. I think what he said was he  
17 couldn't address the details of the timing.

18 A. I mean, I already said that's why I defer  
19 to Don who is much more of an expert on this topic  
20 than I am.

21 MS. SHAHEEN: And then I just question  
22 whether Mr. Dunn can opine to something when he  
23 can't answer the question about the timing of it.  
24 But moving on. I'm not the one who is testifying.

25 Q. (By Ms. Shaheen) I'm going out on a limb

1 here and let's just take a look at Paragraph 28.  
2 "Operator may withhold the following costs and  
3 charges from the share of production due to each  
4 owner of a pooled working interest who paid its  
5 share of the estimated well cost: (a) the  
6 proportional share of supervision; (b) the  
7 proportionate share of operating charges."

8 Do you see that?

9 A. Uh-hmm.

10 Q. Should I be asking you any questions about  
11 that paragraph or should I reserve those for  
12 Mr. Russell?

13 MS. HARDY: I -- well, I guess I'd have to  
14 hear the questions.

15 MS. SHAHEEN: Okay.

16 MS. HARDY: I don't think Mr. Dunn can  
17 answer that either without hearing the questions.

18 Q. (By Ms. Shaheen) Okay. Let's talk a  
19 little bit about the taking kind issue because I  
20 believe you did opine on the taking kind issue, did  
21 you not, Mr. Dunn?

22 A. Yes, I did.

23 Q. And you said that the orders precluded  
24 Mr. -- or excuse me, Siana from taking in kind. Do  
25 you recall that testimony?

1 A. I do.

2 Q. Can you point to the express language in  
3 the order that precludes Siana from taking its  
4 production in kind?

5 A. So the order -- is it -- I was, when I  
6 talked about this, this morning with our legal  
7 counsel ...

8 MS. HARDY: Mr. Dunn, do not disclose your  
9 discussions with legal counsel, please.

10 THE WITNESS: Sorry.

11 MS. SHAHEEN: Sorry, Dana.

12 THE WITNESS: I don't know all these rules  
13 as well as you do. So I'm doing the best that I  
14 can. Mewbourne is, like I said, Mewbourne is the  
15 developing cotenant of the pooling order. And we  
16 see that Siana is a tenant in common. And because  
17 of that, tenant in commons under pooling orders, my  
18 understanding is that they are not allowed to take  
19 their interest in kind.

20 Q. Let me --

21 A. Like there's nothing beyond that. Like  
22 it's just -- it's clear that they're not allowed to  
23 do it.

24 Q. Let me ask you this: Why do you -- what's  
25 the basis for your opinion that a pooled working

1 interest is a tenant in common?

2 A. Per New Mexico law.

3 Q. Okay. Are you expressing a legal opinion.  
4 If you are, I'm going to ask that it be -- that you  
5 not be allowed to testify about legal opinions.

6 A. No, I mean not a legal opinion. It's  
7 just -- I mean it's -- what do you mean if it's a  
8 legal opinion? What do you mean by that?

9 Q. Well, that's more attorney talk here.  
10 You're not allowed to testify as to legal issues.  
11 Well, actually no one is. It's up to Mr. -- the  
12 Hearing Examiners to determine the legal issues,  
13 right? But I guess I'm just wondering is there some  
14 principle or case or doctrine that you know of that  
15 supports your opinion that a pooled working interest  
16 is a tenant in common?

17 A. No. Not -- I don't know it off the top of  
18 my head.

19 Q. And is there somewhere in the order that  
20 identifies a pooled working interest as a tenant in  
21 common?

22 A. No, it doesn't say that specifically.

23 Q. And going back to my original question.  
24 Is there any express language in the order that  
25 precludes a pooled working interest who paid its

1 share of estimated well costs to take their  
2 production in kind?

3 A. I think it's very implied that they're not  
4 able to do that.

5 Q. Okay. That's not my question. I'm saying  
6 is there any express language here?

7 A. There's not express language, but there  
8 is -- but it's very implied but there's nothing  
9 there that speaks into any kind of agreement. Like  
10 that's why there a 20-page document in a JOA that  
11 you could have signed, you didn't but ...

12 Q. Can you point to me somewhere in the order  
13 where you're implying that you cannot take your  
14 production in kind?

15 HEARING OFFICER BRANCARD: Ms. Shaheen, I  
16 think we're beating a dead horse here.

17 MS. SHAHEEN: Okay. Okay.

18 So I'm guessing the answer is no?

19 THE WITNESS: I don't -- I don't --

20 HEARING OFFICER BRANCARD: We're done with  
21 this issue.

22 A. I don't change my statement that we still  
23 see that they're not, as a pooled working interest  
24 owner, they're not allowed to take their interest in  
25 kind.

1 Q. (By Ms. Shaheen) I understand that's your  
2 position. I'm just saying where is the language in  
3 the order that supports that position? I don't see  
4 it and I don't think you've pointed it out to me.

5 In fact, if you take a look at the first  
6 line of Paragraph 28, "Operator may withhold the  
7 following cost and charges from the share of  
8 production." Same thing, Paragraph 29, "Operator  
9 may withhold the following costs and charges from  
10 the share of production."

11 Can you point me to any language that  
12 refers to share of revenues?

13 A. I don't know the answer to that question.

14 Q. So the answer is no?

15 A. I didn't say that.

16 Q. Well, let me just ask --

17 MS. SHAHEEN: I'm sorry, Mr. Brancard.  
18 Can you --

19 HEARING OFFICER BRANCARD: So am I.

20 MS. SHAHEEN: Huh?

21 HEARING OFFICER BRANCARD: So am I.

22 MS. SHAHEEN: Okay. I'll quit beating  
23 that horse.

24 HEARING OFFICER BRANCARD: There's nothing  
25 in the order about revenue in kind.

1 MS. SHAHEEN: Thank you.

2 Q. (By Ms. Shaheen) Okay. Now I'm going to  
3 go back to your testimony. Let me see if I can do  
4 that without too much difficulty here.

5 All right. We're back on Page 3. Now you  
6 testified earlier about Exhibit A-10. If you could  
7 turn to Page 3. I'm going to try to take us there.  
8 Let's see if I can find it relatively quickly.

9 A. I'm there.

10 Q. Okay, good. I just need to catch up with  
11 you. There we go. And turning to Page 3. It's  
12 actually Page 4 and 5. Now here we go, 5 and 6.  
13 You testified previously that you could not tell  
14 from the complaint what interest was being disputed.

15 Do you recall that testimony?

16 A. Uh-huh.

17 Q. And do you see this chart here?

18 A. Yes.

19 Q. It goes on to the next page. It  
20 identifies each party to the nominee agreement that  
21 is referenced in Paragraph 26. Do you see that?

22 A. Uh-huh.

23 Q. And it identifies the undivided interest  
24 of each of those -- it identifies the undivided  
25 interest that each of those parties purportedly

1 claimed to have.

2 Do you see that?

3 A. Right.

4 Q. And there drops a footnote there.

5 Plaintiffs are entitled to approximately 26 percent  
6 of that 30 percent. And just for the record, I  
7 believe you understand and confirm for me that when  
8 they refer to 30 percent, they're talking about the  
9 10 percent that Siana is record title interest  
10 owner, correct?

11 A. Yeah, they own 30 percent of the south  
12 half of Section 26 which is 10 percent of the unit.

13 Q. Right. Right. So it seems to me that  
14 this complaint is very clear that the disputed  
15 interest is 26 percent of that 30 percent. And not  
16 a hundred percent of that 30 percent. Or excuse me  
17 not 30 percent, not the full 30 percent. Would you  
18 agree with me?

19 A. I don't agree with that.

20 Q. You don't agree that Plaintiffs claim that  
21 they're entitled to approximately 26 percent of that  
22 30 percent that's in the footnote?

23 A. I would say that this is disputed interest  
24 that's still being determined what's going to be the  
25 settlement on this case, which I don't -- you know,

1 no one knows what's actually going to happen.

2 Q. Can you tell me who disputes that our  
3 4 percent of that 30 percent?

4 A. I don't know.

5 Q. Is there someone who disputes that other  
6 4 percent of that 30 percent?

7 A. I don't know.

8 Q. Has Mewbourne been informed of anyone who  
9 disputes that 4 percent of that 30 percent?

10 A. Not -- Not --

11 MS. HARDY: I object. I think these  
12 questions have been asked and answered.

13 MS. SHAHEEN: I don't recall asking that  
14 question. If you don't mind I'd like to ask that  
15 last one, one more time.

16 HEARING OFFICER BRANCARD: Please, go  
17 ahead.

18 Q. (By Ms. Shaheen) Has Mewbourne ever been  
19 informed by anyone who disputes the remaining  
20 4 percent of that 30 percent?

21 A. I don't know. I don't know if we have or  
22 have not.

23 Q. As a landman, wouldn't you be the person  
24 who would know that?

25 A. On something like this, not necessarily.

1 Q. Who would be?

2 A. I don't know. These are people that are  
3 claiming to have an interest in Tom's interest from  
4 30-plus years ago. And I don't know all the history  
5 that's going on here with his partners.

6 Q. Well, I'm not asking you about that. I'm  
7 just asking you what Mewbourne knows. And when I  
8 see this complaint, you're relying on this complaint  
9 and I say, you, meaning Mewbourne, and this  
10 complaint says that 26 percent is disputed not  
11 30 percent?

12 A. I feel this is a legal question that's,  
13 our legal department is handling this part of this  
14 case. So I would defer to legal to answer that  
15 question.

16 Q. Now, did you testify earlier that you  
17 participated in the process of determining when  
18 someone is put in suspense?

19 A. I have.

20 Q. And do you participate in determining how  
21 much of that interest should be held in suspense?

22 A. No.

23 Q. Going back to your testimony, let's see  
24 how long it's going to take me to get there.  
25 Paragraph 16, I'll just point out your last

1 sentence. "Further the orders direct Mewbourne to  
2 account for 100 percent of the production which  
3 specifically excludes the right of Siana to take  
4 production in kind."

5 I think we've already beat that horse  
6 dead, would you agree?

7 A. That we beat it dead?

8 Q. Right. Looking at the order?

9 HEARING OFFICER BRANCARD: I'd agree.

10 MS. SHAHEEN: Okay. Thank you.

11 Q. (By Ms. Shaheen) Okay. Turning now,  
12 looking at Paragraph 17 here, you were talking about  
13 Exhibit A-12. And this is again about the proposed  
14 Infill Wells.

15 Do you see that?

16 A. Yes.

17 Q. And this, let's turn to Exhibit A-12.

18 A. I've got it pulled up here.

19 Q. Okay. Good. Let me do the same. And you  
20 see at the top dated February 11th, 2022, correct?

21 A. Yes.

22 Q. And at this time Mewbourne's revenues have  
23 been held in suspense for how long?

24 A. You mean Siana's?

25 Q. Right. Sorry, yes, Siana's interest

1 revenues production had been held in suspense for  
2 how long?

3 A. I don't know the exact date. Let's see, I  
4 think they were put in suspense right after we found  
5 out that your interest was being disputed so maybe  
6 around April of 2021. So, yeah, a little less than  
7 a year would be my guess.

8 Q. Uh-huh. And you testified that the  
9 petitioner themselves called you.

10 Do you recall that?

11 A. Some of them did, yes.

12 Q. And when did they call you?

13 A. At different times throughout that. After  
14 they, I guess disputed this interest.

15 Q. In April of 2021?

16 A. I don't know the exact date of when they  
17 started contacting me.

18 Q. Can you give me an approximate date of  
19 when they contacted you?

20 A. My guess would be sometime around the time  
21 of when they were disputing the interest. So yeah,  
22 late 2021, mid to late 2021.

23 Q. Mid to late 2021. And but you were  
24 holding the revenues in suspense as of April of  
25 2021, correct?

1           A.    I didn't say that.  I said approximately  
2 around that time.  That's when the -- that's when I  
3 show that the dispute was made public or I guess  
4 that they were suing Siana.

5           Q.    Okay.  So when were you -- let me ask  
6 again because now I'm getting a little confused with  
7 the timeline.  When did Mewbourne put Siana's  
8 revenues in suspense?

9           A.    I'll defer to Don for that question.  He's  
10 the one that would know that exact date.

11          Q.    Okay.  And you can't even approximate it?

12          A.    I mean I already approximated it.  I said  
13 it was probably around that time.  Yeah, I'm  
14 assuming when we found out it was being disputed,  
15 that's when we put it in suspense.

16          Q.    Okay.  And when did the petitioners, the  
17 first of the petitioners first call you to tell  
18 about their dispute?

19          A.    I don't know the answer to that question.

20          Q.    Did they call you directly?

21          A.    Yes.

22          Q.    And you spoke to them?

23          A.    To some of them, yes.

24          Q.    But you don't recall when you spoke to  
25 them?

1           A.    I already told you, it was around that  
2 time that they were disputing the interest.

3           Q.    Okay.  Are you saying that it was around  
4 the time that they filed the complaint?

5           A.    Right.  Yeah.

6           Q.    Okay.  Turning back to A-10.  It was  
7 filed -- if you look at the right-hand top corner,  
8 do you see the filing date there?  Can you tell us,  
9 read into the record the filing date of the  
10 complaint?

11          A.    October 12, 2021.

12          Q.    So is it your testimony that it was about  
13 this time when you first heard from the petitioners?

14          A.    No, I show that it was filed -- there was  
15 a public document filed before this back in April.

16          Q.    Or were you referring -- are you referring  
17 to the affirmation?

18          A.    Memorandum --

19          Q.    Memorandum.

20          A.    Yeah, to the memorandum that was filed  
21 April 1st giving notice of this in 2021.

22          Q.    Oh, that's right.  You didn't look at  
23 this.  This was A-11.  Let's take a look at that.

24                 Okay.  This is your Exhibit A-11.  You  
25 didn't present any direct testimony about this

1 document, did you?

2 A. No.

3 Q. Do you know when Mewbourne received this  
4 document?

5 A. I don't know.

6 Q. Do you know when Mewbourne informed Siana  
7 that it was holding its revenues in suspense?

8 A. I don't know the exact date.

9 Q. Do you know if they ever informed Siana  
10 that it was holding -- that Mewbourne was holding  
11 its revenue in suspense?

12 A. I did not inform them of that. I know  
13 Mewbourne, as a company, whether we did or did not.  
14 Nor do I know whether we were required to.

15 Q. Who would know that, the answer to that  
16 question?

17 A. I'll defer to Don for that question.

18 Q. That's a lot for me to remember to ask  
19 Mr. Russell. Okay, I think I'm almost done here.  
20 Okay. I'm going back to your testimony here. So  
21 back to -- we were going to talk about Exhibit A-12  
22 and I am now going to back to Exhibit A-12.

23 A. Sure.

24 Q. Which is the Infill Well proposal?

25 A. Uh-huh.

1 Q. Okay. So this, as we discussed, came  
2 about several months after Mewbourne's -- sorry.  
3 Siana revenues were put in suspense, correct?

4 A. Yes.

5 Q. And yet here Mewbourne appears to be  
6 demanding cash calls for three different wells. And  
7 if you look at the bottom paragraph there, it says,  
8 "Our records indicate that Siana's working interest  
9 is 10 percent in the referenced proposed wells."

10 A. Right.

11 Q. Now so you're holding his revenues in  
12 suspense because that 10 percent you say, the entire  
13 10 percent is in dispute when -- correct?

14 A. Right.

15 Q. Yet nine months later, you're telling them  
16 he has -- he owns 10 percent and therefore he's got  
17 to pay his proportionate share of all these three  
18 wells; is that right?

19 A. Yes. From a record standpoint it still  
20 shows that he owns 10 percent even though his  
21 interest is still being disputed by people claiming  
22 interest, his interest, and that lawsuit is still  
23 pending.

24 Q. And so the total amount that you're  
25 demanding from Siana at this time is approximately

1 \$2.47 million for three wells; is that right?

2 A. I would say it was a little less than  
3 that, but yeah over \$2 million.

4 Q. And this was at a time when Mewbourne  
5 still has the overage that's due on the first two  
6 wells; isn't that correct?

7 A. We're going back to that. We attempted to  
8 pay Siana and they didn't accept it.

9 Q. And it's also a time when you're holding a  
10 hundred percent of the revenues that are due for  
11 that 10 percent, correct?

12 A. Yes, because it's undetermined how much  
13 their interest is disputed.

14 Q. Okay. I'm going to jump back quickly to  
15 your testimony. I think we're going to move to the  
16 next paragraph, paragraph 18.

17 Turning to Exhibit A-13, which is what  
18 you're referencing here. Okay. So just to close  
19 the loop here on the Infill Wells.

20 A. Sure.

21 Q. We're going to go to A-13. These are the  
22 three AFEs that Mr. Ragsdale signed on behalf of  
23 Siana, correct, for the three -- well, there are  
24 actually two Infill Wells and a third well, isn't  
25 that right?

1 A. Let's see.

2 Q. So here we have the B3PI, would will be  
3 Infill Well to the PI?

4 A. Uh-huh.

5 Q. And then we have the B3OJ, which would be  
6 an Infill Well to the B2OJ?

7 A. Right.

8 Q. And then we have B3NK. What well is this?

9 A. It's a -- it's a new well in addition to  
10 these that we're drilling to the west half of the  
11 unit.

12 Q. And it's related to that same 10 percent  
13 interest; is that right?

14 A. Yes. Because it's a north-south unit and  
15 Mr. Ragsdale or Siana's interest is 10 percent of  
16 the south half of Section 26 and every well that we  
17 drill in the north-south well is going to have the  
18 same interest across all of those wells.

19 Q. So this well would be drilled under a  
20 different order; is that right?

21 A. Yes. I pulled that interest order as well  
22 under that Order 21805.

23 Q. Okay.

24 MS. SHAHEEN: If I could just have a  
25 minute here I may be done with my questions for

1 Mr. Dunn.

2 May I have a minute?

3 HEARING OFFICER BRANCARD: Just a minute.

4 MS. SHAHEEN: Okay. Thank you.

5 Q (By Ms. Shaheen) One more question for  
6 you, Mr. Dunn.

7 A. Uh-huh.

8 Q. You testified previously that Mewbourne  
9 did not provide OCD with the itemized schedule of  
10 the actual well cost.

11 Do you recall that testimony?

12 A. Yes. And I also said that we were glad to  
13 do that if they would request that of us.

14 Q. And when you submit that to the OCD, will  
15 that trigger the time for challenging reasonable  
16 costs?

17 MS. HARDY: I object to that question. I  
18 think it's a legal question under the pooling  
19 orders.

20 HEARING OFFICER BRANCARD: OCD is not  
21 going to challenge the well cost.

22 MS. SHAHEEN: Right. But we would be --  
23 that would also trigger Siana's right to challenge  
24 the reasonable well costs.

25 MS. HARDY: I object to that calling for a

1 legal opinion.

2 Q (By Ms. Shaheen) Why didn't Mewbourne  
3 provide the OCD with the itemized schedule required  
4 by Paragraph 24?

5 A. I don't know the answer to that question.  
6 And, again, if the OCD requested that of us, we're  
7 more than willing to submit that to them.

8 MS. SHAHEEN: Thank you, Mr. Dunn, for  
9 your patience with my questions.

10 I pass the witness.

11 HEARING OFFICER BRANCARD: Thank you.

12 Mr. McClure?

13 MR. MCLURE: I think any questions I would  
14 have asked have already been asked. I think I'm  
15 good to go, Mr. Brancard.

16 HEARING OFFICER BRANCARD: Thank you. I'm  
17 kind of the same opinion almost. So let's see here.

18 Quickly, Mr. Dunn, in your Paragraph 15,  
19 Exhibit A-10 you have this lawsuit which was filed  
20 nine months ago.

21 Are you aware of any developments in that  
22 case?

23 THE WITNESS: I'm not. No, sir, I'm not.

24 HEARING OFFICER BRANCARD: You're not  
25 aware whether there's actually going to be a trial

1 or anything?

2 THE WITNESS: I know it's being handled by  
3 our legal department. I don't know the extent of  
4 where the case is at or what's going on. I don't  
5 know the details.

6 HEARING OFFICER BRANCARD: Has Mewbourne  
7 entered an appearance in that case, do you know?

8 THE WITNESS: I don't know the answer to  
9 that question.

10 HEARING OFFICER BRANCARD: Okay. That's  
11 fair.

12 I guess -- I remain baffled by the  
13 explanation that it's okay for Mewbourne to suspend  
14 revenue but continue to collect expenses from a  
15 party. Could you -- could you try to explain that  
16 again?

17 THE WITNESS: Sure. You know, our stance  
18 is that we -- we can't suspend costs. So if someone  
19 is going to, I mean, whatever costs that we incur,  
20 you know, we have to pay those costs. And so  
21 because Siana's interest is in dispute, the costs  
22 are going to have to be paid by someone, so then  
23 basically we're going to be penalized for having to  
24 pay those costs.

25 So that's why we still see it as, like

1 Siana, even though their interest is being disputed,  
2 either Mewbourne is going to have to pay them or  
3 Siana. And we feel like this is Siana's issue and  
4 their problem so they would be responsible for still  
5 paying their costs if they're still claiming to own  
6 10 percent of the interest.

7 HEARING OFFICER BRANCARD: But you're not  
8 giving them any money to pay those costs. In other  
9 words --

10 THE WITNESS: And, again, it's a tricky  
11 situation that their interest is being disputed so  
12 we don't know whether or not they even own the  
13 interest and what's going on. So we don't know how  
14 to pay it. It's not like we're just keeping the  
15 interest, but we don't know how to pay them because  
16 it's being disputed. That's the whole issue here,  
17 the whole problem.

18 HEARING OFFICER BRANCARD: But if it's  
19 determined that they were not an owner, then you  
20 would end up owing them a whole chunk of money,  
21 wouldn't you, because you took money from them?

22 THE WITNESS: Right. I mean, you could  
23 definitely see it that way.

24 HEARING OFFICER BRANCARD: I guess I don't  
25 understand why if you create a suspense account you

1 can't just put, you know, notations with the  
2 suspense account that whatever revenue is in the  
3 suspense account is subject to offsetting charges.

4 THE WITNESS: So are you saying that it  
5 would be -- I mean, say Siana had 70 percent of the  
6 interest in this well, are you saying it would be  
7 Mewbourne's responsibility to pay their 70 percent  
8 of the well cost until their dispute was resolved?

