

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

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

Docket No.
01-23 OCD

APPLICATION OF MEWBOURNE OIL
COMPANY FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.

Case No.
23173

APPLICATION OF COG OPERATING
LLC FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.

Case No.
23256

APPLICATION OF COG
OPERATING LLC FOR COMPULSORY
POOLING AND APPROVAL OF AN
OVERLAPPING SPACING UNIT,
EDDY COUNTY, NEW MEXICO

Case No.
23257

1	APPLICATION OF TAP ROCK	Case No.
2	OPERATING, LLC FOR COMPULSORY	23232, 23233
3	POOLING, EDDY COUNTY, NEW MEXICO	23234, 23235
4		
5	APPLICATION OF MATADOR	Case No.
6	PRODUCTION COMPANY FOR	23243
7	COMPULSORY POOLING,	
8	LEA COUNTY, NEW MEXICO	
9		
10	APPLICATION OF MEWBOURNE OIL	Case No.
11	COMPANY FOR COMPULSORY POOLING,	23275, 23276
12	LEA COUNTY, NEW MEXICO	23277, 23278
13		
14	APPLICATION OF V-F PETROLEUM,	Case No.
15	INC. FOR COMPULSORY POOLING	23254, 23255
16	AND APPROVAL OF A NON-STANDARD	
17	SPACING UNIT, EDDY COUNTY,	
18	NEW MEXICO	
19		
20	APPLICATION OF STEWARD ENERGY II,	Case No.
21	LLC FOR COMPULSORY POOLING,	23209
22	LEA COUNTY, NEW MEXICO	
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1	APPLICATION OF REDWOOD OPERATING	Case No.
2	LLC FOR COMPULSORY POOLING,	23157
3	EDDY COUNTY, NEW MEXICO	
4		
5	APPLICATION OF OXY USA INC.	Case No.
6	FOR COMPULSORY POOLING,	23203
7	LEA COUNTY, NEW MEXICO	
8		
9	APPLICATION OF SPC RESOURCES,	Case No.
10	LLC TO AMEND	23218
11	ORDER NO. R-21096, AS AMENDED,	
12	EDDY COUNTY, NEW MEXICO	
13		
14	APPLICATION OF DEVON ENERGY	Case No.
15	PRODUCTION COMPANY, L.P. FOR	23264
16	APPROVAL OF AN OVERLAPPING	
17	HORIZONTAL WELL SPACING UNIT	
18	AND COMPULSORY POOLING,	
19	LEA COUNTY, NEW MEXICO	
20		
21	(AMEND) APPLICATION OF FRANKLIN	Case No.
22	MOUNTAIN ENERGY LLC TO AMEND	23221
23	ORDER NO. R-21995	
24	LEA COUNTY, NEW MEXICO	
25		

1	(AMEND) APPLICATION OF FRANKLIN	Case No.
2	MOUNTAIN ENERGY LLC TO AMEND	23222
3	ORDER NO. R-21996	
4		
5	(AMEND) APPLICATION OF FRANKLIN	Case No.
6	MOUNTAIN ENERGY LLC TO AMEND	23223
7	ORDER NO. R-21997	
8		
9	(AMEND) APPLICATION OF FRANKLIN	Case No.
10	MOUNTAIN ENERGY LLC TO AMEND	23224
11	ORDER NO. R-21998	
12		
13	APPLICATION OF MEWBOURNE OIL	Case No.
14	COMPANY FOR COMPULSORY POOLING,	23219
15	LEA COUNTY, NEW MEXICO	
16		
17	APPLICATION OF STEWARD ENERGY II,	Case No.
18	LLC TO POOL ADDITIONAL INTERESTS	23220
19	UNDER ORDER NO. R-22192,	
20	LEA COUNTY, NEW MEXICO	
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1	APPLICATION OF V-F PETROLEUM INC.	Case No.
2	FOR COMPULSORY POOLING AND	23225
3	APPROVAL OF A NON-STANDARD	
4	SPACING UNIT,	
5	EDDY COUNTY, NEW MEXICO	
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7	APPLICATION OF V-F PETROLEUM,	Case No.
8	INC. FOR COMPULSORY POOLING,	23227
9	LEA COUNTY, NEW MEXICO.	
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11	APPLICATION OF EARTHSTONE	Case No.
12	OPERATING, LLC FOR COMPULSORY	23244, 23245
13	POOLING, LEA COUNTY, NEW MEXICO	
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15	APPLICATION OF EARTHSTONE	Case No.
16	OPERATING, LLC FOR COMPULSORY	23270, 23272
17	POOLING, LEA COUNTY, NEW MEXICO	
18		
19	APPLICATION OF RIDGE RUNNER	Case No.
20	RESOURCES OPERATING, LLC FOR	23280, 23281
21	EXTENSION TO COMMENCE	
22	DRILLING OPERATIONS,	
23	LEA COUNTY, NEW MEXICO	
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1	APPLICATION OF MEWBOURNE OIL	Case No.
2	COMPANY FOR COMPULSORY POOLING,	23284, 23285
3	EDDY COUNTY, NEW MEXICO	
4		
5	APPLICATION OF MEWBOURNE OIL	Case No.
6	COMPANY TO RE-OPEN CASE NO. 22338,	23290
7	FOR COMPULSORY	
8	POOLING, EDDY COUNTY, NEW MEXICO	
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10	APPLICATION OF MEWBOURNE OIL	Case No.
11	COMPANY TO RE-OPEN CASE NO. 22339,	23291
12	FOR COMPULSORY	
13	POOLING, EDDY COUNTY, NEW MEXICO	
14		
15	APPLICATION OF MEWBOURNE OIL	Case No.
16	COMPANY TO RE-OPEN CASE NO. 22638,	23292
17	FOR COMPULSORY	
18	POOLING, EDDY COUNTY, NEW MEXICO	
19		
20	APPLICATION OF DJR OPERATING, LLC	Case No.
21	TO AMEND ORDER NO. R-828-A	23282
22	AFFECTING THE CARSON UNIT,	
23	SAN JUAN COUNTY, NEW MEXICO	
24		
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1 APPLICATION OF DJR OPERATING, LLC Case No.
2 TO AMEND ORDER NO. R-14194 23283
3 AFFECTING THE PONDEROSA UNIT,
4 SAN JUAN COUNTY, NEW MEXICO
5
6 APPLICATION OF MEWBOURNE OIL Case No.
7 COMPANY FOR COMPULSORY POOLING, 23176, 23178
8 LEA COUNTY, NEW MEXICO

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10 VIDEOCONFERENCE HEARING
11 DATE: Thursday, January 5, 2023
12 TIME: 8:15 a.m.
13 BEFORE: Hearing Examiner Bill Brancard
14 Technical Examiner Dean McClure
15 LOCATION: Remote Proceeding
16 Santa Fe, NM 87501
17 REPORTED BY: Dana Fulton, Notary Public
18 JOB NO.: 5528812
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A P P E A R A N C E S

ON BEHALF OF ENERGY, MINERALS AND NATURAL RESOURCES
DEPARTMENT:

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ON BEHALF OF MEWBOURNE OIL COMPANY:

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James Bruce, Attorney at Law
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jamesbruc@aol.com

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

ON BEHALF OF MATADOR PRODUCTION COMPANY/EOG
RESOURCES/MRC PERMIAN COMPANY/MRC DELAWARE/DEVON
ENERGY PRODUCTION/COG OPERATING/MEWBOURNE OIL
COMPANY/XTO ENERGY:

MICHAEL FELDEWERT, ESQUIRE (by videoconference)
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ON BEHALF OF COTERRA ENERGY/CIMAREX ENERGY COMPANY:

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Abadie & Schill
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ON BEHALF OF APACHE COMPANY/FRANKLIN MOUNTAIN
ENERGY/MARATHON OIL PERMIAN, LLC:

DEANA BENNETT, ESQUIRE (by videoconference)
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Albuquerque, NM 87102

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18 Santa Fe, NM 87504
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20 ON BEHALF OF REDWOOD OPERATING/OXY USA:
21 PAULA VANCE, ESQUIRE (by videoconference)
22 Holland and Hart
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24 Santa Fe, NM 87501
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A P P E A R A N C E S (Cont'd)

ON BEHALF OF TAP ROCK OPERATING, LLC:

MICHAEL RODRIGUEZ, ESQUIRE (by videoconference)

Tap Rock Resources

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Golden, CO 80401

ON BEHALF OF SPC RESOURCES/DJR OPERATING:

ADAM RANKIN, ESQUIRE (by videoconference)

Holland & Hart

110 North Guadalupe, Suite 1

Santa Fe, NM 87501

ALSO PRESENT:

Doug Guion, President, Colorado Energy

Minerals, Inc. (by videoconference)

Mona Binion, Land Person, DJR Operating (by

videoconference)

Esther Yazzie-Lewis (by videoconference)

Kay Verge Joe [ph] (by videoconference)

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1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	OXY USA (Case 23203 Cont'd):		
4	Exhibit C2	Land Tract Map and Owner	
5		Schedule	40/
6	Exhibit C3	Sample Well Proposal Letter	40/
7	Exhibit C4	Chronology of Contacts	40/
8	Exhibit D	Self-Affirmed Statement of	
9		Mr. Burnett	41/
10	Exhibit D1	Locator Map	41/
11	Exhibit D2	Sub-C Structure Map	41/
12	Exhibit D3	Structural Cross Section Map	41/
13	Exhibit D4	Stratigraphic Cross Section	41/
14	Exhibit E	Self-Affirmed Statement of	
15		Notice	41/
16	Exhibit F	Affidavit of Notice of	
17		Publication	41/
18	(Exhibits retained by counsel.)		
19			
20	NO.	DESCRIPTION	ID/EVD
21	SPC Resources (Case 23218):		
22	Exhibit A	Application	44/
23	Exhibit B	Self-Affirmed Statement	
24		Of Nicole Singer	44/
25	Exhibit B5	Copy of Notice	45/

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E X H I B I T S (Cont'd)

NO.	DESCRIPTION	ID/EVD
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SPC Resources (Case 23218 Cont'd):

Exhibit B6	Copy of Letter	45/
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Exhibit C	Copy of Affidavit of Publication	45/
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(Exhibits retained by counsel.)

NO.	DESCRIPTION	ID/EVD
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Mewbourne Oil Company (Case 23219):

Exhibit A3	Identified Tract Ownership and Pool Parties	58/
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Exhibit C	Notice Affidavit	58/
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(Exhibits retained by counsel.)

NO.	DESCRIPTION	ID/EVD
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Steward Energy (Case 23220):

Exhibit A	Testimony of Land Professional	62/
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Exhibit B	Returned to Sender	62/
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(Exhibits retained by counsel.)

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E X H I B I T S (Cont'd)

NO.	DESCRIPTION	ID/EVD
V-F Petroleum (Case 23225):		
Exhibit A4	Affidavits, Maps of	
	Non-Standard Unit, Structure,	
	Location, and Cross section	64/
Exhibit C	Notice Affidavit	65/
	(Exhibits retained by counsel.)	

NO.	DESCRIPTION	ID/EVD
V-F Petroleum (Case 23227):		
Exhibit A	Land Professional's Testimony	
	and Related Land Exhibits	71/
Exhibit B	Geology Testimony	71/
Exhibit C	Land Testimony	71/
	(Exhibits retained by counsel.)	

NO.	DESCRIPTION	ID/EVD
Earthstone Operating (Case 23244, 23245):		
Exhibit A3	Affidavit, Land Documents	76/
Exhibit C	Notice Affidavit	76/
	(Exhibits retained by counsel.)	

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E X H I B I T S (Cont'd)

NO.	DESCRIPTION	ID/EVD
Earthstone Operating (Case 23272)		
Exhibit A3	Operating	81/
Exhibit C	Notice Affidavit	81/
(Exhibits retained by counsel.)		

NO.	DESCRIPTION	ID/EVD
Earthstone Operating (Case 23270):		
Exhibit A3	Operating	85/
Exhibit C	Notice Affidavit	85/
(Exhibits retained by counsel.)		

NO.	DESCRIPTION	ID/EVD
Ridge Runner Resources (Case 23280, 23281):		
Exhibit A	Affidavit of Michael Burk	87/89
Exhibit B	Notice Affidavit	87/89
(Exhibits retained by counsel.)		

NO.	DESCRIPTION	ID/EVD
Mewbourne (Case 23285):		
Exhibit 1	Unknown	93/95
Exhibit 2	Unknown	93/95
Exhibit 3	Unknown	93/95

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E X H I B I T S (Cont'd)

Mewbourne (Case 23285 Cont'd):

Exhibit 4	Unknown	93/95
Exhibit 5	Unknown	93/95
Exhibit 6	Unknown	93/95

(Exhibits retained by counsel.)

NO.	DESCRIPTION	ID/EVD
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Mewbourne (Case 23290, 23291):

Exhibit 1	Unknown	96/98
Exhibit 2	Unknown	96/98
Exhibit 3	Unknown	96/98
Exhibit 4	Unknown	96/98

(Exhibits retained by counsel.)

NO.	DESCRIPTION	ID/EVD
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Mewbourne (Case 23292):

Exhibit 1	Unknown	96/
Exhibit 2	Unknown	96/
Exhibit 3	Unknown	96/
Exhibit 4	Unknown	96/

(Exhibits retained by counsel.)

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E X H I B I T S (Cont'd)

NO.	DESCRIPTION	ID/EVD
DJR Operating (Case 23282):		
Exhibit A	Copy of Application	101/
Exhibit B	Self-Affirmed Statement of	
	Ms. Binion	102/
Exhibit B1	General Location Map	103/
Exhibit B7	Agreement Approval and	
	Expansion Approval	104/
Exhibit C	Self-Affirmed Statement of	
	Jack Rosenthal	104/
Exhibit C1	Jack Rosenthal Resume	104/
Exhibit C2	Cross section from A to A	
	Prime and B to B Prime	105/
Exhibit C3	Cross Section from	
	A to A Prime	105/
Exhibit C4	Cross Section from	
	B to B Prime	105/
Exhibit C5	Type Log	105/
Exhibit D	Notice of Application	106/
Exhibit E	Notice of Publication	106/

(Exhibits retained by counsel.)

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E X H I B I T S (Cont'd)

NO.	DESCRIPTION	ID/EVD
DJR Operating (Case 23283):		
Exhibit A	Application	133/155
Exhibit B	Self-Affirmed Statement of	
	Ms. Binion	133/155
Exhibit B1	General Location Map	133/155
Exhibit B2	Initial Order	133/155
Exhibit B3	Original Unit Order	133/155
Exhibit B4	DJR New Unit Agreement	133/155
Exhibit B5	Acreage Map	133/155
Exhibit B6	Preliminary Approval of	
	Reduction	133/155
Exhibit C	Self-Affirmed Statement of	
	Jack Rosenthal	133/155
Exhibit C1	Resume of Jack Rosenthal	133/155
Exhibit C2	Cross Sections 1	133/155
Exhibit C3	Cross Sections 2	133/155
Exhibit C5	Type Log	133/155
Exhibit D	Hearing Affidavit	133/155
Exhibit E	Affidavit of Publication	133/155

(Exhibits retained by counsel.)

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E X H I B I T S (Cont'd)

NO.	DESCRIPTION	ID/EVD
Mewbourne Operating (Case 23176):		
Exhibit 1	JOA Agreement	161/
(Exhibits retained by counsel.)		

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P R O C E E D I N G S

THE HEARING EXAMINER: Good morning, everybody. It is Thursday, January 5, 2023. Welcome to the new year. And welcome to the hearings of the New Mexico Oil Conservation Division. My name is Bill Brancard. I will be the examiner for today. With me is Mr. Dean McClure who will be the technical examiner. We have a court reporter, so please speak clearly, slowly, carefully. Watch your words, they will be recorded.

With that, our worksheet for today is posted on our website. We have 42 cases. We have had to do a bit of juggling because we had a whole bunch of late filed documents here, and so we will try to deal with that as we get through the day. Figure out who's in and who's out. Any announcements, Mr. McClure?

THE TECHNICAL EXAMINER: No announcements here, Mr. Brancard.

THE HEARING EXAMINER: Let me start by saying we had a glitch in our system on the 3rd, on Tuesday, which I believe made it difficult for some persons to file their exhibits timely. So the exhibits that have ultimately been filed are excused as being timely filed in accordance with our new

1 regulation. We do actually receive requests for this.
2 So thank you for hanging in there with that. I
3 believe we have gotten all the exhibits that we needed
4 at this point, and they have been reviewed.

5 I have no other great announcements for
6 the new year. I guess people are heading back to the
7 office although it's a little difficult in our
8 building because it remains under construction. So
9 I'm sitting here in the middle of our administrative
10 services division who are now camped on the third
11 floor along with the Energy Conservation Management
12 Division. So OCD is not fully staffed in the
13 building, and I think we are having similar issues in
14 some of our district offices also. Because we have
15 managed to hire a lot of people during the pandemic,
16 and now we have to find places for them to sit. So
17 just fair warning about our offices and staffing at
18 this point. Don't believe everything you read in the
19 newspaper.

20 With that, we can get going with
21 today's hearings. We will start with some status
22 conferences. I am on items 1, 2, and 3. These are
23 Case Numbers 23173, 23256, 23257. Let's start with
24 Mewbourne Oil Company.

25 MR. BRUCE: Mr. Examiner, Jim Bruce on

1 behalf of Mewbourne.

2 THE HEARING EXAMINER: Thank you. And
3 then we have COG Operating.

4 MR. FELDEWERT: Happy new year,
5 gentlemen. Michael Feldewert with the Santa Fe office
6 of Holland & Hart.

7 THE HEARING EXAMINER: Thank you. We
8 have entries of appearance from Coterra Energy, et al.

9 MR. SAVAGE: Good morning, Mr. Hearing
10 Examiner, Mr. Technical Examiner. Darin Savage from
11 the Santa Fe office of Abadie & Schill appearing on
12 behalf of Coterra Energy and Cimarex Energy Company
13 and this is for Case 23173.

14 THE HEARING EXAMINER: Are there any
15 other entries of appearance for Cases 23173, 23256,
16 23257? Hearing none, I'll start with Mr. Bruce.

17 MR. BRUCE: Mr. Examiner, I've been
18 kind of in the dark because I've been sick as a dog
19 the last few weeks, but as I understand it, both COG
20 and Mewbourne are in pre-discussions about settling
21 this matter and they were both in favor of getting it
22 set as a status conference and moving it up the road.
23 My only comment is that, you know, these settlement
24 deals kind of have a way of taking on a life of their
25 own. And I guess it would be Mewbourne's preference

1 to continue it like three months down the road rather
2 than come up six weeks from now and have to ask for
3 another continuance. And maybe we could get it all
4 settled. That would leave the surviving party, if you
5 will, the ability to properly prepare for the hearing.

6 THE HEARING EXAMINER: Thank you. COG.

7 MR. FELDEWERT: Mr. Examiner, I have
8 been asked to set the matter for a hearing, for a
9 contested hearing. I also believe that Mewbourne may
10 be -- have a need to file an amended application so I
11 think they have an overlapping spacing unit with their
12 proposed development plan. So it seems I've been
13 asked to set it for a contested hearing.

14 MR. BRUCE: And that's fine with me,
15 Mr. Examiner.

16 THE HEARING EXAMINER: Any thoughts
17 from Coterra?

18 MR. SAVAGE: We've made the appearance
19 to preserve rights at this time. I would like to ask
20 one question about the need for -- the application
21 with an overlapping. When I look at the regulations,
22 and as you point out, Mr. Hearing Examiner, you can
23 address the overlapping unit at the permitting stage.
24 Does that require -- and I'd like this for future
25 clarification -- does that require an amended

1 application if you did not happen to describe the
2 overlapping unit initially in the filed application?

3 THE HEARING EXAMINER: I'm not sure it
4 does. It is certainly helpful to everyone to put
5 people on notice of what's going on. And as you'll
6 see today, there are some people who identify such
7 things and then say, "We will deal with them
8 administratively," just like a non-standard location.

9 MR. SAVAGE: I believe that's -- I
10 agree with that. I've done language such as: We do
11 not find any overlapping units, but should one be
12 discovered, we would address it in the permitting
13 phase administratively. I would assume something like
14 that would take care of that. I was just curious if
15 there was a requirement for a filing of an amended --
16 under these circumstances.

17 THE HEARING EXAMINER: I don't believe
18 there is. A number of parties have been trying to use
19 hearings to address all sorts of issues involved in
20 cases, but it's not always necessary.

21 MR. BRUCE: Okay. Thank you.

22 THE HEARING EXAMINER: I mean, as you
23 can see, we've been forced to modify our checklist
24 because we're getting so many requests for
25 non-standard spacing units along with compulsory

1 pooling.

2 MR. BRUCE: Thank you for that
3 clarification.

4 THE HEARING EXAMINER: Not sure if that
5 was very clarifying.

6 MR. BRUCE: It was. It was, thank you.

7 THE HEARING EXAMINER: All right. So
8 how does March 16 sound for a contested hearing?

9 MR. FELDEWERT: That's fine with COG,
10 Mr. Examiner.

11 MR. BRUCE: I'd probably like it a
12 couple of weeks into the future, but if that's what
13 the -- wants, okay.

14 THE HEARING EXAMINER: Well, it's two
15 months. All right. So with that, Cases 23173, 23256,
16 23257 will be set for a contested hearing on March
17 16th, and we'll file whatever piece of paper we need
18 to file to make that work.

19 MR. FELDEWERT: Thank you.

20 MR. BRUCE: Thank you, Mr. Hearing --.

21 THE HEARING EXAMINER: Thank you.

22 With that, we're on items 4 through 7.
23 Cases 23232, 23233, 23234, 23235. Tap Rock Operating?

24 MR. RODRIGUEZ: Good morning. Michael
25 Rodriguez with Tap Rock Operating, LLC.

1 THE HEARING EXAMINER: Thank you. We
2 have an appearance, an objection filed by Coterra
3 Energy, et al.

4 MR. SAVAGE: Good morning. Darin
5 Savage on behalf of Coterra Energy and Cimarex Energy
6 Company, et al.

7 THE HEARING EXAMINER: Thank you. Does
8 Coterra, Cimarex intend on filing competing
9 applications?

10 MR. SAVAGE: That is correct,
11 Mr. Hearing Examiner. In fact, we have filed those
12 last week. And those are cases 23309 through 23314.
13 And those are six applications that we filed to be
14 competing in this matter.

15 THE HEARING EXAMINER: 309 through 314?

16 MR. SAVAGE: 309 through 314. That is
17 correct.

18 THE HEARING EXAMINER: Okay. All
19 right. Tap Rock.

20 MR. RODRIGUEZ: Since Coterra filed
21 competing applications, we'd like to request a
22 contested hearing for the earliest available docket.

