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

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

Case Nos. 23205, 23188, 23189,
23190, 23191, 23192, 23193,
22947, 23211, 23212, 22745,
22746, 23062, 23157, 23061,
22845, 22933, 22934, 23180,
23181, 23182, 22782, 23149,
23150, 23151, 23152, 23153,
23154, 23155, 23156, 22323,
22701, 23042, 23045, 22539,
22540

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VIDEOCONFERENCE HEARING

DATE: Thursday, December 15, 2022
TIME: 9:16 a.m.
BEFORE: Hearing Officer Bill Brancard
LOCATION: Remote Proceeding
Santa Fe, NM 87501
REPORTED BY: Dana Fulton, Notary Public
JOB NO.: 5610304

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19
20 ALSO PRESENT:

21 Michael Stewart, Observer, Helms Oil & Gas
22 Bryan Jones, Possible Witness
23 Travis Macha, Landman for Colgate Operating

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I N D E X

PAGE

VOIR DIRE of Rob Jackson

By Ms. Luck

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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
Item 6:		
Exhibit 1	Resume of Mr. Jackson	32/40
Exhibit 2	Notice of Violation	32/40
Exhibit 3	Notice of Docketing Statement	32/40
Exhibit 4	Certified Mail Tracking	32/40
Exhibit 5	Civil Penalty Calculation	32/40
Exhibit 6	E-mail Response	32/40

(Exhibits retained by counsel.)

NO.	DESCRIPTION	ID/EVD
Item 7:		
Exhibit 1	Resume of Mr. Jackson	42/44
Exhibit 2	Notice of Violation	42/44
Exhibit 3	Notice of Docketing Statement	42/44
Exhibit 4	Certified Mail Tracking	42/44
Exhibit 5	Civil Penalty Calculation	42/44
Exhibit 6	Proposed Amended Civil Penalty Calculation	42/44

(Exhibits retained by counsel.)

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Items 9-10:		
4	Exhibits	Supplemental Exhibits	47/51
5	(Exhibits retained by counsel.)		
6			
7	NO.	DESCRIPTION	ID/EVD
8	Items 11-12:		
9	Exhibit C	Isaac Evans Affidavit	54/54
10	Exhibit C1	C-102s	54/54
11	Exhibit C2	Land Track Maps	54/54
12	Exhibit C3	Summary of Uncommitted	
13		Working Interest	54/54
14	Exhibit C4	Overriding Royalty Interest	54/54
15	Exhibit C5	Sample Well Proposal Letter	54/54
16	Exhibit C6	Chronology of Contacts	54/54
17	Exhibit D	Andrew Parker Affidavit	54/54
18	Exhibit D1	Locator Map	54/54
19	Exhibit D2	Bone Spring Sub-C Structure	
20		and Cross Section Map	54/54
21	Exhibit D3	Bone Spring Stratigraphic	
22		Cross Section Map	54/54
23	Exhibit E	Self-Affirmed Statement	54/54
24	Exhibit F	Affidavit of Publication	54/54
25	(Exhibits retained by counsel.)		

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Items 14-15:		
4	Exhibit A	Landman's Testimony and	
5		Related Exhibits (A1-A5)	60/63
6	Exhibit B	Geologist's Testimony and	
7		Related Exhibits (B1-B5)	60/63
8	Exhibit C	Statement Regarding Notice	60/63
9	Exhibit C1	Sample Notice Hearing	60/63
10	Exhibit C2	Affidavit of Publication	60/63
11	(Exhibits retained by counsel.)		
12			
13	NO.	DESCRIPTION	ID/EVD
14	Items 16-19:		
15	Exhibit A	Land Professional Exhibits	66/71
16	Exhibit B	Geologist Combined Testimony	66/71
17	Exhibit C	Notices	66/71
18	(Exhibits retained by counsel.)		
19			
20	NO.	DESCRIPTION	ID/EVD
21	Items 20-21:		
22	Exhibit A	Landman Wenzel's Exhibits	75/78
23	Exhibit B	Geologist Ohl's Exhibits	75/78
24	Exhibit C	Updated Notices	75/78
25	(Exhibits retained by counsel.)		

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P R O C E E D I N G S

THE HEARING OFFICER: It is December 15, 2022. These are the hearings of the New Mexico Oil Conservation Division. Happy Holidays. With me today is the technical examiner, Mr. Dylan Rose-Coss, and I am, of course, Bill Brancard, the examiner for today. We have a list of cases posted on our website. There are, I believe, 30 today, but we have a variety. Some could go on a while.

Announcements. As we have mentioned in some previous hearings, there is a new checklist, and I am glad to see that several parties were already using it today for today's hearing. Slightly revised checklist. There is also, as we have said for a while now, new addresses for our website, for our e-mails. Everything's been changed for every employee, every address. They're no longer an state.nm.us. We're emnrd.nm.gov.

Any announcements, Mr. Rose-Coss?

MR. ROSE-COSS: None from me. Thanks. Except for Happy Holidays.

THE HEARING OFFICER: Great. With that, we can get going with our cases today. We'll start off with a few status conferences. I'm looking at our worksheet today on items one and two. These

1 will be cases 22539, 22540, Rockwood Resources.

2 MR. SAVAGE: Good morning, Mr. Hearing
3 Examiner, Mr. Technical Examiner. Darin Savage with
4 the Santa Fe office of Abadie & Schill on behalf of
5 Rockwood Resources and the Rockwood Group.

6 THE COURT: Thank you. And Mewbourne
7 Oil Company?

8 MS. HARDY: Good morning, Mr. Examiner.
9 Dana Hardy with the Santa Fe office of Hinkle Shanor
10 on behalf of Mewbourne Oil Company.

11 THE HEARING OFFICER: Thank you. Your
12 pleadings seem to indicate that you're negotiating and
13 working on something here, and so what would we like
14 to do?

15 MR. SAVAGE: That is correct. The
16 parties have a settlement agreement in place, but it
17 requires some performative conditions to finalize.
18 Rockwood would like the parties to have time to
19 finalize the matter. Some of the conditions have a
20 90-day timeline on them, for example. We would
21 propose a status conference on February 16th to check
22 in and see if the agreement has been finalized at that
23 point, and if it has, we can resolve this matter.

24 THE HEARING OFFICER: Thank you.
25 Mewbourne?

1 MS. HARDY: I agree with Mr. Savage.
2 That's fine with Mewbourne.

3 THE HEARING OFFICER: So with that,
4 cases 22539, 22540 will be set for a status conference
5 on February 16th. We will issue a scheduling order.
6 Thank you.

7 MS. HARDY: Thank you.

8 MR. SAVAGE: Thank you.

9 THE HEARING OFFICER: We're on item
10 number three, case 23045, Mewbourne Oil Company.

11 MS. HARDY: Good morning again. Dana
12 Hardy with Mewbourne Oil Company -- on behalf of
13 Mewbourne Oil Company. I need some more coffee.

14 THE HEARING OFFICER: Good luck. We
15 have MRC Permian Company, MRC Delaware Resources.

16 MR. FELDEWERT: Good morning,
17 Mr. Brancard, Mr. Dylan Rose-Coss. Michael Feldewert
18 with the Santa Fe office of Holland and Hart.

19 THE HEARING OFFICER: Is there anyone
20 else here for case 23045? Hearing none, I believe you
21 all are also negotiating something. And what would
22 you like to do, Ms. Hardy?

23 MS. HARDY: That's correct,
24 Mr. Examiner. I know that the parties are talking and
25 exchanging information. I think Mewbourne would like

1 to go ahead and set this for a contested hearing on
2 the next available docket for contested hearings in
3 the event that they are unable to resolve their
4 differences with Matador. I would propose possibly
5 the -- I don't know if the second January docket is
6 available or the first February docket.

7 THE HEARING OFFICER: All right. So
8 you're negotiating, but you want to set a hearing
9 date.

10 MS. HARDY: That's correct.

11 THE HEARING OFFICER: MRC?

12 MR. FELDEWERT: We can confirm the
13 parties are negotiating. I know they have plans to
14 meet after the holidays if they can't reach a -- meet
15 in person after the holidays if they can't reach a
16 resolution before then. So I guess I'd keep that in
17 mind in accommodating Ms. Hardy's request for a
18 contested hearing date.

19 THE HEARING OFFICER: All right. How
20 about if we set that January 19th for a hearing? As
21 always, you can ask for continuances, status
22 conferences, whatever is necessary to move the case
23 along.

24 MS. HARDY: That's fine with Mewbourne,
25 Mr. Examiner.

1 THE HEARING OFFICER: All right. I
2 will send out a pre-hearing order or an amended
3 pre-hearing order, whatever is appropriate. Thank
4 you.

5 MS. HARDY: Thank you.

6 MR. FELDEWERT: Thank you.

7 THE HEARING OFFICER: All right. We're
8 on item number four, case 22323, Elizabeth Kaye
9 Dillard.

10 MR. MORGAN: Good morning,
11 Mr. Examiner. Scott Morgan with Cavin & Ingram on
12 behalf of Ms. Dillard.

13 THE HEARING OFFICER: Colgate
14 Operating?

15 MS. HARDY: Mr. Examiner, Dana Hardy
16 with Hinkle Shanor on behalf of Colgate.

17 THE HEARING OFFICER: Any other
18 interested persons for case 22323? Hearing none, it
19 sounds like you almost had a deal, but now you don't
20 have a deal. And you have some questions. I'll start
21 with you, Mr. Morgan, on behalf of Ms. Dillard.

22 MR. MORGAN: Mr. Examiner,
23 Mr. Technical Examiner, thank you. We -- Ms. Dillard
24 actually did execute AFEs late Tuesday and submitted
25 those to Colgate. So we're just here to let the OCD

1 know of record that Ms. Colgate -- or excuse me --
2 Ms. Dillard has elected to participate in these as
3 well.

4 THE HEARING OFFICER: All right.
5 Mr. Hardy, where does that leave us?

6 MS. HARDY: Well, and that relates to
7 the questions that I have on behalf of Colgate. It
8 seems to me that since Ms. Dillard has executed the
9 AFEs and agreed to participate, the issues related to
10 her application are resolved, and I think it should
11 probably be dismissed. And I wanted to clarify that I
12 don't think we need any other order on Colgate's
13 applications.

14 Because the application was only
15 reopened as to Ms. Dillard, and now her issue is
16 resolved. So I would propose that the division enter
17 an order dismissing her application on the ground that
18 she has resolved her issues with Colgate, and their
19 interest was not pooled.

20 THE HEARING OFFICER: Well, that seems
21 like a possibility here, because you have an order in
22 this case. We just reopened the case for the sake of
23 providing Ms. Dillard with an additional opportunity
24 to participate here, and that apparently has been
25 accomplished if I am correct.

1 Is that correct, Mr. Morgan?

2 MR. MORGAN: That is correct, yes.

3 THE HEARING OFFICER: All right. So
4 you can either submit a stipulated dismissal if you
5 like, or, Mr. Morgan, your client can submit a
6 dismissal. Either way --

7 MR. MORGAN: Okay. Yeah, I will
8 confirm it with Ms. Hardy, but we'll have something
9 submitted shortly.

10 THE HEARING OFFICER: Great. Thank
11 you. Thank you for your cooperation.

12 MS. HARDY: Thank you.

13 MR. MORGAN: Thank you.

14 THE HEARING OFFICER: Thank you. All
15 right. With that, I believe we are on item number
16 five. So case 22323, we will await a further pleading
17 from the parties, so just to clarify for the record.
18 On item number five, case 22782, Whiptail Midstream.

19 MR. SAVAGE: Good morning again. Darin
20 Savage on behalf of Whiptail Midstream LLC.

21 THE HEARING OFFICER: And the Oil
22 Conservation Division?

23 MS. LUCK: Good morning, Mr. Hearing
24 Examiner. Kaitlyn Luck with the Oil Conservation
25 Division.

1 THE HEARING OFFICER: Thank you. And
2 so where are we -- any other persons, first of all, on
3 case 22782? Hearing none, I'll turn to Whiptail.

4 MR. SAVAGE: Thank you, Mr. Hearing
5 Examiner. As I understand, the OCD wants additional
6 time to respond or to offer a response, and Whiptail
7 has agreed to that additional time. I would like to
8 go over, if I could, some of the procedural matters
9 involved in this as we go forward.