9 HEARING OFFICER BRANCARD: Well, Mr. Dunn,  
10 if somebody is a non-consenting party, you're paying  
11 their share of the cost, too, aren't you?

12 THE WITNESS: Right. But we're not --  
13 we're not gaining the revenue, though. We would  
14 actually --

15 HEARING OFFICER BRANCARD: Gaining (audio  
16 cut out) plus 200 percent.

17 THE WITNESS: No. I'm saying -- I'm  
18 saying in Siana's case their interest is in  
19 suspense. We're not paying their revenue. Like if  
20 we were paying their well costs we're not -- we're  
21 also not capturing their revenue. It's being held  
22 in suspense until it's worked out. They're a  
23 consenting participating, you know, under the  
24 pooling order and so like they're -- if they are to  
25 get their interest, and win this case, then they

1 would be due their revenue that's held in suspense.

2 We're not getting that.

3 But you're saying we would you still --  
4 you think it's only fair, we would still need to pay  
5 all of their bills, which we don't think that to be  
6 the case. This is their problem, their issue of  
7 their disputed interest. Until that's resolved,  
8 that's why we're holding it in suspense.

9 HEARING OFFICER BRANCARD: I know.  
10 Mewbourne does not come off very good on this issue.  
11 Sorry to tell you. You-all sound like you're  
12 running out of the cash. Anyway, that's enough for  
13 me.

14 Ms. Hardy, did you have any redirect?

15 MS. HARDY: I have just a couple of  
16 questions, Mr. Examiner. I will be quick.

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1 REDIRECT EXAMINATION

2 BY MS. HARDY:

3 Q. Mr. Dunn, with respect to the holding of  
4 revenues in suspense it isn't Mewbourne that's  
5 challenging Siana's interest is it?

6 A. It is not.

7 Q. And Siana, not Mewbourne, has the ability  
8 to resolve Siana's ownership dispute; is that right?

9 A. Correct.

10 Q. And Mewbourne is incurring the well costs  
11 regardless of the ownership dispute; is that right?

12 A. Yes, that's correct.

13 Q. And with respect to the decision to hold  
14 revenues in suspense, I know that Ms. Shaheen asked  
15 you a number of questions about that, but is that  
16 decision ultimately made by -- well, let me just ask  
17 it this way. You're not the person who ultimately  
18 makes that decision?

19 A. I am not.

20 Q. Yeah. Do you know -- well, strike that.  
21 Let me ask another question.

22 On the right to take production and times,  
23 and I don't want to revive the dead horse and beat  
24 it again, but if you can look at the pooling orders,  
25 if they're -- well, under the pooling orders

1 Mewbourne is designated as the operator; is that  
2 right?

3 A. Yes, that's correct.

4 Q. And Mewbourne, as operator, has to control  
5 100 percent of the allocation of production; is that  
6 right?

7 A. Yes.

8 Q. And I'm trying to find the paragraph. I  
9 know which one it was, Paragraph 28 that Ms. Shaheen  
10 referred to.

11 Do you have that?

12 A. Yes.

13 Q. Okay. And I know she focused on the  
14 language regarding, "Operator may withhold the  
15 following costs and charges from the share of  
16 production."

17 Do you remember those questions?

18 A. Uh-huh.

19 Q. Can you give a yes or no answer, Mr. Dunn?

20 A. I'm sorry. Yes, I remember that. Yes.

21 Q. Just for the court reporter.

22 A. Yeah, of course.

23 Q. And doesn't that have to be referring to  
24 the economic share of the production? I mean,  
25 because how would you hold costs and charges from a

1 physical portion of production?

2 A. Yes, I would agree with that.

3 Q. And with respect to the holding of  
4 revenues in suspense while sending Siana JIBs, are  
5 you aware that Siana doesn't pay its JIBs?

6 A. Yes, I am.

7 MS. HARDY: That is all that I have.

8 Thank you.

9 HEARING OFFICER BRANCARD: Thank you.

10 Next witness?

11 MS. HARDY: Our next witness is Travis  
12 Cude.

13 HEARING OFFICER BRANCARD: I'll just stop  
14 you for a second and check in with our court  
15 reporter whether we need to take a break or not?

16 THE COURT REPORTER: We're good. Let's  
17 keep going.

18 HEARING OFFICER BRANCARD: All right.

19 Sir, will you please raise your right  
20 hand.

21 TRAVIS CUDE

22 having been first duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. HARDY:

25 Q. Can you please state your full name for

1 the record?

2 A. Travis Cude.

3 Q. By whom are you employed and in what  
4 capacity?

5 A. I'm a reservoir engineer for Mewbourne Oil  
6 Company.

7 Q. And can you please summarize your  
8 education and experience?

9 A. Yes. I graduated from the university of  
10 Oklahoma in 2012 with a Bachelor's of Science in  
11 petroleum engineering, and I have worked for  
12 Mewbourne for ten years at this point with about  
13 eight of those being in the Permian out of the  
14 Midland office.

15 Q. You previously testified before the  
16 Division as an expert in petroleum engineering?

17 A. I have.

18 MS. HARDY: Mr. Examiner, I move to  
19 qualify Mr. Cude as an expert in petroleum  
20 engineering.

21 HEARING OFFICER BRANCARD: Any objections?

22 MS. SHAHEEN: No objection, but I again  
23 will reserve the right to ask Mr. Cude about his  
24 qualifications and education later on.

25 HEARING OFFICER BRANCARD: So accepted as

1 an expert.

2 MS. HARDY: Thank you.

3 Q (By Ms. Hardy) Mr. Cude, did you provide  
4 an affidavit in this case?

5 A. Yes.

6 Q. And has that affidavit been marked as  
7 Mewbourne Exhibit B?

8 A. Yes.

9 Q. Is it true and correct to the best of your  
10 knowledge?

11 A. Yes.

12 Q. Can you please identify Mewbourne  
13 Exhibit B-1?

14 A. Yes. B-1 is two AFEs that we submitted  
15 for the Inland 2623 B2PI State Com IH and the Inland  
16 2623 B20J State Com 1H.

17 Q. Is this a true and correct copy of the  
18 AFEs?

19 A. Yes.

20 Q. When were those AFEs prepared?

21 A. January of 2020.

22 Q. Have you determined its estimated well  
23 costs?

24 A. I'm sorry?

25 Q. How does Mewbourne go about determining

1 its estimated well costs?

2 A. We are an active operator. I believe  
3 right now we're running 19 rigs in the Delaware  
4 Basin that certainly for the amount of time I've  
5 been here we've always operated drilling rigs and  
6 frac crews, so we take our, you know, most recent  
7 pricing that is coming in the door, you know, on  
8 billing statements and apply those going forward.  
9 So really it's just kind of realtime cost estimates.

10 Q. And were these AFEs and I can actually --  
11 let me try to -- making sure my screen, I think.  
12 Hopefully.

13 Okay. Can you see those?

14 A. Yes.

15 Q. Okay. And were those AFEs submitted to  
16 the Division in the pooling cases for the Inland  
17 B2OJ and B2PI wells?

18 A. Yes, they were.

19 Q. As part of the pooling orders did the  
20 Division approve those AFEs?

21 A. Yes, they did.

22 Q. And as far as your understanding goes,  
23 what does that mean?

24 A. That means that they were accepted as  
25 reasonable well costs.

1 Q. Do well costs -- oh, sorry, go ahead.

2 A. I was going to say, you know, as a pooling  
3 order, you know, these are valid for a year unless  
4 extended by the Division.

5 Q. Do well costs fluctuate?

6 A. Yes. All the time.

7 Q. Does Mewbourne revise its AFEs every time  
8 costs change?

9 A. We would be doing that likely daily so,  
10 no, we do not. And for the -- I mean, these are  
11 just estimates.

12 Q. Are these wells completed?

13 A. We began completion on these wells in  
14 February of 2021, and the wells were turned online  
15 for first production in March of 2020.

16 Q. Can you respond to Siana's allegation that  
17 the estimated well costs were inflated because  
18 actual costs declined due to COVID-19?

19 A. I don't know that the costs were inflated.  
20 They were appropriate when they were proposed.  
21 Certainly our actual well costs, you know, did  
22 decline as we performed these operations. You know,  
23 the kind of back end of 2020 our actual costs were  
24 lower than what we had originally estimated.

25 Q. Is there any requirement under the pooling

1 orders for Mewbourne to revise the AFEs when costs  
2 change?

3 A. Not that I'm aware of.

4 Q. And does the pooling order provide  
5 Mewbourne with one year to commence drilling?

6 A. Yes. And potentially an extension.

7 Q. It is your understanding the approved AFEs  
8 are valid at least for that time period?

9 A. It is.

10 Q. If Siana had signed a JOA would well costs  
11 be updated?

12 A. I believe the provision in most JOAs are  
13 for 120 days. So likely, yes, they would have been.

14 Q. Did Siana agree to sign a JOA?

15 A. They did not.

16 Q. Do the pooling orders provide for interest  
17 on a prepayment overage?

18 A. No.

19 Q. Do the pooling orders allow anyone to  
20 recover interest for an overpayment or adversely on  
21 an underpayment?

22 A. Not that I'm aware of.

23 Q. Let's look at Exhibit B-2. Can you  
24 identify that Exhibit, please?

25 A. Yes. This is an accounting of costs for

1 the Inland, I guess really for the wells drilled in  
2 this Inland prospect to date that, kind of in  
3 relation to these two AFEs where we estimated, you  
4 know, prior to drilling our well costs of being  
5 \$8 million on the Inland 2623 B2OJ, you know, our  
6 total estimated well costs is \$5.961 million and we  
7 have been billed that amount to date through all of  
8 our vendors.

9           And then, again, as to 2323 B2PI IH our  
10 total cost estimates are \$5.994 million and we have  
11 been billed all of that cost by our vendors as well.

12           I believe the other three wells mentioned  
13 in here have been drilled later in time. I believe  
14 those were spud at the end of 2021 and so you can  
15 see our cost estimates, you know, certainly are  
16 backed pretty close, you know, to the realm that  
17 these AFEs were prepared after the OJ and PI, you  
18 know. But, again, I think this is the state as of  
19 April of 2022. We still haven't received all our  
20 billed cost to date on those. So we haven't  
21 received all of our estimated costs we expect to be  
22 billed.

23           Q. Okay. Are the B2OJ and B2PI cost here,  
24 are those -- on the cost estimates for the B2PI and  
25 B2OJ, are those updated estimates?

1 Does that make sense?

2 A. Yes. Yes. So, right, we'll look at, you  
3 know, what we expect our bills to come in on kind of  
4 based on the daily drilling reports that we get, and  
5 the tickets that are received in the field that kind  
6 of what we expect our total cost estimate to be.

7 So I think here for these two wells it's  
8 really showing that we aren't expecting to incur any  
9 additional costs related to the drilling and  
10 completion of these two wells.

11 Q. Can estimated well costs be over or under  
12 the initial AFE?

13 A. Yes.

14 Q. Is it your understanding that Mewbourne  
15 sent Siana actual well costs?

16 A. Yes.

17 Q. And how did Mewbourne do that?

18 A. I believe they were submitted, you know,  
19 through JIBs on a monthly basis, the costs we were  
20 incurring.

21 Q. And would those documents have notified  
22 Siana of the actual well cost so it could have  
23 objected if it had an objection?

24 A. Certainly as to the actual well cost and  
25 then, you know, again, our daily drilling reports

1 are estimates. That's a fair indication, too. But,  
2 I mean, really for the actual well costs you would  
3 need to go off the billing statements.

4 Q. And did the B20J and the B2PI wells come  
5 in significantly under budget?

6 A. They did, yeah. They're about \$2 million  
7 under budget. I know that we certainly drilled  
8 these in a little bit less time than we had  
9 expected. I think maybe 26 days and maybe 3 days  
10 respectively.

11 I think we budgeted about 31 for each and  
12 so that helped contribute to the lower cost as well  
13 as just our, you know, costs coming down from our  
14 vendors.

15 Q. Is it usually considered a good thing when  
16 you come in under budget?

17 A. Around here it certainly is. I know with  
18 most of our partners, they're typically ecstatic.

19 Q. Did you get many working interest owner  
20 complaints about actual well costs when the wells  
21 are under budget?

22 A. We do not.

23 Q. Let's talk about lease operating expenses.  
24 Are you familiar with Mewbourne's charges  
25 for lease operating expenses?

1           A.    Yes, generally.

2           Q.    And to your understanding what do those  
3 expenses include?

4           A.    Lease operating expenses, you know,  
5 typically include pumping, fuel, power, electrical,  
6 chemicals, any, you know, anything to do with  
7 maintaining our facility. You know, the emissions  
8 equipment that we have out there. You know, any  
9 workovers that we have to perform. And certainly if  
10 I hadn't mentioned it, salt water disposal.

11          Q.    Are lease operating expenses part of  
12 Mewbourne's cost for operating these wells. These  
13 Inland Wells?

14          A.    Yes. Those are the operating charges.

15          Q.    Okay. So the fact that they're called  
16 lease operating expenses doesn't mean that they're  
17 not cost of operating the wells; is that correct?

18          A.    Yeah, that's correct. They're one in the  
19 same.

20          Q.    Let's talk about supervision charges for a  
21 minute. In the pooling orders what supervision  
22 charges did the Division approve?

23          A.    I believe \$8,000 a month while drilling  
24 and \$800 a month while producing.

25          Q.    Did Mewbourne comply with the Division's

1 order regarding the supervision charges?

2 A. Yes.

3 Q. And how do you know that?

4 A. Well, I've seen it on the statements but,  
5 I mean, that is our -- that is what we charge for  
6 overhead.

7 Q. Let's look at the completion reports.

8 And are you aware that Siana has claimed  
9 that Mewbourne failed to timely file completion  
10 reports?

11 A. I am.

12 Q. Can you please look at Exhibit B-3,  
13 identify that for the record?

14 A. Yes. This is the C-105 we filed. I guess  
15 the first page is for the Inland, the B2PI and this  
16 would be the third page here is for the Inland B2OJ.

17 Q. When were those C-105s filed?

18 A. April 19th of 2021.

19 Q. Were those reports filed timely?

20 A. Yes. I believe we have 45 days from first  
21 production, which was March 16th of 2021.

22 Q. Is Siana's claim that Mewbourne failed to  
23 timely file completion reports accurate?

24 A. It is not.

25 Q. In summary, Mr. Dunn -- I'm sorry, you're

1 not Mr. Dunn. Mr. Cude. I have the wrong witness  
2 here. I apologize. Are Siana's claims regarding  
3 the actual estimated well costs accurate?

4 A. I'm sorry, can you ask that again.

5 Q. Are Siana's claims regarding the actual  
6 and estimated well costs accurate?

7 A. No.

8 MS. HARDY: I have no further questions  
9 for Mr. Cude. I would move the admission of  
10 Exhibit B and its attachments, B-1 through B-3.

11 HEARING OFFICER BRANCARD: Any objections?

12 MS. SHAHEEN: No objection.

13 HEARING OFFICER BRANCARD: We are going to  
14 admit B-1 and B-3, but I have some questions about  
15 B-2 before we admit that.

16 (Exhibit B-1 and B-3 admitted.)

17 MS. HARDY: Okay.

18 HEARING OFFICER BRANCARD: Ms. Shaheen,  
19 questions?

20 MS. SHAHEEN: Thank you.

21 CROSS-EXAMINATION

22 BY MS. SHAHEEN:

23 Q. Good afternoon, Mr. Cude.

24 A. Good afternoon.

25 MS. SHAHEEN: If I could share once more.

1 Q (By Ms. Shaheen) I'm going to walk you  
2 through your testimony and then I have a number of  
3 other questions for you.

4 MS. SHAHEEN: Mr. McClure is going to  
5 allow me to share.

6 MR. MCLURE: I'm sure Marlene will be  
7 happy to. She is host.

8 MS. SHAHEEN: Oh, Marlene is here. Sorry,  
9 Marlene.

10 THE CLERK: Give me just one second.

11 MS. SHAHEEN: Okeydoke. All righty.

12 Q (By Ms. Shaheen) All right. And you  
13 recognize this, Mr. Cude, as your self-affirmed  
14 statement that you just were going over with  
15 Ms. Hardy, correct?

16 A. Yes.

17 Q. And let's start with just some basics.  
18 You state here that you have been a reservoir  
19 engineer with Mewbourne for over nine years.

20 What are your duties as a reservoir  
21 engineer at Mewbourne?

22 A. You know, really help kind of determine  
23 the, you know, productivity of different zones, help  
24 develop prospects, to go drill, and then, you know,  
25 certainly as wells come in, we monitor the

1 production on those. Make cash flow projections as  
2 to those, run economics on those.

3 And with that, you know, we're certainly  
4 involved in the cost side and production side as to,  
5 you know, what our expenses are, what our operating  
6 costs are, you know, to help input into our models.

7 Q. So do you, for example, create the AFEs?

8 A. Typically those are created in our Hobbs  
9 office, our operations group. You know, they're the  
10 ones receiving the updated billings, or, you know,  
11 invoices from our vendors and so, you know, they're  
12 the ones who know the updated costs and typically  
13 they put those together.

14 Q. So do you have any experience putting  
15 together AFEs?

16 A. I do, yes.

17 Q. Okay. Tell me a little bit about that  
18 experience.

19 A. You know, I certainly know what inputs go  
20 into them and so, you know, certainly within a  
21 certain timeframe, you know, I can generate one of  
22 those myself.

23 Q. Have you ever generated an AFE?

24 A. Yes, I have.

25 Q. You have? Okay. And so in Paragraph 3,

1 you are familiar with the engineering matters,  
2 including the well costs and the completion reports.  
3 And when you refer to the completion reports do you  
4 mean the C-105s?

5 A. Yes.

6 Q. And so did you complete these C-105s?

7 A. I did not.

8 Q. Okay. And I'm going to go through the  
9 same exercise that I've been through with just about  
10 everyone here. We're going to take a look at the  
11 order.

12 Do you see that, Paragraphs 24 through 28?

13 A. Yes.

14 Q. And if I understand from your testimony  
15 and as well as Mr. Dunn's testimony, Mewbourne's  
16 position is that by submitting the JIBs, they've  
17 submitted the requisite itemized schedule of actual  
18 well costs that is required by Paragraph 24.

19 Is that -- am I understanding that  
20 correctly?

21 A. Yes.

22 Q. And so I'm going to ask you the same  
23 question I asked Mr. Dunn and if I should ask  
24 Mr. Russell this, that will be great. I just want  
25 to make sure that I don't miss out on asking you

1 questions and then have Mr. Russell say, oh, you  
2 should have asked Mr. Cude. So bear with me.

3 With respect to these JIBs that are  
4 submitted on a monthly basis, what do you think is  
5 the trigger for the 45-day period after receipt of  
6 the schedule that would allow pooled working  
7 interest owners or the OCD to file a written  
8 objection?

9 A. Well, I mean I think you could take the  
10 conservative end here and say 180 days after the  
11 operator submits a Form C-105.

12 Q. So you're saying its up to the interest  
13 owner to identify all of the JIBs that have been  
14 submitted up to 180 days after the C-105 is filed  
15 and they should review all of those JIBs to  
16 determine whether there's any cost, well cost that  
17 they challenge.

18 Is this Mewbourne's position?

19 A. I mean, if they're interested in making a  
20 challenge as to the reasonableness of our well  
21 costs, I do think that that would be on them.

22 Q. And do you provide each of the pooled  
23 working interest owners with the C-105 when it's  
24 filed?

25 A. It's public record.

1           Q.    So are they supposed to just guess when it  
2 was filed? Are they required to look at the website  
3 every day to see if it has been filed? How does  
4 that work?

5           A.    Well, you know, typically, you know, we  
6 send daily drilling reports which will show a date  
7 of first production and, you know, we have 45 days  
8 to file the C-105.

9           Q.    Okay. So you're saying it's on the pooled  
10 working interest owner and I point out here that  
11 this definition of pooled working interest owner  
12 includes both consenting and non-consenting working  
13 interest.

14                    You're aware of that, right?

15           A.    Say that again.

16           Q.    So this paragraph here, you're required to  
17 submit the itemized schedule to all pooled working  
18 interests. Do you see that in the first two lines  
19 of Paragraph 24?

20                    And I hesitate to make you read it all  
21 into the record again or me read it all in the  
22 record again because we've done it more than once  
23 today. But I'll just point out, second line of  
24 Paragraph 24, "Operator shall submit to OCD and each  
25 owner of a pooled working interest."

1           And if you scroll up a little bit. Let me  
2 see if I can find it without too much trouble.  
3 You'll find the definition of a pooled working  
4 interest. Where is it? Oh, Paragraph 22, "Operator  
5 shall submit to each owner of an uncommitted working  
6 interest in the pool."

7           It's defined as pooled working interest.  
8 Okay. So I'm going to Paragraph 24, "The operator  
9 is required to submit to OCD and each owner of a  
10 pooling working interest, including those who have  
11 not consented, an itemized schedule of the actual  
12 well cost."

13           Do you see that?

14           A. I see that.

15           Q. And so if I understand your recent  
16 testimony you're saying that the pooled working  
17 interest are obligated to look at the daily drilling  
18 reports to see when the well was completed and then  
19 45 days after that look to see if there's been a  
20 Form C-105 filed.

21           Is that your testimony?

22           A. I didn't say they were obligated to, I  
23 said that they could.

24           Q. You're saying that if they wanted to  
25 challenge the reasonable well cost in a timely

1 manner, that they're going to have to go out there  
2 and look to see when the Form C-105 was filed. And  
3 then they're going to have to wait 180 days, and  
4 then they're going to look at all of the JIBs that  
5 they got within that 180 days and they're going to  
6 have to look, isolate all those well costs and  
7 figure out whether they're going to challenge any of  
8 them. That's how I understand you testimony.

9 Am I getting that wrong?

10 A. I mean, that's a possibility, yes. They  
11 can also contact us.

12 HEARING OFFICER BRANCARD: I don't think  
13 you wanted to say that.

14 Q (By Ms. Shaheen) Are you aware that Siana  
15 has contacted, in fact, contacted Mewbourne numerous  
16 times by email, by written correspondence and I  
17 believe also by telephone requesting these costs?

18 MS. HARDY: I object to form of the  
19 question. I think that Ms. Shaheen's really  
20 testifying.

21 MS. SHAHEEN: Well, I'm asking him if he's  
22 aware.

23 MS. HARDY: You can ask him that.

24 MS. SHAHEEN: Okay. That's what I thought  
25 I asked him.

1 Q (By Ms. Shaheen) Are you aware that Siana  
2 has reached out numerous times by email, by letter,  
3 by telephone requesting Mewbourne for the itemized  
4 schedule of actual well costs?