23 THE HEARING EXAMINER: Cimarex.

24 MR. SAVAGE: That would be agreeable to
25 us. Thank you.

1 THE HEARING EXAMINER: All right.
2 Well, let's set that for March 16th.

3 Are there any other persons here for
4 cases 23232, 233, 234, 235? Hearing none, these cases
5 will be set for a hearing on March 16 to a pre-hearing
6 order.

7 MR. SAVAGE: Thank you, Mr. Hearing
8 Examiner.

9 THE HEARING EXAMINER: Thank you.
10 With that, we are item number 8. This
11 is case 23243, Matador Production Company.

12 MR. FELDEWERT: Good morning,
13 Mr. Examiner. Michael Feldewert, Santa Fe office of
14 Holland & Hart.

15 THE HEARING EXAMINER: Thank you.
16 Fasken Oil and Ranch.

17 MS. SHAHEEN: Good morning, everyone.
18 Sharon Shaheen on behalf of Fasken Oil and Ranch.

19 THE HEARING EXAMINER: And then we have
20 Cal Farley's Boys Ranch Foundation.

21 Amarillo National Bank?

22 Okay. Matador, have you heard from the
23 Boys Ranch Foundation?

24 MR. FELDEWERT: I have personally not
25 heard from them nor -- I'm looking here,

1 Mr. Examiner -- Leslie Weaver, who I guess is the VP
2 of oil and gas -- VP and oil and gas manager,
3 apparently, for the bank. So, have not heard from her
4 either.

5 THE HEARING EXAMINER: Does Fasken have
6 a position?

7 MR. FELDEWERT: Well, yeah, Fasken
8 would like to have -- I see that Ms. Weaver filed a
9 notice of objection to the proceeding by affidavit.
10 So Matador would like this set for a contested date as
11 soon as possible. I don't think it's going to be
12 anything more than, eventually, an affidavit case, so
13 as soon as you can get us on the docket, maybe two
14 weeks from now?

15 THE HEARING EXAMINER: Okay. Fasken,
16 Miss Shaheen.

17 MS. SHAHEEN: Thank you. Yes, Fasken
18 didn't receive notice, actual notice of this
19 application until Tuesday. And they only received the
20 operating agreement right before Christmas on
21 December 21, so they'd like more time to work on the
22 operating agreement. They have some major proposed
23 revisions to it. So Fasken would prefer to see it set
24 some time in February at the earliest.

25 THE HEARING EXAMINER: Okay. So I will

1 reveal that Amarillo National Bank contacted us,
2 trying to figure out what they wanted to do in this
3 case. We gave them options. They chose the option of
4 objecting to the case. They seem to, again, be in a
5 similar position as Fasken as wanting more time to
6 discuss this with the proponent. So why don't I set
7 this then for a contested hearing on February 16th;
8 okay? And maybe that will give the parties enough
9 time to discuss this.

10 MR. FELDEWERT: Mr. Examiner, I think
11 the bank probably thanks you for your legal advice,
12 and we appreciate you setting this as soon as you can
13 in February.

14 THE HEARING EXAMINER: We were merely
15 providing them with what their procedural options
16 were. Did not give them a preference one way or
17 another. Was frankly surprised when they objected,
18 but anyway, we gave them as an option.

19 So anyway, thank you. So this case
20 then, 23243, are there any other persons here for
21 23243? None. This will be set for a hearing on
22 February 16th. I will issue a pre-hearing order.

23 MR. FELDEWERT: Thank you.

24 MS. SHAHEEN: Thank you.

25 THE HEARING EXAMINER: With that, we

1 are on items 9 through 12, I hope. Cases 23275,
2 23276, 23277, 23278. Mewbourne Oil Company?

3 MR. FELDEWERT: Good morning,
4 Mr. Examiner. Michael Feldewert, Santa Fe office of
5 Holland & Hart.

6 THE HEARING EXAMINER: I believe we
7 have an entry and an objection from Coterra
8 Energy/Cimarex.

9 MR. SAVAGE: Good morning,
10 Mr. Examiner. Darin Savage on behalf of Coterra
11 Energy and Cimarex Energy Company, et al.

12 THE HEARING EXAMINER: Do we have a
13 motion to dismiss here in this case?

14 MR. FELDEWERT: Mr. Examiner, Mewbourne
15 has recently filed a revised application that covers
16 the same acreage. It's actually going to be on the
17 February 2nd docket, and it's under Case 23308.
18 23308. So since that has now been filed, we filed
19 yesterday a motion to dismiss these four pending
20 cases.

21 THE HEARING EXAMINER: Any objections,
22 comments, concerns, from Coterra?

23 MR. SAVAGE: Mr. Examiner, it does, as
24 Mr. Feldewert points out, cover the same lands, and
25 therefore, it will be part of a -- we believe -- a

1 future competing application. We would -- Cimarex
2 sent out the well proposals December 9th, and we're
3 very close to our 30-day grace period. However, we
4 found out that a few of the bottom hole locations,
5 there was a typo in the description. We're going to
6 have to send out some kind of supplement or a revision
7 of those bottom hole locations.

8 But everything else stays the same, so
9 we're very close to that grace period for filing the
10 applications. If we can do the revision of the bottom
11 hole locations without triggering an additional 30-day
12 grace period, we believe that's doable under the
13 policy. We can go ahead and in the next week or so
14 file the competing applications and use this time, if
15 appropriate, to set a date for a contested --

16 THE HEARING EXAMINER: It appears that
17 what we're heading toward is dismissing the four cases
18 that are before us today. The Mewbourne cases will be
19 set for February. Obviously, Cimarex, Coterra can
20 object to that case going forward. We'll have a
21 status conference at that point, and if you have other
22 applications filed at that point, we could add them to
23 the pre-hearing order.

24 MR. SAVAGE: That sounds like a good
25 plan, Mr. Hearing Examiner.

1 THE HEARING EXAMINER: All right. So
2 with that, we will move forward with a dismissal on
3 Cases 23275, 276, 277, and 278.

4 MR. FELDEWERT: Mr. Examiner, I would
5 encourage Coterra to go ahead and file their
6 applications. We don't have any concern about the
7 30-day grace period, and that way we will be in the
8 position, hopefully, on the 2nd to perhaps get the
9 matter set up for a contested hearing.

10 MR. SAVAGE: Thank you, Mr. Feldewert,
11 for that. I appreciate it.

12 THE HEARING EXAMINER: Thank you.
13 With that, we are on items 13 and 14.
14 These are Cases 23254, 23255, and V-F Petroleum.

15 MS. HARDY: Good morning, Mr. Examiner.
16 Dana Hardy with the Santa Fe office of Hinkle Shanor
17 on behalf of V-F Petroleum.

18 THE HEARING EXAMINER: Thank you. We
19 have an entry and an objection from Apache
20 Corporation.

21 MS. BENNETT: Good morning,
22 Mr. Examiner. Deana Bennett, Modrall Sperling on
23 behalf of Apache.

24 THE HEARING EXAMINER: Do we have any
25 other interested parties for Cases 23254, 23255?

1 Hearing none, let me see, we have an unopposed motion
2 for continuance filed.

3 MS. HARDY: That's correct,
4 Mr. Examiner. We filed that once we received Apache's
5 objection this week.

6 THE HEARING EXAMINER: All right. What
7 were you proposing?

8 MS. HARDY: We had proposed to continue
9 the case to January 19th, and I believe Apache has
10 agreed to that continuance. At this point I don't
11 think we need a contested hearing. We're hoping that
12 the issues get resolved so we can present by
13 affidavit.

14 THE HEARING EXAMINER: Apache?

15 MS. BENNETT: That sounds right to me.
16 Thank you, Mr. Examiner.

17 THE HEARING EXAMINER: Okay. So the
18 decision then is to continue this to January 19th; is
19 that correct? Am I hearing that correctly?

20 MS. HARDY: That's correct.

21 THE HEARING EXAMINER: Thank you.

22 Okay. With that, we will continue
23 Cases 23254, 23255, to January 19. At this point an
24 uncontested case; correct?

25 MS. HARDY: That's correct,

1 Mr. Examiner.

2 MS. BENNETT: That's correct, but I
3 will say that Apache reserves the right to make a
4 different request as we approach the January 19th
5 docket, if necessary.

6 THE HEARING EXAMINER: Absolutely. No
7 problem.

8 MS. BENNETT: Thank you.

9 THE HEARING EXAMINER: So with that,
10 Cases 23254, 23255 are continue to January 19th. If
11 you haven't filed a continuance already, please do.

12 MS. BENNETT: Thank you.

13 MS. HARDY: Thank you.

14 THE HEARING EXAMINER: Okay. I think
15 we are ready to start the hearings maybe. We'll see
16 how we go here.

17 Let's start with item number 15,
18 Case 23209. Steward Energy.

19 MS. MCLEAN: Good morning,
20 Mr. Examiner. Jackie McLean with Hinkle Shanor on
21 behalf of Steward Energy.

22 THE HEARING EXAMINER: Thank you.

23 Are there any other interested persons
24 for Case 23209? Hearing none, this is a continued
25 case from December 1st. We needed to have some

1 information about unleased mineral owners of any
2 contacts that Steward has had with them. I believe
3 Steward has filed some documents with us.

4 Miss McLean?

5 MS. MCLEAN: Yes. Yes, that's correct,
6 Mr. Examiner. Following the hearing on December 15th,
7 Steward continued communications with Christina
8 Fairman [ph] who is the daughter of deceased working
9 interest owner Jessica Brown who had made an
10 appearance during that hearing. And Steward has
11 submitted a supplemental self-affirmed statement from
12 Taylor Warren which has been marked as Exhibit A6.

13 (Exhibit A6 was marked for
14 identification.)

15 And it cites out that since the
16 December 15th hearing, Steward continued to
17 communicate with Miss Fairman [ph], and
18 Miss Fairman [ph] has agreed to execute a lease. So
19 with that, unless there are additional questions,
20 Steward asks that Case Number 23209 be taken under
21 advisement.

22 THE HEARING EXAMINER: Thank you.
23 Mr. McClure, any questions?

24 THE TECHNICAL EXAMINER: No question,
25 Mr. Brancard.

1 THE HEARING EXAMINER: Thank you. So
2 with that, Case 23209 will be taken under advisement.

3 MS. MCLEAN: Thank you.

4 THE HEARING EXAMINER: We are on item
5 number 16 now. This is Case 23157. I believe the
6 applicant is Redwood Operating, LLC.

7 MS. VANCE: That's correct, Mr. Hearing
8 Examiner. Good morning, Mr. Hearing Examiner and
9 Mr. McClure. Paula Vance with the Santa Fe office of
10 Holland & Hart on behalf of the applicant, Redwood
11 Operating, LLC.

12 THE HEARING EXAMINER: Thank you.

13 Are there any other interested persons
14 here for Case 23157? All right. So okay. Redwood is
15 not the operator. Redwood is not a working interest
16 owner; correct?

17 MS. VANCE: That's correct.

18 THE HEARING EXAMINER: The working
19 interest owner is Pecos?

20 MS. VANCE: That's correct. And that's
21 why we provided a self-affirmed statement in the
22 hearing packet as Exhibit C1 explaining the nature of
23 the relationship between the two parties, which we've
24 done previously in a couple of the other hearings that
25 we have presented on behalf of Redwood Operating.

1 (Exhibit C1 was marked for
2 identification.)

3 THE HEARING EXAMINER: Well, I don't
4 mean to ambush you here, Ms. Vance, but I guess I
5 will, which is that, you know, we did this sort of as
6 a one-off for Pecos and now it's become a two-off,
7 three-off. I don't know where we are at this point.
8 You know, Pecos needs to get an O-grid and apply on
9 its own. All right? That's the way it works.

10 We're going to have a motion to dismiss
11 later today based on a case where somebody doesn't own
12 an interest in the property. And Redwood does not own
13 an interest in the property. So you know, I'm going
14 to just sort of, you know, without advance warning to
15 you, put my foot down here and say that we're going to
16 dismiss this case, and Pecos can go ahead and get its
17 own O-grid and file its own applications. They can
18 contract with Redwood to do whatever they want to do,
19 but Pecos needs to be the name on there.

20 We need to have people who are
21 applicants who really have a working interest in
22 there. That's the way the statute works. I'm not
23 sure what Pecos's problem is. Maybe their executives
24 are wanted in 49 states or, you know, there are front
25 for a North Korean government. I don't know. But

1 whatever it is, it's not that hard to get an O-grid,
2 and Pecos needs to do that if they want to continue to
3 filing applications here and not use a front company
4 like this; all right? So with that, Case 23157 will
5 be dismissed.

6 We're now on item 17, Case 23203. OXY
7 USA.

8 MS. VANCE: Good morning, Mr. Hearing
9 Examiner. Paula Vance with the Santa Fe office of
10 Holland & Hart on behalf of OXY USA.

11 THE HEARING EXAMINER: Thank you.

12 Any other interested parties for
13 Case 23203? Hearing none, OXY may proceed.

14 MS. VANCE: Thank you, Mr. Hearing
15 Examiner. In Case 23203, OXY seeks an order pooling
16 all uncommitted interests in the Wolfcamp. And that's
17 the Wolfcamp Oil. And the pool is WC Tack 025G,
18 Tack 08S223227D and that's the upper Wolfcamp, and the
19 pool code is 98286. And that's underlying a standard
20 640-acre, more or less, horizontal spacing unit
21 comprised of the west half of Sections 26 and 35,
22 Township 22 South, Range 32 East, Lea County, New
23 Mexico.

24 OXY seeks to pool and initially
25 dedicate this Wolfcamp Oil spacing unit to the

1 proposed Llama Mall, 25 36 [sic] Fed Com 32H which is
2 the defining well that's using proximity tracts
3 allowing for the enlarged spacing unit, the 33H, the
4 311H, and the 312H which is at a non-standard
5 location, and OXY is planning administratively in a
6 separate application.

7 In this case we have provided the
8 compulsory pooling checklist as well as a
9 self-affirmed statement of land negotiator
10 Amber Delach [ph] and geologist Daniel Burnett both of
11 whom have previously testified before the Division,
12 and their credentials have been accepted as a matter
13 of record. Miss Delach's [ph] self-affirmed statement
14 is Exhibit C which includes Sub Exhibits C1; the C102;
15 C2, a land tract map and ownership schedule; C3, a
16 sample well proposal letter and AFEs; and C4,
17 chronology of contacts.

18 (Exhibit C through Exhibit C4 and
19 Exhibit C102 were marked for
20 identification.)

21 This is followed by Mr. Burnett's
22 self-affirmed statement which is Exhibit D and
23 includes Sub Exhibits D1, a locator map; D2 a Sub-C
24 structure map; and D3, well, I'm sorry, D3, a
25 structural cross section map; and D4, a stratigraphic

1 cross section.

2 (Exhibit D through Exhibit D4 were
3 marked for identification.)

4 In this case, Mr. Burnett did not
5 observe any faulting -- to other geologic impediments
6 to the horizontal drilling of these wells.

7 And then lastly is Exhibit E,
8 self-affirmed statement of notice with sample letters
9 that were timely mailed on November 11, 2022, and
10 December 16, 2022. In Exhibit F, an affidavit of
11 notice of publication which was timely published on
12 November 13, 2022, and December 18, 2022.

13 (Exhibit E and Exhibit F were marked
14 for identification.)

15 And unless there are any questions, I
16 would ask that all exhibits and sub-exhibits in
17 Case 23203 be taken under advisement by the Division
18 at this time.

19 THE HEARING EXAMINER: Thank you.

20 Mr. McClure, any questions?

21 THE TECHNICAL EXAMINER: No questions,
22 Mr. Brancard.

23 THE HEARING EXAMINER: Thank you. All
24 right.

25 Just for the record, and you could

1 explain, Ms. Vance, what the relationship between
2 these two entities that you have attempted to contact
3 here, Los Alamos Tool Company and Quantum Equities.

4 MS. VANCE: Yes, Mr. Hearing Examiner.
5 It's my understanding that Los Alamos originally was
6 thought to be the one who had the interest which OXY
7 is seeking to pool. But upon further look at the
8 confirmation of the title, it is Quantum. And if
9 you -- I believe, initially the proposal went out to
10 Los Alamos, but then you'll see in the chronology of
11 contacts that the official title opinion received
12 listed Quantum Equities -- I'm sorry. In addition,
13 efforts were made to locate that party and provide
14 them notice of the hearing and the pooling.

15 THE HEARING EXAMINER: Thank you. And
16 it appears that you have attempted to contact both
17 entities.

18 MS. VANCE: That's correct, yes,
19 Mr. Hearing Examiner.

20 THE HEARING EXAMINER: And is that the
21 reason for the two publications?

22 MS. VANCE: That's correct. If you
23 look at both notices, you'll see the difference in the
24 party names.

25 THE HEARING EXAMINER: So again, are

1 there any other interested persons for Case 23203?
2 Hearing none, this Case 23203 will be taken under
3 advisement.

4 MS. VANCE: Thank you, Mr. Hearing
5 Examiner.

6 THE HEARING EXAMINER: Thank you.
7 With that, we're on item 18. It's
8 23218. SPC Resources?

9 MR. RANKIN: Good morning,
10 Mr. Examiner. May it please the Division, Adam Rankin
11 appearing on behalf of the applicant in this case with
12 the Santa Fe office of Holland & Hart.

13 THE HEARING EXAMINER: Thank you.
14 Are there any other interested persons
15 for Case 23218? Okay. Given how many people you've
16 notified, that's impressive, Mr. Rankin.

17 MR. RANKIN: Yes. Mr. Examiner, in
18 this case, SPC Resources is seeking to amend
19 Order R-21096 as amended to allow for an extension of
20 time to drill an initial well under the order.
21 Mr. Examiner, filed on Tuesday was an exhibit packet
22 containing Exhibits A, B, and C.

23 Exhibit A is the application that was
24 filed in this case. Exhibit B is the self-affirmed
25 statement of Nicole Singer who is the vice president

1 of land and general counsel for SPC Resources.

2 (Exhibit A and Exhibit B were marked
3 for identification.)

4 In her affidavit or self-affirmed
5 statement, rather, she reviews the history and
6 background of the particular spacing unit and the
7 previous orders that were issued by the Division and
8 also reviews the basis for the request of the
9 extension here which involves the Division's emergency
10 order and temporary prohibition of drilling activities
11 around the Carlsbad Brine Well. As a consequence of
12 the temporary prohibition, SPC had to shift its
13 drilling activities to other areas and is now
14 finishing up those activities and it will be shifting
15 its drilling to this spacing unit but needs additional
16 time to do that work.

17 Exhibit B5 is a copy of the notice that
18 went out to the parties who were required to receive
19 notice in this case. And Exhibit B6 is a copy of that
20 letter that identifies the application and all the
21 parties who were notified along with the delivery
22 status of the certified mail.

23 Exhibit C is a copy of the affidavit of
24 publication that was published in Carlsbad
25 Current-Argus identifying that each of the parties

1 subject to notice were identified by name. And that
2 timely published.

3 (Exhibit B5, Exhibit B6, and Exhibit C
4 were marked for identification.)

5 With that, Mr. Examiner, we would ask
6 that this case be taken under advisement and the
7 Exhibits A through C be accepted into the record.

8 THE HEARING EXAMINER: Thank you.

9 Mr. McClure, any questions?

10 THE TECHNICAL EXAMINER: Yeah, no
11 questions here, Mr. Brancard.

12 THE HEARING EXAMINER: So Mr. Rankin,
13 can you just run us through the chronology if only to
14 have it for the record here. Where we last left you
15 from the hearing unit was that the director had given
16 you an extension until, I believe, February 2022. And
17 so now you're asking for February 2024. Just fill us
18 in as to where that year -- missing year comes from.

19 MR. RANKIN: Sure. So the last
20 extension went through 2022. At the time, SPC was
21 preparing to drill its well and had a drilling rig
22 under contract in the summer of -- and I may get my
23 years wrong because I'm in the time warp of COVID --
24 but they had a drilling rig scheduled and were
25 proceeding to drill when the Division issued an

1 emergency order prohibiting them from doing so due to
2 the remediation efforts at the -- concerns around
3 remediation efforts of the Carlsbad Brine well.

4 Following that emergency order, the
5 Division issued a subsequent order temporarily staying
6 the drilling authority and the pooling authority the
7 SPC had obtained from the Division pending the
8 completion of the remediation efforts at the Carlsbad
9 Brine well. So from the time that the emergency order
10 was issued, SPC's authority was tolled until SPC
11 received notice subsequently from the Division that it
12 was authorized to recommence drilling activities. So
13 that time frame, that tolling, extended SPC's drilling
14 deadline into February 2023. And given the deadline
15 of February 2023, SPC needs additional time to get its
16 rig oriented and ready to drill this acreage. So
17 that's the justification and reason for the request.

18 THE HEARING EXAMINER: You need to turn
19 your rig correctly? So it appears then, if I'm
20 reading your landperson's affidavit, that the deadline
21 for drilling was tolled effective July 2, 2021; okay?
22 And that suspension was listed on July 7, 2022.

23 MR. RANKIN: Yeah.

24 THE HEARING EXAMINER: Which would give
25 you an additional year and five days. And so you're

1 adding that to the February 2022 deadline and then you
2 want another year after that?

3 MR. RANKIN: That's right,
4 Mr. Examiner. I think that's the -- I don't have my
5 calculations in front of me anymore, but that sounds
6 exactly right.

7 THE HEARING EXAMINER: All right.
8 Okay. Did I trigger any questions, Mr. McClure?

9 THE TECHNICAL EXAMINER: No. No, sir.
10 I'm still good.

11 THE HEARING EXAMINER: Thank you. Are
12 there any other persons here, then, for Case 23218?
13 Hearing none, Case 23218 will be taken under
14 advisement.

15 With that, I believe we are on Item 19.
16 This is Case 23264, Devon Energy Production.

17 MR. FELDEWERT: Good morning,
18 Mr. Examiner. Michael Feldewert with Santa Fe office
19 of Holland & Hart.

20 THE HEARING EXAMINER: Thank you. We
21 have an entry from EOG Resources, Beatty & Wozniak.

22 MR. FELDEWERT: Mr. Examiner, I did
23 alert Mr. Parrot to the fact that we were continuing
24 this case. That may be the reason why he is not
25 appearing.