10 Based on some e-mail correspondence, it
11 seems like the issue is focusing on what should be the
12 proper application of certain OCD rules involving a
13 particular spill that Whiptail is involved in or was
14 involved in. On the one hand, Whiptail believes it
15 has conducted remediation and satisfied the rule
16 involved and should be returned to a status of full
17 compliance.

18 On the other hand, the OCD believes
19 there is justification to place Whiptail in its
20 database in a newly -- what appears to be a newly
21 designated category that we see falls short of
22 compliance -- of a designation of compliance. And as
23 I understand -- and I don't fully understand the full
24 scope of the proposition of the OCD, because I haven't
25 reviewed the response.

1 But as I understand it, this category
2 would maintain the open and active incident report,
3 either stating or implying that Whiptail is not in
4 full compliance, and therefore, we see that as -- and
5 if that is the case, we see that as negatively
6 impacting Whiptail, but like I said, I don't fully
7 understand the full scope of the proposal.

8 So, Mr. Brancard, it appears that the
9 facts may not be in dispute, and that the disagreement
10 boils down to a matter of law or a matter of proper
11 application of the rule. So we have filed an
12 application for a hearing, and I'm wondering what the
13 best way would be to go forward with pleading.

14 And it appears to us that maybe there
15 should be a response and a reply that, kind of, takes
16 the form of a summary judgment that focuses on the
17 application of the rule. And I don't know if Ms. Luck
18 would agree to that, but that seems to be something
19 that could be considered.

20 THE HEARING OFFICER: So if I
21 understand, Mr. Savage, there is an ongoing
22 disagreement between your client and the Division
23 about interpreting the requirements of the part 29,
24 the spill rule?

25 MR. SAVAGE: Yeah, there's a couple of

1 rules in that part 29 that we believe we have
2 satisfied and should be returned to a status of full
3 compliance, and the OCD disagrees. I think they
4 disagree. I mean, the OCD is doing something a little
5 bit different, and they're setting up a status
6 category for parties.

7 And it has to do with if there's any
8 obligation for additional reclamation after a
9 mediation, and it looks to me like the facts are not
10 in dispute in this. It looks to me -- and Ms. Luck
11 and I can, like, see if that is the case, but it looks
12 to me like the facts are not in dispute. And it's,
13 kind of, boiling down to, what's the application or
14 interpretation of the rule.

15 THE HEARING OFFICER: I'll turn to the
16 division. Ms. Luck?

17 MS. LUCK: Thank you, Mr. Hearing
18 Examiner. And the Division agrees with Mr. Savage's
19 description of the procedural posture of the case. I
20 don't think that there's a factual dispute here. I do
21 think that it is a matter of rule interpretation and
22 application of the rules, in particular 19.15.29.13.
23 There's a provision regarding the top four feet and
24 whether or not it needs to be reclaimed.

25 And so the Division has come up with an

1 alternative procedure for sites that are still
2 operating where that top four feet can't be dealt with
3 currently, because the sites are still operating. And
4 I am prepared, and the Division is prepared to provide
5 a response as Mr. Savage has described, describing
6 those different incident statuses that will be created
7 for sites that are considered closed. Because they
8 are still operating, but there is still additional
9 reclamation or requirements to -- a chance to look at
10 the site, I guess, if it's closed.

11 And so I think that is appropriate to
12 set this again for a schedule as Mr. Savage has
13 described with the motion -- or excuse me -- the
14 Division's response being due a month from now, and
15 then there would be additional time for a reply. And
16 then we can be set for a motion type hearing if the
17 Division would be so inclined to hear the motion at
18 that point.

19 THE HEARING OFFICER: Well, thank you.
20 I mean, that seems like a path forward here. I do
21 recall when this rule was put in place some five years
22 ago or so, and we put in -- the Commission put in
23 these provisions that people could ask for hearings on
24 various disagreements under rule 29. There were those
25 who said, "Oh my gosh. There's just going to be

1 dozens and dozens of these cases coming up for
2 hearing, because people are going to be arguing about
3 whether they've actually cleaned up a site or not."

4 And yet, I think this may be the first
5 one. So it sounds like it would be helpful in terms
6 of interpreting the provisions of the rule to have a
7 discussion about the issue here. And so I don't know
8 whether the parties would prefer to come up with their
9 own schedule and submit it to me for approval or try
10 to work one out right now.

11 Mr. Savage, Ms. Luck has, sort of, said
12 maybe you get two weeks. She gets two weeks, and then
13 you get another week. How's that?

14 MR. SAVAGE: That sounds reasonable,
15 Mr. Brancard. You know, depending on the nature of
16 the response -- and I was hoping it could be cast as,
17 kind of, a form of interpreting or applying the rule
18 and a motion for that. But, you know, if Whiptail
19 reviews it, and it looks like the status of closure
20 would not negatively impact -- would be in such a way
21 that it wouldn't negatively impact Whiptail, you know,
22 we may be agreeable to that.

23 So I think the two weeks for the
24 response to review, and then if we need to reply to it
25 and go forward with a motion hearing or some form of

1 motion hearing. That would be great.

2 THE HEARING OFFICER: All right. So
3 I'm, kind of, getting confused here, which I often do.
4 Mr. Savage, did you want to start with just, sort of,
5 laying out Whiptail's position, or do you think that's
6 already set out in your pleadings?

7 MR. SAVAGE: I think the application,
8 kind of, gives an overview or outline of that. I
9 think the unknown here is the scope of the Division's
10 position, which we'd like an opportunity to review.

11 THE HEARING OFFICER: All right.

12 MS. LUCK: And I think that would be
13 right, that it's our -- the ball's, kind of, in the
14 Division's court to respond at this point and provide
15 an explanation as to how the Division is interpreting
16 the rule and see fit to, kind of, fill in the gap here
17 for these open sites. But it looks like two weeks
18 falls the week after Christmas, so could we have until
19 January 5th to file that response?

20 THE HEARING OFFICER: Yeah, I was just
21 going to say, we normally do two weeks, but with the
22 holidays, three weeks might be preferable. So January
23 5th?

24 MS. LUCK: That would be great. And
25 then, I mean, an additional two weeks or so for the

1 reply, and then we would be ready for hearing at the
2 beginning of February.

3 THE HEARING OFFICER: All right. So
4 OCD response on January 5th. The reply would be --
5 how much time do you need, Mr. Savage?

6 MR. SAVAGE: Two weeks would be fine.
7 Thank you, Mr. Brancard.

8 THE HEARING OFFICER: So January 19th?

9 MR. SAVAGE: That's perfect.

10 THE HEARING OFFICER: And then if
11 necessary, a hearing or a status conference or
12 whatever on -- what are we looking at, February 2nd?
13 Is that agreeable to everyone?

14 MR. SAVAGE: Yes, thank you.

15 MS. LUCK: Yes, thank you.

16 THE HEARING OFFICER: All right. I can
17 issue a little scheduling order embodying all of that,
18 so none of us forget, mostly me. Thank you.

19 MR. SAVAGE: All right. Thank you.

20 THE HEARING OFFICER: Anything else on
21 case 22782?

22 MR. SAVAGE: No.

23 MS. LUCK: Nothing further.

24 THE HEARING OFFICER: We will issue a
25 scheduling order to embody the agreement today. Thank

1 you. All right. With that, we have two enforcement
2 cases, now that we've, I think, finished up the status
3 conference. Item number six is case 23061, and the
4 respondent in this case is Roca -- I don't know if I'm
5 pronouncing that correctly -- Production. Is there
6 anyone here on behalf of Roca Production? And the
7 petitioner is the Oil Conservation Division.

8 MS. LUCK: Good morning, Mr. Hearing
9 Examiner and Mr. Technical Examiner. Kaitlyn Luck
10 with the Oil Conservation Division.

11 THE HEARING OFFICER: Thank you. So
12 the Division has filed its exhibits already, I
13 believe, in this case. And first, let me just ask, is
14 there anyone else here on behalf or for case 23061?

15 MR. JACKSON: Rob Jackson, Oil
16 Conservation Division, compliance.

17 THE HEARING OFFICER: Thank you. So,
18 Ms. Luck, I think the way we've done this in the past
19 is, since there's no one here, you can go through your
20 evidence. You can have your witness sworn in, so he's
21 available for you to ask him any questions or for us
22 to ask him any questions. And then we can go there.

23 It doesn't need to be terribly formal,
24 since you've already submitted the exhibits into the
25 record. If you could just review that, what those

1 exhibits are and what the evidence is, so we have it
2 in the record, that would be helpful to the hearing
3 examiners. So with that, first we'll start out with
4 Mr. Jackson. Is Mr. Jackson your only witness,
5 Ms. Luck?

6 MS. LUCK: That's correct.

7 THE HEARING OFFICER: Okay.

8 Mr. Jackson, will you raise your right hand.

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

13 THE HEARING OFFICER: Thank you. And
14 so with that, Ms. Luck, if you could, sort of, go
15 through the case.

16 MS. LUCK: Thank you. I'd just like to
17 quickly admit Mr. Jackson as the expert on behalf of
18 the Oil Conservation Division.

19 VOIR DIRE

20 BY MS. LUCK:

21 Q So, Mr. Jackson, would you please spell your
22 name and state it for the record?

23 A Rob Jackson. R-O-B J-A-C-K-S-O-N.

24 Q And where do you work?

25 A Energy, Minerals and Natural Resources

1 Department, Oil Conservation Division with the
2 compliance administrative.

3 Q And how long have you worked there?

4 A One and a half years.

5 Q And what do you do in that position?

6 A I am the administrative compliance
7 supervisor.

8 Q And how many staff do you have working there
9 for you?

10 A I have three.

11 Q And could you just briefly describe the
12 different positions that you oversee?

13 A Yes. Amalia Bustamante is lead of well
14 transfers, operator name changes and operator
15 production reporting. Joe Aragon is a lead bond
16 administrator, and Nicholas Karns is lead on proving
17 operator's authorization to move produced water and
18 for operator registrations.

19 Q And in your role, you also work with
20 bonding; is that correct?

21 A Correct.

22 Q And you work with new operators obtaining
23 bonding?

24 A I do.

25 Q And do you also confirm compliance with

1 existing bonding requirements?

2 A I do.

3 Q And this case we're here about, Roca
4 Production Inc., their OGRID is 142624. Did you
5 review the bonding for this operator?

6 A I did.

7 Q And are you aware that the OCD filed a set
8 of exhibits in the pre-hearing statement and in this
9 case?

10 A Yes.

11 Q And did you review that set of exhibits and
12 pre-hearing statement?

13 A Yes.

14 Q And did you provide the initial information
15 for the notice of violation that was issued in this
16 case against Roca?

17 A I did.

18 Q And just for the record, Roca is spelled
19 R-O-C-A.

20 A Correct.

21 Q And then in this case, there is a section
22 that we provided called direct testimony. Did you
23 provide the information for that direct testimony?

24 A I did.

25 Q And do you also affirm and adopt that

1 testimony as your own?

2 A Yes.

3 MS. LUCK: So in this case, I would
4 move Mr. Jackson as the Division's witness and expert
5 in administrative compliance if there are any
6 questions for him. Turning briefly to the pre-hearing
7 statement and the exhibits that were submitted. The
8 notice of violation -- I'm sorry, Mr. Examiner. Did
9 you want to review the admission of Mr. Jackson as the
10 expert in this case?

11 THE HEARING OFFICER: No. Mr. Jackson
12 has been accepted as an expert before, so we will
13 accept him again. Thank you.

14 MS. LUCK: Thank you. So in this case,
15 we have a set of exhibits that are the standard set of
16 exhibits for a compliance case such as this one.
17 Starting off with Exhibit 1, the resume of
18 Mr. Jackson, following by Exhibit 2, the notice of
19 violation for this case.

20 The next exhibit is Exhibit 3, the
21 notice of the docketing statement, followed by Exhibit
22 4, which is the certified mail tracking information
23 for the notice of violation. Exhibit 5 is the civil
24 penalty calculation that just reflects the amount that
25 the Division is seeking as a civil penalty in this

1 case.

2 And finally, Exhibit 6 is a e-mail
3 response from the operator in this case or the person
4 who was registered to the operator. It was my
5 understanding from that e-mail correspondence that
6 they weren't intending to enter an appearance in this
7 case, because these wells are not producing anymore.