5 A. I heard that in the testimony today, yes,  
6 and also I believe that we had testified that we  
7 have provided Siana with the itemized costs.

8 Q. What has been testified to is that you've  
9 provided them with the JIBs and Mewbourne's position  
10 is that the JIBs are the itemized schedule, correct?

11 A. Yes.

12 Q. And so what I'm trying to figure out is  
13 how these timelines, these triggers work if  
14 Mewbourne was correct and submitting these JIBs on a  
15 monthly basis satisfies Paragraph 24, how do we know  
16 when that 45 period time for objections is  
17 triggered? That's what I'm having a hard time with.

18 And so just going back to my last  
19 question, well one of my last questions, which is  
20 you testified that the working interest owner should  
21 look at the daily drilling reports, see when the  
22 well is committed -- excuse me, completed and then  
23 look to see whether a Form C-105 has been filed.

24 Is that your testimony?

25 A. I believe I testified that they could.

1 Q. Okay. But if they wanted to know when  
2 they would -- when their objection period starts,  
3 they would have to do that, correct?

4 A. They would.

5 Q. Okay.

6 A. In this case.

7 Q. Under this order, correct?

8 A. I guess I'm confused by your question.

9 Q. Okay. Let me ask it again because I'm  
10 trying to base it on what your testimony was.

11 If an operator, excuse me, if a working  
12 interest owner wanted to object to the actual well  
13 costs, okay, they would have to look at the daily  
14 drilling report, see when the well was completed,  
15 check the OCD website on a regular basis within  
16 45 days to see if a Form C-105 and hope that OCD  
17 actually posted it timely, so that they would know  
18 when their period started to run to object; is that  
19 right?

20 A. Potentially, yes.

21 Q. My understanding based on your testimony  
22 and Mr. Dunn's testimony is that's the only way a  
23 pooled working interest owner would know when its  
24 time period is -- 45-day time period starts to run.

25 Am I getting that wrong?

1           A.    You know, I don't know if, you know,  
2 whether it has been requested of us.  If all of our  
3 well costs have come in so that we have an actual,  
4 you know, when we have a full accounting of an  
5 actual well cost.  And so, correct, I mean, I'm  
6 saying, you know, you're asking me to read the  
7 order.  It says that no later than 180 days after we  
8 submit a C-105 you would have 45 days to object, and  
9 so what I'm testifying is that that is a  
10 possibility, you know, outside of asking us that,  
11 you know, particular questions as to when this date  
12 should start, you know, this, that, or the other.

13                 So, yes, potentially that's what you would  
14 need to do.

15           Q.    And we talked earlier about the fact this  
16 itemized schedule of this actual well cost is  
17 supposed to go to all of the pooled working interest  
18 owners, correct?

19           A.    Yes.

20           Q.    Okay.  Now, are the non-consenting pooled  
21 working interest owners getting JIBs?

22           A.    I don't know the answer to that.

23           Q.    Does Mewbourne generally provide JIBs to  
24 non-consenting pooled working interest?

25           A.    Yeah, that's an accounting question.  I'm

1 not certain.

2 Q. On a monthly basis. Okay. So I need to  
3 ask Mr. Russell that. And do you know whether those  
4 non-consenting pooled working interest owners get a  
5 daily drilling report?

6 A. I do not believe that they do.

7 Q. So if they don't get a daily drilling  
8 report, how do they know when the well is completed?

9 A. Well, there's a C-105 filed of record.

10 Q. If I understood your previous testimony,  
11 the way you would know to look for the Form C-105 is  
12 you look at the daily drilling report to see when  
13 the well was completed. And then you check OCD  
14 website to see if a Form C-105 has been filed within  
15 45 days.

16 Is that your previous testimony?

17 A. I testified that you could do that, yes.

18 Q. Okay.

19 A. It's a public record. You can look at it  
20 anytime you want.

21 Q. Right. And we talked about the fact that  
22 what we're trying to do is figure out the trigger  
23 date for the 45-day period to object, right?

24 A. Right.

25 Q. Right. So if you have got to look at the

1 daily drilling report to see when the well was  
2 completed to know to look for the Form C-105 and the  
3 non-consenting pooled working interest owner doesn't  
4 get a daily drilling report, well, they're -- pardon  
5 my language, they're SOL, right? They don't know.  
6 They don't know when the well was completed, they  
7 don't know when to look for the Form C-105, they  
8 don't know when their objection period starts.  
9 Wouldn't you agree?

10 A. I don't believe that that's true. They  
11 own an oil and gas interest, they chose to go  
12 non-consent. Under the pooling order they would  
13 have, you know, they would bear some burden of  
14 responsibility to look for a C-105 if they wanted to  
15 object to our well costs.

16 Q. Is that what Paragraph 24 says?

17 A. I mean, it says no later than 180 days  
18 after the operator submits a C-105 for a well,  
19 operator shall submit to the OCD and each owner of a  
20 pooled working interest an itemized schedule of the  
21 actual well cost.

22 Q. Right.

23 A. But then they would have 45 days to file  
24 an objection.

25 Q. Right. But if they don't know when the

1 C-105 was filed, they don't know when the 45 days  
2 starts, right?

3 A. I'm confused by why would -- I don't  
4 understand your question.

5 Q. I read this to put an obligation on the  
6 operator to submit an itemized schedule of the  
7 actual well cost which triggers the 45 days for  
8 objections.

9 Do you read it that way as well?

10 A. Yes.

11 Q. Okay. Now, if -- and you're saying that,  
12 you know, maybe I'm starting to beat another dead  
13 horse here.

14 MS. SHAHEEN: Mr. Brancard, feel free to  
15 jump in if you think I am.

16 HEARING OFFICER BRANCARD: You know, I'm  
17 not sure you're going to get more on this issue.

18 MS. SHAHEEN: Okay.

19 Q (By Ms. Shaheen) I'm going to go back to  
20 your testimony now, see if I can find it fairly  
21 quickly. Oh, I'm in the wrong -- sorry, I'm in the  
22 wrong document. There we go. Actually maybe I do  
23 want to go back to the order. Because we never got  
24 past Paragraph 24.

25 Let's take a look at Paragraph 26. "The

1 reasonable charges for supervision to drill and  
2 produce a well, 'supervision charges' shall not  
3 exceed the rates specified in Exhibit A provided,  
4 however, that the rates shall be adjusted annually  
5 pursuant to the COPAS."

6 Let's take a look at those, some of those  
7 JIBs here. All right. So before we get started  
8 with the JIB, I do have a couple other questions.

9 What is Mewbourne's standard practice in  
10 terms of moving charges that are incurred under the  
11 AFE to moving charges to LOE or to operating  
12 charges? When does that occur?

13 A. I may need to defer to Don on this, but I  
14 believe, you know, there are codes related to, you  
15 know, drilling and completion costs and so we, you  
16 know, if we perform, you know, if we do something  
17 that is attributable to one of those AFE codes it  
18 gets billed that way and then if it is, you know,  
19 after the fact relating to the operating of the  
20 producing well, that is -- that's billed as a lease  
21 operating expense or an operating charge for, you  
22 know, interchangeable terms.

23 Q. Okay. Let me make sure I understand. I  
24 think I may not.

25 Are you saying that if you incurred

1 something while drilling and completing the well,  
2 that you get an invoice for after the well is  
3 producing, then it goes on the LOE?

4 A. No, I'm not saying that. That would be  
5 billed to the AFE.

6 Q. Oh, okay. So are you saying that charges  
7 are -- so that you get -- someone gets the invoice  
8 and they decide whether it relates to drilling and  
9 completion or whether it relates to lease operating  
10 expenses.

11 Are you saying that occurs?

12 A. Yes. And then I could, you know, maybe  
13 Don can answer this better. I believe we have some,  
14 you know, systems in place where vendors can submit,  
15 you know, costs digitally to us and then we would  
16 then code them, you know, as such depending on what  
17 service it is. And then it would go under the  
18 correct bucket.

19 Q. So it's Mewbourne that codes those?

20 A. I believe that the vendor is supposed to  
21 identify which one it is but, you know, yes we then  
22 do, you know, verify which code it gets placed in.

23 Q. Okay. So there's not --

24 A. Mr. Russell would be able to testify to  
25 that better than I.

1 Q. Okay. So there's a date certain when  
2 things get moved to LOE versus they're attributed to  
3 the AFE or that come under the AFE. There's not a  
4 date certain?

5 A. I don't know what you mean by a date  
6 certain. As far as a hard date on anything that is  
7 billed, you know, after that set date becomes LOE  
8 versus, you know, is it attributable to an AFE,  
9 right, there's not a set date that, say, if we got a  
10 bill for drilling bids after the well was producing,  
11 we would code that as LOE. We would not, we would  
12 code that to the drilling and completing AFE. We  
13 don't control when our vendors submit, you know,  
14 their invoices to us.

15 Q. Uh-huh. Do you look at the date of the  
16 invoice and say, "Oh, that's when we were drilling"?

17 A. Yes.

18 Q. And if it was, if you got an invoice for  
19 drilling bits, for drill bits, and it was for drill  
20 bits that you received after drilling, where would  
21 you put that?

22 A. I'm confused by your question. I also  
23 can't answer a hypothetical. I don't know that that  
24 case would exist.

25 Q. So you're saying you've never seen that

1 happen before?

2 MS. HARDY: You know, I object. I think  
3 Mr. Cude has stated that he's not an accounting  
4 witness. He has expertise in the well cost. He  
5 hasn't testified that he has an expertise in  
6 accounting.

7 MS. SHAHEEN: Okay. I'll save that for  
8 Mr. Russell.

9 Q (By Ms. Shaheen) If I understand correctly  
10 you are testifying about the supervision charges; is  
11 that right?

12 A. I testified that we comply with the order,  
13 yes.

14 Q. Well, on your testimony in paragraph --

15 A. I'm saying, yes, I testified that we  
16 charged the correct supervision charges as provided  
17 for in the order.

18 Q. Oh, okay. So in those costs, those  
19 supervision charges were what?

20 A. \$8,000 a month for drilling and \$800 a  
21 month while producing. Adjustable for COPAS, as you  
22 mentioned.

23 Q. So we're looking here at the JIB for  
24 April 30, the invoice date. Wait, invoice date  
25 April 30, 2021, billing for April of 2021.

1 Do you see that?

2 A. Yes.

3 Q. Let's scroll down here. Here we are at  
4 the Inland B2, and just, I'll just note that when we  
5 get these JIBs they're for different -- they're for  
6 all of the wells that are operated by Mewbourne in  
7 which Siana has an interest, right?

8 A. I mean, I think all of the wells are on  
9 there. I've seen where they're separated by the  
10 well.

11 Q. Right. So I'm scrolling down here to the  
12 B2PI.

13 Do you see that?

14 A. Yes.

15 Q. And do you see we have company  
16 supervision?

17 A. Yes.

18 Q. Okay. And there's a number of company  
19 supervisions here, right?

20 A. Yes.

21 Q. We have here company supervision on  
22 Page 116 and then we have one, two, three, four,  
23 five company supervisions here.

24 Do you see that?

25 A. Yes.

1 Q. Can you tell me what those company  
2 supervision charges are for?

3 A. Yes. They're related to, you know,  
4 Mewbourne contractors that are boots on the ground  
5 performing, you know, the daily activity, you know,  
6 whether it be, you know, on the rig floor while  
7 we're running casing, managing the directional plan.  
8 There's time spent by company personnel actively  
9 engaged in the drilling, completion and producing of  
10 these wells.

11 Q. And are they third-party contractors?

12 A. I believe we have those as well. I think  
13 under the company version, you know, there is  
14 probably just a little bit, you know, the naming is  
15 the same convention here but they are, you know,  
16 essentially active contractors that do work for  
17 Mewbourne.

18 I think Mewbourne's, you know, policy or  
19 not policy but kind of just view throughout the  
20 years has been that, you know, rather than hiring a  
21 third-party, we're better having those people  
22 in-house to perform these activities.

23 Q. Okay. So these company supervision  
24 charges here that we're looking at, do these relate  
25 to the 8,000 supervision?

1 A. They do not.

2 Q. They do not. Okay. This is a different  
3 supervision charge than the \$8,000?

4 A. Yes.

5 Q. And where does this fall under the order?

6 A. It's an operating charge.

7 Q. And do we know what -- and here again this  
8 is, again, April 2021 for April. This is for April  
9 2021 when the well is producing and these are  
10 intangible well costs from Mewbourne for company  
11 supervision.

12 So these are AFE costs that are billed in  
13 the April JIB at which time the well was simply  
14 producing. You were not no longer drilling and  
15 completing; is that right?

16 A. Well, you know, the cost billed under the  
17 intangible well costs would be for drilling and  
18 completing. We do have a line item A -- a line item  
19 on our AFE related to company supervision, you know,  
20 that Mr. Ragsdale approved.

21 Q. So but my question is, these are charges  
22 for supervision in April for drilling and completion  
23 but you finished drilling and completion, my  
24 understanding based on Mr. Dunn's testimony these  
25 wells were completed in February.

1           A.    I think completion started in February and  
2 Don can probably testify to this better than I can.  
3 But the billing date, you know, and the invoice  
4 date, you know, doesn't necessarily correspond to  
5 the, you know, what is happening that day of the  
6 calendar.

7           Q.    Okay.  I'm just recalling I made a note  
8 here about Mr. Dunn's testimony.  He testified that  
9 the wells were completed on February 8 of 2021.

10                  Do you recall that testimony?

11           A.    Yes.  We began completion on February 8 of  
12 2021.

13           Q.    Okay.  That is not what Mr. Dunn testified  
14 to.  So you're saying that the wells were actually  
15 completed on a different date.  When were the wells  
16 completed.

17           A.    We began completions on February 8 of 2021  
18 and then we turned them to the first sales March 16  
19 of 2021.

20           Q.    So your testimony now is that they were  
21 completed on March 17 of 2021; is that correct?

22           A.    I think we're saying the same thing.

23           Q.    You think who's saying the same thing?

24           A.    Brad and I.  And, yes, you.

25           Q.    Okay.  Well, let me rephrase that so I

1 don't distract from the issue.

2 Your testimony is that the wells were  
3 completed March 17 of 2021; is that right?

4 A. No.

5 Q. When were the wells completed?

6 A. We began completions on February 8 of 2021  
7 and we put them to first sales on March 16 of 2021.  
8 So typically that, you know, first sales is a date  
9 that the completion was finished.

10 Q. Okay. So your testimony is that the wells  
11 were completed when they go online and that date was  
12 March 17th, 2022; is that right?

13 A. No, I believe March 16 of 2021.

14 Q. Oh, sorry, March 16, 2021. Okay. So  
15 going back to those JIBs and those supervision,  
16 company supervision charges for intangible well  
17 costs, the way I read this JIB, which is billing for  
18 April of 2021, you're charging company supervision  
19 for drilling and completion that occurred in April  
20 of 2021.

21 Is that a correct way to read this JIB?

22 A. I would have to refer to Don on that. I  
23 mean, this is the bill date that it was billed in  
24 April.

25 Q. Right. And it says billing for April

1 2021.

2 A. Correct. I mean, I guess I would say  
3 here, you know, horizontal drill-out services,  
4 stimulation rentals and others, I mean, we had  
5 finished the completion of the well before  
6 March 16th. And so, you know, when these charges  
7 were billed, you know, it could be different from  
8 when they were performed. But, you know, as to each  
9 line item, you know, charged here I can't confirm  
10 the date.

11 Q. Well, in fact, there is no date for each  
12 line item, is there?

13 A. I don't see one. But, like I said, I'm  
14 not an expert at this. You know, Mr. Russell may be  
15 able to shed more light on this for you.

16 Q. Okay. Maybe I'm getting confused with  
17 accounting and well costs because I thought you  
18 talked about well costs, you might be able to help  
19 me out here.

20 One other question I have here, so we  
21 don't know, we just see company supervision for  
22 Mewbourne Oil Company several times here, right?  
23 But we don't know what Mewbourne Oil Company did, do  
24 we? That's not identified here, is it?

25 A. I don't see it, no.

1 Q. Scrolling down here now we get to tangible  
2 well costs. What are tangible well costs?

3 A. Well, in the AFE it breaks those out. So,  
4 you know, tangible well costs, you know, related to  
5 the rig day rate, stimulation, bits, there's company  
6 supervision in there.

7 Q. Let's take a look again at that. Well,  
8 where is the company supervision under tangible well  
9 costs?

10 A. I believe it is 0180-0195 on our AFEs.

11 Q. Oh, I'm talking about the JIBs. I'm  
12 looking at the JIBs.

13 MS. HARDY: I'm going to object again. I  
14 think Mr. Cude has offered opinions about the AFEs.  
15 He hasn't offered opinions about JIBs. He's not an  
16 accounting expert. Our expert on accounting and  
17 JIBs will be Mr. Russell.

18 MS. SHAHEEN: Okay. Then I'm just  
19 asking -- really I started out with just supervision  
20 because I understand that Mr. Cude is talking about  
21 supervision.

22 MS. HARDY: Under the AFEs.

23 MS. SHAHEEN: Okay. Well, that was not  
24 specific. But let me just quickly make sure he's  
25 not the right person here.

1 Q (By Ms. Shaheen) Now I've scrolled down  
2 still on the same well. Still on the same period  
3 and now this is lease operating expense for April.

4 Do you see at the bottom of the page on  
5 118?

6 A. I'm sorry, what was your question, the  
7 supervision?

8 Q. Yeah. I'm just asking you to look right  
9 here at the -- where my cursor is, see all these  
10 company supervision --

11 A. Yes.

12 Q. -- items and again they're all Mewbourne  
13 Oil Company?

14 A. Yes.

15 Q. Right? \$600, \$1200, \$1800, \$1200, \$2,208,  
16 \$600 and \$1200.

17 Do you see that?

18 A. Yes.

19 Q. Okay. So this is for the same time period  
20 as all those other company supervision charges that  
21 were attributed, as I understand your testimony, to  
22 drilling and completion, right?

23 A. As far as the billing is concerned?

24 Q. As far as the JIB -- I'm sorry, go ahead.

25 A. You're asking me it's the same time period

1 as far as the billing date?

2 Q. Right.

3 A. I see that it's on the same JIB, yes.

4 Q. Okay.

5 A. And then it's separated --

6 Q. Do we know somehow when these costs were  
7 incurred?

8 A. Maybe there's more detail provided. Maybe  
9 Don could testify to that, I'm not sure. Looking at  
10 this I don't see a date next to each charge as to  
11 when they're incurred.

12 Q. Okay. Would it be fair to say that if I  
13 wanted to ballpark the company supervision charges  
14 for April of 2021, we're looking at about, let me  
15 see, six plus 72, 84, 9, little bit more than that.

16 Okay. Little more than 9 for the drilling  
17 and completion costs. And then probably about the  
18 same for at least operating expenses.

19 Okay. So close to \$18,000 in company  
20 supervision charges for April of 2021; is that  
21 right?

22 MS. HARDY: I object to lack of  
23 foundation. I think Mr. Cude has testified that he  
24 has not the expert on JIB accounting.

25 MS. SHAHEEN: Okay. I'll save that for

1 Mr. Russell.

2 A. I think I did -- may misspeak earlier.  
3 You were asking me about the intangible or the  
4 tangible well costs, and I apologize, I was slightly  
5 confused. Intangible well costs are for equipment,  
6 just to clarify the record.

7 Q (By Ms. Shaheen) Intangible well costs are  
8 for equipment?

9 A. Tangible well costs so --

10 Q. Oh, okay.

11 A. -- casing, facilities, you know, any  
12 artificial lifts. I apologize.

13 Q. Okay. Now I'm going to go to your  
14 Exhibit B. Is it Exhibit B-2. Let's see if I can  
15 find that quickly. Oh, I've got to go back to the  
16 other one.

17 Okay. Here's your Exhibit B-2. If I  
18 understand your previous testimony, you're saying  
19 that the second column shows the total cost estimate  
20 for each of these five wells and we're just going to  
21 focus on the OJ well and PI well right now.

22 Do you see that?

23 A. Yes.

24 Q. And you've got the total cost estimate for  
25 the OJ well as \$5,961.20.

1 Do you see that?

2 A. Yes.

3 Q. Now if you go back to the AFE -- oh, yeah,  
4 5 million. Sorry, being corrected here. \$5,961,000  
5 and some change.

6 Okay. So now I'm going to go back to the  
7 AFE and this is the OJ, right?

8 A. Yes.

9 Q. For the OJ. Here's the OJ. All right.  
10 And if you look at the bottom of the AFE, the total  
11 well cost here is \$8,037,300.

12 So can you explain the discrepancy between  
13 the AFE and your number here under total cost  
14 estimate?

15 A. Yes, absolutely. So I believe these are  
16 from April of 2022. You know, the total cost  
17 estimate based on, you know, field tickets, I guess,  
18 really while we have received in the field for  
19 services performed that's what we estimate, you  
20 know, now as of today, but April for this matter,  
21 our total cost to be.

22 So it's a different number than the AFE.  
23 It's just an accounting of the, you know, costs that  
24 we have incurred, you know, for the services  
25 performed.

1 Does that answer your question?

2 Q. Well, I think it kind of did until it got  
3 to the end where you talked about the services that  
4 you performed. So this relates to Mewbourne's  
5 services that it performed?

6 A. No. All of the services performed by  
7 Mewbourne or third-party contractors, you know, to  
8 the well.

9 Q. Okay. So when you -- when you were done  
10 with drilling, let me make sure I understand. When  
11 you were done with drilling, you estimated the cost  
12 up to date, kind of like what the daily drilling  
13 report does; is that right?

14 A. The estimate, yes.

15 Q. Okay. So this is the estimate that would  
16 have gone on the daily drilling report.

17 Is that what you're saying?

18 A. This is the estimate that would have gone  
19 on the date. I guess we try to track costs, you  
20 know, all through the company. This is -- this is,  
21 you know, at the end of the month looking at the --  
22 it's not the costs, per se, that would be on the  
23 actually drilling report, no.

24 You know, we have gotten field tickets  
25 potentially. Field tickets, you know, from vendors

1 other time and charges to the well, and so we're  
2 adding those up to estimate what our total costs  
3 would be. And maybe it will help if I say that the  
4 third column, the column to the right of that is  
5 what we have actually been billed for.

