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

In THE MATTER OF THE HEARING
CALLED BY THE OIL CONVERSATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:
Case Nos. 22947, 22845, 23640, Docket No.
23641, 23642, 23643, 23644, 14-23
23645, 23587, 23588, 23589,
23590, 23574, 21683, 21685,
22103, 22104, 23585, 23586,
23633, 23295, 22853, 21967,
21969, 21971, 21972, 21973,
21981, 23448, 23449, 23450,
23451, 23452, 23453, 23454,
23455, 23494, 23595, 23596,
23597, 23598, 23599, 23600,
23601, 23508, 23509, 23510,
23511, 23512, 23513, 23514,
23515, 23516, 23517, 23518,
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VIDEOCONFERENCE HEARING

DATE: Thursday, July 20, 2023
TIME: 9:15 a.m.
BEFORE: Hearing Examiner Rip Harwood
LOCATION: Remote Proceeding
Santa Fe, NM 87501
REPORTED BY: DANA FULTON, Notary Public
JOB NO.: 5528927

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A P P E A R A N C E S

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

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ALSO PRESENT:

Mike Gregory, Landman, Flat Creek Resources, LLC
(by videoconference)
Matthew Pride, Landman, Pride Energy Company (by
telephone)
Harvin Boughton, Geologist (by videoconference)
John Coffman, Landman, Coterra Energy Company (by
videoconference)
Staci Mueller, Geologist, Cimarex Energy Company
(by videoconference)
Mark McCoy, Engineer, Coterra Energy (by
videoconference)
Marlene Salvidrez, Host (by videoconference)

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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
Cases 23640-23645:		
Exhibit A	Testimony and Exhibits of Landman Mark Haddock [ph]	26/30
Exhibit B	Testimony and Exhibits of Geologist Christ Canton [ph]	26/30
Exhibit C	Attorney Hardy Self-Affirmed Statement	26/30
NO.	DESCRIPTION	ID/EVD
Cases 23587-23590:		
Exhibit A	Affirmation	36/
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Exhibit A-5	Chronology of Contacts	37/
Exhibit A-6	C-102 Forms	38/
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2	NO.	DESCRIPTION	ID/EVD
3	Cases 23585 and 23586:		
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5		Exhibits	65/66
6	Exhibit B	Geology Testimony and	
7		Exhibits	65/66
8	Exhibit C	Notice Testimony	65/66
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10	NO.	DESCRIPTION	ID/EVD
11	Case 22853:		
12	Exhibit 1	Application and Proposed	
13		Notice	101/101
14	Exhibit 2-A	Self-Verified Statement of	
15		Matthew Pride	103/109
16	Exhibit 2-B	Lists of Tracts and Interest	
17		Owners	104/109
18	Exhibit 2-C	Documents Prepared or Compiled	
19		by Matthew Pride	108/109
20	Exhibit 2-D	Documents Prepared or Compiled	
21		by Matthew Pride	108/109
22	Exhibit 3	Testimony and Exhibits of	
23		Geologist Harvin Broughton	124/134
24	Exhibit 4	Affidavit of Certified	
25		Notice	101/101

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
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4	Exhibit 5	Certified Notice Spreadsheet	101/101
5	Exhibit 6	Affidavit of Publication	101/101
6	Exhibit 7	Pooling Checklist	101/101
7			
8	NO.	DESCRIPTION	ID/EVD
9	Case 23295:		
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5		Well 301H	208/218
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7	Exhibit C	Written Statement of Mark	
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P R O C E E D I N G S

THE HEARING EXAMINER: We're on the record today in the OCD Hearings for July 20, 2023. My name is Rip Harwood, I'll be conducting these hearings, so welcome, everyone.

And we have a fairly large docket today. Before we get into the docket, could the folks for OCD, could you identify yourselves, the folks for OCD who will be participating in today's hearing?

MS. THOMPSON: My name is Hailee Thompson. I'll be participating today.