8 In the exhibits, it reflects briefly
9 that the Division is seeking a plugging order for --
10 there are ten wells that the operator is the
11 registered operator for, and all ten are out of
12 compliance with the inactive well rules. And so the
13 Division is seeking plugging of all ten wells.

14 The standard set of sanctions are also
15 requested by the Division in this case, which includes
16 the civil penalty and the termination at the
17 operator's transportation authority from the Division.
18 So with that, I would move the admission of Exhibits 1
19 through 6 and stand for any questions that the
20 examiners might have.

21 (Exhibit 1 through Exhibit 6 were
22 marked for identification.)

23 THE HEARING OFFICER: Thank you.
24 Exhibits will be bid into the record, and let me go to
25 Mr. Rose-Coss for questions.

1 MR. ROSE-COSS: Sure. Yeah, thanks.

2 Good morning, Kaitlyn, and good
3 morning, Mr. Jackson. Thanks for bringing this case.
4 You know, I don't have many questions or maybe
5 anything of -- how do you say -- too much substance or
6 that's going to change the course of the actions that
7 follow. Just for my curiosity, how was it discovered,
8 or what was the process through which this operator
9 came up, and the process was initiated to plug these
10 wells or to issue the violation?

11 MS. LUCK: I believe that the operator
12 responded to a notice about venting and flaring, just
13 advising that the operator was inactive and that that
14 wasn't the correct contact information. Let me look
15 back really quickly, because I think it was in
16 response to an e-mail, the notice that went out from
17 the Division.

18 MR. ROSE-COSS: So the venting and --
19 is my understanding then that the venting and flaring,
20 those new rules, kind of, went through and had a --
21 kind of, addressed every well, and everybody who was
22 inactive -- all the operators who had inactive wells
23 that are out of 59 compliance got a little jingle in
24 their e-mails? Is that what happened?

25 MS. LUCK: Yeah, that's correct. So it

1 looks like back in May of 2022, we sent the notice to
2 all the operators that we hadn't received a venting
3 and flaring report for, and this operator was one of
4 them. And in response, we received in an e-mail from
5 the person whose e-mail was registered to the
6 operator, just advising that the person who used to
7 operate the company passed away in 2019.

8 And none of the wells have been
9 operating in three years. And so since none of the
10 wells had been operating in such a long time, the
11 Division decided to go ahead and take action to plug
12 these wells since they had been inactive for, like, a
13 significant time period. And it didn't appear there
14 was any transfer or anyone available to take them
15 over.

16 MR. ROSE-COSS: Okay. Literally
17 orphaned. All right. And so now the Division will
18 seize those bonds and put it on the plug and abandon
19 list. Or what happens from here then, or is that what
20 happens?

21 MS. LUCK: If there is any financial
22 assurance or bonding that is available, the Division
23 will seek those, but if not, then there may be
24 additional funding that's available from the federal
25 grant monies that were received from the state. And

1 so these wells may be assigned to that program if
2 available, but it totally depends on funding. I mean,
3 there's also the reclamation funding that's available
4 if there's not significant or sufficient financial
5 assurance.

6 MR. ROSE-COSS: Okay. So the other
7 question I heard from that, this operator will, kind
8 of, lose the authority to transport oil and gas or
9 this OGRID will be terminated. And maybe it's not
10 applicable here as the operator is no longer living,
11 but are there any safeguards in the OCD rules to
12 ensure that this operator can't just start another
13 OGRID and, kind of, continue the same thing?

14 MS. LUCK: I'm not sure exactly how the
15 backend works in terms of our IT system and
16 registration and what kind of verification happens
17 before registering as a new operator. I do know there
18 are provisions about operator registration in the
19 rules, and I could provide those to you if you'd like.
20 But I don't know in terms of the OCD's regulatory
21 systems in place in terms of ensuring old operators
22 don't re-register. I'm unsure of that.

23 MR. ROSE-COSS: Okay. Well, I have
24 access to the rules too, so don't worry about it. But
25 maybe in a future hearing if I see you again, I'll ask

1 again.

2 MS. LUCK: Okay.

3 MR. ROSE-COSS: And those exhaust my
4 questions. Thank you, Ms. Luck.

5 MS. LUCK: Thank you.

6 THE HEARING OFFICER: Thank you. I
7 just want to confirm for the record with Mr. Jackson.
8 We often have the issue with operators where they're a
9 moving target. But can you just confirm that the ten
10 wells that are on the initial notice of violation are
11 the same ten wells that today you'd like to see action
12 taken against?

13 MR. JACKSON: They are. They're the
14 same ten -- ten wells.

15 THE HEARING OFFICER: Thank you. Now
16 in the exhibits, there appears to be, Ms. Luck, an
17 effort by the operator to file a change of operator
18 form at some point in the past. What happened with
19 that?

20 MS. LUCK: It's my understanding that a
21 change of operator form -- it was submitted to me by
22 e-mail, but it was never submitted through the OCD
23 system. And so we don't have any record of it in our
24 OCD system. And I believe that's what I included in
25 my exhibit packet as Exhibit 6 was the e-mail

1 correspondence from the person who was the recipient
2 of the registered operator's e-mail, and then they
3 advised that there had been this change of operator
4 form that had attempted to be filed. But it wasn't
5 registered in the OCD system.

6 THE HEARING OFFICER: Okay. So this
7 form has never been officially submitted to the OCD.
8 Is that what you're stating?

9 MS. LUCK: That's correct. And so the
10 OCD attempted to contact this proposed operator who
11 was on this form, and the e-mail that's registered to
12 that operator, I got a kickback. It's Covert -- not
13 Covert. It's Convert [ph], and I can also provide you
14 proof of that e-mail. I can file that as an exhibit,
15 but it was just returned as undeliverable to the
16 register. There's only one e-mail for that operator.

17 THE HEARING OFFICER: Okay. Thank you.
18 That was going to be my next question. So OCD has
19 tried to contact this proposed new operator, but there
20 has not been a response.

21 MS. LUCK: That's correct.

22 THE HEARING OFFICER: I also note that
23 the e-mail seems to indicate a law firm that
24 represents the new operator, or is that the -- in the
25 e-mail.

1 MS. LUCK: I didn't see any reference
2 to a law firm representing an operator, but if that's
3 incorrect, please let me know.

4 THE HEARING OFFICER: There's a
5 reference to the Hamm Law Group in Midland, Texas.

6 MS. LUCK: Okay. And I haven't reached
7 out to them. And if that needs to be done, and we
8 need to continue the case, that's not a problem at
9 this point.

10 THE HEARING OFFICER: All right. Well,
11 the new operator will have the same problem of the
12 wells being inactive for a significant period of time
13 here. So why don't you provide us whatever
14 information you had about attempting to contact
15 Convert [ph] or whatever the name of the new operator
16 is for the record. We'll leave the record open for
17 that information.

18 MR. ROSE-COSS: Yeah, and maybe -- so
19 with these wells, if an operator chose to take these
20 wells on, would that transfer be allowable? Or what
21 does it say in OCD's rules about -- my understanding
22 is if they've been inactive for three years, and
23 nothing's ever been done with them, then the only
24 option is to plug and abandon them. So any operator
25 who tried to purchase them would only be able to plug

1 and abandon them. Or is there provisions in the
2 Division's rules to allow these wells to come into
3 production again?

4 THE HEARING OFFICER: You know, I mean,
5 sometimes new operators come in and work out a deal to
6 get an agreed compliance order to put them back into
7 production or something within a short period of time.
8 But at this point, all the evidence points toward
9 plugging these wells, so we can move forward with that
10 with the evidence that we have.

11 MS. LUCK: And I will reach out to the
12 Hamm Law Group today, just to confirm whether or not
13 they represent the Convert [ph] operator, which was
14 the proposed operator. And I'll follow up with the
15 Division in a written pleading or some kind of
16 writing.

17 THE HEARING OFFICER: Thank you. Okay.
18 So at this point, are there any other persons for case
19 23061? Hearing none, the exhibits will be admitted
20 into the record. The record will be left open for
21 further information about this attempted effort to
22 transfer these wells, and we will take this case under
23 advisement. However, Ms. Luck, if something comes up
24 where the Division would like to, you know, continue
25 the case, please let us know.

1 (Exhibit 1 through Exhibit 6 were
2 received into evidence.)

3 MS. LUCK: Thank you.

4 THE HEARING OFFICER: Thank you. With
5 that, we are on item seven. This is case 23062,
6 Permok Oil Company -- Oil Inc. Sorry.

7 MS. LUCK: That's correct. Permok Oil
8 Inc., and it's Kaitly Luck again for the Oil
9 Conservation Division with one witness, Mr. Rob
10 Jackson again in this case.

11 THE HEARING OFFICER: Thank you. Is
12 there anyone here on behalf of Permok Oil Inc.? Are
13 there any other interested persons for case 23062?
14 Hearing none, the Division may proceed.

15 MS. LUCK: Thank you. And again, in
16 this case I would move the admission of Mr. Jackson as
17 the Division's only witness and expert who helped with
18 the presentation of the pre-hearing statement and the
19 exhibits in the case.

20 THE HEARING OFFICER: Thank you.
21 Mr. Jackson, having been already sworn or already
22 admitted as an exhibit is available for testimony.

23 MR. JACKSON: I am.

24 MS. LUCK: Thank you. And so in this
25 case, the Division submitted the standard set of

1 exhibits for this operator, and it is Permok, spelled
2 P-E-R-M-O-K, and that's Oil Inc. The OGRID number for
3 this operator is 26316.

4 The notice of violation was issued on
5 August 2, 2022, and that's attached to Exhibit 2. In
6 this case, there was no response from any e-mail
7 address that the Division was able to locate or the
8 mailed notice that was sent by certified mail. Proof
9 of that is provided as an exhibit.

10 So the notice of violation is attached
11 as Exhibit 2. The notice of the docketing statement
12 is attached as Exhibit 3. The certified mail tracking
13 information is attached as Exhibit 4, and the civil
14 penalty calculation, which was initially included with
15 the notice of violation, is attached as Exhibit 5.

16 Since sending the notice of violation,
17 we realized that the notice of violation said the
18 Division is seeking to plug two -- excuse me -- three
19 wells. When in fact the Division is only seeking to
20 plug two of the operator's three wells. And so I have
21 also submitted Exhibit 6, which would be a proposed
22 amended civil penalty calculation, which would
23 downward adjust the civil penalty in this case to
24 reflect it would only be for two wells rather than
25 three.

1 And again, the reason for that is that
2 the operator's third well is not showing up on our
3 inactive well list, because it is currently used as
4 some form of a water supply well. And our -- the API
5 number for that one is 3002526090. And so the
6 Division would not seek to plug that well at this
7 point in time and only seek to plug the other wells
8 And the exhibit that was provided with the NOV is
9 correct, and it only lists two wells.

10 So we'd like to stick with plugging
11 those two -- wells that are on the inactive well list
12 attached to the NOV. If there is any questions about
13 that, let me know, or Mr. Jackson can explain a little
14 bit more on the water supply well and why we're not
15 seeking plugging at this point. But otherwise, I
16 would move the admission of Exhibits 1 through 6 and
17 stand for any other questions.

18 (Exhibit 1 through Exhibit 6 were
19 marked for identification.)

20 THE HEARING OFFICER: Thank you.

21 Mr. Rose-Coss?

22 MR. ROSE-COSS: So has there been
23 correspondence -- sorry if I haven't reviewed this
24 enough to determine what correspondence has or hasn't
25 happened with the operator. But the operator is,

1 like, "Have my two wells. You can plug those, but
2 this one, this third one, is useful. Let's not plug
3 it"?

4 Or the operator is MIA, and it turns
5 out that one of the three wells happens to still have
6 some usefulness to it, so it's not being plugged right
7 now? Or why isn't the operator plugging these wells
8 of their own accord?

9 MS. LUCK: It's my understanding the
10 operator has had no involvement whatsoever, but I'll
11 defer to Mr. Jackson if that's incorrect. But the
12 third well has a location on federal land, and so
13 there's some work that might need to be done with BLM
14 to plug that well before we take any action on it.
15 But I'll defer to Mr. Jackson if he has additional
16 information.

17 MR. JACKSON: Yes, that's -- that's
18 about what I was going to say. The BLM has the
19 authority over this well. It is a federal mineral and
20 federal land well that we have to work out who has the
21 authority and responsibility for plugging the well at
22 this point.