6 So we're estimating what we will be billed  
7 for in the second column and the third column is  
8 what we actually have been billed for. So in the  
9 case of these two wells, you know, what we're saying  
10 here is that we're not expecting any additional  
11 costs to be incurred.

12 Q. So what the third column says, "Total bill  
13 to date." What is that date?

14 A. I believe this was April of 2022.

15 Q. Okay. And so the total cost estimate,  
16 what is the date for those numbers?

17 A. I mean, it was updated in April of 2022.

18 Q. Okay. I'm a little confused. You're  
19 telling me that you're estimating what the costs  
20 were, and you're totaling up what you were billed to  
21 date in the same month?

22 A. Well, I'm saying, I mean, potentially our  
23 estimated total cost hasn't change for a number of  
24 months. I don't have that date in front of me here.

25 Q. Okay. I guess I just don't understand the

1 significance of these numbers if you did them both  
2 at the same time. If it's estimate and it's what  
3 the billed to date, I'm a little confused.  
4 You're -- especially with respect to the OJ and the  
5 PI.

6 A. I guess the intention of this exhibit is  
7 to say that our actual well costs are 5.692 million,  
8 you know, approximately for the B2OJ and  
9 \$5.994 million for the B2PI. And, you know, that is  
10 what we have been billed to date and we aren't  
11 expecting any additional costs to come in. I'm  
12 testifying that these are the well costs.

13 Q. Okay. I understand the third column, I  
14 just don't understand the second column. And maybe  
15 we should go back to your testimony so I can  
16 understand what the point of B-2 is. A summary of  
17 the estimated, the total actual cost aligned with  
18 the estimated costs.

19 A. Yeah. I think, you know, potentially, you  
20 know, I testified the top -- the costs can change  
21 and they vary and they are cost estimates and so,  
22 you know, here wells drilled in the same section,  
23 the B2ML, the B2NK, you know, those have different  
24 costs than the B2OJ, B2PI.

25 Q. Okay. And this is something that you

1 developed in April of 2022, right?

2 A. For this hearing, yes.

3 Q. For this hearing. I'm just trying to  
4 reconcile that with the 45-day period to object to  
5 reasonable well costs.

6 And I don't have a good question for you  
7 right now, but let me go back to my notes and maybe  
8 I will find that.

9 Can you, with respect to B-2 and these  
10 costs, can you tell us what percentage of the total  
11 AFE cost has been paid out to date by the revenue?

12 A. I do not have that information in front of  
13 me.

14 Q. Okay. You testified earlier about  
15 revising AFEs under JOAs.

16 Do you recall that?

17 A. Yes.

18 Q. And you stated that you recollect that you  
19 are required to revise those AFEs every 120 days.

20 Do you recall that?

21 A. I said that that can be a provision in a  
22 JOA, yes.

23 Q. Is it a provision in the JOA for these  
24 wells?

25 A. I'm not certain. I believe it is, but I

1 do not know for sure.

2 Q. Did you revise the AFEs at any point prior  
3 to seeking payment of estimated costs?

4 A. Did we revise -- can you ask that again,  
5 please?

6 Q. Yeah. Did you revise those January 2020  
7 AFEs prior to the time you sent out the election  
8 letter?

9 A. For the -- for the pooled parties, no.

10 Q. I'm asking did you do it at all. Did you  
11 do it for the parties under the JOA?

12 A. I believe we did, but I don't believe that  
13 it was before, you know, the AFE went out under the  
14 pooling order. After we drilled these wells in  
15 December of 2020.

16 Q. So if you -- if these AFEs were first  
17 created in January of 2020 and there was a provision  
18 in a JOA every 120 days, then you would have had to  
19 revise those AFEs May 2020?

20 MS. HARDY: I object to the relevance of  
21 these questions because Siana didn't sign a JOA,  
22 they elected to be pooled. So I'm not sure what the  
23 relevance of potential JOA provisions that he  
24 doesn't have in front of him are.

25 MS. SHAHEEN: I think it's significant

1 that if Mewbourne revised the AFEs and they got a  
2 letter from Mr. Ragsdale asking them for revised  
3 AFEs after they had revised them and they refused to  
4 provide them to him, I think that's significance. I  
5 think that's relevant.

6 HEARING OFFICER BRANCARD: You know,  
7 Ms. Shaheen, I think I've already stated that AFEs  
8 are not an issue here. Actual well costs are. AFEs  
9 are not.

10 Q (By Ms. Shaheen) Is there someone in  
11 particular at Mewbourne who's responsible for making  
12 sure that Mewbourne complies with the forced pooling  
13 orders?

14 A. One person?

15 Q. Or a team? Just wondering if there's some  
16 sort of responsible person or persons at Mewbourne  
17 who's responsible for making sure that Mewbourne  
18 complies with the forced pooling orders.

19 A. Yeah, I don't if there's one particular  
20 person, or necessarily a dedicated team. We have  
21 the land administration group and Tyler, but, I  
22 mean, you know, they're -- the pooling order covers  
23 a wide array of kind of different responsibilities.

24 Q. So is there's no one particular team  
25 that's responsible for making sure you're complying

1 with the orders; is that right?

2 A. Fully? Like every provision of the order  
3 that there's a dedicated team to doing that?

4 Q. Or someone who may be managing all of the  
5 teams to make sure that Mewbourne is complying with  
6 the forced pooling orders?

7 A. I'm not certain.

8 Q. If Mewbourne was a pooled, forced pooled  
9 owner, would Mewbourne want to receive the drilling  
10 reports, the notice of the C-105, the itemized  
11 schedule, the actual drilling and completion costs?

12 HEARING OFFICER BRANCARD: Ms. Shaheen,  
13 I --

14 A. I don't know that I can answer that.

15 HEARING OFFICER BRANCARD: I'm not sure  
16 what the point of that is. It's pure speculation.  
17 I'm not sure that Mr. Cude can speak on behalf of  
18 Mr. Mewbourne.

19 MS. SHAHEEN: You're not sure that  
20 Mr. Cude can speak on behalf of Mewbourne?

21 HEARING OFFICER BRANCARD: Yes. I mean,  
22 he is not the CEO.

23 MS. SHAHEEN: Well, I guess that's true.  
24 He is here as a witness for Mewbourne.

25 HEARING OFFICER BRANCARD: Right. But

1 you're asking for a company policy. I don't --

2 MS. SHAHEEN: If he doesn't know --

3 HEARING OFFICER BRANCARD: You're asking  
4 him to speculate about company policy here. Come  
5 on.

6 MS. SHAHEEN: Okay, okay. I'll move on.  
7 The last question I have -- well, I got to double  
8 check that's my last one.

9 Q (By Ms. Shaheen) In your Exhibit C-4, and  
10 it's a few emails with one of Siana's employees,  
11 Doris Biddy. Let me just --

12 A. Are you referring to Mewbourne's  
13 Exhibit C-4?

14 Q. Yeah. I'm referring to your Exhibit C-4.

15 A. Like I said, that's for B.

16 Q. Oh, that's right. That's Mr. Russell. My  
17 apologizes.

18 MS. SHAHEEN: Okay. I think I pass the  
19 witness. Thank you very much. You were very  
20 patient with my questions.

21 HEARING OFFICER BRANCARD: Thank you.  
22 Mr. McClure?

23 MR. MCLURE: Yes, sir. Mr. Brancard, I  
24 guess I do just have very limited questions that's  
25 asked Mr. Crude. Hope I'm saying your last name

1 correctly. Mr. Crude, isn't it?

2 THE WITNESS: Cude, but no worries. I  
3 wish it had an R in it. It would be much more  
4 fitting for my profession.

5 MR. MCLURE: I guess, I gotcha. I guess I  
6 just had a quick question. In regards to the  
7 consultant charges during drilling, is that limited  
8 to services such as like the rig proofers, maybe  
9 somebody, like, from Haliburton monitoring returns  
10 from the bottom hole assembly, stuff like that, is  
11 that kind of what that's limited to, or were there  
12 actually rig consultants overseeing the operations  
13 of the rig itself?

14 THE WITNESS: Yes, sir. There are, you  
15 know, there are a lot of activities that go on, on a  
16 rig those days. It's a huge operation. And so we  
17 do have, you know, consultants that manage the  
18 day-to-day. You know, they obviously have to call  
19 for different services. They have to have, you  
20 know, casing delivered on the location, get it  
21 inspected, all these different types of things to  
22 coordinate with the mud and chemical companies, you  
23 know, all those different types of things that are  
24 required.

25 We, in some instances we use a third-party

1 contractor to do that. You know, they're all in the  
2 rig and in other instances, you know, we view that  
3 we have drilling engineers qualified to perform that  
4 task as well. And so under company supervision, I  
5 guess, maybe that isn't perfectly named here. You  
6 know, they are performing that duty on the rig or  
7 coordinating with the mug bogging group, the  
8 directional group, you know, what have you.

9 MR. MCLURE: But I guess would the  
10 contractors that are performing the general duties,  
11 I guess what I just call a rig consultant, I guess,  
12 are they being charged out as part of the \$8,000 a  
13 month supervision? Are they being considered in  
14 that category or not?

15 THE WITNESS: I mean, no, absolutely not.  
16 You know, they, I believe their charge is almost  
17 \$3,500 a day.

18 MR. MCLURE: Yeah, yeah.

19 THE WITNESS: You (audio cut out) \$8,000  
20 pretty quickly.

21 MR. MCLURE: Yeah. I was thinking like --

22 THE WITNESS: We view those supervision  
23 rates in the pooling order as the overhead charges.  
24 And so, you know, \$8,000 a month attributable,  
25 comparable for Mewbourne as the operator, you know,

1 for overhead, and that's, you know, 8,000 a month  
2 during drilling, \$800 during producing.

3 But, right, I mean, a contractor is far  
4 more expensive than that.

5 MR. MCLURE: But I mean as far as -- and,  
6 yeah, I was going to say the latest, now this was,  
7 you know, greater than a decade ago. You know,  
8 greater than \$2,000 a day, I guess. But I guess my  
9 question then so the \$8,000 a month you would see as  
10 being like, say, for your own drilling engineers.  
11 Is that kind of what then would be under the company  
12 supervision for the \$8,000 a month?

13 THE WITNESS: I think we view that as --  
14 that that is the overhead rate. And so sure there  
15 is some company supervision that falls into the  
16 overhead portion, you know, it's not boots on the  
17 ground per se. Now we do have company personnel  
18 that are boots on the ground that we do not put into  
19 that category. We basically treat them as a  
20 contractor.

21 You know, they are a company contractor  
22 day-in and day-out on the rig. And so their time  
23 gets billed that way. And, you know, I think  
24 historically Mewbourne has been a low cost operator,  
25 you know, obviously here on this case, you know, we

1 came in \$2 million under budget. I think we  
2 attribute our success as a company to having that  
3 company, you know, company personnel staffing the  
4 rigs, staffing the frac crews on location, if that  
5 makes sense.

6 MR. MCLURE: Yes.

7 THE WITNESS: Rather than paying, you  
8 know, some third party to do it.

9 MR. MCLURE: I hear you. Hence why you're  
10 contracting, Mewbourne contracting to itself, I  
11 guess, is what you're saying or different  
12 departments of Mewbourne.

13 THE WITNESS: Yes.

14 MR. MCLURE: Different work groups, maybe,  
15 in the process.

16 THE WITNESS: Yes, essentially.

17 MR. MCLURE: Okay. Now I believe and I  
18 don't know if I heard you correctly. Did you state  
19 that the wells were drilled and completed in the --  
20 was it 25 days and 23 days or did I mishear you?

21 THE WITNESS: Well, I guess we -- the rigs  
22 or the wells were drilled and, I guess, casing ran,  
23 cemented and rig release, you know, I think it was  
24 26 and 23 days for the two wells.

25 Now, the frac job and everything that

1 entails, you know, to prepare the well for  
2 production, so the stimulation and preparing the  
3 well for production, that's additional time outside  
4 of those days.

5 MR. MCLURE: Okay. Thank you. Just as --  
6 do you have a rough estimate about how long the  
7 completion took in addition to the drill days?

8 THE WITNESS: In total it takes about a  
9 month, I mean just, you know, the frac and then  
10 drilling out all the plugs and getting it ready to  
11 produce. I mean, that portion of the completion, I  
12 think, like I stated, we started on February 8th and  
13 turned the well online March 16th, so just over a  
14 month.

15 MR. MCLURE: Okay. I got you. So then  
16 that, the February 8th to the March 16th would be  
17 the total time for drilling and completion then,  
18 correct?

19 THE WITNESS: Yes, sir.

20 MR. MCLURE: Okay. Thank you.

21 I have no more questions, Mr. Brancard.

22 HEARING OFFICER BRANCARD: Thank you.

23 Okay. Mr. Cude, I am really confused by  
24 your exhibits.

25 So you state in Paragraph 5 of your

1 statement, in accordance with the orders, Mewbourne  
2 provides the AFEs to the pooled parties to include  
3 Siana on May 12, 2020. These are attached as  
4 Exhibit B-1.

5 Exhibit B-1 consists of AFEs each  
6 8 million-dollar estimate dated January 29, 2020.  
7 All right. If we go back a page or two to the  
8 testimony of Mr. Dunn, Exhibit B-13, he has the AFEs  
9 dated a week later with a different amount and with  
10 the signature of Mr. Ragsdale.

11 So I'm not sure what those AFEs you have  
12 as Exhibit B-1 are, but they're not the ones that  
13 apparently Mr. Ragsdale signed. They're about  
14 \$300,000 more expensive and there's no signature on  
15 them.

16 THE WITNESS: Mr. Examiner, I'm trying to  
17 look here. I believe the ones -- so on our exhibit  
18 packet, Page 50, now there are some additional AFEs  
19 for additional wells. Maybe those are the ones  
20 you're referencing that are 7.7 million. I think  
21 that's maybe the B3PI and the B3JO.

22 HEARING OFFICER BRANCARD: Okay. Maybe.

23 THE WITNESS: But yeah on Page 50 of our  
24 exhibit packet, these are the same. Same --

25 HEARING OFFICER BRANCARD: One is signed,

1 yes.

2 THE WITNESS: That one is 8 point --  
3 \$8,073,300.

4 HEARING OFFICER BRANCARD: Okay. This is  
5 very confusing to me. You-all have numerous  
6 versions of these AFEs here, some signed, some  
7 aren't signed.

8 THE WITNESS: Yeah, I apologize for that.  
9 I think the ones you're referencing that are  
10 7.7 million are the infill wells that were proposed  
11 in early of 2022.

12 HEARING OFFICER BRANCARD: Okay. Now, of  
13 course the order is dated April and requires you to  
14 send out an AFE in May, like you said, but  
15 apparently you have these already signed in January  
16 by Mr. Ragsdale.

17 THE WITNESS: I don't think so. I believe  
18 on 51 where it shows -- so we propose, you know, I  
19 guess the standard procedure here would be we  
20 propose a well to a party to try and get them to  
21 sign up to a JOA. You know, if they don't do that  
22 we file for pooling and so I think, you know, the  
23 first AFEs that are unsigned are when we propose  
24 them to Mr. Ragsdale prior to the pooling hearing.  
25 We have the hearing, we get the order, and then we

1 are supposed to submit the AFEs to the pooled  
2 parties for them to make an election under the  
3 pooling order.

4 And so, you know, our standard procedure  
5 is to take the AFE and propose it to that party and  
6 so if I'm not mistaken I believe Mr. Ragsdale signed  
7 these AFEs proposed under the pooling order May 20  
8 of 2020.

9 HEARING OFFICER BRANCARD: Okay. I do see  
10 a date on there. So you've basically take -- you  
11 took the four month old AFEs and sent them to  
12 Mr. Ragsdale for his signature.

13 THE WITNESS: Yes. Because those were  
14 the, you know, the AFEs that we pulled that were  
15 deemed the reasonable costs.

16 HEARING OFFICER BRANCARD: You deemed them  
17 reasonable.

18 THE WITNESS: I believe the order did as  
19 well.

20 HEARING OFFICER BRANCARD: No, the order  
21 doesn't approve an AFE. The Division does not  
22 approve an AFE. The Division puts the AFE up to  
23 you-all. I mean, you submit an AFE because you show  
24 you submitted the AFE to the parties.

25 Okay. Let's go to Exhibit B-2. Thank you

1 for clarifying that. Too many AFEs here.

2 Did you prepare Exhibit B-2?

3 THE WITNESS: That was prepared under my  
4 supervision.

5 HEARING OFFICER BRANCARD: Okay. Second  
6 column says, Total cost estimate, which I think you  
7 tried to explain. You said rolling number, right?  
8 I mean, it's not fixed at the time of the AFE, it  
9 just as you keep updating what you think the costs  
10 are.

11 THE WITNESS: Yeah. I guess I apologize  
12 for the confusion here. Right. This is not the  
13 original AFE number. You know, all we're trying to  
14 show here, you know, under total cost estimate these  
15 are just wells drilled in, you know, I guess this  
16 project are per se, I mean, Sections 26 on the south  
17 half of 23 and so, you know, we drilled additional  
18 wells in these sections.

19 And so I think, you know, I testified that  
20 costs fluctuate and so, you know, wells drilled in  
21 the same section here at different times have had  
22 different estimated costs is really all we're  
23 showing.

24 HEARING OFFICER BRANCARD: Okay. Because  
25 in Paragraph 7 of your testimony you used the

1 phrase, "estimated well costs."

2 THE WITNESS: Paragraph 7.

3 HEARING OFFICER BRANCARD: Which, I guess,  
4 is just simply based on your testimony an  
5 unfortunate choice of words because estimated well  
6 cost is a defined term in the Division's order. And  
7 it's basically what you're going to put in an AFE.

8 THE WITNESS: I understand what you're  
9 saying, yes, sir.

10 HEARING OFFICER BRANCARD: So it's clear,  
11 that estimated well cost in Paragraph 7 does not  
12 mean the same as estimated well costs in the  
13 Division's order, correct?

14 THE WITNESS: In the Division's pooling  
15 order?

16 HEARING OFFICER BRANCARD: Yes.

17 THE WITNESS: Yes.

18 HEARING OFFICER BRANCARD: Okay. Thank  
19 you.

20 Ms. Hardy, did you have any follow-up?

21 MS. HARDY: I just have a couple of  
22 questions, Mr. Examiner, that are very brief.

23 REDIRECT EXAMINATION

24 BY MS. HARDY:

25 Q. Mr. Cude, with respect to the supervision

1 costs, I'm just going to try to clear up a little  
2 what seems to me to be confusion and I think you  
3 said some of those in response to Mr. McClure's  
4 questions.

5 I just want to make sure it's clear for  
6 the record. So respect to the 8,000 and 800 a month  
7 cost in the pooling order, you are referring to  
8 those as overhead costs?

9 A. Yes. An overhead supervision rate.

10 Q. Okay. And is that different from  
11 supervision as it's used in the AFE?

12 A. Yes.

13 Q. Okay. And can you briefly explain the  
14 difference because I think that's where the  
15 confusion is.

16 A. Yes. In the AFE, so the, you know, codes  
17 01800195 and 01800295, you know, those are direct  
18 costs of Mewbourne employees, you know, on location  
19 in performing the drilling and completion activities  
20 of these wells not in overhead supervision, you  
21 know, away from the location.

22 Q. Thank you. I think that answers my  
23 question.

24 MS. HARDY: And I think that's all that I  
25 had.

1 HEARING OFFICER BRANCARD: Check with the  
2 court reporter, how are we doing?

3 THE COURT REPORTER: We are doing good.

4 HEARING OFFICER BRANCARD: Want to keep  
5 going? We have one more witness.

6 THE COURT REPORTER: That's fine.

7 MS. HARDY: Can we take a break, please,  
8 actually.

9 HEARING OFFICER BRANCARD: Sure.

10 MS. HARDY: Thank you.

11 HEARING OFFICER BRANCARD: All right.  
12 We'll be back, 3:42.

13 MS. HARDY: Thank you, very much.

14 (Recess taken at 3:31 to 3:43.)

15 HEARING OFFICER BRANCARD: Whenever you're  
16 ready. We just need a few minutes to wrap this up.  
17 So bring on your last witness.

18 MS. HARDY: Thank you. Mr. Examiner, our  
19 last witness is Don Russell.

20 THE WITNESS: Yes. Can you hear me?

21 HEARING OFFICER BRANCARD: Yes.

22 MS. HARDY: Yes.

23 HEARING OFFICER BRANCARD: Mr. Court  
24 Reporter, are you there?

25 THE COURT REPORTER: We are here. We are

1 ready to go.

2 HEARING OFFICER BRANCARD: All right. Can  
3 you swear in this last witness.

4 THE COURT REPORTER: Certainly. Do you  
5 want to turn your video on, Mr. Russell, please.  
6 Thank you.

7 Will you please raise your right hand.

8 DON RUSSELL  
9 having been first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. HARDY:

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

14 A. Donald Russell.

15 Q. By whom are you employed and in what  
16 capacity?

17 A. Mewbourne Oil Company as a treasurer  
18 controller.

19 Q. Have you previously testified before the  
20 Division?

21 A. I have not.

22 Q. Can you please summarize your education  
23 and experience?

24 A. Sure. Yeah, I graduated with my BBA in  
25 accounting from Texas A&M Texarkana in 1997, went to

1 work for Mewbourne Oil Company at that time in the  
2 joint interest billing department and I have been  
3 employed by Mewbourne Oil Company for the last  
4 25 years mostly in new interest billing until I  
5 became its controller.

6 MS. HARDY: Mr. Examiner, I move to  
7 qualify Mr. Russell as an expert in oil and gas  
8 joint interest billing accounting.

9 MS. SHAHEEN: No objection.

10 HEARING OFFICER BRANCARD: Any objection?

11 MS. SHAHEEN: No objection.

12 HEARING OFFICER BRANCARD: So admitted as  
13 an expert.

14 Q (By Ms. Hardy) Mr. Russell, did you  
15 provide an affidavit in this case?

16 A. Yes, I did.

17 Q. Has that affidavit been marked a Mewbourne  
18 Exhibit C?

19 A. Yes.

20 Q. Is it true and correct?

21 A. Yes.

22 Q. Are you familiar with Mewbourne dealings  
23 with Siana?

24 A. Yes.

25 Q. Approximately how many active wells of

1 Mewbourne's does Siana hold an interest in?

2 A. I think it's about 14.

3 Q. Has Mewbourne been dealing with Siana for  
4 many years?

5 A. Yeah. Looks my notes date back to  
6 September of 2018.

7 Q. (Audio cut out) Pooling order is issued,  
8 can you please describe the process that Mewbourne  
9 follows with respect to a pooled working interest?