1 THE HEARING EXAMINER: Thank you. So
2 we do have a motion to continue.

3 MR. FELDEWERT: Yes, sir.

4 THE HEARING EXAMINER: Yesterday. Can
5 you just explain what you're requesting,
6 Mr. Feldewert?

7 MR. FELDEWERT: Well, we're asking for
8 the matter to be continued. I'm looking,
9 Mr. Examiner, it's not in the Division's file. I
10 think we asked that the matter be continued to --

11 MS. SALVIDREZ: It's February 2nd.

12 MR. FELDEWERT: Thank you, Marlene.

13 February 2nd so that we could address a
14 notice issue that has arisen.

15 THE HEARING EXAMINER: Thank you.

16 Okay. I have the continuance in front
17 of me. I think -- Marlene doesn't often file these
18 until they get approved.

19 MR. FELDEWERT: Oh, I see. Okay.

20 THE HEARING EXAMINER: So anyone else
21 here for Case 23264? Hearing none, we will continue
22 with the February 2nd. And this is not a contested
23 case; correct, at this point?

24 MR. FELDEWERT: That is correct,
25 Mr. Examiner. I do not expect it to be a contested

1 case.

2 THE HEARING EXAMINER: So we'll just
3 put it on the normal docket, February 2nd while your
4 continuance is as necessary. Thank you.

5 MR. FELDEWERT: Thank you.

6 THE HEARING EXAMINER: With that, we
7 are on items 20 through 23, Cases 23221, 23222, 23223,
8 23224, Franklin Mountain Energy.

9 MS. BENNETT: Good morning,
10 Mr. Examiner. Deana Bennett on behalf of Franklin
11 Mountain Energy. And I intended to wish you a happy
12 new year earlier today, but I failed to do so, so
13 happy new year.

14 THE HEARING EXAMINER: Thank you.
15 Happy new year.

16 Are there any other appearances for
17 Cases 23221, 222, 223, 224? Hearing none, Franklin
18 Mountain to continue.

19 MS. BENNETT: Thank you very much. So
20 in these four cases, Franklin Mountain Energy is
21 seeking an extension of time to commence drilling the
22 initial wells under the order. And in each of the
23 four cases, I have provided the same or similar
24 materials which include primarily the declaration of
25 Alona [ph] Hoang who has -- and her last name is

1 spelled H-O-A-N-G -- and she has previously testified
2 before the Division and her credentials were accepted
3 as a matter of record.

4 In her declaration, she lays out the
5 reasons for Franklin Mountain Energy's request for an
6 extension of time which relate to some issues with BLM
7 which have been largely resolved. Franklin Mountain
8 Energy has been working with BLM since the time it
9 discovered this issue, and it has been working through
10 those issues with BLM. And it believes that those
11 issues will be resolved in the near term and that
12 Franklin Mountain Energy will be able to begin
13 drilling in the fourth quarter of 2023. So Franklin
14 is requesting an extension of time through
15 January 26, 2024.

16 We noted in her declaration -- and this
17 is true from the exhibits from the prior cases -- in
18 each of these cases, Franklin Mountain Energy only
19 pooled overriding royalty interest owners, and so
20 there are no working interest owners to whom notice
21 was provided. There are no pooled working interest
22 owners. And under the Division's practice for the
23 extension cases, we have been -- we being the
24 applicants -- have been providing notice only to
25 pooled working interest owners -- and so in this case,

1 there being no pooled working interest owners, we did
2 not provide any notice to anyone of Franklin's
3 applications because there was no one to whom notice
4 was required.

5 With that, I would ask that the
6 exhibits in Cases 23221, 23222, 23224, and sorry,
7 23223 be admitted into the record and the cases taken
8 under advisement. And I will stand for any questions
9 the Division may have.

10 THE HEARING EXAMINER: Thank you.
11 Mr. McClure, any questions?

12 THE TECHNICAL EXAMINER: Yes,
13 Mr. Brancard. Miss Bennett, in the initial case for
14 Order R-21995, that being Case 22445, notice was
15 provided at that time for that case, but now we're
16 arguing that notice should not be required for this
17 case; is that correct?

18 MS. BENNETT: That's correct. We did
19 provide notice to the pooled parties, or the parties
20 we were -- the overriding royalty interest owners that
21 we were seeking to pool when we filed the initial
22 applications in each of these cases. But now for an
23 extension case, the Division's practice has, or I
24 think it's fair to say the Division's practice has
25 been to not require notice of two overrides for

1 extension cases and I've been following that practice
2 now for probably a year and a half or two. And I know
3 others have been. And I have an email from Mr. Garcia
4 that confirms that extension applications only require
5 notice to pooled working interest owners, which is the
6 basis for the practice that I've been following.

7 So it's not that we don't -- we're
8 intentionally not notifying the overrides. It's that
9 under Division practice, we didn't believe that
10 overrides were required to receive notice of an
11 extension application, which makes sense, because they
12 are not cross bearing. They're not -- their interests
13 are not necessarily affected in the same way that
14 working interest owners, pooled working interest
15 owners, would be affected by an extension. Does that
16 answer your question, Mr. McClure?

17 THE TECHNICAL EXAMINER: Now, in
18 Mr. Garcia's communications to you, was he referencing
19 working interest owners of being needing to be
20 notified because their kind of what our intent is who
21 were pooling in these orders? I mean, in this
22 particular case, you're going beyond the working
23 interest owners and you're wanting to pool the
24 overwriting royalty interest owners. So I'm almost
25 wondering if we're falling into a category of who

1 you're wishing to pool and it's typically, like, in
2 Mr. Garcia's case, a response. Those would be the
3 working interest owners. And I'm almost wondering if
4 that was the basis of his email to you?

5 MS. BENNETT: Well, I'd have to look
6 back through the email chain to let you -- to answer
7 that question, but I can also -- back in the day when
8 we were working under a former -- big picture, I
9 guess, the current form of order does not say to whom
10 notice is required for extension applications. So
11 there's no information in the current form of order
12 about to whom applicants need to send notice of an
13 extension application. But in the prior form of order
14 about three years ago, I would say, it was clear that
15 we needed to send applications for extensions to
16 pooled working interest owners. And so -- and I can
17 find an example of one of those former orders and
18 email it to you if that would be useful. But I think
19 Mr. Garcia's -- and I'd, you know, would have to go
20 back, and look through -- but Mr. Garcia's email is
21 consistent with the former orders language that
22 required notice only to pooled working interest
23 owners.

24 And again, this is just the notice of
25 the extension. We did provide notice to the overrides

1 at the time of the pooling application. So they were
2 properly pooled under the orders. And so really the
3 only question here is whether overrides should be
4 given notice of an extension application, and as I
5 mentioned at the outset -- not that I'm saying that
6 because I've done it for a year and a half -- it's
7 correct, but I have -- I believe it's been the
8 Division's practice to accept extension cases where
9 the only parties who have been notified were working
10 interest owners.

11 THE TECHNICAL EXAMINER: Thank you. No
12 more questions.

13 THE HEARING EXAMINER: Thank you. This
14 is a bit puzzling. Ms. Bennett, I think what we're
15 going to do is continue this case to January 19th. If
16 you want to provide us with that information
17 supporting your position, you can do so.

18 MS. BENNETT: Okay. And I think what
19 might be helpful for me and others on the phone, or on
20 the hearing, is if the Division's desire is to require
21 -- or the Division determines to require notice to
22 overrides that that be publicly announced so that we
23 can then comply with that requirement going forward.
24 It's certainly something I'm not opposed to complying
25 with. I just didn't think it was necessary, and so to

1 the extent the Division does determine that that is
2 necessary, it would be very useful for me and others,
3 I'm sure, to understand that requirement and
4 incorporate it in our future planning process.

5 THE HEARING EXAMINER: Thank you. I
6 mean, we'll look into this. I mean, my assumption has
7 always been that you notify the same people you
8 notified in the first hearing which poor Mr. Rankin
9 had to do for his previous case, several hundred
10 people. So we will confer and discuss this on January
11 19th.

12 MS. BENNETT: That sounds great. Thank
13 you very much.

14 THE HEARING EXAMINER: Thank you.
15 So I noticed that we had a number of
16 people of call-in users here. I know it's not the
17 easiest thing if you could mute yourself when you're
18 calling in. That would be helpful, so we don't get
19 any interference here. And if not, just be very, very
20 quiet.

21 Right. Where are we? We are on item
22 24. Case 23219, Mewbourne Oil Company.

23 MS. HARDY: Mr. Examiner, Dana Hardy
24 with Hinkel Shanor on behalf of Mewbourne Oil Company.

25 THE HEARING EXAMINER: Thank you.

1 Is there anyone else here for
2 Case 23219? Hearing none, Mewbourne may proceed.

3 MR. GUION: Yes. There is someone else
4 here, Mr. Examiner.

5 THE HEARING EXAMINER: Yes. And may
6 you identify yourself for the record?

7 MR. GUION: Yes. My name is
8 Doug Guion, and that's G-U-I-O-N. And I'm president
9 of Colorado Energy Minerals, Inc.

10 THE HEARING EXAMINER: Mr. Guion, is
11 Colorado Energy Minerals an interest owner in this
12 case?

13 MR. GUION: We bought an undivided
14 30.08 net lease hold acres in tract Number 5. And
15 that was under Brock Drilling Company. And so that
16 would give us roughly a 30 over 240ths interest or 1/8
17 interest in the well. And I wanted to let Mewbourne
18 know that we plan to participate for our interest and
19 also that we're happy having Mewbourne as our
20 operator.

21 THE HEARING EXAMINER: So I'm guessing
22 from that that you are okay with this case going
23 forward?

24 MR. GUION: You know, I don't know much
25 about New Mexico pooling, but as long as we're able to

1 participate in the well, we're happy with whatever it
2 is. I just want to let Mewbourne know that we're out
3 there and we plan to participate. And so we'd have
4 about an eighth interest in the well.

5 THE HEARING EXAMINER: Thank you. So
6 if we do issue a pooling order, the pooling order will
7 require Mewbourne to offer you another AFE, and you'll
8 be offered an opportunity to participate in the well
9 at that point.

10 MR. GUION: That would be great. Thank
11 you very much.

12 THE HEARING EXAMINER: Thank you.
13 With that, Mewbourne may proceed.

14 MS. HARDY: Thank you.

15 Mewbourne seeks an order pooling
16 uncommitted interest in the Bone Spring formation
17 underlying a 240.45 acre standard horizontal spacing
18 unit comprised of lots 1 and 2 of section 6, and lots
19 1 through 4 of section 5, Township 18 South, Range 32
20 East in Lea County and proposes to dedicate that unit
21 to the Winterfell 6/5 B2BA Fed Com 1H well. Our
22 exhibits include the affidavit of landman Mitch Robb
23 and geologist Charles Crosby.

24 Mr. Robb provides a standard land
25 exhibits. The tract ownership and pool parties are

1 identified in Exhibit A3. We have only listed two
2 parties, one of which is Brock Drilling and the other
3 is a Mr. Johnson who is only a record title owner.
4 Mr. Crosby's geology exhibits include a structure map
5 and a cross section. My notice affidavit is
6 Exhibit C.

7 (Exhibit A3 and Exhibit C were marked
8 for identification.)

9 We did not receive a certified mail
10 receipt from the record title owner, but Mr. Robb's
11 affidavit provides information regarding the search
12 methods that he used to attempt to locate the parties.
13 We did timely publish that as well.

14 With that, unless there are questions,
15 I request that the exhibits be admitted and that the
16 case be taken under advisement. Thank you.

17 THE HEARING EXAMINER: Thank you.

18 Mr. McClure, any questions?

19 THE TECHNICAL EXAMINER: Yeah,
20 Mr. Brancard, I don't have any questions, although I
21 almost wonder if we're going to need an updated tract
22 ownership sheet now based upon if there was interest
23 sold at Brock Drillings. We need that accurately
24 represented here of what your thoughts are.

25 THE HEARING EXAMINER: Ms. Hardy, what

1 is your understanding of the status of Colorado Energy
2 Minerals?

3 MS. HARDY: I wasn't aware of their
4 interest, but it would be my understanding that we
5 include the parties who were owners at the time the
6 application is filed with that title, is what would
7 dictate who is listed. So that's what we did here. I
8 don't know when the transaction occurred between Brock
9 Minerals and Colorado Energy and Minerals. But we
10 would be happy to submit an updated exhibit if the
11 Division would like us to do that.

12 THE HEARING EXAMINER: Mr. Guion?

13 MR. GUION: Yes. I just wanted to say
14 we just bought that January 1st. And so we're
15 recent -- we've run lots of title on it and, you know,
16 like we're in good shape that way, but we wanted to
17 let everybody know that we do own that interest and we
18 do -- we will get it all put together, but -- and that
19 we intend to participate. So I don't know how
20 everybody wants to handle that.

21 THE HEARING EXAMINER: Okay. Let me
22 just start with early basic question. Does Mewbourne
23 have contact information for Colorado Energy Minerals?

24 MS. HARDY: That I do not know. Though
25 it would be helpful to have that so I could give that

1 to them in case they don't.

2 MR. GUION: That would be great. Do
3 you want me to give that to you now, or do you want me
4 to email it or get it to you some other way?

5 THE HEARING EXAMINER: I guess if you
6 could email it to Ms. Hardy, that would be helpful.

7 MR. GUION: That would be great. Let
8 me get your email, if you don't mind.

9 MS. HARDY: Sure. It's dhardy,
10 D-H-A-R-D-Y at Hinkle, H-I-N-K-L-E, lawfirm.com. And
11 it's just all one word.

12 MR. GUION: Dhardy@hinklelawfirm.com.
13 And Hinkle is H-I-N-K-L-E?

14 MS. HARDY: That's correct.

15 MR. GUION: Okay. Thank you very much,
16 and is it all right if I get that to you a little
17 later today?

18 MS. HARDY: That's fine. Thank you.

19 MR. GUION: Okay. You're welcome.

20 THE HEARING EXAMINER: Thank you.

21 So with that, I believe we can take
22 this case under advisement. Ms. Hardy, if you need to
23 file any supplemental clarification, that would be
24 helpful, but for now we will take Case 23219 under
25 advisement.

1 MS. HARDY: Thank you very much.

2 THE HEARING EXAMINER: Thank you,
3 everyone.

4 With that, we're on item 25,
5 Case 23220. Steward Energy?

6 MS. MCLEAN: Again, Jackie McLean with
7 Hinkle & Shanor on behalf of Steward Energy.

8 THE HEARING EXAMINER: Are there any
9 other parties for Case 23220? Hearing none, Steward
10 may proceed.

11 MS. MCLEAN: Thank you. In Case Number
12 23220, Steward takes a pool -- an additional
13 uncommitted interest under the terms a Division
14 Order R-22192 which was entered in Case Number 22734
15 on July 25, 2022. And that order pooled all
16 uncommitted interests in the San Andres formation
17 underlying a standard horizontal spacing unit
18 comprised of the West half, East half, and Lots 1, 2,
19 3, and 4 of irregular Section 14, Township 13 South,
20 Range 38 East in Lea County, and designated Steward as
21 operator of the unit and dedicated the unit to the
22 Fring Fed Number 2H well.

23 And in this case we're just seeking to
24 pool one additional uncommitted interest. And in the
25 exhibit packet that we're submitting to the Division,

1 Exhibit A is the land professional's testimony and
2 related land exhibits. And you can see that our
3 notice that we sent out for the hearing in Exhibit B
4 was returned to sender.

5 (Exhibit A and Exhibit B were marked
6 for identification.)

7 But in Exhibit A, which is the land
8 professional's testimony, he sets out all the effort
9 that Steward made to locate an address for this
10 individual. And --

11 MR. GURION: Did you catch --

12 THE HEARING EXAMINER: Sorry,
13 Mr. Gurion, you are not muted.

14 MS. MCLEAN: Okay. Should I go on?

15 THE HEARING EXAMINER: Please proceed.

16 MS. MCLEAN: Okay. Thank you. So we
17 detailed all of the attempts that were made to try and
18 find a good address for this person. We also did
19 timely publish notice in the Hobbs News-Sun. And if
20 there's not any questions, then we ask that the Case
21 Number 23220 be taken under advisement.

22 THE HEARING EXAMINER: Thank you.

23 Mr. McClure, any questions?

24 THE TECHNICAL EXAMINER: No questions,
25 Mr. Brancard.

1 MR. GUION: 32938198.

2 THE HEARING EXAMINER: Mr. Guion,
3 you're not muted.

4 MR. GUION: I don't even know your
5 phone number 'cause I always use speed dial.

6 THE HEARING EXAMINER: Mr. Guion.
7 You're not muted.

8 MR. GUION: Sorry.

9 THE HEARING EXAMINER: All right.
10 Questions? Okay. So it appears that you have made
11 the efforts to locate this additional interest owner.
12 So with that, Case 23220 will be taken under
13 advisement.

14 MS. MCLEAN: Thank you, Mr. Examiner.

15 THE HEARING EXAMINER: Thank you.

16 With that, we are on item number 26,
17 Case 23225, V-F Petroleum.

18 MS. HARDY: Mr. Examiner, Dana Hardy
19 with Hinkle Shanor on behalf of V-F Petroleum.

20 THE HEARING EXAMINER: Are there any
21 other persons here for Case 23225? V-F to explain
22 what you're asking for right now at this hearing and
23 whether we really need a hearing at all.

24 MS. HARDY: Yes, thank you. So we had
25 initially requested pooling as well as approval of our

1 non-standard Bone Spring spacing unit that is 486.05
2 acres. The pooling request has been resolved because
3 all of the parties have signed a JOA. And so at this
4 point we are only seeking approval of the non-standard
5 spacing unit. And because we had provided notice to
6 everyone of this application and the pooling issue was
7 resolved, we're requesting just to go forward and
8 present this today as our request for approval of the
9 non-standard spacing unit. So that's what we are
10 asking for.

11 We've provided affidavits of our
12 landman Sean Johnson and geologist Jason Lodge.
13 Mr. Johnson provides a map which is Exhibit A4 of the
14 non-standard spacing unit and identifies the interest
15 owners in the surrounding tracts.

16 (Exhibit A4 was marked for
17 identification.)

18 He also explains that the proposed
19 non-standard unit will prevent waste and protect
20 correlative rights by reducing surface, environmental,
21 and economic waste including through the consolidation
22 of surface facilities. And Mr. Lodge provides a
23 location map, structure map, and cross section.

24 Exhibit C is my notice affidavit. We
25 notified the offset interest and confirmed that those

1 notices were delivered. And we also timely publish
2 notice.

3 (Exhibit C was marked for
4 identification.)

5 So with that, unless there are
6 questions, I would request that the exhibits be
7 admitted and that the case be taken under advisement
8 with respect to our request for approval of the
9 non-standard spacing unit.

10 THE HEARING EXAMINER: Thank you.

11 Mr. McClure, any questions?

12 THE TECHNICAL EXAMINER: Yes,
13 Mr. Brancard, I do have some questions. Miss Hardy,
14 does it appear that Concho did not receive direct
15 notice then here?

16 MS. HARDY: If you look at the list, I
17 think that Concho -- exhibits are taking a second to
18 pull up. We provided notice to COG and Concho. And
19 they are at the same address. And we confirmed with
20 the post office records that -- and I believe it's in
21 our mailing chart, if you look at that -- that COG,
22 the notice was confirmed delivered to COG. And for
23 some reason, it doesn't show up that it was confirmed
24 as delivered to Concho, but they're at the same
25 address and were sent at the same time. And they are

1 an offset interest owner, but that's what all these
2 parties are.

3 THE TECHNICAL EXAMINER: Which is in
4 there, kind of confused me is it is on your report
5 that you have here. You have the one to Concho as
6 delivery attempted, but yet the one that's COG's is
7 delivered to individual at the address. So I wasn't
8 quite sure what took place there, I guess. Go ahead.

9 MS. HARDY: Oh, I was going to say,
10 that's the language that we took from the postal
11 service.

12 THE TECHNICAL EXAMINER: Report.
13 Exactly.

14 MS. HARDY: Right.

15 THE TECHNICAL EXAMINER: Now, something
16 you are missing is your tracking numbers are cut off
17 of the left side of your image for those green cards
18 sent to both COG and Concho.

19 MS. HARDY: Okay.

20 THE TECHNICAL EXAMINER: But I don't
21 see where that's listed anywhere in your application.
22 Am I incorrect there, or is that listed somewhere
23 else? Are you aware of?

24 MS. HARDY: Oh, I see what you mean.
25 No, that wouldn't be listed anywhere else, but I can

1 provide a copy where you can see the tracking numbers
2 on the left, if that would be helpful.

3 THE TECHNICAL EXAMINER: Yes. Please
4 do. Because we are interested, I guess, in that
5 notice to them because your public notice was not done
6 20 days prior to hearing, which for your NSP, it
7 should be.

8 MS. HARDY: Our mailing?

9 THE TECHNICAL EXAMINER: Your notice of
10 publication.

11 MS. HARDY: Oh, the publication would
12 be 10 business days.

13 THE TECHNICAL EXAMINER: Correct. But
14 for NSP it should be 20 days.

15 MS. HARDY: Okay.

16 THE TECHNICAL EXAMINER: So what I'm
17 saying is, the individual mailings make a difference
18 here is what I'm getting at.

19 MS. HARDY: Correct. I understand.
20 I'll be happy to provide those certified.

21 THE TECHNICAL EXAMINER: Yes, please
22 do. No more questions, Mr. Brancard.

23 THE HEARING EXAMINER: Which exhibit
24 are you looking at, Mr. McClure?

25 THE TECHNICAL EXAMINER: Page 47 of 48.

1 If you're asking about where I'm looking at tracking
2 numbers or -- what are you asking, I guess, I'm sorry,
3 Mr. Brancard?

4 THE HEARING EXAMINER: What correction
5 you were looking for?

6 THE TECHNICAL EXAMINER: Oh, those
7 green cards that you see there on that page 47 of 48.
8 To the left of those, that's cut off the scanned
9 image. There should have been the actual tracking
10 numbers which would allow us to pull our own report
11 off the USPS, essentially. Without those tracking
12 numbers, we don't have that ability to do so.

13 THE HEARING EXAMINER: All right. So I
14 just wanted to clarify what exactly --

15 THE TECHNICAL EXAMINER: Yeah, it's
16 essentially the 16 or 20 digit number that's
17 associated with that certified mailing.

18 THE HEARING EXAMINER: Thank you.

19 I guess my only question, Miss Hardy --
20 I don't know if it's really our business, but why are
21 we doing a non-standard spacing unit here? The V-F
22 could have easily done these as two standard facing
23 units, or they could have put a proximity well in.

24 MS. HARDY: Well, I think that the
25 preferred development method is not using a proximity

1 well here with the respect to this location. And the
2 non-standard unit will allow them to consolidate
3 surface facilities without going through additional
4 approvals on those. It just -- it seems most
5 expedient and less wasteful to develop it this way.