23 MR. ROSE-COSS: Okay. Got you. Well,
24 that clears that up then. Thank y'all.

25 THE HEARING OFFICER: Thank you. I've

1 just received an e-mail from a member of our OCD bar,
2 who says the correct pronunciation of the operator is
3 Permok.

4 MR. ROSE-COSS: Permok.

5 THE HEARING OFFICER: All right. So
6 it's two wells that we're looking to plug, and you
7 want an order terminating the operator's ability to
8 transport. But it seems like the third well is not
9 operating as an oil well; correct?

10 MS. LUCK: That's correct.

11 THE HEARING OFFICER: Okay. And once
12 again, I'll just check in with Mr. Jackson. Those two
13 wells listed in the NOV are still the same two wells
14 that you are seeking to take action against; is that
15 correct?

16 MR. JACKSON: That is correct.

17 THE HEARING OFFICER: Thank you. All
18 right. With that, are there any other interested
19 persons then in case 23062? Hearing none, the
20 exhibits will be admitted into the record, and case
21 23062 Permok Oil will be taken under advisement.

22 (Exhibit 1 through Exhibit 6 were
23 received into evidence.)

24 MS. LUCK: Thank you for your time this
25 morning. I appreciate it.

1 THE HEARING OFFICER: Thank you. All
2 right. With that, we are on item number eight, case
3 22947, EOG Resources. And I have a question mark
4 here, because I think we agreed that these cases would
5 be continued along with another case. Is that 845?
6 One of them was continued, and one wasn't. So that's
7 why they're still on the list for today.

8 MR. FELDEWERT: Good morning,
9 Mr. Examiner. Michael Feldewert from the Santa Fe
10 office of Holland and Hart on behalf of EOG Resources.
11 And in light of your question mark, I did look at the
12 file, noticed that we had not filed our continuance
13 request pursuant to your pre-hearing order. That was
14 either been filed this morning or is in the process of
15 being filed.

16 THE HEARING OFFICER: Thank you. Are
17 there any other interested persons for case 22947
18 wishing to comment? Hearing none, we will move on.

19 MR. FELDEWERT: Thank you, sir.

20 THE HEARING OFFICER: So now we're
21 looking at some cases that were continued from prior
22 hearing. These are items nine and ten, 23211, 23212,
23 Kaiser-Francis Oil Company.

24 MR. BRUCE: Mr. Examiner, Jim Bruce
25 representing Kaiser-Francis.

1 THE HEARING OFFICER: And an entry of
2 appearance from MRC Permian Company?

3 MR. RANKIN: Good morning,
4 Mr. Examiner. Adam Rankin with Santa Fe office of
5 Holland and Hart, appearing on behalf of MRC Permian.

6 THE HEARING OFFICER: All right. And
7 so it was something to do with the status of the
8 wells, Mr. Bruce?

9 MR. BRUCE: Yes.

10 THE HEARING OFFICER: And you provided
11 us additional information if you could elaborate.

12 MR. BRUCE: Yeah. At the end of the
13 hearing, Mr. Garcia asked whether the wells -- there
14 were four wells involved -- if they were producing. I
15 said I would find out, and sure enough, they are. And
16 I also asked my client to give me the various
17 information. I suppose I could get hard copies of all
18 of it, but instead, we put together a spreadsheet
19 showing the status of filings.

20 The OCD file is pretty barren, but a
21 lot of these matters do have -- these units are --
22 this is the South Bell Lake Unit. The Bell Lake Units
23 are federally supervised, and all of the documents
24 that the BLM requires have been filed. It seems like
25 the hold up is that nine months ago, Kaiser-Francis

1 filed well completion reports with the BLM, which
2 after nine months have not been approved. I don't
3 know why, and I don't think they do either. Because
4 they have been doing this regularly. They've got
5 about 120 wells drilled on these units at this point.

6 But anyway, Mr. Garcia wanted to know
7 the status of the filings, and this spreadsheet shows
8 what they are. And if the Division needs something
9 more or wants something more out of Kaiser-Francis, I
10 will certainly ask them for it. But with that, I'd
11 move the admission of this spreadsheet and affidavit.

12 (Supplemental Exhibits were marked for
13 identification.)

14 THE HEARING OFFICER: Thank you.

15 Mr. Rankin, did you have any questions
16 or concerns?

17 MR. RANKIN: No, Mr. Examiner, I do
18 not.

19 THE HEARING OFFICER: Mr. Rose-Coss?

20 MR. ROSE-COSS: Well, I suppose my
21 question's for you, Mr. Brancard. This one -- maybe
22 it's nothing or not. Is there -- what -- compulsory
23 pooling comes before well drilling, and so it's, like,
24 usually for wells that aren't yet producing. So but
25 in this case, these are wells that are already

1 producing and already created, and then now they're
2 seeking pooling orders? Does that gum up the works at
3 all or ...?

4 THE HEARING OFFICER: Well, I can ask
5 Mr. Bruce to elaborate, but it's my understanding that
6 you can drill the well before you get a compulsory
7 pooling order. But you can't produce from the well
8 before you get a compulsory pooling order. And so
9 there might be a problem here.

10 MR. BRUCE: Yes. I understand that,
11 Mr. Examiner. They did have the right -- well, let's
12 take a step back. If you look at the prior filings,
13 the -- I think the well proposal letters were sent out
14 to MRC -- oh, in March of 2021. And MRC has a
15 relatively small interest in quarter-quarter section,
16 and MRC just hasn't to this point -- no evil intent,
17 but they haven't signed a JOA. Everybody else is
18 under the unit agreement for the South Bell Lake Unit.

19 And furthermore, because of that,
20 Kaiser-Francis owns or controls an interest in every
21 quarter-quarter section in the well unit and,
22 therefore, had the right to drill the wells first of
23 all. And yeah, wells can be drilled -- I mean,
24 pooling can occur under the statute before, during or
25 after a well is drilled.

1 And as you said, Mr. Brancard, the
2 problem was they've been filing their documents, and
3 there's been a little sticking point with the BLM,
4 which they have tried to file their paperwork.
5 They've submitted C-104s, but they haven't been
6 approved by the Division. And so they have been
7 making various filings, but the certain one-off ones,
8 because of awaiting the well completion report
9 approval from the BLM, have not been approved by the
10 Division. And so I guess we're at the mercy of the
11 OCD here.

12 THE HEARING OFFICER: Well, okay.

13 MR. ROSE-COSS: Okay. Oh, go ahead,
14 Bill.

15 THE HEARING OFFICER: I guess,
16 Mr. Rose-Coss, did you have any further comments on
17 this?

18 MR. ROSE-COSS: Well, is it -- so my
19 understanding then, there was only one party that
20 needed to be pooled.

21 MR. BRUCE: Correct.

22 MR. ROSE-COSS: Well, okay. So we've
23 -- and but is it standard practice, "Okay. Well,
24 we've applied for permission, and we're waiting on it.
25 But we haven't gotten it yet, so we're just going to

1 continue with our plan before we receive permission to
2 enact it"? Or is it typically practice to wait until
3 everything's checked?

4 MR. BRUCE: I cannot answer that
5 question. I did randomly check a number of other well
6 files for Bell Lake South -- nearby Bell Lake South
7 well units, and there was not any problem indicated in
8 those filings. All the filings appear to be timely
9 made, and production has been ongoing for a couple of
10 years now. But I do not know Kaiser-Francis
11 procedures, and I can certainly find out if you so
12 desire.

13 MR. ROSE-COSS: It's okay. I'll pass
14 the microphone to Mr. Brancard.

15 THE HEARING OFFICER: Well, thank you,
16 everyone. I think what we will do now is since
17 Kaiser-Francis has provided us with the information
18 that we requested, we will take this case under
19 advisement. And then the OCD will go off and scratch
20 its head and try to figure out what to do with it. I
21 don't know if this is an impediment to compulsory
22 pooling, or whether this is a violation issue.

23 But that may be for others to figure
24 out. But for now, I think, in terms of the record for
25 the compulsory pooling, we have what we need, and we

1 can move forward. So with that, cases 23211 and 23212
2 will be taken under advisement, and the supplemental
3 exhibits will be admitted into the record. Thank you.

4 (Supplemental Exhibits were received
5 into evidence.)

6 MR. BRUCE: Thank you, Mr. Examiner.

7 THE HEARING OFFICER: Okay. With that,
8 we are on items 11 and 12. These are cases 22745,
9 22746, Matador Production Company.

10 MS. VANCE: Good morning, Mr. Hearing
11 Examination and Mr. Rose-Coss. Paula Vance with the
12 Santa Fe office of Holland & Hart on behalf of the
13 applicant, Matador Production Company.

14 THE HEARING OFFICER: Thank you. We
15 have an entry of appearance from Marathon Oil Permian,
16 LLC.

17 MS. BENNETT: Good morning, everyone.
18 Deana Bennett on behalf of Marathon Oil Permian, LLC.
19 And I did file withdrawals of Marathon's appearance in
20 these two cases, but they may not just have appeared
21 in the case files yet. But I have filed those, and
22 Marathon is withdrawing its appearance from these two
23 cases.

24 THE HEARING OFFICER: I do see that in
25 the record. Thank you.

1 MS. BENNETT: Thank you.

2 THE HEARING OFFICER: Are there any
3 other interested persons then for cases 22745 and
4 22746? Seeing none, Matador to proceed.

5 MS. VANCE: Thank you, Mr. Hearing
6 Examiner. So in case numbers 22745 and 22746, Matador
7 seeks an order pooling all uncommitted interest in the
8 Bone Spring Formation. And the pool is Gem-Bone
9 Spring, and the pool code is 27220. And that's
10 underlying acreage that is in Township 20 South, Range
11 33 East, Lee County, New Mexico.

12 In case 22745, Matador is seeking to
13 pool and create a 320-acre, more or less, standard
14 horizontal well spacing unit, comprised of the east
15 half, east half of sections four and nine and
16 initially dedicate this Bone Spring spacing unit to
17 the proposed Silver Federal Com 114H and 124H wells.

18 And then in case number 22746, Matador
19 is seeking to create a 320 acre, more or less,
20 standard horizontal well spacing unit, comprised of
21 the west half of the east half of section four and
22 nine and initially dedicate this Bone Spring spacing
23 unit to the proposed Silver Federal Com 403H and 504H
24 wells.

25 In this case, we have provided the

1 compulsory pooling checklist, as well as affidavit of
2 landman Isaac Evans and geologist Andrew Parker, both
3 of whom have previously testified before the division,
4 and their credentials have been accepted as a matter
5 of record.

6 Mr. Evans' affidavit is Exhibit C,
7 which also includes sub-exhibits C1, C-102s; C2, a
8 land track map or land track maps; C3, a summary of
9 uncommitted working interest and unleased minerals
10 owners; C4, a list of overriding royalty interest that
11 Matador is seeking to pool; C5, a sample well proposal
12 letter and AFE, and C6, a chronology of contacts.

13 This is followed by Mr. Parker's
14 affidavit, which is Exhibit D and includes
15 sub-exhibits D1, a locator map; D2, a Bone Spring
16 sub-C structure and cross section map, and D3, a Bone
17 Spring stratigraphic cross section. In this case,
18 Mr. Parker did not observe any faulting -- or other
19 geological impediments to the horizontal drilling of
20 these wells.

21 Lastly is Exhibit E -- or lastly is
22 Exhibit E, self-affirmed statement of notice and
23 sample letters that were timely mailed on April 15,
24 2022, July 29, 2022, and November 23, 2022, and
25 Exhibit F, an affidavit of notice of publication,

1 which was timely published on April 19, 2022, July 31,
2 2022, and November 25, 2022.

3 And unless there are any questions, I
4 would ask that all exhibits and sub-exhibits be
5 admitted into the record, and that case numbers 22745
6 and 22746 be taken under advisement by the Division at
7 this time.

8 (Exhibit C through Exhibit F were
9 marked for identification.)

10 THE HEARING OFFICER: Thank you.

11 Mr. Rose-Coss, any questions?

12 MR. ROSE-COSS: No questions on this
13 case.

14 THE HEARING OFFICER: Thank you. I
15 don't have any questions, and I do appreciate the
16 applicant publishing three times.