10 A. Yes. I came from the accounting  
11 standpoint of really we don't get involved in the  
12 pooling order of obtaining the pooling order or  
13 anything at that point. Normally we find out about  
14 the pooling order once the checks are received.

15 The land guys in our Midland office will  
16 send the checks to accounting. We will deposit the  
17 check in our account and we will set up what we call  
18 a prepay for that owner for that property and it  
19 will be held until we start billing, joint interest  
20 billing on that property for that owner.

21 Q. I know we've heard a lot of testimony  
22 today about JIBs, but can you please summarize what  
23 a JIB is.

24 A. Yes. So that's -- specifically  
25 Mewbourne's JIBs, we normally provide or we always

1 provide a summary page which will tell an owner  
2 their previous balance, any activity on that  
3 previous balance, whether it's been paid, netted,  
4 some kind of credit given.

5 Then they'll have their current monthly  
6 charges summarized by well and then it will come to  
7 an ending balance -- then it will take off any  
8 prepaid amounts, any other adjustments off the  
9 current month, then it will come to an ending  
10 balance for the end of the month.

11 And then the subsequent pages after that  
12 are the details of everything that's billed by  
13 property. So we have a detailed line for each  
14 invoice from each vendor for each property.

15 Q. Do JIBs provide the actual well costs for  
16 each Mewbourne well in which the owner holds an  
17 interest?

18 A. Yes, they absolutely do.

19 Q. Does Mewbourne provide JIBs to Siana  
20 monthly?

21 A. Yes, we do.

22 Q. And can owners determine the costs that  
23 are being incurred each month based on the JIBs?

24 A. Yes, they can.

25 Q. So if an interest owner is looking at

1 their JIBs, they can determine exactly how much they  
2 owe for each well; is that correct?

3 A. Correct.

4 Q. And did you hear Mr. Ragsdale and  
5 Ms. Caldwell's testimony this morning that it took  
6 many, many hours for them to assemble an analysis of  
7 the JIBs?

8 A. Yes, I did.

9 Q. And could they simply have determined the  
10 amount of the actual well cost by looking at the  
11 JIBs that were received each month?

12 A. Yes, I believe they could.

13 Q. When was the last time Siana paid a JIB  
14 that it received from Mewbourne?

15 A. Yeah. The last time I recorded a JIB  
16 payment receipt for them was November of 2018.

17 Q. And that was a couple years before these  
18 Inland Wells were --

19 A. Yes.

20 Q. -- JIB'd?

21 A. Yes. They have -- they stopped paying  
22 JIBs well before the Inland Wells came into the  
23 picture.

24 Q. What impact did the failure to pay JIBs  
25 have on Mewbourne?

1           A.     So they really have a financial effect on  
2 Mewbourne. As Mewbourne incurs the cost to our  
3 vendors, and we have, you know, normally have a 45  
4 to 60-day payment plan with our vendors, so we're  
5 having to pay our vendors a hundred percent of the  
6 cost and when Siana doesn't pay their portion, then  
7 we end up carrying their portion of the cost, so it  
8 has a detrimental affect on our cash flows as we pay  
9 their costs instead of them having to pay their own  
10 costs.

11           Q.     And I know that Siana's testimony today  
12 talked about their overpayment for these Inland  
13 Wells and that they weren't paying JIBs as result of  
14 that. But this has gone on for some period of time  
15 in relation to all of their wells; is that correct?

16           A.     Yes, it is correct.

17           Q.     And does Mewbourne expect participants in  
18 its wells to pay their JIBs?

19           A.     Yes, we do.

20           Q.     Is that Mewbourne gets paid for drilling  
21 and operating the wells?

22           A.     Yes.

23           Q.     And when a party elects to participate in  
24 wells, is it your understanding that they are  
25 agreeing to pay their JIBs?

1 A. Yes, it is.

2 Q. Is that what normally occurs?

3 A. Yes, it normally occurs.

4 Q. But it doesn't occur with Siana?

5 A. Correct.

6 Q. Do you know -- well, I think you said that  
7 Siana holds an interest in 14 Mewbourne active  
8 wells?

9 A. Correct.

10 Q. Okay. So it receives a monthly JIB for  
11 each of those wells?

12 A. Yeah, the monthly JIB includes each of  
13 those wells, correct.

14 Q. And it hasn't paid any of those costs?

15 A. Correct. I should clarify that they have  
16 paid through proportional netting of their costs.  
17 So the costs are paid now because we have netted the  
18 costs from their revenue, as we heard testimony to  
19 earlier.

20 So they don't have a huge outstanding  
21 balance with us because at some point when an owner  
22 will not pay their costs, we start to net their  
23 revenues so that we can get our payment back.

24 Q. I think we'll get into that a little bit  
25 more in just a little bit. Let's talk about the

1 itemized schedule of actual well costs.

2 Has Mewbourne provided Siana with an  
3 itemized schedule of actual well costs?

4 A. Yes. They are the joint interest billings  
5 we have.

6 Q. Okay. And can you please identify --  
7 well, let me ask this.

8 Did Mewbourne also provide daily drilling  
9 reports?

10 A. Correct, yes.

11 Q. Okay. And information was provided  
12 through Energy Link as well?

13 A. Correct. So our joint interest billings  
14 are both mailed and posted on Energy Link on a  
15 monthly basis. So they have two options of how to  
16 receive the detail of their joint interest billing.

17 Q. Okay. Let me just get to your exhibits  
18 here and then I'll try to share my screen.

19 MS. HARDY: Looks like I don't have  
20 sharing capability, Mr. McClure or Marlene. I've  
21 lost my superpower. There we go. Thank you.

22 Q (By Ms. Hardy) Okay. Can you see the  
23 Exhibit there?

24 A. I do not see it yet.

25 Q. Oh, I see. Okay.

1           A.    Now I see it.  Yeah, now I see it.

2           Q.    Okay.  Perfect.  Okay.  Can you please  
3 identify this document that's been marked as  
4 Mewbourne Exhibit C-1?

5           A.    Yeah.  That is a daily drilling report.  I  
6 think it should have the daily drilling reports for  
7 both wells in question.

8           Q.    Okay.  And can you summarize what these  
9 reports show?

10          A.    Yeah.  They show the activity from the  
11 inception of the well from staking the location all  
12 the way through the drilling completion of the well  
13 and turning the first production.  Lots of detail  
14 that I don't understand as an accountant but they  
15 also have the estimated costs on there each day and  
16 estimated total cost, I think, as Mr. Ragsdale  
17 pointed out earlier in the day, they do have all the  
18 cost estimates on there on a daily basis.

19          Q.    Okay.  Just scroll through here.  It's  
20 pretty lengthy, aren't they?  I mean, I think  
21 they're about 20 pages, 22 pages each.

22          A.    Correct.  Because of the detail that most  
23 owners prefer to see, you know, they want to know  
24 details of everything that's going on, how deep the  
25 well is, what equipment has been put on, how much

1 water is used in each frac stage and all those  
2 different items. So, yes, they are very detailed  
3 activity.

4 Q. Okay. And they include the estimated  
5 costs on a daily basis?

6 A. Correct.

7 Q. Okay. Okay. Sorry, this is taking a  
8 minute. These are actually pretty long and  
9 detailed. Try to scroll through this more  
10 efficiently here.

11 I think you said these are for both wells?

12 A. Yes, there are both wells included.

13 Q. And they go from the beginning of drilling  
14 to the completion, right?

15 A. Yeah. They actually start at the original  
16 staking of the well location. Then they go through  
17 building, you know, all the way through. Sometime,  
18 they stop sometime after first production. I'm not  
19 sure exactly what -- I don't actually keep these  
20 reports, so I'm not sure what the standard is when  
21 they drop from the dailies but it is definitely  
22 after the well starts producing so you go all the  
23 way from drilling and completion phases.

24 Q. Did you please identify what I'm showing  
25 up on the screen as Exhibit C-2?

1           A.    Yes.  That is a sample statement from  
2 Energy Link for Siana Oil and Gas.

3           Q.    And what is Energy Link?

4           A.    Energy Link is a service, kind of industry  
5 standard service, of a place where we can put our  
6 joint interest drilling statements for owners that  
7 want to receive their data electronic or they want  
8 to be emailed to know they have a statement out  
9 there.  Just those that don't want the original  
10 snail mail version of a statement, it just allows  
11 them easier and quicker access and it allows  
12 historical access of those things.  It's a service.

13          Q.    And does Siana have access to this  
14 information?

15          A.    Yes, they do.

16          Q.    And what information does the Energy Link  
17 printout provide with respect to the actual well  
18 costs?

19          A.    Sure.  So it provides much the same as our  
20 joint interest statement we talked about earlier,  
21 JIB we talked about earlier that it provides each of  
22 the well costs for that month in the summary level.  
23 And any prepaids applied against it and then it gets  
24 into the detail and it provides every line item of  
25 detail for every invoice that we received during

1 that month.

2 Q. Okay. And, for example, if you look at  
3 this page here which is 159 of our exhibit packet,  
4 what is that showing?

5 A. Let's see. So 159, that's the summary  
6 page. So that's showing for the Inland Wells. As  
7 we noted earlier, we blacked out the other wells  
8 just to keep the pertinent information that's  
9 showing the summary, that's the summary detail.  
10 That's a summary of what happened with the Inland  
11 Well during the period July 2021.

12 Q. And does this statement provide  
13 additional -- an additional detailed breakdown  
14 regarding all of those costs?

15 A. Yeah. We start at 161 of our exhibit.  
16 You start to see the actual individual and tangible  
17 well costs. Like I say, it continues on for quite a  
18 few pages because it is all the different costs in  
19 there.

20 Q. And these are the actual costs that have  
21 been incurred?

22 A. Correct.

23 Q. Right?

24 A. These are the actual costs.

25 Q. I think it is about 30 pages long. Does

1 that sound about right?

2 A. That sounds about right. Correct, yes.

3 Q. Okay. So that's 30 pages of detailed cost  
4 information for these Inland Wells, is that  
5 accurate?

6 A. Yes, that is correct.

7 Q. And if an owner looks at this, can they  
8 determine the amount that they would owe for these  
9 wells?

10 A. Yes. They can determine the amount that  
11 they owe, they can determine the type of work being  
12 performed based on the type of activity, yes.

13 Q. Okay. And if they're looking at these  
14 carefully they could decide if they have concerns  
15 regarding any of those costs, couldn't they?

16 A. Yes, I -- yes, they could.

17 Q. Can you please identify Exhibit C-3?

18 A. Yes. C-3 is just an excerpt of the  
19 summary screen in Energy Link showing Siana's  
20 account and I think specifically it's showing over  
21 on the far right-hand column that the status of each  
22 of our statements is that they have viewed them. So  
23 it shows that someone with credentials from Siana  
24 has signed in, in Energy Link and viewed these  
25 statements.

1 Q. Can you please identify Exhibit C-4?

2 A. Yes. C-4 is going to be the  
3 correspondence we had with Ms. Doris Bidy who works  
4 for Siana back in November of 2021. There's the  
5 email correspondence back and forth and then also  
6 attached behind that will start to be the actual  
7 statement. So we provided -- an additional time we  
8 provided all of the statements that they had  
9 requested for a second time after, you know, even we  
10 had mailed -- we mailed them monthly, we put them on  
11 Energy Link, and then she requested we send them  
12 again electronically. We sent them a PDF of each of  
13 the statements that she was requesting.

14 Q. Okay. Is it accurate that this was the  
15 third time you provided this information to Siana?

16 A. It's the second time we provided it and  
17 the third, but a third potential being Energy Link,  
18 so, yes, I would call that three total, yes.

19 Q. Okay. And these are the JIBs that were  
20 sent to Ms. Bidy?

21 A. Yes, they are.

22 Q. And do these include the final well costs  
23 for the B20J and B2PI wells?

24 A. These provide -- these do provide the  
25 monthly well cost. If you add those together, you

1 would see the final well cost, yes. They are the  
2 actual costs by month that we've incurred.

3 Q. And could Siana, if it was reviewing these  
4 objected to the actual well costs?

5 A. Yes.

6 Q. They (audio cut out) about them?

7 A. Yes.

8 Q. Do the JIBs include other than just the  
9 Inland costs?

10 A. Yes, they do. They include all -- all of  
11 their 14 wells are included -- or up to 14 wells  
12 depending if they had costs that month or which  
13 month you're looking at when they came into well --  
14 yes, they provide all of their cost in one place.

15 Q. Okay. And do the JIBs show that Siana had  
16 outstanding balances?

17 A. Yes, they do.

18 Q. Do Exhibits C-1, C-2, C-3 and C-4  
19 establish that Mewbourne provided Siana with  
20 itemized statements of the actual well costs?

21 A. Yes, they do.

22 Q. And with respect to an itemized schedule  
23 of operation maintenance costs, do these documents  
24 also address those?

25 A. Yes, it is also these documents show

1 operating costs, they show drilling, completing, so  
2 any cost that we have received for the benefit of  
3 those wells are invoiced back out through a JIBs so  
4 it shows all types of costs.

5 Q. Let's talk for a minute about lease  
6 operating expenses. There's been a fair amount of  
7 discussion about those today. And let me  
8 actually -- to your next -- let me just pause this  
9 for a minute.

10 Okay. Can you tell me what lease  
11 operating expenses include?

12 A. Yes. I think Travis alluded to these a  
13 little earlier and probably a little more familiar  
14 with it than I am, but, you know, just from what I  
15 see on the statements, you know, like I said,  
16 they're just the cost to operate. Sometimes there's  
17 chemicals that go into the well. There's some water  
18 disposal, you know, these wells produce a lot of  
19 salt water that have to be disposed of.

20 There's engineering supervision costs that  
21 we have to, you know, we continue to watch our  
22 wells. We have pumping costs that go into there,  
23 overhead. So just a variety of things that it takes  
24 to keep these wells functioning at top performance.

25 Q. Is it your understanding that lease

1 operating expenses are incurred to operate and  
2 maintain the wells?

3 A. Yes.

4 Q. Did Mewbourne deduct lease operating  
5 expenses for the B2OJ and B2PI Wells from Siana's  
6 prepayment for those wells?

7 A. Yes, originally we did.

8 Q. And why is that?

9 A. So Mewbourne, we kind of have a  
10 longstanding policy of when someone pays -- when  
11 someone pays us a prepaid for a well, we deduct all  
12 costs on that well until the prepayment is used up.  
13 We just always had felt that it would be improper to  
14 have money held on an account for a well and then  
15 invoice them for different costs on that same well.  
16 So we used -- so in case -- in this case, you know,  
17 if a well is under AFE, we continue to use that  
18 money to pay their LOE costs or whatever we have  
19 until we use all that up instead of sending them an  
20 invoice for something that we're already holding  
21 money on.

22 Q. Does that policy generally benefit owners?

23 A. I think it does. I mean, we've never had  
24 an owner complain about it. We have used this  
25 policy, like I said, I've been doing this for

1 25 years. All of our owners seem to like that. It  
2 benefits them as to not receive a billing for  
3 something, you know, as I think the accountant for  
4 Siana mentioned earlier, I don't want to pay a bill  
5 to somebody when they're holding money on me for  
6 something else. So ...

7 Q. If the LOEs had not been netted, would  
8 Mewbourne have to invoice Siana for those expenses?

9 A. Yes, we would have.

10 Q. Would Mewbourne do that through JIBs?

11 A. Yes, we would.

12 Q. And Siana does not pay its JIBs, does it?

13 A. They have not.

14 Q. Did Mewbourne net LOE for other wells from  
15 Siana's prepayment for B2OJ and B2PI Wells?

16 A. Yes, we did. We kind of had an  
17 unintentional event happen in July of '21. There  
18 was a software issue. It applied the remainder of  
19 their prepayment to their account which then applied  
20 it to all of their invoices. But as Siana's  
21 accountant mentioned earlier, we did in December of  
22 '21, we did reverse that and issue them, attempt to  
23 issue a refund and reverse those prepayment -- we  
24 reversed those applications of prepayment against  
25 any LOE or any other well.

1 Q. Even though it's not Mewbourne's normal  
2 practice to net LOEs for other wells from a  
3 prepayment, was that action appropriate here?

4 A. I think we have -- I mean, I found it to  
5 be appropriate in the past. Like I said, you know,  
6 if we have money on someone's account why send them  
7 a bill for something and then send them a refund --  
8 you know, send them a check in one hand and then  
9 send them a bill in the other hand and send us a  
10 check back, you net those together and send out  
11 what's owed then.

12 Q. Most people don't like to write checks  
13 they don't need.

14 A. Right.

15 Q. Right?

16 A. Correct.

17 Q. Okay. Let's talk about the treatment of  
18 Siana's prepayment. Was there a prepayment overage?

19 A. Yes.

20 Q. And did that result from the fact that the  
21 final actual well costs were lower than the AFEs?

22 A. Yes. They were significantly lower.

23 Q. And how did Mewbourne handle Siana's  
24 prepayment overage?

25 A. So originally, so just coming over the

1 time, originally as it went over, we applied it  
2 to -- we provided the LOEs on those wells. And then  
3 subsequently down the line in July of '21 it was  
4 applied against their entire account, so it was  
5 applied against charges on other wells.

6 And then in December of '21 we reversed  
7 all of those overpayment applications and again  
8 attempted to refund the money.

9 Q. Okay. And I'm going to share my screen  
10 here again.

11 And can you identify that document that  
12 I've got up on the screen?

13 A. Yes, it looks like you have the check that  
14 we attempted to send to Siana to refund the  
15 overpayment.

16 Q. And can you see what the date on the check  
17 is?

18 A. Let me see if I zoom on my side.

19 Q. I can try. I can zoom in.

20 MS. SHAHEEN: I'm going to object to  
21 testimony about this. I don't believe that the  
22 letter that conveyed this check is part of the --  
23 well, the check -- neither the check nor the letter  
24 that transmitted the check was submitted as an  
25 exhibit. If it were, then we would see that this is

1 an 11-408 communication specifically from Mewbourne  
2 at the top of the letter.

3 I know that the rules of evidence don't  
4 necessarily apply here, but under Rule 11-408 a  
5 party cannot use a communication regarding  
6 settlement as proof of any liability or to impeach  
7 the testimony of another party.

8 So I object on that basis to including  
9 this exhibit here and any testimony about it.

10 MS. HARDY: I think it's a rebuttal  
11 exhibit appropriately identified as such. We also  
12 did address the check in our testimony. Mr. Russell  
13 talked about it in his prefiled testimony. So we've  
14 addressed it there, so I think it is appropriate for  
15 submittal as an exhibit.

16 And respect to the settlement  
17 communication, I'm not introducing the letter  
18 because I think that's a settlement communication.  
19 But I don't think that a check and the fact that the  
20 check was sent constitutes an inadmissible, you  
21 know, communication.

22 And I also think the Rule 11-408 relates  
23 to proving liability on a claim or an amount and  
24 that is not what this is being submitted for. It is  
25 being submitted to show that Mewbourne did, in fact,

1 send the check to Siana. I think that's important.

2 MS. SHAHEEN: Exactly. It's being used to  
3 prove a point in favor of Mewbourne and I think  
4 that's exactly what the rule is intended to  
5 preclude.

6 MS. HARDY: Well, I don't think when  
7 Siana's claiming there's no payment made, that it's  
8 appropriate to exclude evidence of the payment.

9 MS. SHAHEEN: It was Mewbourne who labeled  
10 this communication as subject to Rule 11-408.

11 HEARING OFFICER BRANCARD: Mewbourne may  
12 be waiving that.

13 MS. SHAHEEN: I don't believe that there's  
14 a waiver under Rule 11-408.

15 MS. HARDY: I believe that Siana has  
16 waived it, actually, by raising this issue.

17 MS. SHAHEEN: Well --

18 MS. HARDY: That a check wasn't sent and I  
19 think it was.

20 MS. SHAHEEN: I'm happy to brief the  
21 issue. My concern is that we're -- you're  
22 suggesting that Mewbourne voluntarily sent this  
23 check to Siana when what actually happened is it was  
24 a result of back and forth between counsel and this  
25 was a resulting settlement communication.

1           So I think to represent that Mewbourne  
2 voluntarily knew that it had this overage and that  
3 it was going to voluntarily provide it back to Siana  
4 is a misrepresentation of the circumstances.

5           MS. HARDY: I don't think I've  
6 misrepresented anything, Ms. Shaheen.

7           HEARING OFFICER BRANCARD: Well, I'm going  
8 to allow it in just because the parties have been  
9 talking about this check. So I may have questions  
10 about it.

11          MS. HARDY: Sure.

12          HEARING OFFICER BRANCARD: Go ahead.

13          Q     (By Ms. Hardy) Okay. Mr. Russell, can you  
14 identify the date of the check. I can't remember if  
15 you --

16          A.     Yeah. We've got it zoomed in now where I  
17 can actually see it. It was 12/10 of 2021.

18          Q.     Okay. And what's the amount of the check.

19          A.     It's \$406,136.31.

20          Q.     Was that the amount of the prepayment  
21 overage?

22          A.     Yes, it was.

23          Q.     And did Siana accept Mewbourne's check?

24          A.     They did not.

25          MS. HARDY: And, Mr. Examiner, I would

1 move -- I haven't -- I can mark that as an exhibit  
2 although I haven't yet, but I would move the  
3 admission of this check as Mewbourne Exhibit C,  
4 whatever our last exhibit number would be?

5 HEARING OFFICER BRANCARD: So admitted.

6 MS. HARDY: Thank you.

7 (Exhibit C-5 admitted.)

8 Q (By Ms. Hardy) Okay. Mr. Russell, let's  
9 talk about holding Siana's revenues in suspense.

10 A. Okay.

11 Q. What would be the impact to Mewbourne if  
12 it held both Siana's revenues and costs in suspense?

13 A. So if we were to hold Siana's costs in  
14 suspense, I know we've had some discussion about  
15 this earlier. It would cause Mewbourne to basically  
16 have to carry their cost and pay the cost of the  
17 interest at their same they have obtained.