6 THE HEARING EXAMINER: Okay. So that's
7 your logic for the non-standard unit?

8 MS. HARDY: Correct.

9 THE HEARING EXAMINER: Okay. All
10 right. I don't know how we will process this. We
11 don't normally issue, you know, four wall Division
12 orders just for non-standard facing units, but it will
13 get approved one way or another.

14 MS. HARDY: Thank you.

15 THE HEARING EXAMINER: Thank you.

16 So with that, Case 23225 is taken under
17 advisement with the need to submit updated pictures of
18 green cards or certified mail notices.

19 MS. HARDY: Thank you.

20 THE HEARING EXAMINER: With that, we
21 are on item 27, Case 23227, V-F Petroleum.

22 MS. MCLEAN: Jackie McLean with Hinkle
23 Shanor on behalf of V-F Petroleum.

24 THE HEARING EXAMINER: Thank you.

25 Are there any other interested persons

1 for Case 23227? Hearing none, V-F may proceed.

2 MS. MCLEAN: Thank you, Mr. Examiner.

3 In Case Number 23227, V-F seeks to pool all
4 uncommitted interest within the Bone Spring formation
5 underlying a 240-acre, more or less, standard
6 horizontal spacing unit comprised of the west half,
7 southeast quarter of Section 29 and the west half,
8 east half of Section 32, Township 21 South, Range 35
9 East in Lea County. And the unit will be dedicated to
10 the Cache River 29 32 State Com Number 103H, 203H, and
11 303H wells, which will be drilled from a surface hole
12 locations in the northwest quarter, southeast corner
13 of Section 29 to the bottom hole locations in the
14 southwest quarter, southeast quarter of Section 32.

15 And the Exhibit packet submitted to the
16 Division contains Exhibit A, which is a land
17 professional's testimony and related land exhibits.
18 And there are no unlocatable parties. Exhibit B,
19 geology testimony which includes location map; first,
20 second, and third Bone Spring structure maps, and
21 stratigraphic cross sections of the intervals of
22 interest. And then Exhibit C, Notice testimony which
23 sets out when the notice letter of this hearing and
24 application were sent to the parties to be pooled and
25 when they received those notices.

1 (Exhibit A, Exhibit B, and Exhibit C
2 were marked for identification.)

3 And if there's not any questions, I ask
4 that Exhibits A, B, and C be admitted into the record
5 and that Case Number 23227 be taken under advisement.

6 THE HEARING EXAMINER: Thank you.

7 Mr. McClure, questions?

8 THE TECHNICAL EXAMINER: No. No
9 questions, Mr. Brancard.

10 THE HEARING EXAMINER: Thank you. So
11 did you publish notice for this case?

12 MS. MCLEAN: No, Mr. Examiner. We --
13 to be honest, I've been having some difficulty with
14 the Hobbs Newspaper. And so in this case, we relied
15 on the notice letter because we had gotten returns or
16 notification that everyone had received a copy of the
17 notice in a timely manner. So we don't have a
18 publication for this one.

19 THE HEARING EXAMINER: All right. So
20 the issue then is whether Legacy --

21 MS. MCLEAN: Yes. And we have the --

22 THE HEARING EXAMINER: -- received
23 notice.

24 MS. MCLEAN: -- printout. We attached
25 the printout from the USPS website that they did

1 receive a copy of the notice and that it was delivered
2 to Legacy's address. And then in addition to that, if
3 you look at -- take me a minute to go through --
4 Exhibit A5, which is attached to the landman's
5 affidavit, they have been -- we have had them in
6 communication with Legacy in terms of getting a JOA
7 with them. So, you know, I think it's very clear that
8 Legacy did receive notice from the USPS website and
9 then also they have been in discussions with V-F
10 throughout this process.

11 THE HEARING EXAMINER: I'm probably
12 missing something here, but the USPS item I see at the
13 end here says that's it's been delivered to an agent
14 for final delivery.

15 MS. MCLEAN: It should say -- it might
16 have cut off the -- because on the website when we
17 last looked at it, last checked it, it said delivered
18 to individual at the address. I can go and provide
19 you with that information. We can submit a
20 supplemental exhibit for this, if you would like.

21 THE HEARING EXAMINER: Yes. That would
22 help us as we don't have a publication notice here.
23 We need to verify that Legacy did, in fact, receive
24 this. So whatever information you have from the
25 postal service, whether it's a green card or something

1 off their system that indicates that it was actually
2 delivered, that would be helpful.

3 MS. MCLEAN: We'll do that,
4 Mr. Examiner.

5 THE HEARING EXAMINER: With that, are
6 there any other persons here for Case Number 23227?
7 Hearing none, the case will be taken under advisement.

8 We'll have to look for information --
9 record left open for information on delivery to
10 Legacy.

11 MS. MCLEAN: Thank you, Mr. Examiner.

12 THE HEARING EXAMINER: With that, we
13 are on items 28 and 29. Case numbers 23244, 23245,
14 Earthstone Operating.

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

17 THE HEARING EXAMINER: So we have a few
18 entries and appearance here. MRC Delaware.

19 MR. FELDEWERT: Mr. Examiner, Michael
20 Feldewert with the Santa Fe office of Holland & Hart.

21 THE HEARING EXAMINER: Jalapeno
22 Corporation.

23 MR. BECK: Mr. Hearing Examiner,
24 Matt Beck on behalf of Jalapeno Corporation.

25 THE HEARING EXAMINER: Are there any

1 other persons for Cases 23244, 23245? Hearing
2 none -- let me find out first, is anybody still
3 objecting to this case?

4 MR. BECK: Mr. Examiner, MRC has not
5 objected to this matter proceeded by affidavit.

6 THE HEARING EXAMINER: Okay. Jalapeno?

7 MR. BECK: And Jalapeno originally
8 objected to 23244 but has withdrawn that objection.

9 THE HEARING EXAMINER: Let me just try
10 Legacy Reserves Operating.

11 MS. HARDY: Mr. Examiner, I spoke with
12 Mr. Parrot who had entered an appearance for Legacy
13 earlier this morning and they have withdrawn their
14 objection, and Mr. Parrot is out of the country and
15 was not sure if he would be able to call in.

16 THE HEARING EXAMINER: Thank you. I'm
17 just verifying because they did file -- he somehow
18 managed through wherever he is to file a withdrawal of
19 his objection and his entry appearance, but I just
20 wanted to make sure here.

21 So with that, Earthstone may proceed.

22 MS. HARDY: Thank you. In Case
23 Number 23244, Earthstone seeks an order pooling
24 uncommitted interest in the Bone Spring formation
25 underlying a 321.48-acre, more or less, standard

1 horizontal spacing unit comprised of Lot 1, the
2 southeast quarter of the northeast quarter and the
3 east half of the southeast quarter of irregular
4 Section 5 and the east half, east half of Section 8,
5 Township 19 South, Range 33 East in Lea County.

6 And in case 23245, Earthstone seeks an
7 order pooling uncommitted interests in the Bone Spring
8 underlying a 321.27-acre standard horizontal spacing
9 unit comprised of Lot 2, the southwest quarter of the
10 northeast quarter and west half of the southeast
11 quarter of irregular Section 5 and the west half, east
12 half of Section 8, also in Township 19 South, Range 33
13 East.

14 And each of those spacing units will be
15 dedicated to two wells. We have provided in each case
16 the affidavits of landman Matt Solomon and geologist
17 Jason Asmus. Mr. Solomon provides the standard land
18 exhibits, the tract ownership, and pooled parties are
19 identified in Exhibit A3. Mr. Asmus has not
20 previously testified and provides his resume, and I
21 request that the Division recognize him as an expert
22 in petroleum geology matters.

23 THE HEARING EXAMINER: Any objections?
24 So accepted.

25 MS. HARDY: Thank you. Mr. Asmus's

1 exhibits include a location map, structure maps, cross
2 section, and a gun-barrel diagram. My notice
3 affidavit is Exhibit C.

4 (Exhibit A3 and Exhibit C were marked
5 for identification.)

6 We received green cards from all but
7 two interest owners and we also did publish notice.
8 Mr. Solomon also had email communication with each of
9 the parties regarding this hearing 20 days prior.

10 So with that, unless there are
11 questions, I request that the exhibits be admitted and
12 that the cases be taken under advisement.

13 THE HEARING EXAMINER: Thank you. Let
14 me start with MRC. Any questions or concerns?

15 MR. FELDEWERT: No, sir. Thank you.

16 THE HEARING EXAMINER: Thank you.

17 Jalapeno? Any questions or concerns?

18 MR. BECK: No, thank you.

19 THE HEARING EXAMINER: Mr. McClure,
20 questions?

21 THE TECHNICAL EXAMINER: Yeah,
22 Mr. Brancard.

23 Miss Hardy, just for a quick
24 clarification, what is the situation with there being
25 two pools listed here?

1 MS. HARDY: So it's my understanding
2 that the district office had advised Earthstone that,
3 I believe it's the Section 5 is in one of the pools
4 and Section 8 is in the other pool. So both wells
5 were produced from both pools.

6 THE TECHNICAL EXAMINER: Okay. Thank
7 you. Yeah, that was my speculation, but just for
8 clarification. Thank you, Miss Hardy. Thank you,
9 Mr. Brancard. I don't have any other questions.

10 THE HEARING EXAMINER: Thank you
11 All right. So I counted with my
12 fingers and toes, and I think that you may have
13 published a day late.

14 MS. HARDY: I believe that that is
15 correct. We submitted the notice timely, well in
16 advance to the deadline to the newspaper, again, this
17 is the Hobbs Newspaper, and that they published one
18 day late considering the holidays. So I believe that
19 is true.

20 THE HEARING EXAMINER: There are two
21 holidays, and even though they fell on a Sunday, we
22 actually have a statute that says that if a holiday
23 falls on a Sunday, the next day's a holiday.

24 MS. HARDY: That's correct.

25 THE HEARING EXAMINER: So I think

1 December 20th was your deadline and you published on
2 December 21.

3 MS. HARDY: That's correct. And I
4 think we have green cards from all but two interest
5 owners, although Mr. Solomon did confirm with me that
6 he had direct contact with those parties regarding the
7 hearing -- 20 days prior to the hearing. I can
8 provide something from him if you would like.

9 THE HEARING EXAMINER: Or we can just
10 continue this to the next docket. We deal with it.

11 MS. HARDY: That's -- well, I think I
12 would probably prefer to submit a supplemental
13 affidavit from Mr. Solomon explaining he had contact
14 with these parties and that the case be taken under
15 advisement now, if that's acceptable to the Division.
16 But if not, then I think a continuance to the next
17 docket just for allowing that a period not to expire
18 is also fine.

19 THE HEARING EXAMINER: I think that's
20 the only questions I have, so with that -- are there
21 anyone else here for Cases 23244, 23245? If not,
22 these cases will be continued to January 19th for
23 notice completion. No need to file continuances.

24 MS. HARDY: Okay. Thank you,
25 Mr. Examiner.

1 THE HEARING EXAMINER: With that, we're
2 on item 30. And let me just quickly check in with our
3 court reporter. See how you are doing.

4 THE REPORTER: Doing fine.

5 THE HEARING EXAMINER: All right. Then
6 we will keep going. We are on item number 30, Case
7 23270, Earthstone Operating.

8 MS. HARDY: Mr. Examiner, Dana Hardy
9 with Hinkle Shanor on behalf of Earthstone.

10 THE HEARING EXAMINER: We have an entry
11 from Tap Rock Operating.

12 MR. RODRIGUEZ: -virtual connectivity
13 interruption-

14 THE HEARING EXAMINER: Mr. Rodriguez,
15 you are really breaking up badly. But I will accept
16 that as an entry of appearance. If you want anything
17 more perhaps you can put it in the chat. We really
18 can't make out your voice, but I can see your name up
19 here. I can see you lit up. So we will take that as
20 an entry from Tap Rock.

21 Are there any other persons here for
22 Case 23270? Hearing none, Earthstone may proceed.

23 MS. HARDY: Thank you.

24 In Case 23270, Earthstone seeks an
25 order pooling uncommitted interest from the top of the

1 second Bone Spring to the base of the Bone Spring
2 underlying a 638.71-acre standard horizontal spacing
3 unit comprised of the east half of Section 34,
4 Township 19 South, Range 33 East, and Lots 1 and 2,
5 the south half of the northeast quarter and the
6 southeast quarter of your regular Section 3, Township
7 20 South, Range 33 East in Lea County. That spacing
8 unit will be dedicated to five wells in the Jade 34-3
9 Fed HKY well is the proximity tract defining well.

10 In Case Number 23272, Earthstone seeks
11 the pooling uncommitted interest in the Wolfcamp
12 underlying a 319.86-acre standard horizontal spacing
13 unit comprised of the east half, east half of Section
14 of 34, Township 19 South, Range 33 East and Lot 1, the
15 southeast quarter of the northeast quarter and the
16 east half of the southeast quarter of Section 3,
17 Township 20 South, Range 33 East. And that spacing
18 unit will be dedicated to one well, the Jade 34-3
19 Fed WCB Com 25H well.

20 In each case, we provided the
21 affidavits of landman Matt Solomon and geologist Jason
22 Asmus. Mr. Solomon provides the standard land
23 exhibits. The tract ownership and pooled parties are
24 identified in his Exhibit A3 and all of the parties in
25 these cases are locatable.

1 (Exhibit A3 was marked for
2 identification.)

3 Mr. Asmus affidavits include a location
4 map, structure maps, cross section and gun-barrel
5 diagram. My notice affidavit is Exhibit C.

6 (Exhibit C was marked for
7 identification.)

8 And in each case we received green
9 cards from all but one interest owner. And we
10 provided the post office tracking confirming that that
11 party did receive the notice and we did also publish.

12 With that, unless there are questions,
13 I request that the exhibits be admitted and that these
14 cases be taken under advisement. Thank you.

15 THE HEARING EXAMINER: Thank you. I'll
16 try Mr. Rodriguez again. Does Tap Rock have any
17 questions?

18 MR. RODRIGUEZ: -virtual connectivity
19 interruption-

20 THE HEARING EXAMINER: I believe
21 Mr. Rodriguez said, "No questions and no objections."

22 With that, Mr. McClure?

23 THE TECHNICAL EXAMINER: Yes,
24 Mr. Brancard. I do have a quick question.
25 Miss Hardy, it appears, but I'm open for confirmation

1 that there are no horizontal wells within this spacing
2 unit targeting the Bone Spring 2 or the Bone Spring 3;
3 is that correct?

4 MS. HARDY: That there are no existing
5 wells in those spacing units?

6 THE TECHNICAL EXAMINER: Correct. In
7 the Bone Spring 2 and the Bone Spring 3.

8 MS. HARDY: I believe that's correct,
9 but I can confirm that. I suppose if there were, that
10 we would need to go through administrative approval on
11 an overlapping spacing unit.

12 THE TECHNICAL EXAMINER: Correct.
13 Looking at the diagram, it appears that's not the
14 case. But then like the third Bone Spring doesn't
15 have any dots on it. I'm looking at your Exhibit B2,
16 and I'm assuming that means there are no Bone Spring 3
17 wells, but rather then they're just not depicted here.
18 But I just ask and just for clarification there.

19 MS. HARDY: Okay. I can confirm that.
20 Do you want me to submit -- would you like me to
21 submit a supplemental affidavit?

22 THE TECHNICAL EXAMINER: Yeah, just a
23 very short, you know, either statement from yourself
24 or your geologist. I'm not overly worried about it.
25 I guess I'm going to assume that there just isn't a

1 Bone Spring 3 well, rather than they're just not
2 depicted here, but just for confirmation.

3 MS. HARDY: Okay. I'd be happy to do
4 that.

5 THE TECHNICAL EXAMINER: Okay. Thank
6 you. I don't have any other questions. Thank you,
7 Miss Hardy. Thank you, Mr. Brancard.

8 MS. HARDY: Thank you.

9 THE HEARING EXAMINER: Okay.
10 Mr. McClure, you need a supplemental geologic Exhibit;
11 is that correct?

12 THE TECHNICAL EXAMINER: Yes. It would
13 be supplemental to the geology, yeah. Or maybe, I
14 guess, we could just amend the geology one. Just with
15 an extra statement, but I don't know what we'd prefer.

16 THE HEARING EXAMINER: Either way.

17 Okay. So Miss Hardy, publication is
18 late, so everything hinges on whether people were
19 actually directly notified. And you have in one case,
20 Devon and the other case Chevron. Big boys and girls
21 who ought to be able to pick up their mail. So I
22 think Ms. McLean did this in a previous case, gave us
23 sort of the printout from the postal service that
24 indicates a person picked up -- because otherwise we
25 have just your spreadsheet.

1 MS. HARDY: Sure. I'd be happy to
2 provide that.

3 THE HEARING EXAMINER: So if you can do
4 that, then we can avoid continuing these cases.

5 MS. HARDY: I will do that. Thank you.

6 THE HEARING EXAMINER: The other thing
7 I noticed, and this is not something I think you need
8 to change here, but you would need to change before
9 you submit your C102 in 23272, C102 indicates a larger
10 spacing unit than what you actually have. You have a
11 red line on or surrounding the entire east half, but I
12 believe you're just doing the east half of the east
13 half.

14 MS. HARDY: Okay. I'll mention that to
15 Earthstone. It does show the acreage listed above in
16 the box is correct, but it's the red box; right?

17 THE HEARING EXAMINER: It's the red
18 box, that's it.

19 MS. HARDY: Okay. Okay.

20 THE HEARING EXAMINER: You can correct
21 that whenever you file your C102.

22 MS. HARDY: Okay. I'll let them know
23 that.

24 THE HEARING EXAMINER: Okay. So
25 Mr. McClure was your request on both cases or just

1 one?

2 THE TECHNICAL EXAMINER: I believe it
3 was for -- I believe both cases were the same. Let me
4 scroll down, but I believe so, yeah. Correct, it
5 would be for both cases.

6 THE HEARING EXAMINER: Okay. So with
7 that, are there any other interested persons then in
8 Cases 23270, 23272? Hearing none, these cases will be
9 taken under advisement.

10 (Exhibit A3 and Exhibit C were marked
11 for identification.

12 We will leave the record open to
13 supplement the geologic exhibit with the information
14 that Mr. McClure has requested. And the information
15 from the U.S. Postal Service on someone picking up
16 their mail.

17 MS. HARDY: Thank you.

18 THE TECHNICAL EXAMINER: Yeah,
19 Mr. Brancard, I apologize. It would actually be just
20 the Wolfcamp for the second one, and then the Bone
21 Spring 3 for the first case. So for 23272, it'd be
22 confirmation that there are no Wolfcamp wells, and for
23 23270, it's Bone Spring 2 and Bone Spring 3 wells.

24 THE HEARING EXAMINER: Whatever the
25 formation.

1 THE TECHNICAL EXAMINER: Yeah.

2 THE HEARING EXAMINER: Thank you.

3 Okay. With that, we are on items 32
4 and 33, Cases 23280, 23281, Ridge Runner Resources.

5 MS. HARDY: Mr. Examiner, Dana Hardy
6 with Hinkle Shanor on behalf of Ridge Runner
7 Resources.

8 THE HEARING EXAMINER: Okay. And do we
9 have any other interested persons for Cases 23280,
10 23281? Hearing none, Ridge Runner to proceed.

11 MS. HARDY: Thank you. In Case 23280,
12 Ridge Runner seeks an order amending
13 Order No. R-21609-A to extend the deadline to commence
14 drilling operations to one year from the date of the
15 amended order. The original order pooled interest in
16 the Bone Spring underlying a 320-acre standard
17 horizontal unit comprised of the west half of the west
18 half of Sections 2 and 11, Township 20 South, Range 35
19 East in Lea County, and dedicated the unit to the
20 Zeus 2-11 Fed Com 1H well, Order 21609-A extended the
21 deadline to commence drilling under that order until
22 February 23rd of 2023. So we're asking for another
23 one-year extension from the date of the amended order.
24 And in Case Number 23281, we make the
25 same request with respect to the amendment of

1 R-21610-A. We are asking for a one-year extension
2 from the date of the amended order. In support of the
3 applications, we've provided the affidavit of
4 geologist Michael Burk. He explains the delays have
5 occurred with respect to the drilling of these wells
6 due to delays in the issuance of federal drilling
7 permits, which I believe they do have now, but those
8 were just issued in the last couple of months, as well
9 as supply chain delays and limited rig availability.
10 And then in addition, these wells are in proximity to
11 the lesser prairie-chicken habitat, and drilling will
12 be restricted during certain months. And so those
13 delays will also impact the drilling of these wells.

14 So that's the reason for the extension.
15 My notice affidavit is Exhibit B.

16 (Exhibit A and Exhibit B were marked
17 for identification.)

18 We did have a few parties who did not
19 receive notice, but we did publish timely. -virtual
20 connectivity interruption-

21 THE HEARING EXAMINER: Don't know what
22 that is.

23 MS. HARDY: And we did notify the
24 parties who had received the original pooling
25 applications. So with that, unless there are

1 questions, I request the exhibits be admitted and that
2 the cases be taken under advisement.

3 THE HEARING EXAMINER: Thank you.

4 Mr. McClure, questions?

5 THE TECHNICAL EXAMINER: Yes,
6 Mr. Brancard. I do have a few questions. Ms. Hardy,
7 so then the reason of limited rig availability and
8 supply chain delays is that not one of the reasons for
9 the extension request then based off your testimony
10 just now?

11 MS. HARDY: No. Those are included,
12 also. In Mr. Burk's affidavit was the multiple
13 reasons for the extension request.

14 THE TECHNICAL EXAMINER: Would you
15 describe it as more of a minor addition to the two
16 that you actually addressed directly already then?

17 MS. HARDY: Yes. I think so. I think
18 the primary issues have been the delay and the
19 issuance of the federal APDs. And then now,
20 compounded by the prairie-chicken issue.

21 THE TECHNICAL EXAMINER: Now, you
22 mention that you believe that the BLM has approved the
23 APDs. I guess, are you aware of why Ridge Runner has
24 not submitted those APDs to the Division yet then?

25 MS. HARDY: That I do not know. I

1 believe they were just recently issued; I think.

2 THE TECHNICAL EXAMINER: Okay. And
3 okay, so they were just getting ready to send it to
4 us. Okay. I have no other questions. Thank you,
5 Ms. Hardy. Thank you, Mr. Brancard.

6 MS. HARDY: Thank you.

7 THE HEARING EXAMINER: Thank you.

8 Again, the only concern here is that
9 the publication is a day late. And you do have
10 several return to senders here so we're going to have
11 to continue these cases to January 19.