17 MS. VANCE: Really wanted to get
18 noticed on.

19 THE HEARING OFFICER: Yes. Are there
20 any other interested persons then for cases 22745 and
21 22746? Hearing none, these cases will be taken under
22 advisement, and the exhibits admitted into the record.

23 (Exhibit C through Exhibit F were
24 received into evidence.)

25 MS. VANCE: Thank you, Mr. Hearing

1 Examiner. Thank you, Mr. Rose-Coss.

2 THE HEARING OFFICER: Thank you. With
3 that, we call item number 13, case 23205, Centennial
4 Resource Production.

5 MS. VANCE: Good morning, Mr. Hearing
6 Examiner and Mr. Rose-Coss. Paula Vance with the
7 Santa Fe office of Holland & Hart on behalf of the
8 applicant, Centennial Resources Production, LLC.

9 THE HEARING OFFICER: Thank you. I
10 believe there is a late file continuance motion in
11 this case; is that correct?

12 MS. VANCE: I wouldn't characterize it
13 as late file, because we thought that this was going
14 to be a status conference. But I did see that the
15 status conference got dropped, and so we just wanted
16 to make sure the Division knew what our intention was
17 when we came to hearing today.

18 THE HEARING OFFICER: All right. Well,
19 let me check in with the other parties. I have an
20 entry from COG Operating. COG? Let's try Tap Rock
21 Operating.

22 MR. RODRIGUEZ: Good morning. Michael
23 Rodriguez with Tap Rock Operating, LLC.

24 THE HEARING OFFICER: I see a face from
25 COG appear, but I think -- we cannot hear you,

1 Ms. Ryan. Might be on your end, because you're not
2 shown as muted. Anyway, let me try to get the other
3 parties quickly then. Novo Oil & Gas Northern
4 Delaware?

5 MS. BENNETT: Good morning, everyone.
6 Deana Bennett on behalf of Novo.

7 THE HEARING OFFICER: Thank you. Are
8 there any other persons here for case 23205? Hearing
9 none, so what is the request then from Centennial?

10 MS. VANCE: Mr. Hearing Examiner, we
11 would like to continue the case to the January 19th
12 hearing date if that date is available.

13 THE HEARING OFFICER: And this is for a
14 hearing or a status conference?

15 MS. VANCE: For a hearing.

16 THE HEARING OFFICER: Okay. Let me go
17 around to the other parties. Tap Rock?

18 MR. RODRIGUEZ: No objection from Tap
19 Rock. Thank you.

20 THE HEARING OFFICER: Novo?

21 MS. BENNETT: No objection from Novo.
22 Thank you.

23 THE HEARING OFFICER: Let's try again
24 with COG?

25 MS. RYAN: Beth Ryan entering an

1 appearance for COG and no objection. Thank you.

2 THE HEARING OFFICER: Thank you. We
3 hear you loud and clear. Thank you, Ms. Ryan. All
4 right. With that then, so we will set a contested
5 hearing then for January 19th.

6 MS. VANCE: Perfect. And you already
7 have the continuance.

8 THE HEARING OFFICER: Thank you.

9 MS. VANCE: Thank you.

10 THE HEARING OFFICER: So case 23205
11 will be set for a contested hearing on January 19th,
12 and we will issue the appropriate order.

13 MS. VANCE: Thank you, Mr. Hearing
14 Examiner.

15 THE HEARING OFFICER: Thank you. With
16 that, we are on items 14 and 15, cases 22933, 22934,
17 Tap Rock Operating.

18 MR. RODRIGUEZ: Good morning again.
19 Michael Rodriguez with Tap Rock Operating, LLC.

20 THE HEARING OFFICER: Thank you. I
21 have an entry of appearance from EOG Resources Inc.

22 MR. FELDEWERT: Good morning,
23 Mr. Examiner. Michael Feldewert with the Santa Fe
24 office of Holland & Hart.

25 THE HEARING OFFICER: Thank you. Does

1 EOG object to this case going forward by affidavit?

2 MR. FELDEWERT: We do not.

3 THE HEARING OFFICER: Thank you. Are
4 there any other entries of appearance for cases 22933,
5 22934? Hearing none, Tap Rock may proceed.

6 MR. RODRIGUEZ: Thank you. These cases
7 seek compulsory pooling orders within the Bone Spring
8 Formation underlying certain acreage within Lee
9 County, New Mexico. And specifically, the application
10 in case number 22933 requests an order pooling all
11 computed interests in the Salt Lake Bone Spring pool.

12 The pool code is 53560 within the Bone
13 Spring Formation, underlying a 640-acre horizontal
14 spacing unit, comprised of the east half of sections
15 11 and 14 within Township 20 South, Range 32 East in
16 Lee County, New Mexico. The unit will be dedicated to
17 a series of 14 Double Stamp Fed Com wells that have
18 been identified in the application, one of which is
19 the Double Stamp Fed Com 116H.

20 And the completed interval for this
21 well will be within 330 feet of the quarter quarter
22 line separating the west half, east half from the east
23 half, east half of sections 11 and 14 to allow the
24 inclusion of this acreage into a standard horizontal
25 space and unit.

1 Pending the application in case number
2 22934 requests a similar order within the same pool,
3 underlying a 640-acre horizontal spacing unit,
4 comprised of the west half of sections 11 and 14, and
5 the unit will be dedicated to a series of 14 Double
6 Stamp Fed Com wells that have been identified in the
7 application, one of which is the Double Stamp Fed Com
8 115H.

9 The completed interval of this well
10 will be within 330 feet of the quarter quarter line
11 separating the west half, west half from the east
12 half, west half of sections 11 and 14 to allow the
13 inclusion of this acreage into a standard horizontal
14 spacing unit.

15 The exhibit packet submitted to the
16 division for these cases are identical and contain the
17 compulsory pooling checklist, Exhibits A, which are
18 the land man's testimony and related exhibits;
19 Exhibits B, which are the geologist's testimony and
20 related exhibits, and Exhibit C, which is my
21 sub-firm's statement regarding notice and includes
22 Exhibit C1, containing the sample notice of hearing
23 letter and tracking sheet providing the status of the
24 parties who were notified of this hearing via
25 certified mail, and Exhibit C2, which is the affidavit

1 of publication, demonstrating that all notice
2 requirements for these applications have been met.

3 And with that, I have set Exhibits A
4 through A5, B through B5, and C through C2 be admitted
5 into the record, and that these cases be taken under
6 advisement.

7 (Exhibits A through Exhibits C were
8 marked for identification.)

9 THE HEARING OFFICER: Thank you. Any
10 questions from EOG?

11 MR. FELDEWERT: Mr. Examiner, I'm just
12 looking. If I looked, for example, Mr. Rodriguez, at
13 case 22933, and I go to Exhibit A5, which is on page
14 46 of the PDF -- yeah, it references that Tap Rock and
15 EOG have a letter agreement in place; is that right?

16 MR. RODRIGUEZ: Yes, that's my
17 understanding.

18 MR. FELDEWERT: Okay. All right.
19 Okay. That's it, Mr. Examiner. Thank you.

20 THE HEARING OFFICER: Thank you.

21 Mr. Rose-Coss, any questions?

22 MR. ROSE-COSS: Well, maybe along the
23 same lines of Mr. Feldewert. So the only two parties
24 in this case are EOG and Tap Rock?

25 MR. RODRIGUEZ: Yes. We notified

1 overrides out of an abundance of caution, but we're
2 not pooling them. We believe that the leases allow
3 for them to be pooled, but the only two working -- are
4 Tap Rock and EOG.

5 MR. ROSE-COSS: Okay. So EOG isn't
6 being pooled. They're participating?

7 MR. RODRIGUEZ: There's a letter
8 agreement. They haven't -- EOG -- my understanding is
9 EOG has not executed a JOA. The parties are still
10 working out the terms of a JOA, but they have signed a
11 letter agreement wherein EOG is fine with moving
12 forward with this hearing today. So I believe that's
13 the intention of the letter agreement is moving
14 forward with the hearing.

15 MR. ROSE-COSS: Oh, okay. And so then
16 there's -- if you can explain to -- and maybe it's not
17 my place or what you do or what the purpose of this
18 is, but all these other parties that are being pooled,
19 what does that mean for them if they're not working
20 interested. They're not putting anything into the
21 well or ...?

22 MR. RODRIGUEZ: So they're overriding
23 royalty interest owners, which is essentially -- a
24 royalty interest, to my understanding, is it's a
25 royalty owner carved out as a working interest, and

1 the leases that are attached to those interests have
2 been -- have pooling clauses in them. So that's my
3 understanding, that they don't need to compulsory
4 pooled.

5 MR. ROSE-COSS: They don't need to be
6 compulsory pooled. The financial agreement on
7 developing the acreage is already worked out with
8 those parties.

9 MR. RODRIGUEZ: I believe so.

10 MR. ROSE-COSS: Okay. Well, that's
11 interesting. Broadening my understanding here of it.
12 So those are my only questions. Everything else, kind
13 of, seems to be in order I think. Thank you.

14 THE HEARING OFFICER: Thank you. The
15 only thing I would note, Mr. Rodriguez, is your
16 exhibit list says in your index that you have the
17 application and proposed hearing notice, but there is
18 no proposed hearing notice attached to the
19 application.

20 MR. RODRIGUEZ: Oh, yep.

21 THE HEARING OFFICER: You submitted
22 one, because otherwise it wouldn't be in our docket.

23 MR. RODRIGUEZ: It was submitted, but I
24 didn't include it here. And if you'd like, I can
25 certainly amend this and add that to the record.

1 THE HEARING OFFICER: I think at this
2 point, this is fine. It's just helpful in reviewing
3 the case to make sure that the proposed notice is
4 correct. Otherwise, I have to go look at the docket.
5 So otherwise, good job. You must have had a good Oil
6 & Gas professor in law school.

7 MR. RODRIGUEZ: I'm glad I didn't
8 misstate anything.

9 THE HEARING OFFICER: Any further
10 persons interested in cases 22933, 22934? Hearing
11 none, the exhibits will be admitted into the record,
12 and these cases will be taken under advisement. Thank
13 you.

14 (Exhibits A through Exhibits C were
15 received into evidence.)

16 MR. RODRIGUEZ: Thank you.

17 THE HEARING OFFICER: With that, we
18 call cases -- items 16 through 19. These are case
19 numbers 23188, 23189, 23190, 23191, COG Operating,
20 LLC.

21 MS. MCLEAN: Good morning. Jackie
22 McLean with Hinkle Shanor on behalf of COG Operating.

23 THE HEARING OFFICER: Are there any
24 other interested persons for cases 23188, 189, 190,
25 191? Hearing none, COG may proceed.

1 MS. MCLEAN: Thank you. In these
2 cases, COG is seeking to pool uncommitted interest in
3 two specific pools within the Bone Spring Formation,
4 and in case numbers 23188 and 23190, COG applies for
5 an order pooling all uncommitted interest in the Bone
6 Spring Formation, in the Red Hills Upper Bone Spring
7 Shale pool, pool code 97900, underlying 160-acre, more
8 or less, standard horizontal spacing unit comprised of
9 the east half, west half and west half, east half of
10 section 25, Township 25 South, Range 33 East in Lee
11 County, New Mexico.

12 And the spacing units will be dedicated
13 to the Dominator 25 Federal Com 106 and 306H wells to
14 be drilled from a surface hole location in the
15 southeast quarter, southwest quarter, unit N of
16 section 25 to a bottom hole location in the northeast
17 quarter, northwest quarter, unit C of section 25, and
18 the Dominator 25 Federal Com 104H and 304H wells to be
19 drilled from a surface hole location in the southwest
20 quarter, southeast quarter unit O of section 25 to a
21 bottom hole location in the northwest quarter,
22 northeast quarter unit B of section 25.

23 And then in case numbers 23189 and
24 23191, COG applies for an order pooling all
25 uncommitted interest in the Bone Spring Formation, the

1 Red Hills Lower Bone Spring pool, pool code 51020,
2 underlying 160-acre, more or less, standard horizontal
3 spacing unit, comprised of the east half, west half
4 and west half, east half of section 25, Township 25
5 South, Range 33 East in Lee County, New Mexico.