MR. MCCLURE: Yes, Mr. Harwood. This is Dean McClure. I'm here for technical examiner as well.

THE HEARING EXAMINER: Okay. Thank you, both. Are there other technical examiners for OCD? Okay. That's what I thought. I thought maybe John Garcia would be joining us, but maybe he will later on.

Are there any announcements that you guys wish to make before we dive straight into the docket?

MR. MCCLURE: None from me, Mr. Harwood.

THE HEARING EXAMINER: Thank you,

1 Mr. McClure.

2 Ms. Thompson?

3 MS. THOMPSON: I have none at the
4 moment.

5 THE HEARING EXAMINER: Okay. Let's
6 see. Our docket today is 59 items deep. So without
7 further ado, let's jump right into it. Let's see. I
8 believe that cases number 1 and 2 are consolidated.
9 That's case 22947, 22845 EOG Resources, Inc., and Tap
10 Rock Operating, LLC.

11 May I have appearances for the record
12 first for the applicant, then for other interested
13 parties, and then any other interested persons?

14 MS. VANCE: Good morning, Mr. Hearing
15 Examiner, Mr. McClure, Ms. Thompson.

16 Paula Vance with the Santa Fe office of
17 Holland and Hart on behalf of EOG Resources.

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

20 MS. BENNETT: Good morning, everyone.
21 Oh, I'm sorry. Go ahead.

22 MR. BRUCE: No. Go ahead, Deana.

23 MS. BENNETT: Deana Bennett on behalf
24 of Marathon Oil Permian. We're not the applicant,
25 we're just interested parties in the case and

1 monitoring the cases as they move forward.

2 THE HEARING EXAMINER: Okay. Thank
3 you, Ms. Vance, Mr. Rodriguez, Ms. Bennett.

4 Ms. Vance, can you tell us where we are
5 in the case?

6 MR. BRUCE: Mr. Examiner, Jim Bruce
7 entering an appearance for MRC Permian Company in both
8 cases.

9 THE HEARING EXAMINER: Sorry, Mr.
10 Bruce, it's too late. No, just kidding.

11 All right. Ms. Vance, back to you.

12 MS. VANCE: Yes, Mr. Hearing Examiner.
13 Both EOG and Tap Rock earlier this week filed a joint
14 motion to continue the case and requested a status
15 conference for the September 21st docket. I believe
16 the parties continue to discuss and negotiate. So
17 that's where we're at.

18 Mr. Rodriguez may have something more
19 to add, but that's my understanding right now.

20 THE HEARING EXAMINER: Mr. Rodriguez?

21 MR. RODRIGUEZ: Ms. Vance summed it up.

22 THE HEARING EXAMINER: Okay. Anybody
23 else? All right. So I guess I'm not sure what the
24 protocol is.

25 Ms. Vance, did you all file an order

1 continuing this to 9/21, or do you rely on us to do
2 that? What's the protocol?

3 MS. VANCE: We're already filed the
4 joint motion, and I believe we filed it in both cases.
5 And so now if it's agreeable to the Division, we would
6 just, you know, ask that the motion be granted, and we
7 go ahead and continue the two cases.

8 THE HEARING EXAMINER: Okay. Well
9 then, we'll get an order entered continuing these
10 cases to 9/21.

11 MS. SALVIDREZ: Rip, this is Marlene.
12 We won't issue an order. I will approve these
13 continuances in the system.

14 THE HEARING EXAMINER: Perfect. I see.
15 All right. That's excellent. Thank you, Marlene.

16 All right. Anything else in cases
17 22947, 22845?

18 Hearing silence, let's move along to
19 cases, and correct me if I'm wrong, but I believe
20 cases 3 through 8 on the docket all Devon Energy
21 Production Company LP cases are consolidated. Let me
22 hear an entry of appearance for the applicant in those
23 cases.

24 MR. SAVAGE: That's correct,
25 Mr. Hearing Examiner.

1 Good morning, Mr. Hearing Examiner,
2 Technical Examiner. Darin Savage with Santa Fe office
3 of Abadie and Schill appearing on behalf of Devon
4 Energy Production Company.