12 MS. HARDY: Okay. Yes, thank you. I
13 see that. Holidays jammed up the newspaper, I
14 believe.

15 THE HEARING EXAMINER: Thank you.

16 So with that, are there any other
17 interested persons for Cases 23280, 23281? Hearing
18 none, these cases will be continued to January 19th.
19 All the exhibits will be admitted in the record. We
20 will wait for the end of the notice period.

21 (Exhibit A and Exhibit B were received
22 into evidence.)

23 MS. HARDY: Thank you.

24 THE HEARING EXAMINER: With that, I
25 believe we are on item 34, Case 23284, Mewbourne Oil

1 Company.

2 MR. BRUCE: -- on behalf of Mewbourne.

3 THE HEARING EXAMINER: Thank you,

4 Mr. Bruce.

5 MRC Permian Company.

6 MR. FELDEWERT: Mr. Examiner, Michael
7 Feldewert from the Santa Fe office of Holland & Hart.

8 THE HEARING EXAMINER: Thank you.

9 Any other interested persons for Case
10 23284? Hearing none, I believe we have a motion to
11 dismiss, Mr. Bruce?

12 MR. BRUCE: Yes, Mr. Examiner. Let me
13 explain briefly. These Chile Verde cases were
14 originally filed about a year and a half ago, who,
15 when orders were obtained, the wells were never
16 drilled. At that point, the Division assigned these
17 wells -- Wolfcamp gas pool. And early this week I
18 learned to my horror that had changed, and there was
19 nothing to do but to dismiss this case because it
20 wasn't -- didn't properly set forth the facts. And I
21 have refiled an application for these wells which I
22 believe is Case 23324 set for February 2nd. And I
23 explained this to Mr. Feldewert.

24 THE HEARING EXAMINER: Thank you.

25 Any concerns from MRC?

1 MR. MCCLURE: No, sir.

2 THE HEARING EXAMINER: With that, Case
3 23284 will be dismissed. Thank you -- really short
4 order.

5 MR. BRUCE: Thank you.

6 THE HEARING EXAMINER: With that, we're
7 on Case 23285, Mewbourne Oil Company.

8 MR. BRUCE: Mr. Examiner, Jim Bruce on
9 behalf of Mewbourne.

10 THE HEARING EXAMINER: Thank you.

11 Are there any other interested persons
12 for Case 23285? Hearing none, Mewbourne may proceed.

13 MR. BRUCE: Mr. Examiner, this is
14 another case that was actually filed a couple of years
15 ago. I don't think it was ever brought to fruition,
16 but this case has been pending out there for a couple
17 of years. And as a result there have been numerous
18 negotiations between the parties. Mewbourne decided
19 to refile the applications, so it started over with a
20 new law proposal and a new AFE. In this case,
21 Mewbourne seeks to force pool the Wolfcamp formation
22 in a horizontal spacing unit underlying the south half
23 of Sections 26 and 27, 22 South 27 East for its
24 Waterboy wells. These are in the Purple Sage Wolfcamp
25 gas pool.

1 There's the affidavit of Matt Dunn.
2 His affidavit contains the usual information and the
3 usual land plats, C105s, information on the tract.
4 It's only one tract involved, and the parties being
5 pooled contains information -- a summary of
6 communications, and the proposed notice letter and
7 AFEs. That was the information that the Division
8 requires is there. There's also the self-affirmed
9 statement of Tyler Hill, the geologist which contains
10 for the Wolfcamp the usual structure map, and cross
11 section. It also contains a production table which
12 together with the affidavit shows the preference for
13 lay-down units in this area. And then it contains the
14 horizontal drilling plans.

15 I was given the parties to notify by
16 Mewbourne. I gave notice to them over the holidays.
17 Certified return mail has been -- it's been devilishly
18 slow in coming in. I did publish -- there's one
19 fault -- you see it in my brand new pooling checklist,
20 Mr. Examiner. On this and other matters, I sent out
21 about a half a dozen notices to be published by the
22 Carlsbad newspaper.

23 What I've given you is the group of
24 publication as such which shows that I believe the
25 publication was timely made, but I have never seen the

1 actual affidavit of publication. And I believe the
2 publication was timely that I would like a little
3 additional time whether it's one week or two weeks to
4 see if I can draw in that affidavit of publication and
5 get that into the record. And then I'll also do a
6 pooling spreadsheet which I should have done Tuesday
7 night, but I was pretty worn out.

8 I would point out that the pooling
9 checklist that I submitted does -- is the Division's
10 form that the top two lines of the heading are a
11 little different. The Division's form was in a
12 spreadsheet form which I absolutely detest. And
13 fortunately my friend Michael Rodriguez converted this
14 to Word format for me. It looks a little different
15 from the Division's, but all of the requested
16 information that the Division wants is in the pooling
17 checklist. And with that, I would move the admission
18 of Exhibits 1 through 6 and ask that the case be taken
19 under advisement with the exception that if it could
20 be kept open to see if I can get the actual
21 publication affidavit from the newspaper.

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

24 THE HEARING EXAMINER: Thank you.
25 Mr. McClure, any questions?

1 THE TECHNICAL EXAMINER: No questions,
2 Mr. Brancard.

3 THE HEARING EXAMINER: Thank you.
4 Okay. What we need then, Mr. Bruce, is if you could
5 get that affidavit of publication -- it appears to be
6 timely based on what I see at the last line of the --
7 what you've submitted to us. And then you want to
8 give us a spreadsheet of the notice that you've done.

9 MR. BRUCE: Yes.

10 THE HEARING EXAMINER: So with that --

11 MR. BRUCE: I apologize, and this
12 applies to all my cases, but as you well know, I was
13 the one who was kind of getting frantic over the
14 Division's filing system being unavailable on Tuesday
15 night, and I just kind of lost interest in pooling
16 spreadsheets for a few hours. And then it was
17 complicated by the fact that yesterday I still had to
18 get stuff filed for Marlene, and I was barely able to
19 do that because I was without electricity for 3/4 of
20 the day. So it was a little difficult getting stuff
21 done.

22 THE HEARING EXAMINER: Okay. Thank
23 you. So with that, your exhibits will be admitted
24 into the record, and Case 23285 will be taken under
25 advisement and the record left open for the affidavit

1 of publication and the notice spreadsheet.

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

4 MR. BRUCE: Thank you.

5 THE HEARING EXAMINER: With that, we
6 are on items 36, 37, and 38. These are cases 23290,
7 23291, 23292, Mewbourne Oil Company.

8 MR. BRUCE: Mr. Examiner, Jim Bruce on
9 behalf of Mewbourne.

10 THE HEARING EXAMINER: Thank you. Are
11 there any other interested persons that are for
12 Cases 23290, 291, 292? Hearing none, Mewbourne to
13 proceed.

14 MR. BRUCE: Mr. Examiner, I've
15 submitted through exhibit packages. They're virtually
16 identical. In each of these cases, Mewbourne seeks to
17 reopen its Puma Blanca 21, 22 Bone Spring pooling
18 cases to pool additional parties, but the only people
19 they seek to pool are record title owners so that
20 Mewbourne can obtain approved time agreements from the
21 VLM.

22 And so the Exhibit packages contain the
23 application and proposed notice, the landman's
24 affidavit with the original pooling orders which had
25 been issued over the last three to six months, I

1 believe. And below information on the well unit and
2 the companies involved and they are record title
3 owners. And then, of course, my self-affirmed
4 statement of notice and the affidavit of locations.
5 Again, I believe each affidavit -- each exhibit is
6 more or less identical. Each publication affidavit
7 was timely filed, but a lot of these green cards
8 haven't come in. And once again, I would just ask for
9 a little time to -- I'm sure it had to do with the
10 multiple holidays. I would like to get a little
11 additional time to see if more green cards come in,
12 and then I will do a more official spreadsheet for you
13 on each case.

14 And with that, I ask that Exhibits 1
15 through 4 in each case be admitted and that the record
16 be kept open so that I can submit the additional
17 notice information as it arrives.

18 (Exhibit 1 through Exhibit 4 were
19 marked for identification.

20 THE HEARING EXAMINER: Mr. McClure,
21 questions?

22 THE TECHNICAL EXAMINER: No questions,
23 Mr. Brancard.

24 THE HEARING EXAMINER: I just wanted to
25 clarify, Mr. Bruce, from your list of parties here --

1 I'm looking at the first Case, 90. It looks like you
2 have two very small interest owners?

3 MR. BRUCE: Yeah. They're -- let me
4 dig that up. Yes, very small fee owners. I believe
5 Mewbourne has come to terms with them for the drilling
6 of the wells, but not as -- that they haven't signed
7 anything approving the COM agreement. And that's the
8 reason we are pooling them here.

9 THE HEARING EXAMINER: Okay. Thank
10 you.

11 All right. Are there any other
12 interested persons then for Cases 23290, 291, 292?
13 Hearing none, these cases will be taken under
14 advisement, and you need a notice spreadsheet and
15 maybe some green cards.

16 THE TECHNICAL EXAMINER: Mr. Brancard?
17 For Case 23292, the notice of publication looks like
18 it is dated 12/21.

19 THE HEARING EXAMINER: Oh, okay. That
20 is correct.

21 MR. BRUCE: Which case was that,
22 Mr. McClure?

23 THE TECHNICAL EXAMINER: Case 23292,
24 the last one.

25 MR. BRUCE: So that's to be continued.

1 That would clear -- another two weeks would clear
2 that.

3 THE HEARING EXAMINER: Yes, that's
4 correct. Okay. Yes. So let me clarify then. So
5 Cases 23290, 23291, exhibits will be accepted in the
6 record.

7 The cases we take under advisement and
8 submit another notice spreadsheet, record left open.

9 (Exhibit 1 through Exhibit 4 were
10 received into evidence.)

11 And in Case 23292, will be continue to
12 January 19th for notice purposes --

13 MR. BRUCE: Thank you.

14 THE HEARING EXAMINER: All right. It
15 is 10:08. Why don't we take a break until, say,
16 10:15. And then we can deal with the more exciting
17 cases here today. We will take up item number 39,
18 Case 23282, 10:15.

19 (Off the record.)

20 THE HEARING EXAMINER: Is our court
21 reporter ready? Dana?

22 THE REPORTER: Yes, I'm ready.

23 THE HEARING EXAMINER: All right. We
24 are back on the record. The hearings of the New
25 Mexico Oil Conservation Division. Thursday,

1 January 5, 2023.

2 On today's worksheet, we are now on
3 item 39, Case 23282. DJR Operating.

4 MR. RANKIN: Good morning,
5 Mr. Examiner. Adam Rankin, appearing on behalf of the
6 applicant in this case, with the Santa Fe office of
7 Holland & Hart.

8 THE HEARING EXAMINER: Thank you. Are
9 there other entries of appearance for Case 23282?

10 MS. YAZZIE-LEWIS: There's Esther
11 Yazzie-Lewis.

12 THE HEARING EXAMINER: Esther
13 Yazzie-Lewis.

14 MS. YAZZIE-LEWIS: That's correct, yes.

15 THE HEARING EXAMINER: Are you here on
16 behalf of yourself or others?

17 MS. YAZZIE-LEWIS: Others, with my
18 siblings.

19 THE HEARING EXAMINER: Okay. And they
20 are interest owners within this area?

21 MS. YAZZIE-LEWIS: Right. We're
22 allottees.

23 THE HEARING EXAMINER: Thank you.
24 Are there any other interested parties
25 today?

1 MS. JOHNSTON: Hello?

2 THE HEARING EXAMINER: Yes? Please
3 identify yourself.

4 MS. JOHNSTON: This is Teresa Pierce
5 Johnston. I'm also an Indian allottee. I'm also
6 listening in on the hearing with some siblings. Thank
7 you.

8 THE HEARING EXAMINER: I'm sorry, could
9 you just give me your name again, Teresa Johnston?

10 MS. JOHNSTON: Teresa Johnston.

11 THE HEARING EXAMINER: Johnston, okay.

12 MS. JOHNSTON: I called in early, way
13 prior to meeting. I'm also an Indian allottee.

14 THE HEARING EXAMINER: Thank you.

15 MS. JOHNSTON: Thank you.

16 THE HEARING EXAMINER: All right. I
17 guess with that, if DJR would like to tell us what
18 they want to present today.

19 MR. RANKIN: Good morning,
20 Mr. Examiner. In this application, DJR is seeking the
21 approval of the terms of an amendment to the Carson
22 unit agreement which we've attached as Exhibit A to
23 the application which would affect and to expand the
24 geographic area of the Carson unit and to modify the
25 description or definition of the unitized interval.

1 In support of its application, DJR
2 filed exhibits on Tuesday. They're marked as Exhibits
3 A through E. They're filed with the Division.

4 Exhibit A is a copy of the application
5 that was filed in the case.

6 (Exhibit A was marked for
7 identification.)

8 Mr. Examiner, one thing I want to point
9 out as I -- before I go forward -- is just to point
10 out there was a very minor over-inclusive description
11 of the acreage for the Carson that I would like to
12 just make note of on the record. And that is in
13 paragraph 3 -- oh, let me correct that. It's in
14 paragraph 5 of the application with respect to
15 Township 25 North, Range 12 West, in Section 22, the
16 application describes the acreage in Section 22 as
17 including the west half, the north half of the
18 northeast quarter. In fact, it should be the
19 northwest quarter of the northeast quarter. And so
20 the description in the application is over-inclusive
21 by including all of the north half of the northeast
22 quarter. So the correct description is the northwest
23 quarter of the northeast quarter. And as I will point
24 out as we go through this, the correct description is
25 in Miss Binion's land statement.

1 THE HEARING EXAMINER: Let me -- just
2 go through that again. You're on what page? You're
3 on page 3 of the application?

4 MR. RANKIN: It's page 3 of the
5 application, paragraph 5.

6 THE HEARING EXAMINER: Yes.

7 MR. RANKIN: And in the second
8 description of the Township there, Township 25 North,
9 Range 12 West, in Section 22, there's a description
10 there includes the north half of the northeast
11 quarter. And it should actually be the northwest
12 quarter of the northeast quarter.

13 THE HEARING EXAMINER: Okay. Just want
14 to make sure we are understanding it. Okay. Thank
15 you.

16 MR. RANKIN: Yeah, you're welcome.
17 Thank you for taking that into consideration. So
18 that's Exhibit A, is the application that was filed.
19 Exhibit B is the self-affirmed statement of DJR's
20 landman, Mona Binion.

21 (Exhibit B was marked for
22 identification.)

23 She has previously testified before the
24 Division and has had her credentials as an expert in
25 petroleum land matters accepted as a matter of record.

1 Her self-affirmed statement reviews the history of
2 this Carson unit and the previous orders that have
3 been entered in the previous contractions of the unit.

4 Exhibit B1 is a general location map
5 that generally identifies the location of the unit
6 boundary along -- just to the west of Highway 550.

7 (Exhibit B1 was marked for
8 identification.)

9 She reviews, as I mentioned, the
10 history of the unit and provides copies of the former
11 orders and the unit agreements that were previously
12 approved. And then describes the contractions that
13 have occurred over time. And then describes the
14 agreement and approval from the BLM and the Federal
15 Indian Minerals Office that would amend and expand the
16 unit acreage. And as I mentioned, her statement
17 correctly reflects the acreage in Section 22 of
18 Township 25 North, Range 12 West.

19 Also BLM, as I mentioned, has
20 approved -- and the Federal Indian Mineral Office has
21 already approved this unit agreement and the expansion
22 along with all the elements that we're requesting be
23 reflected in the amended order here. And that
24 approval is included as Exhibit B7, and Miss Binion's
25 self-affirmed statement.

1 (Exhibit B7 was marked for
2 identification.)

3 Mr. Examiner, one thing we noticed when
4 we submitted this is that there were actually two
5 additional attachments that we would like to include
6 in Exhibit B7. And so we will be filing an amended,
7 revised Exhibit B7 after this hearing just so the
8 record is complete and the addition there will show
9 the updated map and the leases that were approved by
10 the BLM. So those will be included on Exhibit B7 when
11 we file a revised version of that Exhibit.

12 Exhibit C is the self-affirmed
13 statement of DJR's geologist, Mr. Jack Rosenthal.
14 Mr. Rosenthal has not previously testified before the
15 Division. Attached to his self-affirmed statement is
16 Exhibit C1, which is a copy of his resume which
17 reflects his expertise and education background in
18 geology. At this time, Mr. Examiner, I would request
19 that Mr. Rosenthal be recognized as an expert in
20 petroleum geology matters.

21 (Exhibit C and Exhibit C1 were marked
22 for identification.)

23 THE HEARING EXAMINER: So recognized.

24 MR. RANKIN: Attached are Exhibits C2
25 through C5 which are his geologic analysis of the unit

1 acreage.

2 (Exhibit C2 through Exhibit C5 were
3 marked for identification.)

4 C2 reflects a structure map depicting
5 the outline of the unit area along with lines of cross
6 section from A to A prime and B to B prime. Also
7 reflected on this map is an indication of the type log
8 well that was used to identify and define the unitized
9 interval. Exhibit C3 is a copy of the cross section
10 from A to A prime reflecting the acreage within the
11 unit expansion. It's showing that the target interval
12 is consistent across the entire acreage. That
13 includes same thing perceived Exhibit C4 which is a
14 cross section from B to B prime. Exhibit C5 is a
15 depiction of the type log showing the unitized
16 interval withing the Mancos formation as approved by
17 the BLM.

18 Exhibit D is a copy of the affidavit
19 prepared by myself in our office reflecting that we
20 have provided notice of this application and hearing
21 to each of the parties that were identified to us by
22 DJR. And those include all the working interest
23 owners, and allottee owners, the BLM, and State Land
24 Office.

25 //

1 (Exhibit D was marked for
2 identification.)

3 One thing, Mr. Examiner, I meant to
4 mention, which I didn't, in my initial discussion is
5 that the proposed acreage here would include some
6 state trust lands. DJR has been in discussions with
7 the State Land Office over the commitment of those
8 lands to this unit area. The State Land Office has
9 been evaluating and continues to evaluate whether or
10 not they want to commit those tracts to the unit.
11 Ms. Binion did just speak with Mr. Dawson yesterday,
12 and Mr. Dawson indicated that the State Land Office is
13 still reviewing and evaluating whether to commit its
14 acreage to this unit. Mr. Dawson did indicate that if
15 the Division has any questions or concerns or would
16 like to talk to him, he's happy to have anybody at the
17 Division to reach out to him.

18 Exhibit E, Mr. Examiner, is a copy of
19 the notice of publication affidavit reflecting that we
20 have caused notice of this hearing and the application
21 to be published in the Farmington Daily Times, that
22 we've identified each of the parties whose interest
23 would be included in the unit in that publication.

24 (Exhibit E was marked for
25 identification.)

1 Mr. Examiner, this is a unit that has a
2 long history and there's a lot of moving parts to it,
3 but the intent here was to provide the elements that
4 are necessary for an amended order, and I understand
5 that you may have questions. And if you do, we have
6 both Mr. Rosenthal to address any geologic questions,
7 and Miss Binion to address any land questions that you
8 may have. And if there are no questions, then I would
9 ask that the exhibits be accepted into the record, A
10 through E with their attachments, and that the case be
11 taken under advisement.

12 THE HEARING EXAMINER: Thank you.
13 Well, let me start with Mr. McClure. Then I will ask
14 some questions, and then we will ask whether anybody
15 listening has any comments on the application.

16 THE TECHNICAL EXAMINER: Yes,
17 Mr. Brancard, I do have some questions.

18 Mr. Rankin, it looks like your
19 Exhibit B7, the approval letter from the BLM,
20 essentially, is this the initial approval for the
21 expansion or is this something else because he doesn't
22 reference the additional 16,000 acres that's being
23 added here.

24 MR. RANKIN: Yeah, it's actually the
25 final approval that was issued by the DLM for the

1 expansion of the unit and the amendment.

2 THE TECHNICAL EXAMINER: So the BLM has
3 already approved it, so they're not needing us to give
4 any nods then; is that correct?

5 MR. RANKIN: Well, Mr. McClure, yes,
6 the BLM has already approved it and, in fact, the DJR
7 drilled its commitment well. And so that well's been
8 drilled, and the unit has been perfected. But there
9 is an existing order in place that that has a
10 different configuration in the Divisions records, and
11 so we're asking, based on the BLM's approvals and the
12 changes that were made to the unit agreement that the
13 Division update its order to reflect those changes.

14 THE TECHNICAL EXAMINER: Okay. Just
15 making sure I'm understanding. I guess my question,
16 though, is you referenced that you were going to add
17 or additionally submit some maps and such associated
18 with this approval letter here; is that correct?

19 MR. RANKIN: That's correct. There
20 are -- essentially Exhibit B6 is a similar copy of
21 that -- what we'll be submitting as part of the
22 attachment to be 7. It's slightly different because
23 we've added some different elements to that map on B6.
24 But you'll see that the outline of the expanded Carson
25 unit area is indicated on that map as well as the

1 existing unit area in the black outline.

2 THE TECHNICAL EXAMINER: I guess, is
3 this approval then from the BLM? Was this just a
4 oversight on their part, not including the full
5 acreage?

6 MR. RANKIN: No, the full acreage is
7 included. The full acreage was included in their
8 approval -- in their final approval.

9 THE TECHNICAL EXAMINER: Yeah, but on
10 this approval letter that's on page 108 of 150 of our
11 imaging, I was going to say, when this approval letter
12 from the BLM doesn't seem to -- unless I'm missing it
13 here -- it doesn't seem to address the actual
14 expansion to it.

15 MR. RANKIN: Well, I'll have to confer
16 with Miss Binion to see. My understanding, however,
17 Mr. McClure, is that this is the file approval that
18 did approve that additional acreage and the expansion
19 of the unit area.

20 Mr. McClure, I'm discussing with Miss
21 Binion who's actually in my office, and I will confer
22 with her and if we need to supplement the record to
23 show the approval of the expansion in addition to the
24 amendment, then we'll do that subsequent to this
25 hearing.

1 THE TECHNICAL EXAMINER: I was going to
2 say now, the unit agreement, is there a signed unit
3 agreement that represents the entire key here then? I
4 know there's a sample unit agreement here. I don't
5 know if it was the signed one because normally we get
6 the pre-approved or whatever where it's not actually
7 finalized yet.

8 MR. RANKIN: Mr. McClure, Exhibit B5 is
9 the amendment to the unit agreement, and as I
10 understand from Miss Binion, the BLM no longer signs
11 the unit agreements. They will issue a letter
12 reflecting their approval, but they no longer will
13 sign the unit agreement or the amendment. So Exhibit
14 B5 is that amendment -- by the BLM.