6 And the units are going to be dedicated
7 to the Dominator 25 Federal Com 406H well to be
8 drilled from a surface hole location in the southeast
9 quarter, southwest quarter unit N of section 25 to a
10 bottom hole location in the northeast quarter,
11 northwest quarter unit C of section 25, and then the
12 Dominator 25 Federal Com 404H well, which will be
13 drilled from a surface hole location in the southwest
14 quarter, southeast quarter unit O of section 25 to a
15 bottom hole location in the northwest quarter,
16 northeast quarter unit B of section 25.

17 And the exhibit packets that were
18 submitted to the Division for case number 23188
19 through 23191 contain Exhibit A, which is the land
20 professional's testimony and related land exhibits, a
21 plot of tracks, ownership interests, record title
22 interest to be pooled, a sample communitization
23 agreement and chronology of contact.

24 And then Exhibit B, geology testimony,
25 and it is combined geology testimony for all four

1 cases, which include location maps, Bone Spring and
2 second Bone Spring, sub-C structure maps, cross
3 section maps, Avalon cross sections and stratigraphic
4 cross sections.

5 And then Exhibit C, a noticed
6 testimony, which sets out when the notice letters of
7 his hearing and applications was sent to the parties
8 to be pooled and also the publication notice for this
9 hearing. And then with that, I ask that Exhibits A, B
10 and C be admitted into the record in case numbers
11 23188, 23189, 23190 and 23191, and if there aren't any
12 questions, that the cases be taken under advisement.

13 (Exhibit A, Exhibit B and Exhibit C
14 were marked for identification.)

15 THE HEARING OFFICER: Thank you.

16 Mr. Rose-Coss, questions?

17 MR. ROSE-COSS: You know, Mr. Brancard,
18 Ms. McLean, I don't have any questions.

19 THE HEARING OFFICER: Thank you.

20 MS. MCLEAN: Thank you.

21 THE HEARING OFFICER: All right. I've
22 got a few. So you list the three parties you're
23 trying to pool here as unmarketable title. Will you
24 explain for the record what that is?

25 MS. MCLEAN: So I believe that in this

1 case, all of the working interest owners have executed
2 an operating agreement. And then there are no, you
3 know, overriding royalty interest owners or any
4 unleased mineral interest owners. And this is a case
5 where we need to get either the federal
6 communitization agreement signed or pool the record
7 title owners.

8 And I believe this unmarketable title
9 is the record title owners that are, you know, in the
10 books as holding record title, but we weren't able to
11 get into touch with them or get them to sign the
12 communitization agreement. I'm not exactly sure, you
13 know, and I can find out what from the client they
14 exactly mean.

15 But these are, you know, record title
16 holders that we have -- or at least, you know,
17 knowledge that these are people that would either need
18 to sign the communitization agreement or be pooled as
19 record title holders.

20 THE HEARING OFFICER: Okay. So the
21 concern I have is that two of three that are listed --
22 I'm looking at page 16 of your exhibits -- Minerva,
23 Homebound, Strategic Energy; right?

24 MS. MCLEAN: Yes.

25 THE HEARING OFFICER: If you scroll up

1 to the list of working interest owners who supposedly
2 have all signed the agreement, Minerva and Strategic
3 Energy Assets are listed in there.

4 MS. MCLEAN: Yes. And that's something
5 I'll need to get more information from the client on
6 that. That's exactly what's going on with those.

7 THE HEARING OFFICER: And so on the one
8 hand, you're saying that they have executed an
9 operating agreement. On the other hand, you're saying
10 you need to pool them as record title interests.

11 MS. MCLEAN: Right. And I think that
12 they did -- you know, my understanding is that all the
13 working interest owners signed a JOA, but they hadn't
14 signed a communitization agreement. And in this case,
15 because we're just pooling the record title owners,
16 and the COM agreement is the only thing at issue, you
17 know, that's my understanding is that we just didn't
18 get them to sign the COM agreement. But all of the
19 people here that have working interests have signed
20 the JOA.

21 THE HEARING OFFICER: Okay. Yeah,
22 well, maybe we can get some clarification as to why
23 you're actually pooling these three interests. I
24 would also say, with your Exhibit A3, which lists all
25 the interest, it -- normally, I would have you redo

1 this. But since you're saying all the working
2 interests have agreed to this, you're giving us a
3 track map of the entire section, but you're only
4 pooling the west half of the east half and the east
5 half of the west half.

6 So these percentages that you're giving
7 us here are percentages that cover these two leases
8 and that cover the entire section, but they don't
9 relate to the percentages or the actual spacing units.
10 But again, it's all the same interest owners. It's
11 the two -- it's only two leases governing each of
12 these spacing units, and you're saying all the working
13 interest owners signed on. So just to let you know.

14 MS. MCLEAN: Okay.

15 THE HEARING OFFICER: I've also noted,
16 the mystery of Minerva is that when you go to the
17 communitization agreement, Exhibit B, page 21, which
18 is the list of working interest owners, they don't
19 show up there. All these other parties show up there.
20 They don't show up there. So another mystery.

21 MS. MCLEAN: And I think Minerva and
22 Homebound are related. They have the same address,
23 and, you know, I think that could be part of the
24 mystery.

25 THE HEARING OFFICER: Could be.

1 Homebound doesn't show up anywhere, so --

2 MS. MCLEAN: Yes.

3 THE HEARING OFFICER: Anyway ...

4 MS. MCLEAN: But we will get you
5 additional clarification on why Minerva and -- just
6 going up to the names now -- and Strategic show up in
7 both working interests as having signed a JOA, and
8 then the record title owners as not having signed the
9 COM agreement.

10 THE HEARING OFFICER: Okay. And just
11 -- this is, you know, the same thing I've said now,
12 several weeks now -- in your notice letters when
13 you're sending it out to the parties, please get our
14 addresses -- our electronic addresses correct, in
15 particular the e-permitting system. You still have
16 the state.nm.us.

17 It works. You can click on -- I mean,
18 I can click on right now from your letter, and I pop
19 into our electronic permitting system. But if you
20 then look at the top of the electronic permitting
21 system, it will give you the correct address.

22 MS. MCLEAN: And is the e-mail address
23 correct? It should be --

24 THE HEARING OFFICER: Yes.

25 MS. MCLEAN: OCD.hearing.en --

1 THE HEARING OFFICER: It's
2 e-permitting.

3 MS. MCLEAN: Okay.

4 THE HEARING OFFICER: Okay. Anything
5 further, Mr. Rose-Coss?

6 MR. ROSE-COSS: No, Mr. Brancard.

7 THE HEARING OFFICER: So with that, the
8 exhibits in these cases, 23188, 189, 190, 191 will be
9 admitted. These cases will be taken under advisement
10 where we will leave the record open for clarification
11 of these -- what appear to be three parties that are
12 being pooled in this matter -- because they're the
13 ones who have gotten notice. So they are the three
14 parties -- and what their status is.

15 (Exhibit A, Exhibit B and Exhibit C
16 were received into evidence.)

17 MS. MCLEAN: Thank you.

18 THE HEARING OFFICER: And again, when
19 we draft an order, it's important if we know whether
20 it's a record title interest or working interest,
21 because a lot of the provision in an order don't apply
22 to record title interests too. So it's important for
23 us to clarify what the status is.

24 MS. MCLEAN: Yes, we will do that.
25 Thank you.

1 THE HEARING OFFICER: Thank you. All
2 right. So we are now on items 20 and 21. These are
3 cases 23192, 23193, Devon Energy Production Company.

4 MR. SAVAGE: Good morning, Mr. Hearing
5 Examiner, Mr. Technical Examiner. Darin Savage with
6 the Santa Fe office of Abadie & Schill, appearing on
7 behalf of Devon Energy Production Company.

8 THE HEARING OFFICER: Thank you. We
9 have an entry of appearance from Tap Rock.

10 MR. RODRIGUEZ: Good morning, again.
11 Michael Rodriguez with Tap Rock Operating.

12 THE HEARING OFFICER: Are there any
13 other interested persons for cases 23192, 23193?
14 Hearing none, Devon may proceed.

15 MR. SAVAGE: Okay. We'd like to
16 proceed by affidavit if there's no objection. These
17 two cases cover lands in sections 28 and 33, Township
18 26 South, Range 35 East, Lee County, New Mexico. The
19 landman, Andrew Wenzel, for these cases has testified
20 before the Division as an expert witness, and his
21 credentials have been accepted and made a matter of
22 record. Likewise, geologist Derek Ohl -- and that's
23 spelled O-H-L -- has testified previously before the
24 Division as an expert witness, and his credentials
25 have been accepted as a matter of record.

1 In case number 23192, Devon seeks an
2 order establishing a standard 233.58 acres, more or
3 less, spacing unit covering the west half, west half
4 of section 28 and the northwest quarter, northwest
5 quarter and lot four of section 33 and pooling all
6 uncommitted interest in the Wolfcamp Formation,
7 designated as an oil pool underlying the unit.

8 The unit is dedicated to two initial
9 wells, the Arena Roja 28-33 Fed Com 701H Well, and the
10 Arena Roja 28-33 Fed Com 801H Well. Orientation of
11 the wells are stand up, north to south, and their
12 locations are orthodox. Mr. Wenzel's Exhibit A for
13 case 23192 includes his landman self-affirmed
14 statement, C-102s, an ownership breakdown, well
15 proposal with AFE, and the chronology of contacts.

16 Mr. Ohl's Exhibit B for this case
17 includes his geology self-affirmed statement along
18 with the five standard geology exhibits showing good
19 potential for development as described in his
20 statement. Exhibit C provides the affidavit of notice
21 for mailings and the publication notice. Notice was
22 timely mailed, and all working interest owners were
23 locatable.

24 Only four overriding royalty interest
25 owners were unlocatable as described in paragraph 13

1 of Mr. Wenzel's statement. Service of notice by
2 publication was timely. Both Mr. Wenzel and Mr. Ohl
3 affirm that the approval of this application is in the
4 best interest of conservation and protection of
5 correlative rights and prevention and waste and will
6 prevent the drilling of unnecessary wells.

7 In the next case, number 23193, Devon
8 seeks an order establishing a standard 233.54 acres,
9 more or less, spacing unit covering the east half,
10 west half of section 28 and the northeast quarter,
11 northwest quarter and lot three of section 33 and
12 pooling all uncommitted interest in the Wolfcamp
13 Formation designated as an oil pool underlying the
14 unit.

15 The unit is dedicated to two initial
16 wells, Arena Roja 28-33 Fed Com 702H Well and the
17 Arena Roja 28-33 Fed Com 802H Well. Orientation of
18 the wells are stand up, north to south, and locations
19 are orthodox. Again, Mr. Wenzel's Exhibit A for this
20 case includes his self-affirmed statement, C-102s, an
21 ownership breakdown, well proposal with AFE and the
22 chronology of contacts.

23 And Mr. Ohl's Exhibit B for this case
24 includes his self-affirmed statement along with the
25 five standard geology exhibits showing the potential

1 for development as described in this statement.
2 Exhibit C provides the updated notice for mailings and
3 the publication notice. Notice was timely mailed, and
4 all working interest owners were locatable in this
5 case.

6 And again, only four overriding royalty
7 interest owners were unlocatable as described in
8 Mr. Wenzel's self-affirmed statement. Service of
9 notice by publication was timely. Both Mr. Wenzel and
10 Mr. Ohl affirm that approval of this application is in
11 the best interest of conservation, protection of
12 correlative rights and the prevention of waste and
13 will prevent the drilling of unnecessary wells.

14 Mr. Hearing Examiner, at this time, I
15 move that Exhibits A, B and C and all sub-exhibits be
16 admitted into the record for cases 23192 and 23193,
17 and that these cases be taken under advisement. And
18 I'm available for any questions you may have.

19 (Exhibit A, Exhibit B and Exhibit C
20 were marked for identification.)

21 THE HEARING OFFICER: Thank you.

22 Mr. Rose-Coss, any questions?

23 Well, first let me check with Tap Rock.
24 Any questions, concerns?

25 MR. RODRIGUEZ: No questions and no

1 objection. Thank you.

2 THE HEARING OFFICER: Thank you.

3 Mr. Rose-Coss?

4 MR. ROSE-COSS: No questions, no
5 objections.

6 THE HEARING OFFICER: Thank you. Just
7 a little bit of confusion here, Mr. Savage. I'm
8 looking at your Exhibit A2, and just in the first case
9 I think is the only problem. So Chevron is a pooled
10 party?