18 I know some of the discussion back and  
19 forth has been about should we carry, should  
20 Mewbourne hold their revenue but expecting to pay  
21 expenses. And to me the biggest reason that we  
22 would, in this case, is the holding of the revenue  
23 is not at Mewbourne's discretion or not at our  
24 reasoning.

25 There's a lawsuit against other parties

1 that Mewbourne is not -- Mewbourne is not a party to  
2 that lawsuit. Mewbourne is not the cause of the  
3 dispute. Mewbourne is not disputing this. We're  
4 simply reacting to a dispute that is in court  
5 currently.

6 So I think it's in Siana's best interest  
7 to continue to pay their joint interest billing and  
8 pay their expense to continue their claim that they  
9 do own this interest.

10 Q. And I think there was some questions of  
11 witnesses earlier to the idea that Mewbourne helped  
12 to front cost for non-consenting pooled parties.

13 Do you remember those questions?

14 A. Yes, I do. Yes, yes.

15 Q. And how are the parties different?

16 A. Yeah. So a non-consenting pooling, those  
17 parties, yes, we pay their costs but we also receive  
18 their revenues up to with the penalty of  
19 200 percent. So there is a, you know, Mewbourne or  
20 the carrying parties carry, get to receive their  
21 revenues as a penalty.

22 Whereas in this case Mewbourne would be  
23 penalized by having to carry Siana's expenses when  
24 Siana -- someone is due that revenue. And just kind  
25 of a quick rundown of how we handle revenue at

1 Mewbourne Oil Company is we keep the revenues  
2 completely separate from our operating account.

3 We never intermingle revenue owed to other  
4 parties with our daily operating cash that we pay  
5 our vendors with.

6 That money belongs to Siana or someone  
7 else. In this case, it sits in a revenue  
8 distribution account that we have to keep an account  
9 for. We always have to know what's in there, how  
10 much is in there and what well it belongs to and  
11 potentially who it is going to belong to.

12 So it is sitting there when it comes up  
13 that it's due to them and this case is settled, we  
14 can pay out the revenues immediately. You know, it  
15 would be inappropriate for Mewbourne to use that  
16 revenue to pay any expenses.

17 Q. And with respect to non-consenting pooled  
18 parties, does the risk penalty compensate Mewbourne  
19 for fronting those costs?

20 A. Correct. Yes, it does.

21 Q. Because Siana has agreed to participate in  
22 the wells does Mewbourne recover any risk penalty  
23 from Siana?

24 A. No, we do not.

25 Q. So would Mewbourne just have to front the

1 cost without any compensation from Siana?

2 A. Correct, they would.

3 Q. That's what would occur if, again, if  
4 Mewbourne were holding the JIBs for these wells in  
5 suspense along with the revenues?

6 A. Correct, it would.

7 Q. If the Court in the title case ultimately  
8 decides that Siana does not own an interest in these  
9 wells, how would Mewbourne handle Siana's prepayment  
10 of the estimated well costs?

11 A. In that case, we would reverse all costs  
12 that have been build to Siana or, you know, if it's  
13 a portion of it, you know, it goes from 10 percent  
14 down to 5 percent, 4 percent, whatever the number  
15 is, or zero, we will reverse the 10 percent, charge  
16 the correct percentage, then we would charge the  
17 rest of it to the new owners. We would refund --  
18 then we would refund Siana their money for through,  
19 normally through a credit.

20 So it would put a credit on their account.  
21 If that credit was a large credit to where it  
22 wouldn't be used up in any significant amount of  
23 time, then we would issue a refund at their request  
24 or it would be held on account to use it against  
25 future JIBs, which normally if it will pay out

1 within, you know, four to six months we normally  
2 just leave it on their account to pay future JIBs  
3 and then they, you know, we don't -- and we send  
4 them an invoice showing that they have a credit  
5 balance.

6           If they don't pay, I think the  
7 spreadsheets provided earlier by their accountant  
8 showed that, that we were sending invoices during  
9 that. One time where we applied all of their  
10 prepayment to their account it was showing that we  
11 were sending them JIBs showing a credit balance not  
12 asking that they pay any additional funds.

13           Q.    So Mewbourne wouldn't hold on to the money  
14 that Siana paid if it's determined that Siana  
15 doesn't own the interest?

16           A.    We might, you know, for a short period of  
17 time if they have enough billing to show over that  
18 or if they see that, when they see that credit  
19 balance come in, they're like, Hey, Mewbourne, you  
20 know, we would like to have this credit balance  
21 refunded and we have a practice of refunding that on  
22 request.

23           Q.    Do they either get a credit or a refund?

24           A.    Correct, absolutely.

25           Q.    And with respect to holding revenues in

1 suspense, really involves title issues that are  
2 subject to the jurisdiction of the Court that's  
3 deciding the title case, doesn't it?

4 A. Correct, it does.

5 Q. Mr. Russell, in your opinion did Mewbourne  
6 appropriately account for the costs and revenues  
7 associated with Siana's claimed interest in the  
8 wells?

9 A. Yes, we did.

10 Q. And in your opinion did Mewbourne provide  
11 an itemized statement of the actual well costs to  
12 Siana?

13 A. Yes, I believe we did.

14 MS. HARDY: I have no further questions  
15 for Mr. Russell. I would move the admission of  
16 Mewbourne Exhibits C and C-1 through C-4.

17 HEARING OFFICER BRANCARD: Any objections  
18 to the exhibits?

19 MS. SHAHEEN: No objections.

20 HEARING OFFICER BRANCARD: The exhibits  
21 are admitted.

22 (Exhibits C-1 through C-4 admitted.)

23 HEARING OFFICER BRANCARD: Ms. Shaheen, do  
24 you have questions?

25 MS. SHAHEEN: I do.

CROSS-EXAMINATION

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BY MS. SHAHEEN:

Q. Good afternoon, Mr. Russell.

A. Good afternoon.

Q. I do have quite a few questions for you, but I'd like to start with your statement and I believe Mr. Cude made the same statement, that Siana has paid none of its JIBs since 2018 and I believe --

A. They have not directly paid any of their JIBs in since 2018. That's true, yes.

Q. I'm sorry, are you revising your testimony to say they haven't correctly paid any of their JIBs?

A. They have not directly paid. They have not sent us a check. As I mention earlier in my testimony, they have indirectly paid through netting of revenues.

Q. And were you on the hearing this morning to hear Ms. Caldwell's testimony?

A. Yes, I was.

Q. And were you privy to her explanation about the spreadsheets that she created by downloading the Energy Link data?

A. I did hear her explanation, yes.

1 Q. Okay. And so what I'd like to do is I  
2 could go back to each of the JIBs to show where  
3 there have been payments made since 2018, but I  
4 would like to start with the spreadsheet and you can  
5 tell me if you want me to go and find the backup  
6 data.

7 MS. SHAHEEN: So if Marlene would let me  
8 share. Thank you.

9 Okay. I don't think this is the right  
10 one. Let me find the right one. Huh. I thought it  
11 was this one. Now I've lost it. My apologies. I  
12 had it here and now I'm not sure where it is.

13 MS. CALDWELL: I think that's it.

14 MS. SHAHEEN: Which one, Danielle? Oh,  
15 there it is. Okay.

16 Q (By Ms. Shaheen) So I'm looking at  
17 Column E, Rows 24 through 31.

18 MS. CALDWELL: Scroll up, if you can.

19 MS. SHAHEEN: Okay.

20 Q (By Ms. Shaheen) And this is receipts. So  
21 I understand that these are entries that relate to  
22 monies that were received from Mewbourne that were  
23 paid by Siana.

24 A. I believe that to be incorrect.

25 Q. And so we'll go and we'll take a look at

1 the JIBs, then, if we need to. So but just for the  
2 record, if we'll just start with the bottom one.

3 So the first entry there January 31st of  
4 2020 indicates that Mewbourne received a payment of  
5 \$200,000 from Siana.

6 Do you see that?

7 A. I see the two -- negative 200,000 in your  
8 Column E.

9 Q. And then with respect to Row 27, that  
10 indicates that May 31st of 2020 Mewbourne received a  
11 payment of \$66,556.94; is that correct?

12 A. I'm going to agree that we applied monies  
13 on that amount. I do not believe that we received a  
14 check for that.

15 Q. And do you -- where do you believe it came  
16 from?

17 A. I believe we were applying from revenues  
18 netted.

19 Q. And I may have to call Ms. Caldwell as a  
20 rebuttal here because I am not an Excel spreadsheet  
21 expert or an accountant. But I believe that she  
22 showed the netted amounts and in a different column.

23 In Row 25, July 31st of 2020, again a  
24 receipt of a payment from Siana to Mewbourne  
25 \$31,299.50.

1           And again in August of 2020, another  
2 payment of \$44,896.06.

3           So now I'll try to make my way to the PDFs  
4 of the JIBs that these are reflected in. The first  
5 one will be January of 2020. So I'll move now to a  
6 different exhibit. This would be Exhibit D, I  
7 believe. This being the JIBs from 2020. And,  
8 sorry, here. It's not -- okay. You'll see here, do  
9 you see here, Mr. Russell, this is a JIB from  
10 Mewbourne billing for January 2020.

11           Do you see that?

12           A. No, I still see the spreadsheet.

13           Q. Okay. Let me redo that. Okay. I think  
14 this is it.

15           A. Now I see. I see an interest owner's  
16 bill.

17           Q. Okay. And then do you see here that it's  
18 January of 2020?

19           A. I'll try to zoom in. Sorry, my vision is  
20 not that great.

21           Q. I can make it bigger if that will be  
22 helpful.

23           A. I got it. I got January 2020. Yes,  
24 ma'am, I see that.

25           Q. All right. So then just below that it

1 says, "Balance forward \$231,590.76," and then it  
2 says, "Current period adjustment and receipts."

3 Do you see here there's a number of  
4 payments here. One, two, three, four five, six  
5 seven, eight and then over in the right, the amounts  
6 of the payments and total current period adjustment  
7 for these payments is \$200,000.

8 Do you see that?

9 A. I do see that.

10 Q. And is this the way that you would show  
11 netting or do you have a different JIB that --

12 A. We would show manual netting in that way.

13 Q. So you're saying that there's a -- do you  
14 have evidence that it was netted and not a payment?

15 A. Not in my fingertips. I was not prepared  
16 for this specific question, but I can -- I know it's  
17 not going to help us today, but I can research that  
18 and figure that out. I mean, I'm not supposed to  
19 ask you questions, but is there a check to back up  
20 that you have a check for \$200,000?

21 Q. I believe that some of these were made by  
22 wire transfer. And I might have a rebuttal exhibit  
23 that I could use, but I'd have to pull it up. Let's  
24 see.

25 MS. CALDWELL: Can I say it was a payment

1 of 200,000 and then I think your system went and  
2 applied it to all the outstanding JIBs at the time.

3 THE WITNESS: I agree with that, yeah.

4 MS. CALDWELL: And that --

5 THE WITNESS: I agree that the  
6 200,000-dollar application and it was applied to the  
7 open statements. I can definitely agree to that.

8 MS. CALDWELL: It was Payment No. 1655  
9 and, sorry, I know I'm not supposed to talk but I  
10 was just trying to --

11 THE WITNESS: Was that your check number?

12 MS. CALDWELL: I believe so. Or the  
13 ending for the wire.

14 Q (By Ms. Shaheen) So that's the January  
15 payment.

16 MS. SHAHEEN: And, Mr. Examiners, I know  
17 I'm not sure how to -- if you want me to wait and  
18 bring Ms. Caldwell back so that we can talk a little  
19 more about her spreadsheet and how the data from  
20 Energy Link distinguishes between the netted amounts  
21 and the payments.

22 I can bring her back to talk about that.  
23 But I think it's evident from the spreadsheet and  
24 the backup document that there were payments made.  
25 And then in other instances there were netting,

1 there was netting that occurred and that  
2 Ms. Caldwell distinguished between those in her  
3 analysis and explanation earlier. So moving on I'll  
4 take us to the May JIB. May of 2020. Let's see.

5 HEARING OFFICER BRANCARD: Ms. Shaheen,  
6 where are we going with this testimony other than  
7 refute the statement by the witness?

8 MS. SHAHEEN: We're refuting the statement  
9 by the witness that Siana has paid none of its JIBs  
10 since 2018. And I'm showing where they absolutely  
11 had done that. And Mr. Russell has questioned the  
12 accurateness of Ms. Caldwell's spreadsheet which  
13 clearly shows those payments and so I'm showing you  
14 the backup documents that also illustrate these  
15 payments.

16 So let me see here. Similarly this is  
17 another JIB from Mewbourne Oil Company for May 2020.  
18 Receipts, three payments, total current period  
19 adjustment \$66,556.94.

20 Another one is in July of 2020. And that  
21 is on Page 258 of Exhibit D. See if I can do the  
22 math here, probably not. Let's see. 258.

23 A. I was able to pull up a record,  
24 Ms. Shaheen. And that's a manual netting that we  
25 did. We had struggles with Siana paying their

1 billings for a long time. We tried to work with  
2 them and eventually at some point we were just  
3 netting -- we weren't netting all their revenues.  
4 We didn't put the system netting. We did it  
5 manually and that's what those applications are for.  
6 They're -- I do not show there to be a check or a  
7 wire to back up those.

8 Q (By Ms. Shaheen) Let's see if I have that  
9 in my email. Yeah, I'm not finding it now. I'll --

10 HEARING OFFICER BRANCARD: Maybe we can  
11 move on to something else and if necessary come back  
12 to this.

13 MS. SHAHEEN: Yes. I might have to bring  
14 Ms. Caldwell back. But I would just state for the  
15 record we also have the same documentation with  
16 respect to July and August of 2020.

17 Q (By Ms. Shaheen) Going back to your  
18 self-affirmed statement, Mr. Russell, I'm going to  
19 see if I can pull that up. Let's try here.

20 All right. So I understand from  
21 Mr. Cude's testimony and Mr. Dunn's testimony and  
22 your testimony that Mewbourne's position is that the  
23 monthly JIBs were sufficient to institute an  
24 itemized statement of well costs that were required  
25 by Paragraph 24 of the order.

1           Is that your position as well?

2           A.    Yes, it is.

3           Q.    Now I'm actually going to take you to the  
4 order, if I can remember where it is. And I asked  
5 these questions of Mr. Cude earlier. I don't know  
6 if you were listening then.

7           A.    Yes, I was.

8           Q.    But he referred me to you with respect to  
9 these questions. Paragraph 24, "No later than  
10 180 days after an operator submits a Form C-105 for  
11 a well, operator shall submit to OCD and each owner  
12 of a pooled working interest an itemized schedule of  
13 the actual well costs."

14                   And as I stated I understand, it's  
15 Mewbourne's position that the monthly JIBs satisfy  
16 this requirement.

17           A.    Correct.

18           Q.    And we talked Mr. Cude and I talked about  
19 the fact that this information is supposed to be  
20 provided to each pooled working interest owner. Not  
21 only those who are participating but also those who  
22 are not participating.

23                   And so my question to you is, are the JIBs  
24 provided to those non-consenting pooled parties?

25           A.    No, we do not provide a JIB to

1 non-consenting pooled parties.

2 Q. Okay. So Mewbourne clearly has not  
3 complied with Paragraph 24 with respect to the  
4 itemized statement and pooled working interest who  
5 did not participate in the well, correct?

6 MS. HARDY: I object to the form of the  
7 question. Calls for a legal conclusion.

8 MS. SHAHEEN: Well, I believe it's quite  
9 factual here.

10 Q (By Ms. Shaheen) It's correct that  
11 Mewbourne did not provide an itemized schedule of  
12 actual well costs to non-consenting pooled parties;  
13 is that right?

14 A. My answer was that we did not provide JIBs  
15 to those.

16 Q. Did you provide some sort of itemized  
17 schedule to the non-consenting pooled parties?

18 A. I did not.

19 Q. And by you, and again I'll clarify. By  
20 you I mean you, Mewbourne. So Mewbourne did not  
21 provide an itemized schedule of actual well costs to  
22 the non-consenting parties, right?

23 A. I can speak for the department that I  
24 handle, which is the accounting department.  
25 Accounting did not provide that.

1 Q. So you're saying that someone else may  
2 have provided it?

3 A. I don't know.

4 MS. HARDY: I think it misstatements  
5 testimony.

6 Q (By Ms. Shaheen) Well, I'm getting --  
7 Mr. Cude referred me to you to ask you about this,  
8 so that's why I'm asking. Do you know that anyone  
9 at Mewbourne sent the non-consenting pooled parties  
10 an itemized schedule of the actual well cost?

11 A. No, I don't know that anyone sent them an  
12 itemized schedule.

13 Q. And I also asked him about how the  
14 deadline for submitting objections is triggered. I  
15 don't know if you recall that discussion, but  
16 it's -- the process is triggered by submitting a  
17 Form C-105. And I believe Mr. Cude testified that  
18 Mewbourne does not provide copies of the Form C-105  
19 to the pooled working interests.

20 Is that your understanding as well?

21 A. That is not my area. Accounting does not  
22 deal with any of those issues, so I don't feel  
23 comfortable answering that.

24 Q. Okay. Is there someone at Mewbourne who  
25 could answer that?

1 MS. HARDY: I think Mr. Cude answered the  
2 question.

3 MS. SHAHEEN: Well, I think -- let me --  
4 probing here. Because my recollection is he  
5 referred me to Mr. Russell. So is it Mewbourne's  
6 position that to know when the deadline for filing  
7 written objections to actual costs begins and ends,  
8 how is a pooled working interest to determine when  
9 that period begins and ends?

10 MS. HARDY: Object to lack of foundation.

11 MS. SHAHEEN: Well, let's take a look at  
12 it again. So the process here to --

13 HEARING OFFICER BRANCARD: I believe the  
14 same question was asked Mr. Cude, so I'm fine with  
15 the question.

16 Q (By Ms. Shaheen) And actually let's back  
17 up and, Mr. Russell, when did you first read this  
18 order?

19 A. Last week when I was preparing for this.

20 Q. So you didn't know what the requirements  
21 were under the orders prior to a week ago?

22 A. I did not. No, I did not.

23 Q. You did not know that Mewbourne was  
24 required to submit an itemized schedule of actual  
25 well costs?

1           A.    No, ma'am.  I am here as an accounting  
2 witness, not as an OCD commission witness.  So, no,  
3 I'm not familiar with these.  It does not fall under  
4 my department.

5           Q.    Who at Mewbourne would be able to answer  
6 the questions that I have about Paragraph 24?

7           A.    No one in the accounting department.  
8 That's best I can tell you.

9           Q.    Can you tell me what department would be  
10 able to answer to those questions?

11          A.    I think you would have to --

12               MS. HARDY:  Ms. Shaheen, can you clarify  
13 what -- I'm sorry, I was going to ask, I don't  
14 understand -- what those questions refers to.  What  
15 questions about --

16               MS. SHAHEEN:  Well, the questions that I  
17 asked -- the question I asked Mr. Cude earlier that  
18 he referred to Mr. Russell.  Those questions.

19               HEARING OFFICER BRANCARD:  As I understand  
20 it, you're trying to find out, Ms. Shaheen, what  
21 Mewbourne thinks Paragraph 24 means.

22               MS. SHAHEEN:  Well, what I'm really trying  
23 to understand is what -- how do they conceive of the  
24 process if their position is that the joint -- the  
25 monthly joint interest billings constitute an

1 itemized schedule, how does the process set out in  
2 Paragraph 24 work?

3 MS. HARDY: I think Mr. Cude did answer  
4 that question. I think he had only deferred to  
5 Mr. Russell the question of whether JIBs are sent to  
6 non-consenting pooled parties. That's my  
7 recollection.

8 HEARING OFFICER BRANCARD: I don't know  
9 the answer was a great answer, but I think he did  
10 answer.

11 MS. SHAHEEN: I think he did answer that  
12 question. Mr. Russell did answer that, that JIBs  
13 are submitted to non-consenting pool working  
14 interest.

15 THE WITNESS: Yes. I believe in that line  
16 that was the only question referred to me.

17 Q (By Ms. Shaheen) Okay. So are you the  
18 person who would be in charge of returning these  
19 overages that occur when the estimated well costs  
20 are greater than the actual well costs?

21 A. So I would be the person, my department or  
22 accounting would be responsible for issuing the  
23 refund, not determining if they're due or not.

24 Q. Whose department would determine whether  
25 there was an overage?

1           A.     My department would determine if there was  
2     an overage, but it would be at the request of the  
3     land department to review and issue an overpayment.

4           Q.     So I'm just trying to understand how the  
5     process works.   So land after -- no later than  
6     60 days after the expiration of the period to file a  
7     written objection.

8                     So assuming there has been some  
9     determination as to when that period begins to run,  
10    each owner of a pooled working interest who paid its  
11    share of the estimated costs, actually the operator  
12    shall pay to each owner of a pooled working interest  
13    who paid its share, its share of the estimated well  
14    costs that exceed the reasonable well costs.

15                    So you're saying that the land department  
16    would have to, at the expiration of the objection  
17    period, would have to go and look to see whether the  
18    estimated costs exceeded the reasonable well costs  
19    and if they did, then they would go to accounting  
20    and direct them to provide a refund.

21                    Is how Mewbourne does it?

22           A.     I cannot speak for what happens within the  
23    land side.   Yes, they would have to request us to do  
24    a review and a refund.   Because in accounting we  
25    don't know who the pooled parties are.   We don't

1 know if they're a pooling or not pooling. That's  
2 information we -- don't keep up with that  
3 standpoint.

4 Q. So do you know Mewbourne has a process to  
5 comply with Paragraph 25?

6 A. There is no process in accounting for any  
7 of these numbers 24, 25, 26, 28, 30 whatever number  
8 you're looking at.

9 Q. Do you know whether Mewbourne has a  
10 process at all outside of accounting to make sure  
11 that it's complying with these provisions of the  
12 orders?

13 A. Those are out of my department, so I do  
14 not know.

15 Q. Do you know whether a daily drilling  
16 report is provided to non-consenting pooled parties?

17 A. I do not know.

18 Q. Turning to Paragraph 5 of your statement,  
19 let's see if I can get us back there. So here in  
20 Paragraph 5 says that, "Mewbourne has an established  
21 process of applying prepayment amounts to any and  
22 all charges made to the property that is prepaid."

23 I'm not sure I understand that sentence.  
24 Can you elaborate a little bit?

25 A. Can you repeat your question, please?

1 Q. Yes. I'm looking at, and I'll use my  
2 cursor to show you. Right here (indicating).

3 Can you see my cursor?

4 A. Yes, ma'am.

5 Q. See this sentence right here (indicating)  
6 begins, "Mewbourne has an established process of  
7 applying prepayment amounts to any and all charges  
8 made to the property that is prepaid."