15 THE TECHNICAL EXAMINER: What is the
16 date on the unit agreement being approved. I'm sure
17 it's here. I just don't know exactly where it's at
18 here.

19 MR. RANKIN: Well, the amendment was
20 approved effective July 1, 2022. The --

21 THE TECHNICAL EXAMINER: Yeah, but I
22 mean as far as the unit agreement that's included
23 here, all the signatures are prior to the July 1st
24 approval letter from the BLM?

25 MR. RANKIN: Mr. McClure, some of these

1 questions may be better addressed by Miss Binion. But
2 as I understand -- there's been a unit agreement in
3 place and all the -- search were attached to that
4 original unit agreement. So then the amendment became
5 effective as of July 1, 2022.

6 UNIDENTIFIED SPEAKER 1: Are you going
7 anywhere today?

8 UNIDENTIFIED SPEAKER 2: I don't know.

9 THE HEARING EXAMINER: Excuse me, if
10 you're a call-in user, could you mute yourself,
11 please.

12 THE TECHNICAL EXAMINER: So I guess,
13 Mr. Rankin, do we have anything in writing from the
14 BLN that actually addresses the full 20,000 then? Is
15 that -- or is this the only thing we have then? The
16 one that's included here.

17 MR. RANKIN: Miss Binion is indicating
18 to me that, yes, they have an in writing approval from
19 the BLM that reflects the approval of the acreage
20 included. And I think what looks like we attached as
21 the Exhibit B7 was the -- there are two separate
22 approvals. One was for the amendment to the unit
23 agreement. And the second was for the expansion to
24 include the additional acreage.

25 THE TECHNICAL EXAMINER: Oh, I got you.

1 So this is the amendment and there should also be an
2 expansion approval; is that what's going on then?

3 MR. RANKIN: That's my understanding
4 now that I'm -- yes, that's my understanding. There's
5 a separate -- maybe a separate of approval that
6 communicates the additional acreage being approved for
7 expansion.

8 THE TECHNICAL EXAMINER: Now, we are
9 wishing to add the expansion, I mean, that's the point
10 of what we're doing today is to add the expansion;
11 correct, as well?

12 MR. RANKIN: That's correct, as well.
13 So then the one on the one hand there's some
14 amendments to the unit agreement itself reflecting the
15 change in the unitized interval and some other
16 modifications that are reflected in the exhibit as
17 well as to expand the acreage.

18 THE TECHNICAL EXAMINER: Okay. And you
19 have that available and you'll be able to submit that
20 to us when you also submit your additional to your
21 Exhibit B7 then; is that correct?

22 MR. RANKIN: We will.

23 MS. BINION: Yes, sirs.

24 THE TECHNICAL EXAMINER: Okay. Thank
25 you. On the unitized interval, did it actually change

1 or are we just changing the designated well or what's
2 actually going on there. I know our initial order
3 from 1961, or whatever it is, doesn't reference the
4 unitized interval. So I guess, I'm not sure. Are we
5 actually changing the unitized interval here with this
6 amendment or are you just asking us to put it into our
7 order, recognizing what the unitized interval is?

8 MR. RANKIN: Mr. McClure, my
9 understanding is that previously, the unit had
10 unitized all depths. So this will be a contraction of
11 the unitized interval to limit it to make this as
12 defined.

13 THE TECHNICAL EXAMINER: Okay. So it
14 is changing, but it's being reduced substantially
15 then. Is that your understanding?

16 MR. RANKIN: Yes.

17 THE TECHNICAL EXAMINER: Okay. And
18 then in regards to the typo in the original
19 application, referring to the north half of the
20 northeast quarter versus the northwest quarter of the
21 northeast quarter of Section 22, were you planning on
22 just submitting to us an amended -- I mean, I guess an
23 amended Exhibit A although technically, I guess it
24 would no longer be your initial application, I guess,
25 if that was the intent.

1 MR. RANKIN: Mr. McClure, I think that
2 because the description was over-inclusive in the
3 application, effectively what we're doing here is on
4 the record dismissing the northeast quarter of Section
5 22 from the application. And that's correctly
6 described in Miss Binion's land statement.

7 THE TECHNICAL EXAMINER: Yeah, there's
8 the intent for where removing, I don't know if there
9 is necessarily a notice concern since you are like as
10 you state, you're removing rather than adding to. But
11 having said that, I'm just looking at making sure our
12 record is easy, I guess, to see the actual true. And
13 I don't know if we just add -- if we just have you
14 take a verbal statement here or a written statement or
15 if we want to amend Exhibit A. I'm not sure what our
16 best path forward is. Maybe Mr. Brancard has a
17 suggestion in regards to that.

18 THE HEARING EXAMINER: We'll need to
19 clarify at some point with a document. Exactly what
20 is the final area here. I have a number of questions
21 about it myself.

22 THE TECHNICAL EXAMINER: Okay. I'll
23 let you -- when you touch base with them, then you
24 guys can hash that out. A question I had, Mr. Rankin,
25 was the State Land Office notified of this hearing

1 then?

2 MR. RANKIN: They were, Mr. McClure.

3 THE TECHNICAL EXAMINER: Okay. Do we
4 have that included here? I just -- I didn't notice
5 them in your certified mailing. I don't know if this
6 is like -- in your conversation with Mr. Dawson was it
7 just kind of a communication in regards to that or was
8 there actually an official notification done?

9 MR. RANKIN: I believe, Mr. Examiner
10 that they were officially notified of the application.

11 THE TECHNICAL EXAMINER: Maybe I just
12 am missing it here.

13 MR. RANKIN: We've been in discussions
14 with them throughout the process going back for
15 several years and including during the course of their
16 application.

17 THE TECHNICAL EXAMINER: Oh, don't get
18 me wrong -- I would assume that they're aware, but we
19 don't -- I'm not sure if we have anything actually
20 demonstrating that here, though, is what I'm getting
21 at.

22 MR. RANKIN: Okay.

23 THE TECHNICAL EXAMINER: And maybe I'm
24 just missing it, but I don't see where they're
25 included here. And it looks like you have everything

1 in alphabetical order, so I'm assuming you'd be under
2 in there, but I'm --

3 MR. RANKIN: I will look through it,
4 Mr. Examiner. I don't myself -- there's a large
5 number of folks here. I don't see them myself at the
6 moment, but perhaps if they're not on this list, I
7 will double check, and perhaps an email from
8 Mr. Dawson indicating that he has received notice of
9 the application will be sufficient.

10 THE TECHNICAL EXAMINER: I'll, of
11 course, defer to Mr. Brancard, but I wonder if
12 something like that might be sufficient if we don't
13 have it here. Some sort of written statement from the
14 state land from Mr. Dawson may be sufficient, but like
15 I said, I'll leave it to Mr. Brancard and what his
16 thoughts are there.

17 Yeah, at this point, I don't think I
18 have any more questions. Thank you, Mr. Rankin.
19 Thank you, Mr. Brancard.

20 THE HEARING EXAMINER: Thank you. All
21 right. Let me start with the application, Mr. Rankin.
22 Just a curious question on paragraph 8 of the
23 application, it says, "DJR controls operations over
24 committed tracts covering 92 percent of the expanded
25 unit area." What's the other 8 percent? Is that

1 unleased minerals or is that some other operator?

2 THE TECHNICAL EXAMINER: Mr. Examiner,
3 the other 8 percent constitute the state lands that
4 are within next year boundaries of the acreage. And
5 then there are three Indian leases for whom the
6 lessees have opted not to join at this time.

7 THE HEARING EXAMINER: Okay. So state
8 lands are not leased?

9 MR. RANKIN: No. The state lands are
10 leased.

11 MS. BINION: -- State Land Office has
12 not --

13 MR RANKIN: But the State Land Office
14 is not at this time committed to including those lands
15 in the unit agreement.

16 THE HEARING EXAMINER: Okay. Is DJR
17 the state lessee?

18 MR. RANKIN: Yes, Mr. Examiner.

19 THE HEARING EXAMINER: And so there are
20 three tracts of allotted lands that are not leased?

21 MS. BINION: They're leased.

22 MR. RANKIN: They're leased, but the
23 lessees were not DJR have not committed their
24 interests to the acreage or to the unit agreement.

25 THE HEARING EXAMINER: All right. But

1 that acreage is within this description?

2 MR. RANKIN: It's within the exterior
3 boundaries; correct.

4 THE HEARING EXAMINER: As is the state
5 lands?

6 MR. RANKIN: Correct.

7 THE HEARING EXAMINER: So one thing
8 that seems to be missing from your application is a
9 legal description of the entire area, the 23,000
10 acres. You have 7,000; you have a 16,000.

11 MR. RANKIN: Well, they were previously
12 described, Mr. Examiner, in the application and are
13 being referred to with their defined terms. But we
14 can submit a statement that includes the correct
15 complete definition of the expanded acreage.

16 THE HEARING EXAMINER: Yeah, I think
17 we'll need that for our order -- is a legal
18 description of this new unit area because that's what
19 we're being asked to approve here or bless. So, okay.
20 Let me go then to Exhibit B6, the big map. Now, I'm
21 really confused here, okay. So the red area is what's
22 currently in OCD's order?

23 MR. RANKIN: That's correct,
24 Mr. Examiner.

25 THE HEARING EXAMINER: Okay. The

1 dashed area is what the new order will be?

2 MR. RANKIN: Correct.

3 THE HEARING EXAMINER: Okay. What's
4 the solid line? The Carson unit Mancos participating
5 area.

6 MR. RANKIN: I think I'm going to try
7 to explain this, but basically, the solid black line
8 is the participating area, the Mancos participating
9 area in the old unit.

10 THE HEARING EXAMINER: Okay. But does
11 it have any meaning for us right now? Let me just try
12 that.

13 MR. RANKIN: I don't think so,
14 Mr. Examiner. I hazard to guess. I don't think so.
15 I think this was intended to show an evolution of the
16 unit boundaries over time, and the current
17 participating area for the Mancos unit.

18 THE HEARING EXAMINER: All right. So
19 if everything in the red is currently in the order,
20 and everything within the dashed line will be in the
21 order, there seems to be areas that are under the --
22 within the red that are not within the dashed area.

23 MR. RANKIN: That's right.

24 THE HEARING EXAMINER: So we're not
25 just expanding the area, we're also contracting it in

1 some way?

2 MR. RANKIN: Mr. Examiner, the when you
3 go back to the application or actually Exhibit B,
4 Miss Binion's statement, there was a period in 1961,
5 in paragraph 9 of her statement, where under the terms
6 of the agreement, it contracted automatically. So
7 that's why the contraction that occurred in 1961 is
8 not reflected in the Division's order because it
9 contracted under its own terms in 1961.

10 THE HEARING EXAMINER: All right. But
11 what's within the dashed lines, that's what we're
12 being asked to approve as the new unit area?

13 MR. RANKIN: Correct.

14 THE HEARING EXAMINER: Okay. And so
15 within that dashed line, according to this document,
16 there's 1,360 acres of state trust land?

17 MR. RANKIN: Correct.

18 THE HEARING EXAMINER: So you want us
19 to include the state trust land within this area?

20 MR. RANKIN: Mr. Examiner, that's
21 correct. I guess the bottom line is, however, that
22 unless and until the state land commits its acreage to
23 the unit agreement, it will not be -- those tracts
24 will not be committed to the agreement.

25 THE HEARING EXAMINER: Okay. So it's

1 part of the unit, but they're not committed yet.

2 MR. RANKIN: Correct.

3 THE HEARING EXAMINER: Along with the
4 lessees of three allotted tracts?

5 MR. RANKIN: Correct.

6 THE HEARING EXAMINER: All right. I'm
7 just trying to understand this, okay? Okay, so yes,
8 the B7, we clearly need a letter from the BLM that
9 talks about the 23,000 acres or just the addition of
10 the 16,000. Mr. McClure has already addressed that
11 issue. So I don't know if you've discussed this, but
12 you also have letters here from the Federal Indian
13 Minerals Office, sometimes known as FIMO, where they
14 approved this. Now, in the FIMO document, they also
15 say they don't have any legal description. They just
16 say they're covering the lands identified in
17 Exhibit A, attached in the amendment is Exhibit 4 and
18 the Exhibit B is Exhibit 5. Perhaps we need those
19 Exhibits.

20 MR. RANKIN: Yes, Mr. Examiner, and
21 those were the attachments, I believe, that I
22 indicated that we're going to be submitting a revised
23 B7 that will include those attachments.

24 THE HEARING EXAMINER: Thank you. I
25 think what Mr. McClure and I are trying to get at

1 here, is that we kind of like to just have a sense
2 that everybody's approving the same acreage here.

3 MR. RANKIN: Yes.

4 THE HEARING EXAMINER: Okay? Before we
5 get asked to bless anything. I mean, you've done the
6 right thing. Gotten the approvals from BLM and
7 Federal Indian Minerals Office first. So that makes
8 our life a lot easier. But we want to make sure that
9 they have approved what you say they have approved.

10 MR. RANKIN: Yes. I understand from
11 Miss Binion that the approval on the acreage expansion
12 also from BLM also includes the FIMO approval as well.
13 So when we submit that as an updated exhibit, that
14 will be included.

15 THE HEARING EXAMINER: All right. So I
16 don't know how you can explain this, but since we have
17 a number of allottees on the phone today, can you
18 explain what the impact of this expansion of the unit
19 area is to say an allottee whose lands are within the
20 expanded area?

21 THE HEARING EXAMINER: I think I lost
22 Mr. Rankin on that one.

23 MR. RANKIN: Sorry, Mr. Examiner. I
24 was taking comments from Miss Binion, so I had a
25 reasonable response to your question. Mr. Examiner, I

1 think that the answer is that it expands the acreage
2 within which the allottees stand to benefit. And so
3 that drilling within the unit boundaries will have the
4 benefit of allocating production to more allottees
5 than previously. And even though the unitized
6 interval is being contracted to a smaller segment of
7 the formation, that won't impact the allottees because
8 they still have an interest in those tracts. So
9 essentially the expansion of the unit will allow for
10 greater acreage to be included and developed over time
11 so that more allottees will benefit from production.

12 THE HEARING EXAMINER: Is it fair to
13 say that any production that occurs within this unit,
14 if this unit is approved -- seemingly has -- that any
15 of the allottees will benefit from any production
16 within the unit regardless of whether that production
17 is occurring on their land?

18 MR. RANKIN: Mr. Examiner, that's a
19 difficult question because the BLM is no longer
20 approving undivided units. And so they are only
21 approving divided units which means that after a well
22 comes on, after a well is drilled, and starts
23 producing, the BLM must do a determination to confirm
24 that the well is commercial and paying as producing
25 commercial quantities. And at that time, then the BLM

1 will make a determination on what the participating
2 area should be or how that well should be included in
3 the existing participating area. So only allottees or
4 interest owners that are included within a
5 participating area as defined by the BLM will benefit
6 from the production of that well. As the DJR develops
7 the acreage within the unit -- the participating area
8 is expected to increase over time as the BLM expands
9 it based on production. So the short answer to your
10 question is no, only allottees within the
11 participating area as defined by the BLM will share in
12 production until wells are drilled, in stepwise
13 fashion out and additional acreage is included in the
14 participating area.

15 THE HEARING EXAMINER: Okay. So is
16 there a plan there by DJR to move sort of across this
17 area or expand from one part of it to another?

18 MR. RANKIN: Yes, Mr. Examiner, DJR
19 does have a plan, and I believe as with all unit
20 agreements, they have to submit a plan of development
21 every year, identify what their plans are going
22 forward, and what they have done in the previous year.

23 THE HEARING EXAMINER: So creating a
24 larger unit allows them to sort of more rationally
25 expand that development, use existing facilities,

1 etc.?

2 MR. RANKIN: That's right,
3 Mr. Examiner, especially in the northwest, unit
4 development is crucial to be able to effectively,
5 efficiently develop acreage to reduce impacts on the
6 surface, to reduce roads and other efficiencies that
7 are not otherwise possible in the normal course of
8 development. So unitization allows operators like DJR
9 to develop acreage with having a smaller impact on the
10 surface generally.

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

13 With that, I will open it up first to
14 the persons who have identified themselves. We have
15 Esther Yazzi-Lewis. Do you have any questions or
16 comments at this point?

17 MS. YAZZI-LEWIS: I had received a
18 certified letter indicating there was a hearing today.
19 And I made several phone calls. I finally got ahold
20 of Mr. Rankin and also the Indian Office of Minerals,
21 and I was told that -- my question was, if there is
22 more drilling on the allotment, will there be more
23 drilling and I know with the Mancos drilling they
24 drill down and then they go horizontal. And my
25 question is, as you guys were talking, if they

1 faulting next to us, drills and then they go
2 horizontal into our allotment, we lose out on the
3 mineral benefits; am I right?

4 THE HEARING EXAMINER: Well, I'll let
5 Mr. Rankin answer that. I think the answer is no.
6 That you will be sharing with the benefits from that,
7 but how that's allocated is something I think that
8 Mr. Rankin indicated that the BLM will determine who
9 all participates in each of those wells. Participates
10 means, in other words, who gets to share in the
11 royalties. Mr. Rankin?

12 MS. YAZZI-LEWIS: Just one minute. I
13 guess my question is that those are the square here,
14 and then my allotment is right next door, if the
15 allotment next door to me are willing to approve more
16 drilling, if they drill and we, on our allotment say
17 we don't want any more new drilling, our neighbor
18 drills and they go horizontal into our allotment, we
19 lose out on the money; right?

20 MR. RANKIN: Mr. Examiner and Miss
21 Yazzie-Lewis, if I understand your question, the
22 answer is if a horizontal well has a surface on a
23 different tract of land than yours but is drilled and
24 completed within your tract and produces from your
25 tract, then the owners, including yourself within that

1 tract would benefit from the value of that production.
2 In other words, you'd get paid a share of the
3 production according to the BLM's allocation
4 methodology within the participating area.

5 MS. YAZZIE-LEWIS: Okay. That means
6 that -- I'm sorry for prolonging this -- that means
7 that as long as they don't drill on our allotment, our
8 neighbor drills and they take the resources off of our
9 land, you're saying that we still benefit under the
10 next doors allotment because it should record that
11 they're taking the resources out from under our
12 allotment.

13 MR. RANKIN: Yes, Miss Yazzie-Lewis,
14 when the application for the well is filed with the
15 Division and the BLM, they indicate the location of
16 the lateral -- the well board that's going to
17 penetrate your tract. And pursuant to the agreements
18 that have been entered with FIMO and the BLM, there's
19 an allocation formula that will allocate production
20 from that lateral with the owners within the area.

21 UNIDENTIFIED SPEAKER: -- next door
22 neighbor.

23 MS. YAZZIE-LEWIS: Our position is that
24 the expansion, I don't think, or the making the land
25 smaller, I don't think we questioned that. We

1 question -- our interest is that we don't want new
2 wells on our allotment. That's our position. Am I
3 right, Sara. Yes, she said.

4 THE HEARING EXAMINER: Okay. Thank
5 you.

6 So Mr. Rankin, I think an important
7 part of this discussion is what you had discussed
8 earlier, which is that DJR will be required to submit
9 an annual plan; is that correct, of development?

10 MR. RANKIN: Yes.

11 THE HEARING EXAMINER: Okay. That will
12 be submitted to the BLM and to FIMO?

13 MR. RANKIN: Yes.

14 THE HEARING EXAMINER: Okay. Will that
15 plan be available for people to look at? I would hope
16 so.

17 MR. RANKIN: Yes, it is, Mr. Examiner.
18 And that plan is filed annually every March.

19 THE HEARING EXAMINER: Okay. So I
20 think for folks wanting to know what is planned in
21 terms of possible drilling -- that doesn't mean that
22 they will actually get drilled -- but what their
23 company is hoping to drill, that would be something
24 for them to check with the DLM, district office, and
25 FIMO to find out what the plan is and what the

1 company's plan is for that coming year.

2 So with that, I think we had Teresa
3 Johnston, also? You want to say anything today or
4 questions?

5 MS. JOHNSTON: Yes. Hello? This is
6 Teresa Johnston. I did also receive a certified
7 letter and that's why I'm attending this meeting. And
8 a few of my siblings never received any certified
9 mail, and they were wondering what had happened. I
10 only have one sibling but she's attending the
11 veteran's meeting right now. And -- but as I
12 understand on my sister Esther's question on
13 horizontal drilling, that we still, yes, we still get
14 the benefits because you know that's how a company
15 would be drilling into our tract land and it's been
16 our area. It's where our resources are at. We still
17 receive benefits off of that one because I used to
18 work with Metro Resources before. Anyway, it's a very
19 interesting meeting, and I'd like to see more of the
20 info -- information on what they had approved on way
21 back. All the questions that were asked on here.
22 Would we be receiving those as well, like, letters
23 that they had needed -- something that Mr. McClure was
24 asking on?

25 THE HEARING EXAMINER: These documents

1 will be placed on our website.

2 MS. JOHNSTON: Okay.

3 THE HEARING EXAMINER: And they can be
4 available and used. What you do is, you use the case
5 number for this case which is 23282.

6 MS. JOHNSTON: Okay.

7 THE HEARING EXAMINER: When you open
8 the case file, you'll see all the documents that have
9 been submitted, and of course, you want to look at the
10 bottom -- that's where the most recent ones are.

11 MS. JOHNSTON: Yes, okay. All right.

12 THE HEARING EXAMINER: All the
13 documents are public.

14 MS. JOHNSTON: Yes. This is a very
15 good Exhibit B6 graph. This is what I used to work on
16 things like this before. Okay. Thank you, that's it.

17 THE HEARING EXAMINER: Thank you.

18 Check again. Are there any other
19 persons wanting to comment on this application,
20 Case 23282? Hearing none, Mr. Rankin, do you need to
21 summarize and be clear what you need to submit to us?

22 MR. RANKIN: Mr. Examiner, thank you.
23 I appreciate the questions from the Division and the
24 examiners. We will submit an updated statement from
25 Miss Binion that includes all the acreage described

1 within the expanded area so that it's in one single
2 location. We will submit the final BLM and FIMO
3 approval reflecting the expanded acreage. I do
4 believe that what we provided in the exhibit packet
5 was just for the amendment to the unit agreement. So
6 we will provide you the file approval of the expanded
7 acreage. And then finally, we'll submit a revised
8 Exhibit B7 that includes those attachments that you
9 referred to so that it's clear what both FIMO and BLM
10 are referring to in their approvals.

11 THE HEARING EXAMINER: Okay.
12 Mr. McClure, anything else?

13 THE TECHNICAL EXAMINER: Just something
14 from the State Land Office showing that they were
15 notified of this hearing.