11 MR. SAVAGE: Chevron is a pooled party.

12 THE HEARING OFFICER: Okay. And if you
13 look at track one, working interests, it lists Chevron
14 as committed.

15 MR. SAVAGE: That is -- I believe
16 that's -- yeah, I looked at that last night,
17 Mr. Brancard. And as I understand this, looking at
18 this, Chevron has an interest in track one that is
19 committed, but in track two, they are designated as
20 uncommitted. And that 48.47 percent looks to me like
21 it pertains to track two. And then the recapitulation
22 in the unit working interest, that 49.52 percent is
23 the proportion within the entire unit.

24 So for whatever reason, it looks like
25 Chevron committed their interest. And it may be

1 committed under an existing JOA or an older JOA, and
2 when they proposed this new unit, perhaps Chevron did
3 not enter into a newly propose JOA but was still
4 bound. I don't know the -- I can't find out the exact
5 facts, but it looks to me like, based on the numbers
6 and the proportions, that this is an accurate
7 representation of what's going on in terms of
8 ownership in that unit.

9 THE HEARING OFFICER: Well, yeah.
10 Because if you look at track one working interest, it
11 says 50 percent Chevron, and it says committed. But
12 then underneath, under the cumulative thing, it says,
13 "Total committed, 50 percent. Total uncommitted, 50
14 percent."

15 MR. SAVAGE: Oh, that is a --

16 THE HEARING OFFICER: So one of those
17 is wrong.

18 MR. SAVAGE: Yes, you're exactly right,
19 Mr. Brancard. That is a discrepancy.

20 THE HEARING OFFICER: I'm guessing that
21 Chevron's uncommitted in both, because that would make
22 the numbers work out. Because otherwise --

23 MR. SAVAGE: Yeah.

24 THE HEARING OFFICER: -- their total
25 percentage would be, like, 20 percent uncommitted.

1 MR. SAVAGE: I will get that revised if
2 you permit me to do that.

3 THE HEARING OFFICER: Okay. Yeah, so
4 you can revise -- and I think the problem is only in
5 the first case.

6 MR. SAVAGE: Right.

7 THE HEARING OFFICER: All right. Are
8 there --

9 MR. SAVAGE: Disregard my convoluted
10 analysis on that. Yeah, that was a good catch on that
11 total commitment 50 percent. Thank you.

12 THE HEARING OFFICER: All right. So if
13 there are any other interested persons then for cases
14 23192, 23193? Hearing none, the exhibits in these
15 cases will be admitted into the record. Cases 23192,
16 23193 will be taken under advisement with the
17 submission of a revised Exhibit A2 in, I believe, just
18 case 23192.

19 (Exhibit A, Exhibit B and Exhibit C
20 were received into evidence.)

21 MR. SAVAGE: Thank you.

22 THE HEARING OFFICER: Thank you. With
23 that, we are on item 22, case 23042, Mewbourne Oil
24 Company.

25 MR. FELDEWERT: Mr. Examiner, Michael

1 Feldewert with the Santa Fe office of Holland and
2 Hart.

3 THE HEARING OFFICER: Endeavor Energy
4 Resources?

5 MS. SHAHEEN: Good morning. Sharon
6 Shaheen on behalf of Endeavor Energy Resources.

7 THE HEARING OFFICER: Thank you.
8 Anyone else here for case 23042? Hearing none, I
9 believe we have a late filed motion in this case.
10 Mr. Feldewert?

11 MR. FELDEWERT: That is correct,
12 Mr. Examiner. We filed that motion yesterday to
13 vacate the pre-hearing order, setting the matter for a
14 contested hearing today and to instead set this matter
15 for a status conference on the February 2nd docket. I
16 think the filing of exhibits and exchanging of
17 information in that process helped the parties to
18 reach a letter agreement that has some moving parts to
19 it over the next six weeks. So I think that warrants
20 a status conference on February 2nd to see where we
21 are, but we're hoping to be able to dismiss this
22 application at that status conference.

23 THE HEARING OFFICER: Okay. Endeavor,
24 in agreement?

25 MS. SHAHEEN: I believe that

1 Mr. Feldewert has accurately summarized the parties'
2 positions at this time.

3 THE HEARING OFFICER: All right. So
4 this would be a status conference on February 2nd?

5 MR. FELDEWERT: Yes, sir.

6 MS. SHAHEEN: Agreed.

7 THE HEARING OFFICER: And -- I'm sorry?

8 MS. SHAHEEN: Agreed.

9 THE HEARING OFFICER: Thank you.
10 Hearing no other parties, then this case, 23042, will
11 be set for a status conference on February 2nd. I'll
12 issue a piece of paper.

13 MR. FELDEWERT: Thank you.

14 MS. SHAHEEN: Thank you.

15 THE HEARING OFFICER: All right. With
16 that, I think the next few matters might take us a
17 little while, so let me check in with our court
18 reporter. Dana, are you there?

19 THE REPORTER: I'm here.

20 THE HEARING OFFICER: Okay. So the
21 next few cases may take a little while. Do you want a
22 break now, or are you okay?

23 THE REPORTER: I'm okay. It's up to
24 you.

25 THE HEARING OFFICER: All right. I

1 think I am ready to roll.

2 MS. HARDY: Mr. Examiner, this is Dana
3 Hardy. Could we possibly take a five-minute break?

4 THE HEARING OFFICER: We sure could.

5 MS. HARDY: Thank you.

6 THE HEARING OFFICER: So we will get
7 back to our remaining cases, items 23 through 30 on
8 our list, cases 23149 through 23156. We'll be back
9 here at 10 a.m.

10 (Off the record.)

11 THE HEARING OFFICER: We are back in
12 session. We have one last group of hearings. These
13 are items 23 through 30 on our docket today. The case
14 numbers are 23149, 23150, 23151, 23152, 23153, 23154,
15 23155, 23156. I will start with some entries of
16 appearance, and then I will make perhaps an
17 unsuccessful attempt to summarize where I think we are
18 in these cases. So with that, the applicant, Colgate
19 Operating, LLC.

20 MS. HARDY: Good morning, Mr. Examiner.
21 Dana Hardy with Hinkle Shanor on behalf of Colgate
22 Operating, LLC.

23 THE HEARING OFFICER: Doyle and
24 Margaret Hartman.

25 MR. GALLEGOS: Good morning,

1 Mr. Examiner, and may it please the examiner. This is
2 Gene Gallegos, representing Doyle and Margaret
3 Hartman.

4 THE HEARING OFFICER: Thank you. Are
5 there any other interested persons for cases 23149,
6 150, 151, 152, 153, 154, 155, 156? Hearing none --

7 MR. JONES: Bryan Jones. I'm a
8 potential witness in these cases.

9 THE HEARING OFFICER: Thank you,
10 Mr. Jones.

11 MR. STEWART: Excuse me, Examiner.
12 Michael Stewart with Helms Oil & Gas, an interested
13 party observer, consultant engineer on behalf of Doyle
14 and Margaret Hartman.

15 THE HEARING OFFICER: Okay. Thank you.
16 Mr. Stewart, can you just identify again who you're
17 representing?

18 MR. STEWART: I'm just an observer,
19 consulting engineer.

20 THE HEARING OFFICER: Okay. Thank you.

21 MR. MACHA: And Travis Macha, landman
22 for Colgate Operating.

23 THE HEARING OFFICER: Thank you,
24 Mr. Macha. All right. So let me try to summarize
25 what I think is going on here, and then the parties

1 can tell me what they think is really going on here.
2 So we have Colgate Operating, which at some point in
3 the recent past applied for and was granted compulsory
4 pooling orders in a series of cases. Those compulsory
5 pooling orders -- I have gone through the record -- do
6 not pool any interest of the Hartmans'.

7 Colgate has come back with these cases
8 today, which are applications to pool additional
9 interests for these existing compulsory pooling
10 orders, something not terribly out of the ordinary.
11 We get these from time to time. I usually admonish
12 the land people for not picking these things up
13 sooner.

14 But anyway, what I understand from the
15 record is that Colgate is seeking to pool three record
16 title owners in these seven -- eight cases before us.
17 One of those is Doyle Hartman. There is no
18 application at this point to pool any additional
19 working interest owners. There is obviously, from the
20 record, a dispute as to what interest the Hartmans
21 have in the minerals that are being pooled here.

22 However, I think all the parties agree
23 that we are a tribunal of limited jurisdiction, and
24 that any kind of title dispute is beyond our
25 jurisdiction. And if it would need to be handled

1 somewhere, it would need to be handled somewhere else,
2 as in, say, maybe a district court. So with that, we
3 have two pending motions.

4 There is a motion to quash a subpoena.
5 There is a motion to dismiss or reject a pre-hearing
6 statement. What I understand is that pre-hearing
7 statement was resubmitted by the Hartmans and so
8 clarified their position to a certain extent, but
9 there are still objections by Colgate as to what the
10 Hartmans are alleging and what the Hartmans are
11 seeking to prove in this hearing.

12 Initially, I understood from the
13 Hartmans' pleadings that they would be in part pleased
14 with an order from the Division that made it clear
15 that A, these proceedings only applied to record title
16 interests of the Hartmans. It explicitly did not
17 apply to any potential working interest of the
18 Hartmans, and that if there was any pooling of a
19 working title interest at some point in the future, it
20 would have to come in a totally separate proceeding.

21 I don't have the slightest problem with
22 any of those conditions. Okay? But I don't know that
23 that really satisfies everyone here today, but I will
24 throw that out as a response to some of the early back
25 and forth between the parties. In the most recent

1 filing from the Hartmans --

2 MR. ROSE-COSS: Can I interrupt you
3 real quick, Bill?

4 THE HEARING OFFICER: Yeah.

5 MR. ROSE-COSS: It sounds like somebody
6 is unmuted, and that's generating an echo. So if we
7 could request that anyone who isn't speaking to mute
8 themselves and see if that solves the problem.

9 THE HEARING OFFICER: I'm seeing,
10 Mr. Gallegos, your button lighting up here. So if you
11 could try to mute yourself, that would be great.
12 Perfect.

13 MR. ROSE-COSS: Sorry. That's it.

14 THE HEARING OFFICER: Thank you. So
15 the Hartmans' latest filing indicates that they would
16 request that the Division withdraw the prior orders
17 and continue these cases pending resolution of the
18 title dispute. I see two problems with that, that at
19 this point the prior orders are not before us.

20 If you were here for the beginning of
21 today's docket, you would know that we do have cases
22 where parties have sought to reopen old order. Three
23 of the first four cases on the docket were reopened
24 cases. Of course, all of those involved actual
25 pooling of somebody's interests that they were

1 objecting to. But we do not have a reopening case
2 filed here, so we really can't take action against the
3 prior orders in this proceeding.

4 Now staying the case, pending the title
5 dispute, is a possibility. However, I am not seeing
6 anything in the record that indicates that there is a
7 pending action to resolve the title dispute. In other
8 words, I don't see any record of a quiet title action
9 having been filed in district court anywhere, so I
10 don't know that we can stay this pending a nonexistent
11 other action.

12 With that, maybe we can just, sort of,
13 try then to see what the parties think is left, and
14 what the parties would like to try to resolve today.
15 We have the two pending motions. I want to see
16 whether parties want to keep going with those. And
17 let's start with the applicant in this case, Colgate.

18 MS. HARDY: Thank you, Mr. Examiner. I
19 believe your assessment of the situation is accurate.
20 Colgate is only seeking to pool the Hartmans' record
21 title interest. Hartman has not provided a basis to
22 oppose that. I don't think it's valid to oppose
23 pooling of a record title interest based on a claimed
24 working interest that is not being pooled and has not
25 been pooled. The working interest is not at issue.

1 If it turns out, after a quiet title
2 action is complete or after Mr. Hartman provides
3 additional information to Colgate that he does own a
4 working interest, Colgate would have to address that
5 interest at that time, but it's not at issue here. So
6 none of the reasons that Mr. Hartman objects to the
7 application are valid. They relate to a claimed
8 working interest that's not at issue.

9 So that is the reason that we've filed
10 a motion to quash the subpoena and that we've objected
11 to Hartman's exhibits. I think all but one, which is
12 a letter from Colgate to Hartman regarding the
13 development area notification. So I think that
14 there's really no basis for Mr. Hartman to oppose the
15 pooling of his record title interest, and that
16 Colgate's pending motions and its applications should
17 be granted.