9 Could you clarify what you mean by that?

10 A. Yes. So we put the money on account for  
11 that owner for that property, and we apply that  
12 money for any charges on that property as they come  
13 through without regard to whether they be drilling,  
14 completing or operating costs.

15 So any -- if they prepaid for a property  
16 we assume they want all their charges on that  
17 property covered through that prepayment. So rather  
18 than take out for drilling and then send them an  
19 invoice for operating, we take out on that property  
20 until they use up all of their prepayment.

21 Q. So would it be fair to say that no one has  
22 instructed accounting as to the process it should  
23 employ to comply with the paragraphs of the order  
24 that we just looked at?

25 MS. HARDY: Object to the form.

1 MS. SHAHEEN: I can ask it in a different  
2 form if you like.

3 HEARING OFFICER BRANCARD: Go ahead with  
4 the question.

5 Q (By Ms. Shaheen) Would it be fair to say  
6 that no one has instructed the accounting department  
7 in Mewbourne as to the processes that should be  
8 employed to satisfy the requirements of the order?

9 A. Can you repeat that question? I'm not  
10 comfortable with that question. Can you rephrase?  
11 I'm not sure I completely understand.

12 Q. I'm saying would it be fair to say --  
13 well, let me do it this way.

14 Has anyone at Mewbourne instructed the  
15 accounting department as to how it should comply  
16 with the paragraphs we just went over in the orders?

17 A. Which specific one? That's kind of a  
18 broad question.

19 Q. Well, let's start with Paragraph 24. Has  
20 anyone instructed accounting as to what it needs to  
21 do for Mewbourne to comply with Paragraph 24?

22 A. So I'm not sure what we would have to do  
23 to apply -- I'm not sure what we would have to do to  
24 comply with Paragraph 24. So I can't say whether we  
25 have been instructed correctly or not. Because I'm

1 not -- I don't want to interpret 24 to know what we  
2 have to do, to do that.

3 Q. Well, if I understand correctly,  
4 accounting doesn't know or really doesn't have  
5 anything to do with Paragraphs 24 through 28.  
6 That's what I understood your previous testimony to  
7 be.

8 A. That's correct.

9 Q. Okay. So my question is, is it fair to  
10 say to no one has told you how to do it; is that  
11 right?

12 A. We have not had discussions specifically  
13 about those, no.

14 Q. Okay. Then going on to the next sentence.  
15 "Mewbourne deems that inappropriate to bill for a  
16 property when still holding prepaid funds for that  
17 property."

18 And can you just explain that a little  
19 bit?

20 A. I think your accountant explained it  
21 pretty well earlier when she said she didn't want to  
22 get an invoice and pay you \$10 when you owed her a  
23 thousand dollars somewhere else. So the same  
24 concept is, we don't want to send you a billing --  
25 if we're holding -- so the OJ Well as we referred it

1 to as earlier, if we're still your -- if we have  
2 money on account for the OJ Well from Siana, we  
3 would apply that money against that charge rather  
4 that send them an invoice for that charge.

5 Q. I think that misstates Ms. Caldwell's  
6 previous testimony. If I remember correctly, what  
7 she testified is she doesn't want to pay \$10 when  
8 she's already owed a thousand dollars. That was her  
9 testimony.

10 So this is a little bit different. And my  
11 understanding is you are JIBing, you are JIBing  
12 Siana and when they don't send you a check, then you  
13 net it.

14 Isn't that the process that Mewbourne is  
15 employing?

16 A. On the wells that do not have a prepayment  
17 or a pooling payment on them, yes.

18 Q. Okay. If there's a prepayment, then you  
19 just net the operating expenses, operating charges  
20 from the prepayment for drilling and completion,  
21 correct?

22 A. Correct.

23 Q. Okay. Let's just go back to the order  
24 real quick for a minute. Let's see if I find it  
25 without too much trouble. Here we go.

1           So does -- is there any -- have you looked  
2 at -- you did say you reviewed it about a week ago,  
3 right?

4           A.    I reviewed it. I am in no means no expert  
5 on those. I'm not familiar with them, no.

6           Q.    And this page, did you find any language  
7 that allows the operator to net lease operating  
8 expenses from the overage?

9           A.    I have not reviewed to that level that I  
10 want to ascertain an opinion on how it should or  
11 should not be handled.

12          Q.    Okay. So you haven't -- you don't know of  
13 any language in the order allows Mewbourne to do  
14 that, correct?

15          A.    I am.

16                MS. HARDY: Misstatements testimony.

17          Q     (By Ms. Shaheen) Well, do you know of any  
18 language --

19                HEARING OFFICER BRANCARD: He didn't say  
20 he had an opinion, so don't give him one.

21          Q     (By Ms. Shaheen) I'm sorry, let me ask you  
22 differently. Do you know of any language in the  
23 order that allows Mewbourne to net lease operating  
24 expense from an overage?

25          A.    I do not wish to state an opinion on this.

1 I do not wish to state an opinion on the order. I'm  
2 not familiar with these. As I stated before, I'm  
3 not comfortable stating an opinion on something that  
4 I'm just now -- I'm here as an accounting expert,  
5 how we bill, what we do on the accounting side not  
6 the Division order, not the OCD orders.

7 Q. I'm not asking you to give me an opinion,  
8 I'm just asking you whether you know of any language  
9 in here that allows Mewbourne to do that?

10 A. If I'm not a lawyer, then that would be an  
11 opinion. And even if I was a lawyer, it would still  
12 be an opinion of how I read and interpret it, right?

13 Q. I'm just asking you whether you know of  
14 any language in this order that allows Mewbourne to  
15 deduct lease operating expenditures from a  
16 prepayment overage.

17 MS. HARDY: Objection, asked and answered.

18 HEARING OFFICER BRANCARD: Yes, I think  
19 it's been answered.

20 MS. SHAHEEN: Actually I think it has not  
21 been answered, but I'll move on.

22 HEARING OFFICER BRANCARD: In terms of the  
23 answer, the answer is no.

24 THE WITNESS: No.

25 Q (By Ms. Shaheen) Turning to your

1 Paragraph 7, this relates to the check that  
2 Mewbourne sent to Siana in an effort to pay back the  
3 overage.

4 Ms. Hardy had it as an exhibit previously.  
5 Are you aware of what prompted Mewbourne to send  
6 that check to Siana?

7 A. Yes. I received a request from our legal  
8 department to review the amount and to issue a  
9 check.

10 Q. You reviewed the amount that was  
11 calculated?

12 A. I -- so be careful that you don't put  
13 words in my mouth here. I was asked to account for  
14 what the overpayment was and issue a check, yes.

15 Q. Was the check issued for the amount for  
16 Mewbourne, excuse me, that Siana had calculated?

17 A. I am not aware of where the calculation  
18 came from.

19 Q. You don't know where the 406,000-dollar  
20 number came from?

21 A. No, ma'am.

22 Q. Did you do some sort of calculation to  
23 come up with that number?

24 A. Yes, ma'am. I did pull records at that  
25 time to see if that was the number.

1 Q. You did?

2 A. Yes, I did.

3 Q. Can you explain to me the process you used  
4 to come up with that number?

5 A. I don't think I'm going to be able to  
6 recall what I did over seven months ago and give you  
7 a detailed process.

8 Q. Can you generally explain how you would  
9 have done that?

10 A. I would have looked to see how much you  
11 prepaid. I would look to see how much we billed on  
12 drilling and completion costs and done a little  
13 simple math to find the difference.

14 Q. And have you -- have there been  
15 additional -- so at that time, that would have been  
16 November, end of November 2021. Those were  
17 determined to be the actual costs. Have you looked  
18 to see what the actual costs would be calculated at  
19 as of today?

20 A. I have not.

21 Q. Is it possible that there would be a  
22 difference?

23 A. Yes, ma'am.

24 Q. Would it surprise you to learn if you did  
25 that calculation now it would be closer to \$412,000?

1           A.    I don't know.  I have not done that  
2 calculation, so I don't know what the number would  
3 be.

4           Q.    When you have provided refunds, do you  
5 calculate interest due on those refunds?

6           A.    No.  We have never calculated interest  
7 due.

8           Q.    Have you ever calculated interest due on  
9 refunds or on distributions of revenues that have  
10 been withheld?

11          A.    I'm not a revenue expert so I do not want  
12 to -- I'm not sure on that side.

13          Q.    Do you do revenue accounting?

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

15          Q.    How would you describe the type of  
16 accounting that you do?

17          A.    So as the controller, so I worked my way  
18 up through joint interest accounting.  As controller  
19 I oversee the joint interest and revenue accounting,  
20 but that does not mean I'm an expert in revenue  
21 accounting.  So I oversee, I manage the personnel  
22 that takes care of our revenue accounting.

23          Q.    And you were an -- I'm sorry go back to  
24 this and I apologize if I'm being repetitive, but  
25 you were aware when you received the request from

1 legal to cut that check, you were aware that it was  
2 a result of a letter that they had received from  
3 Siana; is that right?

4 MS. HARDY: Object to the form and  
5 foundation.

6 HEARING OFFICER BRANCARD: Well, he can  
7 testify if he was aware or not.

8 MS. HARDY: Well, he didn't say he was  
9 aware of it.

10 HEARING OFFICER BRANCARD: She is asking  
11 if he is aware of it.

12 A. I don't recall the exact conversation or  
13 exact note asking for the check, I just recall being  
14 asked to view the number and issue the checks. So I  
15 don't know where the -- I don't know what prompted  
16 legal to do that, no.

17 Q (By Ms. Shaheen) How often have you seen  
18 an overage like is at issue here?

19 A. Restate that question. I'm not sure  
20 exactly what you're asking.

21 Q. I'm asking how often do you see a  
22 prepayment overage like the one we have here in  
23 \$406,000?

24 A. As in a dollar amount or as in a  
25 prepayment in general or what's the --

1 Q. As a dollar amount, how often do you see a  
2 large prepayment overage like this?

3 A. I don't recall many, if any.

4 Q. Have any other working interest owners  
5 questioned the costs that have been incurred in  
6 these -- with these wells?

7 A. Not that I'm aware of.

8 Q. Are you aware that Apache requested an  
9 audit for these wells?

10 A. That's quite possible but I don't memorize  
11 all the audits, so I do not know.

12 Q. How many audits are requested from  
13 Mewbourne?

14 A. We do -- we usually have six or eight  
15 requests through the year of various wells.

16 Q. And where do -- who's in charge of dealing  
17 with those audits at Mewbourne?

18 A. I have a staff accountant that's in charge  
19 of those.

20 Q. So your staff accountant would be aware of  
21 the current audit with respect to these wells?

22 A. Yes. If there is one.

23 Q. I'm going to turn now to some of the JIBs  
24 and ask you some questions about company  
25 supervision. Let's see. 507. I've got to switch

1 documents here.

2 And see this is the JIB for -- the invoice  
3 date April 30, 2021 billing for April 21, 2021.

4 Do you see that?

5 A. So the invoice date is 4/30 billing for --  
6 okay.

7 Q. Okay. I'm going to scroll down to the  
8 Inland Wells. So this is the PI. And there's  
9 several company supervision charges here starting  
10 right where my cursor is and then coming down here,  
11 company supervision. I think there's five of them  
12 here.

13 Do you see that?

14 A. I do see yes, ma'am.

15 Q. They're all attributed to Mewbourne.

16 Do you see that?

17 A. Yes, I do.

18 Q. Can you tell me what specifically was done  
19 by Mewbourne Oil Company for that 2,400-dollar  
20 charge?

21 A. No, ma'am, I cannot. I can tell you  
22 specifically that that was a Mewbourne employee on  
23 location working for the benefit of the well.

24 Q. But you don't know what employee and you  
25 don't know what they were doing?

1 A. Not from this statement, no, ma'am.

2 Q. Is there any way that a working interest  
3 owner would know that by looking at some statement  
4 that it was -- that Mewbourne provided to it?

5 A. No.

6 Q. So these, I understand from Mr. Cude, that  
7 these company supervision charges in April for  
8 intangible well costs which would have been drilling  
9 and completion.

10 Is that your understanding as well?

11 A. Yes, and that's specifically with the  
12 property number above being dash 20, these were the  
13 completion side.

14 Q. Okay.

15 A. Completion work, yeah.

16 Q. Uh-huh.

17 A. And I believe your question earlier was  
18 about when did these happen. Well, if this invoice  
19 is dated at the end of April, then these are for  
20 March charges because we would not know -- in April  
21 we would not be able to bill in the same month for  
22 what our employees had done in that month. So  
23 these, our company supervision of them is on a month  
24 lag. So this activity was done in March and billed  
25 in April.

1 Q. So when it says billing for April 2021,  
2 that means that it was actually billing for work  
3 done in March of 2021?

4 A. It's billing for invoices and accounting  
5 accounted for in April of 2021.

6 Q. So it refers to invoices that Mewbourne  
7 received in April of 2021; is that right?

8 A. Invoices and/or accounting that we  
9 received in April of 2021.

10 Q. I'm sorry, accounting what?

11 A. That we received. So if we, you know,  
12 like I said, our company supervision is our internal  
13 employees that turn in a work report. So at the end  
14 of March they turn one in, the first of April for  
15 what they did in March.

16 Q. Okay. And so do you provide --

17 A. That would essentially be an invoice  
18 received in April.

19 Q. Okay. Okay. So when Mewbourne has these  
20 company supervision charges, there's a work report  
21 instead of an invoice.

22 Is that your testimony?

23 A. Yes, it is.

24 Q. Okay. If Siana wanted to ask for an  
25 invoice or work report, it could contact your

1 accounting department and ask for an invoice so that  
2 it could see what all these company supervision  
3 charges are?

4 A. Correct.

5 Q. So scrolling down here a little farther to  
6 the lease operating expenditures. Oh. And  
7 actually, you know what, one question. When you  
8 look at the drilling report, I hate to go back and  
9 forth here, but when you look at the drilling  
10 report, and I think it's here in your exhibits; is  
11 that right?

12 A. Yes. We have our exhibits, yes.

13 Q. So I can just scroll down to Exhibit 1, or  
14 let's see, I can move over. I have got to move over  
15 to the other document. So here's the drilling  
16 report for the OJ. I'm going to scroll down to the  
17 March, the March of 2021.

18 A. Okay.

19 Q. Let's see if I can do it a little quicker  
20 here. Okay. Here we are here in March of 2021?

21 A. Okay.

22 Q. And so what does WODO mean?

23 A. I do not complete these reports, so I do  
24 not know what those are.

25 Q. Okay. Is there any indication of work

1 being done on March 1st, March 2nd, March 3rd,  
2 March 4th?

3 A. It does not appear so.

4 Q. And --

5 A. But I don't know what WODO is. I have no  
6 idea.

7 Q. Okay. But there's no indication of  
8 something being charged here, right? The CTWC is  
9 the same here as it is here (indicating), right? So  
10 there's been no -- it looks to me like there's been  
11 no additional work done on these days.

12 A. There's been no work reported.

13 Q. Okay.

14 A. If you look at March 5th as you're  
15 scrolling jumping past that one, there was work  
16 performed there.

17 Q. Yeah. There was work performed on  
18 March 5th. There was some work performed on March  
19 12th, March 13th, March 14th. How many days is  
20 that, five days?

21 A. It looks like there are a lot of days in  
22 March that there was work being done.

23 Q. Let's keep going here. Then we get to  
24 March 19th. At this point we're done with the  
25 drilling, right, it's complete. The well was

1 completed as of March 16 is my understanding.

2 A. Okay. Well, the well was put online.  
3 Now, just because a well starts producing, my  
4 understanding is that it doesn't, all the work  
5 doesn't just go away. If you look at the next day  
6 they're still out there working on that.

7 Q. Right. But the work on drilling and  
8 completion is done, right? So drilling and  
9 completion the done by March 16th. So if you've got  
10 company supervision, and I'll go back to it, see if  
11 I can hop back to the other one.

12 Company supervision under intangible well  
13 costs, we have those six charges counting the one on  
14 the page above. These are all drilling and  
15 completion, right?

16 A. Correct.

17 Q. So then when you go down here, the lease  
18 operating expenditures there's more. There's more  
19 company supervision here. Now we're here at the  
20 lease operating expense. And we have company  
21 supervision there's like seven here. Six or seven  
22 maybe six. Mewbourne Oil Company.

23 A. Yes.

24 Q. So is it your testimony that all of this  
25 company supervision, and we did the math a little

1 while ago when Mr. Cude was talking. It's about  
2 \$9,000 on each of side of it, right?

3 A. Right.

4 Q. \$9,000 company supervision for drilling  
5 and completion, \$9,000 company supervision for  
6 production.

7 Can you explain to me what these company  
8 supervisions for the lease operating expenditure  
9 are?

10 A. It's our company employees on-site doing  
11 work for the well to operate.

12 Q. Okay.

13 A. These wells --

14 Q. I'm sorry, go ahead.

15 A. These wells come on and they require  
16 supervision, they require work. They don't just  
17 magically -- you don't put them online and then stop  
18 doing anything with them.

19 Q. Right. But we don't know what they were  
20 doing, right, unless we call and ask for information  
21 about this.

22 A. If we don't -- but the next line down for  
23 Pace Oil Field Services, you don't know what they  
24 were doing either, do you?

25 Q. No. But I know that you have an invoice

1 from Pace Oil Field Services. Tells you what they  
2 were doing, right?

3 A. And now, you know, I have a work report  
4 from Mewbourne Oil Company, right?

5 Q. Well, that, I don't know. I don't know  
6 about that but I'm pretty sure you're getting an  
7 invoice from a third-party contractor.

8 A. Okay.

9 Q. Do you know what Pace Oil Field Services  
10 was doing for all this contract supervision?

11 A. I did not.

12 HEARING OFFICER BRANCARD: Ms. Shaheen,  
13 this is really fascinating. You know?

14 MS. HARDY: Oh. Well, I'll stop.

15 HEARING OFFICER BRANCARD: I'm not sure  
16 where we're going with this. You know, I hope you  
17 don't think that the OCD is going through of these  
18 two thousand pages of billings here to figure where,  
19 you know, Mewbourne has made mistakes.

20 MS. SHAHEEN: No. I'm hoping that the  
21 Division will order an accounting that will result  
22 in us being provided with more information about all  
23 of these costs.

24 HEARING OFFICER BRANCARD: Other operators  
25 have asked for audits and that Mewbourne's doing

1     them so.

2                   MS. SHAHEEN: Well, but those are parties  
3     to the JOA who are doing that audit. Our right is  
4     under the regulations related to force pooling to  
5     challenge the reasonableness of the costs. And so  
6     that's why we're before the Division now because  
7     that's our relief. That's our process to getting  
8     relief is under the force pooling regulations to  
9     challenge the reasonable cost which is why we've  
10    spent all the time on the order and getting that  
11    actual costs and having an objection period which  
12    we've not had to date.

13                   I can move on from this though and let me  
14    see what really is important for me to cover. Give  
15    me one minute. I may be close to being done.

16                   I just have a few more questions,  
17    Mr. Russell. We have located a documentation of the  
18    wire, the 200,000-dollar wire.

19                   Mr. Examiners, I'm not sure how you would  
20    like for us to enter that into the record. I think  
21    we probably need to bring back Ms. Caldwell to do  
22    that. I'll let you give that some thought while I  
23    ask a few more questions.

24                   HEARING OFFICER BRANCARD: My initial  
25    thought is not today.

1 MS. SHAHEEN: Well, it would only take a  
2 minute. But I will obviously proceed as you  
3 instruct me to.

4 Q (By Ms. Shaheen) Mr. Russell, has the OJ  
5 Well reached payout yet?

6 A. I do not know. And first of all, we had  
7 to define payout, but I still don't -- I did not  
8 research that record before I came in so.

9 Q. How do you define payout?

10 A. How do you define payout? So there's a  
11 couple of options. One is 100 percent of cost,  
12 100 percent of revenues which is not normally payout  
13 because you have a normally 75 percent of revenues  
14 to pay 100 percent of the cost because you have the  
15 overrides or are you talking about with the 200  
16 penalty for those non-consenting, are you talking  
17 about for a 300 percent penalty for those that are  
18 non-consenting under a JOA. So, you know, there's  
19 quite a few different definitions of payout.

20 Q. Well, I think we would be referring to the  
21 circumstance here payout in the instance where you  
22 have a force pool interest owner who has paid their  
23 share of estimated cost.

24 A. We do not track a payout for working  
25 interest owner. They don't have a payment

1 provision. They're participating. So there is no  
2 payout calculations here.

3 MS. SHAHEEN: I have no further questions,  
4 Mr. Russell. Thank you for your patience with all  
5 of my questions.

6 HEARING OFFICER BRANCARD: Mr. McClure, I  
7 know you have been waiting.

8 MR. MCCLURE: Mr. Brancard, I maybe have  
9 just a few brief questions, very brief.  
10 Mr. Russell, just to make sure I'm on the same page,  
11 I guess, and if you have to forgive my not being  
12 directly familiar with all the direct terms, but I  
13 guess from a very limited experience, when an AFE is  
14 issued, essentially the AFE can have invoices  
15 charged to it until one of either two things  
16 happens. Either until its maximum amount is reached  
17 or until that AFE is terminated. Is that kind of in  
18 line with how Mewbourne does their accounting? Or  
19 am I completely ...

20 THE WITNESS: I think you're pretty well  
21 in line. Mewbourne as we do -- you know, basically  
22 the costs that come in on the AFE, so even if you go  
23 over the AFE, which is not the case on these, you  
24 still continue to charge the AFE. So saying your  
25 drilling cost is, you know, as we alluded to earlier

1 that, you know, we did the AFEs six months, you  
2 know, more before we drilled the well. You know,  
3 costs are going up and you 10 percent on your AFE.  
4 You continue to charge to the AFE and you just go  
5 over.

6 MR. McCLURE: Okay. I got you. I guess  
7 my only follow-up question to that, I guess in the  
8 past, the limited experience I've had, the AFE would  
9 just run and then determine it until the new budget  
10 year. Is that kind of correct here? Does the AFEs,  
11 do they terminate like at the beginning of the next  
12 budget year or do they terminate six months after  
13 they start or a year after they start? Or are they  
14 indefinitely open, I guess, would be my question?