16 MR. RANKIN: Thank you. I'll add that
17 as well.

18 THE HEARING EXAMINER: Thank you. If
19 anybody is watching this on their computer, in the
20 chat section, Marlene has placed the link to where you
21 can look up case files.

22 Thank you, I appreciate everyone today.
23 With that, the exhibits as submitted by DJR accepted
24 into the record. This case will be taken under
25 advisement with the record left open for the exhibits

1 that Mr. Rankin has discussed, or the BLM have
2 approvals and FIMO approvals. And finally a actual
3 legal description of the new area as amended.

4 With that, thank you everyone for
5 Case 23282.

6 THE HEARING EXAMINER: With that, I
7 will call Case 23283. DJR Operating. Are you ready
8 to go forward, Mr. Rankin, or do you need a break.

9 MR. RANKIN: Okay, Mr. Examiner. I
10 appreciate the inquiry, but I'm ready to go forward.
11 Adam Rankin appearing on behalf of the applicant in
12 the case, DJR. And appearing on behalf of the
13 operator with the Santa Fe office of Holland & Hart.
14 We have only witnesses by affidavits today.

15 THE HEARING EXAMINER: Thank you. So
16 the prior case was the Carson unit expansion. This is
17 the Ponderosa unit reduction.

18 Any other interested persons wanting to
19 speak today on Case 23283? Hearing none for now, DJR
20 may proceed.

21 MR. RANKIN: Thank you, Mr. Examiner.
22 In this case, DJR is requesting an order to amend
23 Order R-14914 to reduce the geographic area of the
24 proposed Ponderosa unit to modify the definition of
25 the unitized interval and to reflect that the proposed

1 unit agreement from the U.S. Bureau of Land Management
2 is a model form exploratory unit agreement, divided
3 type form which no longer provides for a single
4 participating area.

5 We filed on Tuesday, Mr. Examiner, a
6 exhibit packet consisting of Exhibits A through E.

7 (Exhibit A through Exhibit E were
8 marked for identification.)

9 Exhibit A is a copy of the application
10 that was filed in this case, providing an overview of
11 the history of this particular unit, the acreage that
12 was included under the original order, and the
13 amendments to that order that DJR is requesting in
14 this application.

15 Exhibit B is a copy of the
16 self-affirmed statement of DJR's senior land
17 consultant, Miss Mona Binion who has previously
18 testified before the Division, and her credentials as
19 an expert in petroleum land matters has previously
20 been accepted and made a matter of record. Her
21 self-affirmed statement reviews the Ponderosa unit in
22 its history, the prior order that approved the
23 unitization of the acreage under the Division Order
24 R-14914.

25 Attached to her exhibit is Exhibit B1

1 which is a general location map reflecting the general
2 location of the unit boundary which is just west of
3 Highway 550 near Nageezi. In her statement she also
4 reviews the background of the order that created the
5 unit initially which is attached as Exhibit B2. She
6 describes the acreage that was initially included in
7 that order.

8 Exhibit B3 is a copy of the unit
9 agreement that was approved at that time and
10 incorporated in the original order from the Division.
11 Exhibit B4, in her self-affirmed statement, is a copy
12 of the initial preliminary approval of the U.S. Bureau
13 of Land Management and Federal Indian Minerals Office.
14 I'm sorry. Let me restate that. Exhibit B4 is a copy
15 of the new form of unit agreement that would designate
16 DJR as the unit operator. Exhibit B5 is a copy of a
17 map that reflects the acreage that would be included
18 in the reduced unit area as well as an outline of the
19 acreage that would be excluded. Let's see.

20 Exhibit B6 is the preliminary approval from the BLM
21 authorizing -- giving preliminary approval of the unit
22 agreement as proposed, and the reduction in the
23 geographic area.

24 Exhibit C is a copy of the
25 self-affirmed statement of Mr. Jack Rosenthal. He is

1 the vice president of Geosciences for DJR Operating.
2 He has now previously testified before the Division
3 and has had his credentials accepted as a matter of
4 record. Attached to his self-affirmed statement is
5 his resume as C1. C2 through C5 reflect his geologic
6 analysis of the unit indicating that the acreage is
7 suitable for a unitized plan of development.
8 Exhibit C1 is structure map reflecting the line of
9 cross sections, A to A prime, B to B prime. And the
10 type log reflecting the unitized interval. Exhibit C2
11 and C3 are the cross sections that are referenced on
12 the line of cross section on the structure map
13 reflecting that the target unitized interval is
14 consistent and across the unitized acreage. Exhibit
15 C5 is the type log I referenced that identifies the
16 unitized interval which is comprised of the Mancos
17 formation.

18 Exhibit D is an affidavit prepared by
19 me and our office reflecting that we have provided
20 notice of today's hearing and the application to the
21 parties that will be affected by the -- within the
22 Ponderosa unit area provided to us by DJR and those
23 parties are listed behind Exhibit D along with the
24 status of the certified mail that went to each of
25 those individuals.

1 Exhibit E is a affidavit of publication
2 reflecting that we have published a notice of today's
3 hearing and the application in the Farmington Daily
4 Times identifying each of those individuals by name.

5 Mr. Examiner, just so you all are
6 clear, the Ponderosa unit which was previously
7 approved by the -- under Order R-14194 never became
8 effective. I can obtain that order, but that unit
9 never became effective. So while there's an order on
10 record, it was never drilled and never became
11 effective. So now, DJR is the successor to Encana for
12 this acreage and is seeking to develop the acreage as
13 a unit and in negotiations and discussions with the
14 BLM has reformed the unit agreement as submitted here
15 of this application and is now seeking to resize the
16 unit and develop the acreage as proposed.

17 So with that, Mr. Examiner, I would ask
18 that Exhibits A through E be accepted to the record
19 with their attachments. And if you have any
20 questions, I'll be happy to try to address them, and
21 that the case be taken under advisement.

22 THE HEARING EXAMINER: Thank you.

23 MR. RANKIN: Also, Mr. Examiner, before
24 I fully relinquish the microphone, as with the Carson
25 unit in this situation, DJR has been in extensive

1 discussions with the State Land Office that have been
2 ongoing. And as with the Carson unit, the State Land
3 Office does have some tracts that are included within
4 the exterior boundaries of this unit as proposed.

5 However, the State Land Office has not yet determined
6 whether it will commit its acreage or not under the
7 unit agreement, and so again, they have been engaged
8 with DJR throughout this process and Mr. Dawson is
9 aware of this hearing today and indicated that if the
10 Division has any questions that they are welcome --
11 anybody over there is welcome to reach out to him
12 directly. But again, as with the Carson, the State
13 Land Office has not yet made a determination about
14 whether to commit its tracts or not.

15 THE HEARING EXAMINER: Thank you.

16 Okay. We will first go to questions.
17 Mr. McClure and myself, I noticed that there is a
18 member of the audience who has their hand raised. We
19 will get to them when we're done with these questions.
20 So please be patient. Let's start with Mr. McClure.

21 THE TECHNICAL EXAMINER: Yes,
22 Mr. Brancard. Mr. Rankin, just to confirm,
23 essentially, it is correct then that the BLM is
24 already approved -- I mean, is it actually a reduction
25 then if the original unit was never formed or is this

1 a new unit? I guess, how was this actually -- or how
2 is this considered, I guess, classified?

3 MR. RANKIN: So Mr. McClure, I think
4 the best way to think about it is that we're asking
5 for this order, the acreage under this order to be
6 reduced. So I think in terms of the BLM, it's
7 essentially a new unit agreement, but for purposes of
8 the OCD it's a reduction under the order.

9 THE TECHNICAL EXAMINER: Yeah, so
10 essentially, would I be correct in classifying how
11 it's coming to the Division in as you're just trying
12 to cure an initial hearing order to make it accurate
13 then; is that correct?

14 MR. RANKIN: Yes, Mr. McClure, we want
15 to update the Division's records to accurately reflect
16 the geographic acres and then the terms of the unit
17 agreement.

18 THE TECHNICAL EXAMINER: But as far as
19 how the BLM is concerned, this is a brand new unit
20 agreement; is that correct?

21 MR. RANKIN: I think that's probably a
22 fair characterization. It's a different unit
23 agreement.

24 THE TECHNICAL EXAMINER: Now, there's a
25 line in the BLM's approval letter regarding all

1 existing vertical and horizontal Michael's [ph] wells
2 drilled in Gallup within the unit area shall be
3 excluded. I guess two questions there. Are there
4 actually any horizontal and vertical wells in the
5 Gallup within the unit area? And if so, how are those
6 going to be treated then? Are they on com agreements
7 or what's going on with that?

8 MR. RANKIN: Yeah, Mr. McClure, there
9 are as I understand, some existing some vertical and
10 horizontal wells in the Gallup and they will be
11 treated on a stand-alone com agreement basis or lease
12 basis, depending on the situation, you know.

13 THE TECHNICAL EXAMINER: Now, he
14 references the -- and by him I mean the BLM --
15 references the initial designated well to be
16 determined. Essentially so -- because this is like a
17 brand new unit, the well that's listed in our current
18 existing order is not accurate then. This is going to
19 be a well completely independent of what was done in
20 the past?

21 MR. RANKIN: Correct.

22 THE TECHNICAL EXAMINER: Okay. And so
23 that initial defining well from the initial order, was
24 that never drilled then?

25 MR. RANKIN: No. It was not,

1 Mr. Examiner.

2 THE TECHNICAL EXAMINER: Okay. Okay.

3 I'm understanding, well, yeah, getting on the same
4 page somewhat. As far as the unitized interval, is it
5 different from the initial unit, the prior unit. Or
6 is it the same? It looks like the well in which it's
7 defined, I believe, may have changed. But is the
8 actual stratigraphic -- is the actual what's being
9 referred to here, is that changing at all or is it
10 essentially the same formation?

11 MR. RANKIN: Mr. McClure, my
12 understanding is that the -- you are correct. It is a
13 different well that is being used as a type log to
14 define the unitized interval. My understanding is
15 that the unitized interval is the same as it was
16 previously, you know, identified. And if I'm
17 mistaken, and I think I see Mr. Rosenthal is nodding
18 his head, correct, that this is simply a different
19 well that's unitized interval is the same.

20 THE TECHNICAL EXAMINER: Okay. Sounds
21 very good that there was whatever speculating on that
22 I wanted a confirmation. So I guess, I suppose this
23 question actually pertains maybe a little bit to the
24 last case as well as this one, if the State Land
25 Office determines not to commit their acreage, is it

1 the BLM's intent then to reduce this unit? I mean, I
2 guess it's hard to speculate on what the BLM's intent
3 is, but are you aware of what the plan would be if the
4 State Land Office does not commit their acreage to the
5 unit?

6 MR. RANKIN: Mr. Examiner, the result
7 of that if the State Land Office decides not to commit
8 its acreage, wouldn't change the unit boundaries. It
9 simply would change -- it simply would be that the
10 State Land Office tracts wouldn't be committed. They
11 wouldn't sign so they wouldn't be treated as part of
12 the unitized substances. So it would be, if and when
13 they're drilled, they would be drilled separately
14 under a CA or a com unit.

15 THE TECHNICAL EXAMINER: I was going to
16 say, maybe it won't change the external boundaries,
17 but you would essentially have internal boundaries at
18 that point; correct?

19 MR. RANKIN: Right.

20 THE TECHNICAL EXAMINER: I mean,
21 they're still going to be tracts missing; right? If
22 they were to not commit?

23 MR. RANKIN: The intent, Mr. Examiner,
24 is to always give the State Land Office the
25 opportunity to commit their acreage and so they will

1 just be listed as uncommitted tracts within the unit
2 boundary.

3 THE TECHNICAL EXAMINER: So the BLM
4 would continue to expand the participating area to
5 include these even if they're not committed to the
6 unit?

7 MR. RANKIN: No. It wouldn't include
8 the state lands under the CA if they're not committed,
9 no.

10 MS. BINION: -- in the wells in the --.

11 THE TECHNICAL EXAMINER: Okay. So then
12 based off what it sounded like there, it's, well,
13 essentially then, it would be -- they would have to
14 get a CA for the state lands, any wells that was in
15 the state acreage as uncommitted. There'd be a CA,
16 part of it in the unit, part of it in those state
17 lands then; is that correct to say?

18 MR. RANKIN: Depending on how the well
19 is oriented, yes, that's right, Mr. McClure. And as
20 with, you know, any other unit agreement where there's
21 uncommitted tracts, there essentially becomes window
22 acreage within the exterior boundaries of the unit.
23 And as when tracts within the window acreage that are
24 uncommitted are drilled and developed, then they would
25 have to be incorporated through a CA that would, you

1 know, partially overlap, potentially depending on the
2 orientation of the well and acreage.

3 THE TECHNICAL EXAMINER: But having
4 said that, your actual legal description of the unit,
5 wouldn't it then change to represent that these
6 windows or whatever we're calling them, would be no
7 longer part of the unitized area?

8 MR. RANKIN: My understanding is that
9 the BLM wouldn't change that description. It would
10 just be that those tracts are represented as
11 uncommitted.

12 THE TECHNICAL EXAMINER: Okay.

13 MR. RANKIN: And the intent there,
14 Mr. Examiner, is that they can always subsequently
15 commit those tracts to the unit at a later time.

16 THE TECHNICAL EXAMINER: And then this
17 approval letter from the BLM dated June 29th of 2020,
18 that is the most up-to-date approval here; right?

19 MR. RANKIN: It is, Mr. Examiner, and
20 just suffice it to say that there has been -- maybe
21 partly because of the pandemic, or just the business
22 to be honest, has been in a prolonged process to get
23 the file approval for many different things. So this
24 -- yes, that is the most up-to-date -- Mr. McClure,
25 I'm being reminded that there were some unleased

1 tracts, allotted tracts within the acreage that the
2 BLM required DJR to acquire those leases. And so that
3 partly explains the timeframes here, that DJR had to
4 acquire those leases. And they successfully did so,
5 so that was part of the timeframe issue.

6 THE TECHNICAL EXAMINER: So did the BLM
7 just backdate their approval then, to when it was
8 submitted to them; is that what occurred here then?

9 MR. RANKIN: No, no. It was approved
10 at the time that there were subsequent issues that
11 came up regarding those tracts.

12 THE TECHNICAL EXAMINER: Oh, so --

13 MR. RANKIN: Yeah, I think, in fact,
14 Ms. Binion is putting out that there's a condition in
15 there in the letter that says that they must obtain
16 those leases, I believe.

17 THE TECHNICAL EXAMINER: Now,
18 considering that this letter was from 2020, do we
19 actually have a well -- an actual well identified
20 then -- rather than just to be determined here, for
21 the well number?

22 MR. RANKIN: Yes, Mr. Examiner, there
23 is a well now that's been identified.

24 MS. BINION: We submitted it to the
25 BLM. We're waiting for them to give us written

1 approval of them.

2 THE TECHNICAL EXAMINER: All right. So
3 essentially we don't have an API number yet, if it's
4 with the BLM currently; is that correct?

5 MR. RANKIN: That's correct. Yeah, no,
6 DJR has proposed a well, and it's undergoing review by
7 the BLM at this time. So there's no API number or
8 final approval from the BLM on that well.

9 THE TECHNICAL EXAMINER: Is the surface
10 hole location -- bottom hole location that's listed
11 here in this approval letter accurate then or still
12 accurate, I guess?

13 MR. RANKIN: You're talking about in
14 the preliminary approval?

15 THE TECHNICAL EXAMINER: Well, I don't
16 know if it's preliminary, but it's the approval letter
17 here; right? I mean, this ain't preliminary, this is
18 the actual approval; right? Or am I wrong?

19 MR. RANKIN: I mean, it's not the final
20 approval of the unit. Oh, I see.

21 MS. BINION: I believe we submitted
22 an --

23 MR. RANKIN: No, this is a different
24 well location, Mr. Examiner. This is a different
25 well.

1 MS. VERGE: Hello? I have a question.
2 I'm sorry to butt in but I'm at work and I'm half
3 listening and on the Carson unit, would I be able to
4 set a meeting with DJR because I'm like half listening
5 and I'm at work.

6 THE HEARING EXAMINER: I'm sorry, could
7 you identify yourself for the record please? Thank
8 you.

9 I'm Kay Verge Joe [ph] for the Carson
10 unit.

11 THE HEARING EXAMINER: Okay. Yeah.
12 You're free to contact DJR if you have a interest in
13 the unit.

14 MS. VERGE: Okay. And everything else
15 will be posted; right? Like, to go over, review it,
16 and whatnot?

17 THE HEARING EXAMINER: Everything in
18 this proceeding will be in our case files.

19 MS. VERGE: Okay. And that will be the
20 same website?

21 THE HEARING EXAMINER: Yes.

22 MS. VERGE: Okay. All right. Thank
23 you.

24 THE HEARING EXAMINER: Sure.

25 THE TECHNICAL EXAMINER: Mr. Rankin, so

1 the initial well then has -- did I hear you correctly
2 that that is updated from here, from what's in this --

3 MR. RANKIN: Yeah, it's been updated
4 from what's in this letter, correct, and it's being
5 reviewed now by the BLM.

6 THE TECHNICAL EXAMINER: Okay. Can you
7 submit to us just the description that's essentially
8 here, your surface and bottom hole locations as well
9 as the name, but with the actual well number, assuming
10 it's determined now?

11 MR. RANKIN: Yes.

12 THE TECHNICAL EXAMINER: Okay. Thank
13 you. Just to backtrack a little bit. I was under the
14 understanding that this was their -- so this is not
15 their final approval letter then? What's included
16 here, it's not approved yet? Because I thought when
17 we started that this was the site of the new unit is
18 approved now, or am I misunderstanding?

19 MR. RANKIN: Mr. McClure, it made me
20 recall that the process for the BLM is that you have
21 an initial meeting where you identify a area and
22 geology and then the BLM, upon review, will issue a
23 preliminary letter indicating their preliminary
24 approval of the proposed unit area and boundaries.
25 And that's what this letter is. And so then the next

1 step will be for DJR to go out and finalize all that
2 and get the final approval and that will subsequently
3 be then -- usually the course is that that will be
4 subsequently submitted to the Division to confirm that
5 the unit has been effectuated.

6 THE TECHNICAL EXAMINER: Exactly.
7 Exactly. Yeah, I just thought this was -- I was
8 misunderstanding when we first started this case, but
9 yes. I'm now -- I'm understanding this is kind of the
10 normal procedure here then with the preliminary and
11 then the approval will be following up with the, I
12 guess, after the Division's recommendation or however
13 the BLM's policy is. But, okay, I'm on the same page.
14 I just had a misunderstanding, initially. I thought
15 this was similar to the prior case, I guess.

16 MR. RANKIN: Right. Just the Carson is
17 the only one that had the final approval on, and it is
18 effectuated. The Ponderosa is still in that normal
19 course preliminary approval status.

20 THE TECHNICAL EXAMINER: Okay. Very
21 good, yeah. I don't think I have any more questions.
22 Thank you, Mr. Rankin.

23 Thank you Mr. Brancard.

24 THE HEARING EXAMINER: Thank you. All
25 right. Let me start with the application, what you're

1 describing as the unitized interval. And this comes
2 from somebody on our staff. Don't think that I
3 understand geology. The comparison between this case
4 and the prior case, it seems to be the same general
5 formation, just a different defining well?

6 MR. RANKIN: That's my general
7 understanding, is that both units are targeting the
8 Mancos.

9 THE HEARING EXAMINER: All right. So
10 what our folks noticed is that in the prior case,
11 where it says, you know, goes from the top of the
12 Mancos Shale which is the base of the Masa Verde Group
13 and then it says, to the base of the Mancos Shale
14 which in the prior case is described as "base of
15 Greenhorn Limestone," that that base of Greenhorn
16 Limestone does not appear in this case.

17 MR. RANKIN: Mr. Examiner, like you, I
18 am ignorant of the details of the geology. And as
19 much as I like to, you know, sometimes do my best to
20 fill in, I'm going to have to defer this particular to
21 Mr. Rosenthal who is on the screen here and main menus
22 where I'm at so he can answer that question.

23 THE HEARING EXAMINER: Okay.
24 Mr. Rosenthal, raise your right hand please.

25 //

1 WHEREUPON,

2 JACK ROSENTHAL,

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

6 DIRECT EXAMINATION

7 BY THE HEARING EXAMINER:

8 Q Okay. Is there a reason for the difference,
9 or can we make them look alike?

10 A There is no reason for the difference in the
11 description. As a matter of fact, in the type log,
12 Exhibit C5, that base of the Mancos interval, is
13 actually shown as the base of the Greenhorn Lime. So
14 it could easily be added into that description.

15 Q Great. I think that would make our people a
16 little more comfortable. Thank you.

17 A Thank you for the question.

18 THE HEARING EXAMINER: All right. And
19 so, Mr. Rankin, maybe I'm -- I'm just glancing through
20 your exhibits. Is there something there from FIMO?

21 MR. RANKIN: Yeah, Mr. Examiner, here
22 FIMO does not -- as I understand from Ms. Binion --
23 FIMO does not give preliminary approvals. They ride
24 along with the BLM, initially. And so that's my
25 understanding why there's not a separate preliminary

1 approval from FIMO.

2 THE HEARING EXAMINER: Okay. So
3 presuming as a condition, when we ask to see the final
4 BLM approval, we should also ask to see the final
5 Federal Indian Minerals Office approval?

6 MR. RANKIN: That's my -- my
7 understanding, Mr. Examiner, is that that that will
8 come with the BLM -- with the, yeah, the final
9 approval from both those agencies will come at the
10 end, yeah.

11 THE HEARING EXAMINER: So you earlier
12 mentioned that this unit was not effective. Okay?
13 I'm looking at the Division's order on page 19,
14 paragraph 42. It says, "Division approval upon the
15 Serosa [ph] unit shall be effective following the date
16 which final approval is obtained from the Land Office
17 and the BLM." Did that not occur?

18 MR. RANKIN: Did not, Mr. Examiner.

19 THE HEARING EXAMINER: So in other
20 words, our prior order was never effective?

21 MR. RANKIN: Sorry, excuse me, would
22 you mind re-saying that last question?

23 THE HEARING EXAMINER: Because it says
24 "Division approval shall be effective," that means
25 that our approval was never effective?

1 MR. RANKIN: Yeah, Mr. Examiner, I
2 believe that is correct.

3 THE HEARING EXAMINER: Okay. So one
4 possibility then for the Division is to simply rescind
5 that prior order and just give you a new order just
6 like the BLM is doing.