18 We are prepared to present testimony,
19 and we've submitted exhibits from our landman, Travis
20 Macha, and also from our geologist, showing that
21 Colgate has planned here an extensive development to
22 produce two formations underlying two sections of land
23 with 24 wells. They are far along in that
24 development. They've submitted APDs and are planning
25 to spud the wells beginning in early 2023.

1 So at this point, I think there's
2 really no basis for Mr. Hartman to oppose the
3 applications, and they should be granted. But we are
4 prepared to present testimony and evidence in support
5 of the applications. Mr. Brancard, I think you're
6 muted.

7 THE HEARING OFFICER: Yes, I am. Thank
8 you. I will turn to Mr. Gallegos.

9 Again, could you respond then to the
10 possibility that some of the issues, if not most of
11 the issues you have raised could be resolved in other
12 forms or later proceedings before the Division, and
13 what can we accomplish today then?

14 MR. GALLEGOS: Mr. Examiner, first of
15 all, I'd like to make my appreciation for the obvious
16 effort you have put in to familiarize yourself with
17 this case. I think there's a preliminary item here
18 that really results in shortcutting this whole
19 proceeding and should result in just simply the
20 dismissal of this application.

21 If you will indulge me with a little --
22 give me an opportunity to cover a little something
23 here of the why we're here. In a earlier pleading
24 filed by Colgate basically said, "The BLM made us do
25 it," that sort of thing. "That's why we filed this,"

1 but with no particular references to any authority
2 why, until I saw Mr. Macha -- and I hope I'm
3 pronouncing the name correctly -- Mr. Macha's recently
4 filed statement, which is helpful.

5 And let me read it from that, because
6 this, Mr. Brancard, really sets where we are on this
7 whole matter. I'm reading from paragraph nine of
8 Mr. Macha's statement. He says, "Colgate is not
9 seeking to pool any working interest or overriding
10 royalty interest held by Hartman, as Colgate's title
11 research has shown that Hartman does not own a working
12 or royalty interest in the wells."

13 And aside from whether we agree or
14 disagree with that, we completely agree that the
15 Division is not the place for deciding title disputes.
16 So let's proceed on the basis of what the applicant
17 says and what binds it as to its position, because
18 then earlier, at paragraph five Mr. Macha says, "In
19 these cases, Doyle Hartman is named as an owner of a 2
20 percent record title interest in the federal leases at
21 issue and has refused to sign the communitization
22 agreement. As a result, Colgate seeks to pool his
23 record title interest solely for the purpose of
24 complying with the BLM's communitization
25 requirements."

1 And for the first time, we have a
2 citation as to what supposedly those requirements are.
3 Now the requirements -- and let me read, and we'll
4 listen carefully. Because what the requirement says
5 -- and I'm reading from point 11(f) of the policy
6 statements of the BLM -- "A communitization agreement
7 signed by the operator and complete in all respects,
8 except for signatures of all working interest and
9 royalty owner, may be accepted as approved by the
10 authorized officer when a state order forced pooling
11 such interest in the land in question is also
12 submitted."

13 Do I need to repeat? Where there is an
14 absence of signatures of working interest in royalty
15 owners, Colgate -- had repeatedly, but just to be
16 clear -- has said that's not Hartman. Hartman is not
17 a working interest or royalty owners. And bound by
18 their representations and bound by their pleading, the
19 so-called requirement of the BLM is totally
20 inapplicable. We are here needlessly.

21 Colgate says it's only record title.
22 The policy says if you're missing working interest
23 owner or royalty owner, then a forced pooling owner
24 may do. So this whole matter should be dismissed. We
25 don't need to spend time on arguing motions. We don't

1 need to spend time on title issues. Simply take
2 Colgate at its word for what it says its position is,
3 what it says Hartman owns -- or they claim it does now
4 own. And it doesn't own working interest and royalty
5 interest, and the communitization requirement applies
6 to working interest and royalty interest and not to
7 record title.

8 So this matter should be dismissed.
9 There should be no order, and that's the end of it.
10 We don't need to go through exhibits or anything else
11 By the way, we also show that there's operating
12 agreements that cover the land, which is another
13 reason for dismissal.

14 But really, this preliminary matter
15 ends the situation, and all we had to do was finally
16 have a citation to the authority that Colgate's been
17 relying on. And when we do, we find it's
18 inapplicable, and that there is no reason for seeking
19 to have an order applied to record title interest in
20 the grounds that the BLM is making us do it. So, you
21 know, with that, Mr. Examiner, we move dismissal.

22 THE HEARING OFFICER: Thank you.

23 MS. HARDY: May I respond?

24 THE HEARING OFFICER: Yes. But let me
25 just say, I know we have these cases repeatedly where

1 parties come in to us and ask us to issue a pooling
2 order for record title interests. And as with many
3 other items that appear before the Division, we are
4 told that, "Well, the BLM needs it." So please
5 respond to Mr. Gallegos's argument.

6 MS. HARDY: Thank you, Mr. Examiner.
7 The argument is wrong. The BLM does require
8 communitization agreements, and if you don't have one,
9 you need a pooling order from the Division. He's
10 relying on a statement in their policy guidance, which
11 is true. We have cited it. But nonetheless, they
12 require a pooling order or a signed communitization
13 agreement by the record title owners.

14 That is the rule at the BLM, and I
15 think that's why the Division sees so many of these
16 applications. They're not unusual. I know that many
17 operators have filed them. I think there are some set
18 on almost every docket. I think I saw -- I don't know
19 -- maybe ten of them coming up on the January docket.
20 This is not unusual. It's a requirement of the BLM,
21 and the Division has consistently issued those pooling
22 orders of record title interest at operator's request.

23 It's their requirement. I don't really
24 know what else to offer. We can -- I don't know that
25 we can subpoena someone from the BLM to come testify

1 about their policy. I think Mr. Macha can address
2 that if you would like him to. But it's a
3 requirement, and that's why we're here. And Colgate's
4 24 well development should not be blocked by a 2
5 percent record title owner who is refusing to sign a
6 communitization agreement.

7 THE HEARING OFFICER: So what you're
8 saying is that BLM's policy is that what their written
9 policy says really means working interest, royalty
10 owners and record title owners.

11 MS. HARDY: Right. Exactly.

12 THE HEARING OFFICER: And that has bene
13 what BLM has told all of you trying to get approval of
14 BLM units.

15 MS. HARDY: Correct.

16 THE HEARING OFFICER: All right.

17 MR. GALLEGOS: Well, Mr. Examiner, if I
18 may, don't -- I think matters are supposed to proceed
19 based on evidence, and the only evidence presented by
20 Colgate is a reference to the policy. If there's
21 something else, just Counsel saying, "Oh, it's so.
22 They require it," well, you know, come forward with
23 the evidence. We can't just go on the basis, "Oh,
24 well, somebody says this."

25 MS. HARDY: I believe the evidence will

1 be Mr. Macha's direct testimony under oath.

2 MR. GALLEGOS: Well, that would be
3 obviously purely hearsay. If there's something that
4 the BLM is requiring, then that's for the BLM to
5 provide or have something in writing, not something
6 anymore -- not anymore than counsel statements, which
7 are not evidence. And Mr. Macha saying what BLM
8 requirements are is obviously double hearsay.

9 So we've got the policy. It's cited in
10 the footnote of Mr. Macha's testimony. He cites to
11 the policy. He doesn't cite to a letter. He doesn't
12 cite to anything else. He cites to the policy. We
13 went to the policy, and that's what the policy says.
14 Now, Mr. Examiner, we have to proceed based on
15 documentary evidence, and that's what's shown here.
16 And so that's -- it simply does not apply. The policy
17 does not apply.

18 All you have to do is read it, and all
19 you have to do is read what Colgate says the ownership
20 is. And they're bound by their citation. They're
21 bound by their characterization of the ownership, and
22 that's what the record is for. That's why you have a
23 record, and that's why you make decision makes on
24 evidence or admissible documents, which, you know,
25 authority regulations can be admitted, but not just on

1 some hearsay.

2 THE HEARING OFFICER: Well, thank you.
3 So, Mr. Gallegos, your client's position is that your
4 client objects to having their record title interests
5 be pooled in this proceeding; is that correct?

6 MR. GALLEGOS: That's correct. Their
7 title -- whatever it is -- should not be bound by an
8 order. Bear in mind, Mr. Examiner, there has been no
9 opportunity for these parties to be heard concerning
10 the terms of these orders. The hearing was, what, in
11 June, and we were not given notice. And now by some
12 sort of a bootstrap proceeding, this ownership is to
13 be subject to an order on which there was on hearing
14 as far as they were concerned.

15 That alone is a due process issue, but
16 I don't think we have to get there when we can simply
17 say, this whole idea, "Oh, we're doing this, because
18 the BLM requires it." And when we go to the
19 requirement of the BLM, it says the requirement
20 applies to working interest and royalty interest, and
21 Colgate says, "Oh, Hartman has no working interest and
22 royalty interest." That's where we are, Mr. Brancard,
23 and that's where we are on a record.

24 Now if there's anything more that's
25 admissible evidence, that would be something else.

1 But that's exactly where we find ourselves, and I
2 think adjudication by the Division -- not a court, but
3 still its administrative adjudication has to go
4 forward on the basis of what we have as a record.
5 That's the record that Colgate has given us --
6 provided.

7 THE HEARING OFFICER: Sorry. I'm
8 looking at our schedule of hearings. All right.
9 Here's what I am going to do. I am going to continue
10 this hearing to January 19th. The hearing will be
11 limited to what has been stated before, which is the
12 potential pooling of three record title interests for
13 these eight order -- seven orders. I keep getting
14 confused.

15 I am continuing this for the sole
16 purpose to allow Colgate the opportunity to provide
17 some sort of documentary evidence from the BLM that
18 requires the pooling order for record title interests.
19 This would be helpful for this case and many others.
20 I will also at this point, for now, grant the motion
21 to quash the subpoena, because I don't think the
22 evidence that is being requested relates to the
23 particular issue here involved in this case is, which
24 is pooling of record title ownership, whatever that
25 is.

1 And so we will have a hearing then on
2 January 19th on just the pooling of the record title
3 interests, and the parties are free to update their
4 pre-hearing statements. We will not be discussing
5 title issues. We will not be discussing joint
6 operating agreements, because as I understand, those
7 don't really apply to record title interests.

8 And so that will be the sole purpose of
9 the hearing on January 19th, but I do think that
10 Mr. Gallegos raises a good point, one that perhaps I
11 should have tried to clarify a long time ago in all
12 these hearings on record title ownership. And so with
13 that, that's the -- is that clear as to where we're
14 headed on this?

15 MR. GALLEGOS: Yes, Mr. Examiner.
16 Thank you.

17 MS. HARDY: Yes, Mr. Examiner. Thank
18 you. And I do have one question. So it sounds to me
19 like, effectively -- or you're granting -- or it
20 sounds to me like our motion to exclude exhibits
21 dealing with title issues and JOAs is granted.

22 THE HEARING OFFICER: You know, I'm
23 giving you all an opportunity to reshape your
24 pre-hearing statements in accordance with what I think
25 the scope of the hearing is. Okay?

1 MS. HARDY: Thank you.

2 THE HEARING OFFICER: And so we may
3 have to deal with exhibits one at a time when they
4 come up at the hearing.

5 MS. HARDY: Okay. Thank you.

6 THE HEARING OFFICER: So are we clear,
7 January 19th for a hearing? I can issue a pre-hearing
8 statement to clarify that. Thank you all. Appreciate
9 your efforts.

10 MS. HARDY: Thank you.

11 THE HEARING OFFICER: And have a great
12 holiday season, whatever holiday you want to
13 celebrate. Thank you.

14 MS. HARDY: Thank you.

15 MR. GALLEGOS: Thank you.

16 (Whereupon, at 11:31 a.m., the
17 proceeding was concluded.)

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CERTIFICATE OF DEPOSITION OFFICER

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

Dana Fulton

DANA FULTON

Notary Public in and for the
State of New Mexico

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New Mexico Rules of Civil Procedure for the
District Courts

Article 5, Rule 1-030

(e) Review by Witness; Changes; Signing.

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

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2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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