15 THE WITNESS: So the actual AFE cost are,  
16 they should terminate when the work is completed.  
17 There wouldn't be like a date and time, but it would  
18 be once you've finished all the cost on the well  
19 that are budgeted and that's one of the things that,  
20 you know, sometimes you are able to turn the well on  
21 production and produce before you finish all your  
22 AFE costs.

23 You know, you can come in and add lifting  
24 equipment or run tubing or, you know, there's some  
25 things that you can do that are still on the

1 original AFE that are not necessarily required to  
2 turn the well to production.

3 MR. McCLURE: Definitely. I'm completely  
4 with you. I guess my question to you is for these  
5 wells in question, have those AFEs now been  
6 terminated? Or are they still open? Or do you know  
7 the answer to that I guess.

8 THE WITNESS: I don't really know the  
9 answer to that. Ours, we never really actually  
10 terminate and close because the way we bill our  
11 cost. If we were to go in and say do a tubing  
12 change out or something, equipment change out, we  
13 would still charge them to our "AFE code." So we  
14 don't ever really go terminate and shut those down  
15 because your tangible equipment would always go back  
16 to the same type coding as it -- whether it's under  
17 operating or if it's under, you know, completion,  
18 you still go back to the same type of coding.

19 MR. McCLURE: Okay. So I was  
20 misunderstanding somewhat because I was picturing  
21 the AFE code as being strictly to say "capital  
22 expenditure" for the initial drilling completion of  
23 the well. But that's not the case if you can go  
24 then go swap out tubing a year later and still  
25 charge it under the same code then, is that -- am I

1 understanding that correctly?

2 THE WITNESS: Yes, you are. Yeah, because  
3 of the same code. You know, tubing is a tangible  
4 product so, you know, I know you are talking about  
5 tax guidelines here, but we have to report it as  
6 such as tangible because it can be only be  
7 depreciated when you do your tax return or whatever  
8 like that. You can't, you know, as the operating  
9 expenses can be directly expensed in the year they  
10 occur. Some of these tangible costs would have to  
11 be depreciated so we have to report them in the  
12 proper category so that they can handle them  
13 correctly on a tax return.

14 MR. McCLURE: Okay. Thank you. Yeah,  
15 that pretty much answers my question. And  
16 essentially just in context, I'm trying to figure  
17 out if there was some sort of natural stopping  
18 point, I guess, for when the AFE would essentially  
19 then be ended I guess.

20 THE WITNESS: Right.

21 MR. McCLURE: Okay. Thank you.

22 That's all of my questions, Mr. Brancard.

23 HEARING OFFICER BRANCARD: Thank you.

24 Mr. McClure, you just hit on what I was going to ask  
25 about.

1 MR. McCLURE: I read your mind.

2 HEARING OFFICER BRANCARD: When I look at  
3 the AFE on those codes, right, and I would assume  
4 that all expenses as it's shown in those JIBs are  
5 allocated to a specific code.

6 THE WITNESS: Correct.

7 HEARING OFFICER BRANCARD: Right. And so  
8 you have a code for the well drilling and completion  
9 which will be the AFE and then you have a lease  
10 operating expense codes, correct?

11 THE WITNESS: Correct. That's correct.  
12 Yes.

13 HEARING OFFICER BRANCARD: And so you  
14 would obviously have some sort of cumulative numbers  
15 for each of these codes, for each well?

16 THE WITNESS: You could pull an accounting  
17 of the cumulative numbers, yes.

18 HEARING OFFICER BRANCARD: Okay. And so  
19 what, I think what you're saying is that while, you  
20 know, you may complete the well and go online and  
21 then, you know, send your C-105 into the State, you  
22 still may have a few costs coming in afterwards.  
23 But State gives you six months, 180 days to come up  
24 with a final number. And I would assume that within  
25 180 days, you're pretty much done with all of your

1 costs related to drilling.

2 THE WITNESS: Yeah. If we can definitely  
3 emphasize the pretty much because we can't control  
4 when our vendors are going to invoice us.  
5 Unfortunately, I think vendors come back six to  
6 eight months later before we actually get an invoice  
7 for a drilling code or drilling charge.

8 HEARING OFFICER BRANCARD: Okay. So you  
9 could actually prepare a document that looks like an  
10 AFE, which instead of having estimated costs would  
11 have actual well costs?

12 THE WITNESS: Yes, I could.

13 HEARING OFFICER BRANCARD: Okay. Is that  
14 what you used when you were asked to calculate  
15 whether there was an overage or underage for this  
16 well?

17 THE WITNESS: No. I would have -- I use  
18 the same type of information. I would go pull --  
19 because all of our records -- all of our county  
20 records are kept in detail so I go pull an  
21 accounting on that detail. I go back to, you know,  
22 I pull that into a spreadsheet like some of the  
23 stuff that you were looking at earlier. Doing some  
24 of what Ms. Caldwell was doing on pivot tables and,  
25 you know, put them in the right categories. You

1 know, the codes with all the detailed information  
2 and then I summarize it.

3 HEARING OFFICER BRANCARD: Okay. So when  
4 that check was -- so that dollar amount that we saw  
5 on that check, was that dollar amount based on your  
6 calculations?

7 THE WITNESS: You know, I think if I  
8 remember correctly and you're asking me about  
9 something that happened quite some time ago. I  
10 believe legal asked me, you know, to calculate that.

11 MS. HARDY: Sir? Mr. Russell, I'm going  
12 to caution you to please not disclose anything that  
13 you were asked by the attorneys.

14 THE WITNESS: Yeah, okay. Sorry.  
15 I don't recall if I was verifying that  
16 number or if I calculated it myself. I really don't  
17 recall.

18 HEARING OFFICER BRANCARD: Okay. So with  
19 that check, and I don't want to go into what else  
20 might have gone into that or but was there a summary  
21 calculation that was provided to Siana that said  
22 this is how we came up with this number?

23 THE WITNESS: So I did not send the check  
24 so I don't know what was provided to them.

25 HEARING OFFICER BRANCARD: Okay. So on

1 this suspense issue, I guess I forgot to ask this of  
2 others, has the Court in Texas directed Mewbourne to  
3 hold these funds in suspense?

4 THE WITNESS: Well, that's way -- that's  
5 way outside of my territory. I do not know. I mean  
6 I think it's -- I can speak to the generality of  
7 this is -- this is the common way that Mewbourne has  
8 handled, anytime there's a legal dispute or disputed  
9 interest, we will put that in suspense. I don't  
10 know who. I'm not sure exactly who directs or  
11 dictates that, but we normally put that in suspense  
12 until we get a clarification of who owns it.

13 HEARING OFFICER BRANCARD: Okay. So I  
14 guess just generally, I was talking about this idea  
15 of, you know, a whole schedule of charges, related  
16 actual charges. Was anything like this ever  
17 prepared and forwarded to Siana?

18 THE WITNESS: No. Not that I'm aware of.

19 HEARING OFFICER BRANCARD: Thank you.

20 Ms. Hardy, do you have any redirect?

21 MS. HARDY: Just one or two. I promise.

22 REDIRECT EXAMINATION

23 BY MS. HARDY.

24 Q. Mr. Russell, let me share.

25 MS. HARDY: Can I share my screen here

1 again?

2 HEARING OFFICER BRANCARD: Mr. McClure has  
3 to do it because Marlene threw up her hands and ran  
4 away.

5 MS. HARDY: Good luck, Mr. McClure.

6 MR. McCLURE: You should be able to share  
7 now.

8 MS. HARDY: It worked.

9 MR. McCLURE: Yeah, I'm a little slower  
10 than Marlene but eventually I'll get there.

11 MS. HARDY: You got it.

12 Q. (By Ms. Hardy) So I'm not going to ask  
13 you, Mr. Russell, to interpret any provision of the  
14 pooling order, but I'm going to ask you to read  
15 paragraph 28. I know that Ms. Shaheen asked you a  
16 number of questions about whether any language in  
17 the pooling order allowed a deduction of lease  
18 operating expenses.

19 Can you please read Paragraph 28?

20 HEARING OFFICER BRANCARD: Did we lose  
21 Mr. Russell?

22 MS. HARDY: Did we? I hope not.

23 MR. McCLURE: I see his camera, but it's  
24 not showing anything on his camera. I don't know  
25 what's up with that.

1 MS. HARDY: Hopefully we didn't lose  
2 his -- I think it's an Internet issue. I just sent  
3 him a message. Oh, he got kicked off the Internet  
4 he said so ...

5 HEARING OFFICER BRANCARD: Well, maybe the  
6 question wasn't that important. We can always read  
7 the order ourselves.

8 MS. HARDY: That's true.

9 HEARING OFFICER BRANCARD: I guess I will  
10 throw out here while we're waiting, to the  
11 attorneys, just for you to come back quickly,  
12 shooting from the hip about what you think should  
13 happen next. I don't have a certain path forward  
14 here. But I will throw that at you for suggestions.

15 MS. SHAHEEN: I would suggest that we have  
16 some sort of closing statement, whatever you would  
17 like to have within a certain period of time after  
18 we get the transcript.

19 MS. HARDY: I agree.

20 HEARING OFFICER BRANCARD: Okay. If you  
21 want, I've been, actually started typing an order  
22 while sitting here.

23 We seem to have lost Mr. Russell  
24 completely; is that correct, Mr. McClure?

25 MR. McCLURE: It looks like he dropped,

1 but I think Webex probably just keeps you on while  
2 it's trying to search for you. It probably just  
3 timed out.

4 HEARING OFFICER BRANCARD: True.

5 MR. McCLURE: I'm sure it will show me as  
6 soon as he shows up so I'm watching.

7 Are we still recalling a witness yet this  
8 afternoon then, Mr. Brancard? Or what's your  
9 thoughts? Or in other words, was I not supposed to  
10 remind people of that?

11 HEARING OFFICER BRANCARD: Yeah. Keep  
12 your mouth shut.

13 MS. SHAHEEN: It would only take  
14 Ms. Caldwell a minute or two to introduce this  
15 rebuttal exhibit.

16 HEARING OFFICER BRANCARD: I'm, again, I'm  
17 not sure what the purpose of it is.

18 MS. SHAHEEN: Well, the purpose of it is  
19 to refute Mewbourne's claim that Siana has any paid  
20 any JIBs since 2018.

21 HEARING OFFICER BRANCARD: So you're left  
22 with Siana not paying anything since the middle of  
23 2020?

24 MS. SHAHEEN: Since there have been  
25 disputes between the parties about costs and sitting

1 on the overages.

2 MS. HARDY: I would submit that even if  
3 there was one payment out of several years worth of  
4 monthly JIBs, that that doesn't address the issue.

5 MS. SHAHEEN: Well, I would suggest that  
6 this is why closing statements might be helpful. I  
7 mean we do have spreadsheets in the record. We have  
8 the JIBs that indicate that the payments were made.  
9 It's clear that the netting was done in a different  
10 manner. The records for the netting was done in a  
11 different manner. And we can point all of that out  
12 in the closing statement, if you prefer. That tells  
13 you what they were doing, right?

14 MR. McCLURE: I do see a call-in user  
15 four. I'll unmute him. Maybe this is ...

16 MS. HARDY: I think that's probably  
17 Mr. Russell. I asked him if he could call in.

18 MR. McCLURE: He's unmuted now if it is  
19 him.

20 THE WITNESS: Okay, yeah.

21 MS. HARDY: Mr. Russell, is that you?

22 THE WITNESS: Yes. This is me. I lost  
23 Internet connection and just got completely wiped  
24 out and could not get it back. So I am dial in  
25 through voice mail.

1 MS. HARDY: Okay. Well, I think we just  
2 have a couple more minutes, I believe.

3 Q. (By Ms. Hardy) Mr. Russell, I was just  
4 asking if you could read Paragraph 28 of the pooling  
5 order with respect to Ms. Shaheen's questions on  
6 language allowing deduction of lease operating  
7 expenses.

8 A. Okay. So 28, "Operator must withhold the  
9 following cost and charges from the share of  
10 production due to each owner of a pooled working  
11 interest who paid its share of the estimated well  
12 cost: A) the proportionate share of the supervision  
13 charges; and B) the proportionate share of the  
14 operating charges."

15 Q. And would it be your understanding that  
16 the lease operating expenses fall within the  
17 operating charges?

18 A. Yes, it would.

19 Q. Okay. One more question, Mr. Russell, I  
20 think you said that Mewbourne typically gets  
21 requests to provide six or eight audits a year; is  
22 that correct?

23 A. Yeah, typically.

24 Q. And how many wells does Mewbourne operate  
25 in New Mexico?

1           A.    Oh, I'm not familiar with the number in  
2 New Mexico but I know we operate over close to 2800  
3 wells now between New Mexico, Texas, and Oklahoma  
4 with the majority of those being in New Mexico so.

5           Q.    Okay.

6           A.    I'm not sure exactly.

7           Q.    It's a significant number?

8           A.    Yes, a very significant number.  Yes.

9           Q.    Okay.

10          A.    Yeah, definitely a significant number in  
11 New Mexico.

12          Q.    Okay.

13                MS. HARDY:  Those were my only follow-up  
14 questions.  Thank you very much, Mr. Russell.

15                THE WITNESS:  Yes.

16                MS. HARDY:  Thank you for rearranging your  
17 schedule to be here today.

18                HEARING OFFICER BRANCARD:  Thank you.

19                Ms. Shaheen, you have your document ready?

20                MS. SHAHEEN:  Yes.  I'll put it up real  
21 quick here.

22                THE WITNESS:  I apologize.  I'm only on  
23 voice so I'm not going to be able to see the  
24 document.

25                MS. HARDY:  That's true.

1 MS. SHAHEEN: You know what, we'll need to  
2 have, bring Ms. Caldwell back on so she can help  
3 me -- I've received a number of emails from her.  
4 She's going to need to tell me what --

5 Danielle, are you there?

6 MS. CALDWELL: Yes, I'm here.

7 MS. SHAHEEN: Okay. So can you direct me  
8 to the email that I should pull up first?

9 MS. CALDWELL: So in regards to the  
10 200,000-dollar payment that we walked through  
11 earlier, we had found -- it should be the email sent  
12 at 6:14. If you pull that up and we're showing --  
13 and it's our bank statement showing the 200,000 paid  
14 to Mewbourne Oil. And I have where I showed it  
15 actually, like where it cleared.

16 MS. SHAHEEN: Okay. I'm looking for it.  
17 4:14. Sorry. It would be ...

18 THE WITNESS: 5:14 your time.

19 MS. SHAHEEN: Okay, I'm not finding it.

20 MS. CALDWELL: Well, here, let me resend  
21 it. Let me just send them so they're fresh.

22 MS. SHAHEEN: Is there more than one?

23 THE WITNESS: Well, we're just talking  
24 about that. Okay. Did you just get it?

25 MS. SHAHEEN: No, I haven't gotten

1 anything yet.

2 THE WITNESS: Do you want me -- well, you  
3 want me to share my screen?

4 MS. SHAHEEN: If the Hearing Examiner  
5 would allow you to do that, I think that would be  
6 the best option here.

7 HEARING OFFICER BRANCARD: Can you do  
8 that, Mr. McClure?

9 MR. RUSSELL: I don't know if I can. Just  
10 kidding.

11 MR. McCLURE: You should be good now.

12 MS. CALDWELL: Okay. Can you see -- this  
13 is hard. How have y'all been doing this? Okay.  
14 Can y'all see? Do I need to make it bigger?

15 MS. SHAHEEN: Yes, please. Yeah, there we  
16 go.

17 MS. CALDWELL: On, no, I'm right on it.

18 MS. SHAHEEN: And scroll down.

19 MS. CALDWELL: Okay. So I did have time  
20 to black it out on everybody else's page but number  
21 1653 12/13/2019, a check for \$200,000 which probably  
22 covers the JIBs we haven't paid between the last  
23 payment. And that was the one that Sharon had  
24 showed y'all earlier on here where there's that  
25 200,000.

1           Is that the right size for you guys?

2           So that's just the one proof that, you  
3 know, it's not 2018 since our last payment. Our  
4 last payment was possibly August 2020.

5           MS. SHAHEEN: And was it at that time that  
6 these disputes between Mewbourne and Siana started  
7 to ramp up, if you will. Isn't that correct,  
8 Ms. Caldwell?

9           MS. CALDWELL: Yes.

10          THE WITNESS: I would just say that I've  
11 had vast experience with trying to collect from  
12 Siana and I have had very good luck with it. I  
13 wasn't there, though. I'm just kidding.

14          HEARING OFFICER BRANCARD: Okay. So  
15 Ms. Shaheen, do we mark that document as an exhibit?  
16 Are there any objections, Ms. Hardy? This appears  
17 to be so --

18          Ms. Caldwell, this appears to be a list of  
19 checks written out of an account from Siana; is that  
20 correct?

21          MS. CALDWELL: Yes. It's our check  
22 register from Siana Oil and Gas or our BB&T, which  
23 is Midland Bank, and here is the clearing which is  
24 sideways. Here is the clearing from our Midland  
25 Bank.

1 MS. SHAHEEN: And if it's okay with the  
2 Hearing Examiners, I would like to redact all of the  
3 other information here. I don't think that payments  
4 to other companies need to be in the public record  
5 for this particular proceeding.

6 HEARING OFFICER BRANCARD: No. That's  
7 fine. So I'm just asking Ms. Hardy, any objections  
8 to this?

9 MS. HARDY: No, I don't object.

10 HEARING OFFICER BRANCARD: All right. So  
11 if you can prepare and submit this in our case file  
12 system, Ms. Shaheen. And I guess really, the vendor  
13 name is what you want to get rid of, right?

14 MS. CALDWELL: Yes.

15 HEARING OFFICER BRANCARD: And any check,  
16 any account number on here too, I guess. I don't  
17 see it, but in case it is.

18 MS. SHAHEEN: Right. Anything that  
19 doesn't relate to Mewbourne is what I would get rid  
20 of except for the information that establishes that  
21 came out of a bank account from Siana and that it  
22 cleared.

23 HEARING OFFICER BRANCARD: So I guess I  
24 would leave all the other numbers just to make it  
25 looks like --

1 MS. SHAHEEN: Okay.

2 HEARING OFFICER BRANCARD: -- an actual  
3 check register.

4 MS. SHAHEEN: The amounts and who it went  
5 to is we all need to know, okay?

6 THE WITNESS: Okay. I started to and then  
7 I got to -- and then it looks like that. And I was  
8 like, ooh, I can't do that. And now I can't fix it.

9 HEARING OFFICER BRANCARD: If you submit  
10 that in our case file system.

11 Now, where do we go from here?

12 Ms. Hardy, Ms. Shaheen has suggested post  
13 hearing arguments, closing arguments.

14 MS. HARDY: I would like to submit a post  
15 written closing. I think there were legal issues,  
16 really, but I would like to address.

17 HEARING OFFICER BRANCARD: Yes. That  
18 would be helpful I think. And so Ms. Shaheen  
19 suggested sometime after the submittal of the  
20 transcript.

21 MS. HARDY: That makes sense to me.

22 HEARING OFFICER BRANCARD: Mr. Court  
23 Reporter, any thoughts on when we might get a  
24 transcript?

25 THE COURT REPORTER: Do you need it

1 expedited or was it the -- what are you expecting  
2 and we can get it done for you.

3 HEARING OFFICER BRANCARD: I don't know  
4 that it needs to be really expedited. I just don't  
5 want it to be three months from now.

6 THE COURT REPORTER: No. We should get in  
7 seven to ten days.

8 HEARING OFFICER BRANCARD: That will be  
9 fine.

10 THE COURT REPORTER: Great.

11 HEARING OFFICER BRANCARD: Okay. And that  
12 will be submitted to us and we will post it.  
13 Marlene will post it immediately on the case file so  
14 we'll just keep looking for the case file. And how  
15 much time from there would the parties want?

16 MS. HARDY: I'd like two weeks if that  
17 will be acceptable.

18 MS. SHAHEEN: I would like two weeks, at  
19 least two weeks. But I think most important is I'm  
20 going to be on vacation from August 4th through the  
21 11th.

22 HEARING OFFICER BRANCARD: Oh.

23 MS. SHAHEEN: I would hope that I wouldn't  
24 have to work on this while I'm on vacation.

25 MS. HARDY: I would be fine with longer,

1 Sharon, as well. I mean 30 days is fine also if  
2 that's preferable.

3 MS. SHAHEEN: That would probably be --  
4 work well with the summer calendar.

5 HEARING OFFICER BRANCARD: Okay, if we  
6 give 30 days, Ms. Shaheen, that means your vacation  
7 is sort of in the middle of it.

8 MS. SHAHEEN: Oh, well, that won't work.

9 HEARING OFFICER BRANCARD: If we get this,  
10 say, on the 18th, you know, 30 days is August 18th.  
11 August 17th.

12 MS. HARDY: And I'm actually going to be  
13 out of town the week after Ms. Shaheen.

14 MS. SHAHEEN: So that won't work. Should  
15 we wait and see when we get the transcript? And  
16 then when we get it, see what works for all of the  
17 parties?

18 HEARING OFFICER BRANCARD: That's fine.  
19 If counsel wants to communicate with each other and  
20 work something out, I think I'll be fine with it.

21 MS. HARDY: That's fine. That would work  
22 for me.

23 HEARING OFFICER BRANCARD: Well, thank you  
24 everyone for your patience. A lot of ground was  
25 covered today and so hopefully we'll get to make a

1 quick decision on this.

2 MS. HARDY: Thank you.

3 HEARING OFFICER BRANCARD: The main  
4 topics, at least Mewbourne's recent times.

5 MS. SHAHEEN: Thank you-all.

6 HEARING OFFICER BRANCARD: And if you want  
7 to come up with a proposed, you know, document,  
8 stipulated agreement on submittals, that would be  
9 fine. If you want to give yourself page limits,  
10 that will be fine, too.

11 MS. SHAHEEN: That's a good idea.

12 HEARING OFFICER BRANCARD: All right.

13 MS. HARDY: Thank you for your time.

14 MS. SHAHEEN: Yes.

15 HEARING OFFICER BRANCARD: Thanks  
16 everyone.

17 THE COURT REPORTER: Thank you. Have a  
18 good weekend.

19 MR. McCLURE: Is this case being taken  
20 under advisement at this point? Oh, they already  
21 left.

22 (Hearing concluded at 5:44 p.m.)

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REPORTER'S CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Date: June 8, 2022

/S/ EDWINA CASTILLO

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