7 MR. RANKIN: That is certainly a
8 possibility in the -- one moment. Mr. Examiner, thank
9 you. There was a reason why, I think, we would like
10 to and prefer to modify the order rather than rescind
11 it. And that's because when the initial order was
12 issued, you'll note that there was some pool issues
13 that were addressed previously. And the order
14 addresses those and creates a Ponderosa unit Mancos
15 oil pool. And so under the terms of the order, it
16 will shrink and expand with the expansion or the
17 contraction of the unit. And so because that has been
18 established, preference would be to operate within the
19 confines of this existing order so that we can
20 maintain and preserve that pool for this unit area.

21 THE HEARING EXAMINER: Okay. Thank
22 you. Yes, pools are important for our folks, so we'll
23 go along. But whatever works for that -- I think
24 that's the only question I have right now. So let me
25 open it up, and I believe earlier we had a hand raised

1 by Wilma Charlie. I'm not getting a response by
2 Ms. Charlie right now, but I see a hand raised from
3 Samantha Catalano, if I could pronounce that
4 correctly.

5 You need to unmute yourself if you'd
6 like to say something. Let me just try. Is there
7 anyone else here today with questions or comments on
8 the application in Case 23283, Ponderosa unit, DJR?
9 Hearing none for now, Mr. Rankin, let's try to
10 summarize with what we need from you.

11 MR. RANKIN: Mr. Examiner, I believe
12 the one item for the Ponderosa was a description of
13 the proposed initial well, defining well. And we will
14 provide that to the Division through a cover pleading
15 in the case file.

16 THE TECHNICAL EXAMINER: I would say
17 the only thing additional is -- and I don't know if I
18 referenced it for this case, but do we have an
19 indication that the State Land Office was notified?

20 MR. RANKIN: I will double check that,
21 Mr. McClure, and if not I will do the same as I will
22 do for the Carson.

23 THE TECHNICAL EXAMINER: Thank you.
24 That was the only other thing that I was aware of that
25 needed to be submitted.

1 MR. ROSENTHAL: Adam, just to add to
2 that -- this is Jack. Note that we will revise the
3 description of the unitized interval to describe or
4 specifically call out the base of the Greenhorn
5 formation.

6 THE TECHNICAL EXAMINER: Mr. Rankin,
7 are you going to submit that to us once that's done?

8 MR. RANKIN: Yes, Mr. Examiner. I will
9 do so.

10 THE TECHNICAL EXAMINER: Thank you.

11 THE HEARING EXAMINER: Mr. McClure,
12 where was the description of the defining well and the
13 documents?

14 THE TECHNICAL EXAMINER: It's in the
15 BLM preapproval letter.

16 THE HEARING EXAMINER: Okay.

17 THE TECHNICAL EXAMINER: But it's
18 changing -- oh, you're just asking what they needed to
19 submit. I was going to say, they can't really submit,
20 it's a new BLM approval letter. This would be an
21 updated information. I mean, unless they do have
22 something from the BLM that has the actual well, I
23 guess.

24 MR. RANKIN: Mr. Examiner, we'll
25 provide you with what was proposed to the BLM. Our

1 understanding is that the BLM has verbally approved
2 that, but they're waiting on -- and they're conferring
3 with FIMO and waiting for FIMO to approve before we
4 get final approval on the location of the well.

5 THE HEARING EXAMINER: Okay. And the
6 other matters we can handle within the order, such as
7 getting final BLM approval, getting final FIMO
8 approval.

9 All right. Any other questions,
10 Mr. McClure?

11 THE TECHNICAL EXAMINER: I don't think
12 so, Mr. Brancard. I think I'm good.

13 THE HEARING EXAMINER: Thank you.

14 So with that, the exhibits in Case
15 23283 will be admitted into the record, and this case
16 will be taken under advisement with the record left
17 open for the submittal of the information that we have
18 just discussed.

19 (Exhibit A through Exhibit E were
20 received into evidence.)

21 Thank you all.

22 Okay. We have two more items left on
23 our agenda today. Well, it's actually just one item,
24 I guess. A motion to dismiss. And I'm wondering if
25 we can get through it now. This doesn't seem too

1 terribly complicated. Let me check in with my court
2 reporter here.

3 Dana, how are you doing?

4 THE REPORTER: Doing good.

5 THE HEARING EXAMINER: All right.

6 So let's figure out where we are. Let
7 me call the case here. These are items number 41 and
8 42 on our worksheet today. These are Cases 23176,
9 23178, Mewbourne Oil Company.

10 MS. HARDY: Mr. Examiner, Dana Hardy
11 with Hinkle Shanor on behalf of Mewbourne.

12 THE HEARING EXAMINER: All right. And
13 then we have Pride Oil Company.

14 MS. SHAHEEN: Pride Energy.
15 Sharon Shaheen on behalf of Pride Energy.

16 THE HEARING EXAMINER: Marathon Oil
17 Permian?

18 MS. BENNETT: Good morning. Dana
19 Bennett on behalf of Marathon Oil Permian, LLC.

20 THE HEARING EXAMINER: Is Marathon
21 wanting to participate in this discussion?

22 MS. BENNETT: I didn't file any papers,
23 but I -- Marathon is implicated by the pleadings that
24 were filed, and so I'm here today to listen and to
25 provide any perspective as may be appropriate, yes.

1 THE HEARING EXAMINER: We have
2 XTO Energy.

3 MR. FELDEWERT: Mr. Examiner, Michael
4 Feldewert with Santa Fe office of Holland & Hart.

5 THE HEARING EXAMINER: Okay. Are there
6 any other interested parties then? Cases 23176,
7 23178.

8 MR. BECK: Mr. Hearing Examiner, Matt
9 Beck on behalf of Jalapeno and Yates. And we're just
10 observing. I don't plan to participate at all today.

11 THE HEARING EXAMINER: Thank you.

12 Anyone else? Hearing none. So we have
13 a motion to dismiss filed by Pride Energy here, and a
14 response and reply. And I believe we can have a
15 little bit of time for oral argument on this. So
16 since Pride was the moving party, Pride gets to speak
17 first, and I'm thinking maybe ten minutes here.

18 MS. SHAHEEN: When you say ten minutes,
19 you mean ten minutes for me or ten minutes for both me
20 and Miss Hardy?

21 THE HEARING EXAMINER: Ten minutes for
22 you.

23 MS. SHAHEEN: Okay. Thank you. I
24 don't know that I --

25 THE HEARING EXAMINER: Miss Hardy I

1 don't know about, but.

2 MS. SHAHEEN: Thank you, Mr. Examiner.
3 The only issue here is whether Mewbourne has an
4 interest in the minerals in the proposed spacing units
5 in these two cases. The answer to that question is
6 no, and therefore the application should be dismissed.

7 This is governed by Section 70-2-17.
8 And at the bottom of page 3 of the reply, I've
9 included the statutory language. It describes what
10 type of owner can pool their interest. The language
11 is italicized. In the beginning it addresses owners
12 of interest who can voluntarily pool their minerals,
13 and then it uses that same definition with respect to
14 forced pooling of those interests. So where there are
15 owners of royalty interests or undivided interests in
16 oil and gas minerals embraced within such spacing or
17 proration unit, one such separate owner who has the
18 right to drill may ask the Division to pool -- to
19 force pool those tracts.

20 Here, Mewbourne has not provided any
21 evidence that it has an interest in the minerals in
22 either of the proposed spacing units. In fact,
23 Mewbourne's landman, Mr. Jolly, admitted to Pride that
24 Mewbourne had no interest, but now Mewbourne appears
25 to argue that it has some sort of contractual

1 interest. However, there's no evidence of an existing
2 contractual interest. There's only evidence that
3 Mewbourne has a hope that it will in the future have a
4 contractual interest.

5 This is evident from review of
6 Mr. Jolly's affirmation that's attached to the
7 response, paragraphs 10 through 12. On paragraph 10,
8 Mr. Jolly states that Mewbourne has obtained written
9 support from Marathon and others that designates
10 Mewbourne as the operator of the acreage in Section 16
11 and the north half of 21. Then Mr. Jolly goes on to
12 say that based on this written support, it has an
13 interest in the acreage and has the right to develop
14 its proposed spacing unit.

15 With all due respect, when you take a
16 look at the only thing that is attached is the letter
17 from Marathon. And when you take a look at that, it's
18 attached as Exhibit 1, I believe. And I'll direct you
19 to the third line. Marathon states that they are
20 negotiating in good faith a mutually beneficial
21 operating agreement. There is no operating agreement.
22 There's no contract that supports any interest here on
23 behalf of Mewbourne.

24 Now, I understand that they argued this
25 contractual interest will exist before the hearing and

1 therefore these applications should not be dismissed.
2 However, Mewbourne has no standing to file the
3 application in the first place if it has no interest
4 in the minerals and, therefore, it should be dismissed
5 under 19.15.4.8(a). Even if Mewbourne had a
6 contractual interest, Pride disputes that that would
7 be sufficient to satisfy Section 70-2-17.

8 At best, an operating agreement, if it
9 existed would simply establish that Mewbourne has been
10 designated the operator of a contractual area that
11 includes the spacing unit. It doesn't create an
12 ownership right in the minerals in the spacing unit as
13 required by 70-2-17. On this principle is analogous
14 to the form JOAs, and we've attached a copy of a
15 Mewbourne JOA, actually, for a different contract area
16 that's been attached to the reply. But what you will
17 see is that form JOAs routinely require that all
18 parties to the JOA own an oil and gas lease or an oil
19 and gas interest in the contract area.

20 And if you look at Exhibit 1 to the
21 reply, we've highlighted the pertinent language, and
22 that is in the very beginning of the JOA, the parties
23 to this agreement are owners of oil and gas leases
24 and/or oil and gas interest in the land identified in
25 the exhibit.

1 (Exhibit 1 was marked for
2 identification.)

3 And then a little farther down and (p),
4 it defines oil and gas interest to mean unleased, fee,
5 and mineral interest in oil and gas and tracts of land
6 lying within the contract area with your own
7 bi-parties to the agreement. This is such an
8 important part of the JOA that the operator is deemed
9 to have resigned without any action by the
10 non-operators if it no longer owns such an interest in
11 the contract area. It seems to me this is an
12 analogous to what 70-2-17 requires and that is, you
13 must have an interest in the minerals in the spacing
14 unit, and Mewbourne does not have that.

15 This is consistent with the statutes
16 and the regulations. In the reply, I have set forth
17 the definitions of operator and owner. And if
18 Mewbourne did have an interest under an operating
19 agreement, it would simply be an operating agreement
20 as I said for that contract area and not provide an
21 interest in the spacing unit. Operator is defined as
22 "a person who duly authorized, manages or leases
23 development or a producing properties operation, or
24 who manages a facilities operation." That's
25 19.15.205 NMAC. Then in contrast, an owner is defined

1 as "the person who has the right to drill into and to
2 produce from any pool and to appropriate the
3 production either for the person or for the person and
4 another." This last phrase indicates that they must
5 have both the -- they must both own minerals -- an
6 interest in the minerals, and they must have the right
7 to appropriate the production for itself. Mewbourne
8 has no such right in either of the proposed spacing
9 units.

10 Just taking a quick look at my notes
11 here. I might be almost done. And a little more
12 insight is provided by 19.15.4.12(a)1. That is the
13 provision that requires notice and compulsory pooling
14 applications. It states "The applicant shall give
15 notice to each owner of an interest in the mineral
16 estate of any portion of the lands the applicant
17 proposes to be pooled." Here, it shouldn't be
18 disputed that the applicant must also be an owner of
19 an interest in the mineral estate of any portion of
20 the lands the applicant proposes to be pooled. Again,
21 Mewbourne has no such interest.

22 In conclusion, Pride Energy asks the
23 Division to dismiss the applications in Case Numbers
24 23176 and 23178 because Mewbourne does not have an
25 interest in the minerals in the proposed spacing units

1 as required by 70-2-17.

2 THE HEARING EXAMINER: Thank you.

3 Mewbourne, is that Ms. Hardy?

4 MS. HARDY: It is, Mr. Examiner.

5 THE HEARING EXAMINER: All right. What
6 does Mewbourne own here in the spacing unit?

7 MS. HARDY: Well, Mr. Examiner,
8 Mewbourne's applications proposed to develop one and a
9 half sections in comparison to Pride's half section.
10 And just to be clear, I want to be sure where
11 we -- that it's clear where we are here. That Pride
12 is only proposing to develop the east half of this
13 Section 16. Mewbourne's proposing to develop all of
14 Section 16 and the North half of Section 21. And one
15 of the applications Pride seeks to dismiss is for one
16 of Mewbourne's west half applications where Pride has
17 no alternative competing development proposal.

18 So that's what we're starting from
19 here. I think Pride's motions are premature. First,
20 Pride is apparently dismissing its current
21 applications and filing new ones that will, I believe,
22 be initially set on the March 3rd docket. Second, as
23 explained by Mr. Jolly, Mewbourne anticipates its
24 negotiations with Marathon will conclude by the
25 hearing date and that Mewbourne will have interest,

1 whether contractual or otherwise, in the unit by the
2 time of the hearing. Basically, I think Pride is
3 arguing that the circumstances at the time of filing
4 an application control ownership determinations at the
5 hearing. And I think that's incorrect.

6 Interests change hands as we've seen
7 frequently between the filing of an application and a
8 hearing, and the Division considers interest at the
9 time of the hearing based on the evidence for purposes
10 of establishing ownership and control. So given these
11 facts, I think it's unnecessary for the Division to
12 address the legal issues raised by Pride at this
13 point. I think the motions are premature.

14 I also think that their argument on
15 operatorship versus ownership is incorrect. The
16 New Mexico law does allow a mineral interest owner to
17 designate to an operator the right to develop its
18 minerals through a JOA or otherwise. And that
19 agreement does entitle the operator to file for
20 pooling. I actually think this happens all the time.

21 Section 70-2-17, which Miss Shaheen
22 cited and is discussed in her brief, allows owners to
23 pool their interest and allows the division to pool
24 when an owner has not committed its interest.
25 Miss Shaheen, when she was talking about this section,

1 added some words stating that the owner can ask the
2 Division to pool. That's not what the statute says.
3 The statute says that when there are multiple interests
4 and one owner hasn't committed the interest, the
5 Division can pool, say, who has to ask the Division to
6 pool. And it certainly does not preclude an owner
7 from delegating its authority to develop interest to
8 an operator by contract. It just doesn't.

9 In interpreting the act in a
10 restrictive manner that would only allow mineral
11 interest owners to file pooling applications is
12 inconsistent with the purpose of the statute, this
13 specific provision, and the oil and gas act as a whole
14 which is to prevent ways to protect correlative
15 rights. There are many reasons a mineral interest
16 owner may wish to delegate operating authority to
17 someone else including experience, cost efficiencies,
18 and other reasons. I know this morning it came up
19 earlier regarding the O-Grid number, but that's not
20 the only reason the mineral interest owner may wish to
21 delegate authority to operate to someone else. And
22 that authority to operate has to include the ability
23 to pool. And I think the statute allows that and it
24 certainly does not preclude it.

25 The Division's regulations also do not

1 limit authority to file pooling applications to
2 mineral interest owners. The regulation defining
3 owners which is 19.15.2.7(o) defines an owner as "the
4 person who has the right to drill into and to produce
5 from a pool to appropriate the production either for
6 the person or for the person and another." It does
7 not preclude that right being determined by a
8 contract, the right to drill. I think that this
9 actually happens often, where interest owners delegate
10 the right to develop to operators who file pooling
11 applications.

12 In Order Number R-21834, the Division
13 determined that working interest control includes
14 contractual interest and letters of support for a
15 development plan. And I understand that's a little
16 bit different here than what we're dealing with here,
17 but it's very similar. Pride's argument that only a
18 mineral interest owner can seek to pool would upend
19 the long standing Division precedent, and I think,
20 many pooling orders. I know this morning the
21 application of Redwood came up and the Division
22 previously granted Order Number R-22335 allowing
23 Redwood to pool as a contract operator for Pecos Oil
24 and Gas. I think that's consistent with the
25 Division's practice, and I think it's consistent with

1 the statute and the regulations. There's simply not a
2 limitation that requires only mineral interest owners
3 to pool.

4 The case cited in Pride's motion --
5 it's actually Order Number R-11700(b) dealt with the
6 situation where an operator's -- two operators were
7 arguing over who had the right to obtain APDs when
8 part of a lease had failed, and I think that case has
9 no bearing really, here. The case didn't involve
10 pooling and the language that Pride had cited was
11 dicta. I think, with respect to the arguments on a
12 JOA, I don't think that those are analogous. The
13 language of a JOA is analogous to the pooling statute
14 and regulations. I think it's a different situation.
15 Contracts can provide for all types of things
16 including JOAs. But nonetheless, it's really the
17 statute and the regulations here that do not limit --
18 and I would say that they allow mineral interest
19 owners to designate authority to pool and develop to
20 operators.

21 And finally, I think the commission has
22 previously held that it is appropriate to consolidate
23 applications for hearing to protect correlative rights
24 and prevent waste. We cited in our brief Order Number
25 R-21454(a) which is another group of Mewbourne cases.

1 And basically in that case, applications were heard, a
2 pooling order was issued, and then after that,
3 Mewbourne filed for a de novo hearing and submitted
4 competing pooling applications and the de novo hearing
5 was stayed so that all of the applications could be
6 heard together at the same time. So I think that has
7 been the commission's and the Division's preference.

8 Here, Mewbourne is opposing Pride's
9 applications on numerous grounds including operator
10 experience and will also oppose Pride's amended
11 applications. And the current applications do result
12 in waste because they strand the northwest quarter of
13 Section 21. It's my understanding there's another
14 laydown well that precludes further development in the
15 north half of Section 21 right now the way the spacing
16 unit that Pride proposes is set up, so the acreage
17 would be stranded.

18 So basically, I think Pride's notions
19 would result in a waste of resources of the Division
20 and the parties. The motions, if granted, would
21 require us to have a contested hearing on two of
22 Pride's applications and two of Mewbourne's
23 applications. And then we would have to come back
24 later to have another hearing on Mewbourne's competing
25 applications if they were dismissed. I think that's

1 not an efficient process. It certainly doesn't
2 conserve resources of the parties. And it does not
3 protect correlative rights. So at this point, I don't
4 think I have much else to add. I think that Pride's
5 motions should be denied.

6 And I hope I didn't talk too fast.

7 THE HEARING EXAMINER: No. Did a
8 terrific job. Thank you.

9 Miss Shaheen, if you want -- we have a
10 minute or two for a reply if you really want it.

11 MS. SHAHEEN: I'll just note that it
12 seems to me that the elephant in the room is the fact
13 that they have not been -- Mewbourne has not been
14 designated as the operator. Again, it's just simply a
15 hope. And I think that the language is clear that
16 mineral -- you must have an ownership interest in the
17 minerals that are in the spacing unit which Mewbourne,
18 indisputably, does not have. I could go on a little
19 bit more, but in the interest of having lunch
20 relatively soon, I will stand down. And thank you
21 very much. I'm happy to answer any questions.

22 THE HEARING EXAMINER: Thank you.

23 Okay. So let me just say that I will
24 take this, obviously, under advisement.

25 Normally, I recommend a decision to the

1 director if it's to dismiss a case, but I'm up in the
2 air about directors these days. And so I can't say
3 that what my opinion is will hold with whoever the
4 acting director is when I submit that opinion. I tend
5 to be a bit of a strict constructionist here. I will
6 say that my preliminary thought is to agree with Pride
7 that the language of the statute is pretty clear. You
8 need to be an owner of a working interest within that
9 unit in order to apply for --.

10 Now, having said that, even if we rule
11 that way, clearly, you have the ability to object to
12 Pride's development if you have another development
13 nearby that would be impacted by that. We actually
14 had some commission decisions a few years ago where
15 the commission basically denied the application based
16 on somebody else's proposal that wasn't actually a
17 competing application. It was just, you're going to
18 prevent us from doing this. So you know, this does
19 not -- if, in fact, Mewbourne's case is dismissed,
20 that does not mean that Mewbourne cannot participate
21 in an e-application by Pride and show that Pride's
22 proposal is, you know, not protective of correlative
23 rights, et cetera. So that's sort of my preliminary
24 take on it. Like I said, we have new leadership now,
25 and I will need to discuss it with them. So I will

1 take these arguments under advisement. Thank you.

2 MS. HARDY: Thank you.

3 MS. SHAHEEN: Thank you, Mr. Examiner.
4 One question, if I may. Do we have an acting
5 director? I wasn't aware that we did.

6 THE HEARING EXAMINER: We have an
7 acting director. It is our general counsel,
8 Dylan Fuge.

9 MS. SHAHEEN: Thank you very much for
10 that information.

11 THE HEARING EXAMINER: I mean, just so
12 all of you know, we're loosing our director and our
13 deputy director. Quick thinking by the administration
14 to get new people in place. I believe somebody will
15 be moved up temporarily to be a deputy director and
16 help out with all the decision making. None of it
17 involves me. Although as the deputy secretary said,
18 "I am the OCD sacrificial lamb for the legislative
19 session." And I have to deal with all the legislative
20 stuff. So there. So anyway, we are still functioning
21 and hopefully we have new leadership in a short period
22 of time. Thank you all. Any last questions? Miss
23 Bennett, yes?

24 MS. BENNETT: Yes. This is not about
25 the current set of cases that you were just

1 discussing, but I have a follow up question about the
2 Franklin Mount Energy cases that I discussed earlier
3 today and was wondering if you could circle back to
4 those just for a moment.

5 THE HEARING EXAMINER: What the heck
6 did we do? We continued those.

7 MS. BENNETT: We did. We continued
8 them to January 19th, and I was wondering if it would
9 be possible to continue them to February 2nd instead?
10 That way, if the Division determines that notice is
11 required, I would have the time to cure that notice
12 issue without having to continue the matters a second
13 time. So it's just out of an abundance of caution to
14 allow adequate time for me to send the notice letters
15 if indeed that is the outcome after our discussions.

16 THE HEARING EXAMINER: I think that's a
17 splendid idea. In fact, if I were you, I'd send the
18 letters today.

19 MS. BENNETT: And again, that's in
20 Cases 23221 to 23224.

21 THE HEARING EXAMINER: Okay. So for
22 the record, Cases 23221, 23222, 23223, 23224 will be
23 continued to February 2nd.

24 MS. BENNETT: Thank you.

25 THE HEARING EXAMINER: Thank you.

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Thank you, everyone. Have a wonderful
new year.

(Whereupon, at 1:11 p.m., the
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

Notary Public in and for the
State of Missouri

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CERTIFICATE OF TRANSCRIBER

I, SUSAN M. SCHMITZ, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



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