5 THE HEARING EXAMINER: Okay. Thank
6 you, Mr. Savage. Good morning.

7 Entry of appearance for any other
8 interested parties or persons in cases 3 through 8 on
9 the July 20th docket?

10 MS. MUNDS-DRY: Good morning,
11 Mr. Hearing Examiner. This is Ocean Munds-Dry with
12 COG Operating, LLC.

13 MR. BRUCE: Mr. Examiner, Jim Bruce,
14 entering an appearance on behalf of the Mewbourne Oil
15 Company.

16 THE HEARING EXAMINER: Thank you,
17 Ms. Munds-Dry and Mr. Bruce.

18 Anyone else?

19 MR. PARROT: Good morning, Mr. Hearing
20 Examiner. This is James Parrot. I am traveling
21 today, and I'm on my phone. And it just happened to
22 cut out when you were announcing the last dockets.
23 But I wanted to make sure. It sounded like you might
24 be on 21967?

25 THE HEARING EXAMINER: That's correct.

1 MR. PARROT: Thank you very much. Then
2 this is James Parrot with Beatty and Wozniak on behalf
3 of EOG Resources, which has entered an appearance in
4 this case in the related matters.

5 THE HEARING EXAMINER: Okay. Thank
6 you, Mr. Parrot.

7 I called cases 3 through 8 because
8 they're consolidated. Do you have an interest in all
9 of those cases or just 21967?

10 MR. PARROT: You're asking whether EOG
11 has filed an appearance in all of those cases or
12 whether EOG has working interest in the lands that are
13 subject to all of those cases?

14 THE HEARING EXAMINER: I guess either.
15 We're talking about all six of the cases, so I just
16 wanted some clarification.

17 MR. PARROT: Okay. Just one moment.
18 I'll get back to you and answer that question. I've
19 got to bring up the spreadsheet that I have that shows
20 all the appearances that we've entered, and I'll get
21 back to you in just a moment on that.

22 THE HEARING EXAMINER: Okay.

23 With that, Mr. Savage, let me turn it
24 back over to you.

25 MR. SAVAGE: Yes. Thank you.

1 Mr. Hearing Examiner, this case has been a bit of an
2 ongoing case. These were some federal interest that
3 had dropped out of the unit that had inadvertently
4 terminated.

5 And we had to wait for BLM sale to come
6 about and the BLM sale finally did. The particular
7 owner of that was successful in acquiring that federal
8 acreage.

9 And so now we need to do a few things
10 to lay some groundwork before we go forward. And that
11 would be a well proposal -- and Devon has an
12 opportunity to kind of evaluate the Wolfcamp
13 applications, and they think they can improve upon
14 those. And they would like the opportunity to do some
15 amended applications.

16 So looking at all this and the
17 timeline, if the parties are amenable, we would like
18 to do the final leg, the final stretch, hopefully, of
19 these cases, shoot for November 16th. That would
20 allow for well proposal in September and filing new
21 applications in October and shoot for November 16th
22 deadline. That would be our preference.

23 THE HEARING EXAMINER: Okay. Anyone
24 else have anything?

25 Ms. Munds-Dry, do you have anything to

1 add to that?

2 MS. MUNDS-DRY: We have no objection to
3 that proposed date. Thank you.

4 THE HEARING EXAMINER: Mr. Parrot?

5 MR. PARROT: I can confirm that D-O-G
6 [sic] did enter an appearance in all five of the
7 matters that are numbers 3, 4, 5, 6, and 7 on the
8 docket worksheet this morning.

9 And no objection to the proposal.

10 THE HEARING EXAMINER: Okay. Well,
11 we're talking about 3 through 8 just to be clear, so.

12 MR. PARROT: Yes, sir.

13 THE HEARING EXAMINER: You said three
14 through seven. My arithmetic's not very good, but
15 that's short.

16 MR. PARROT: Oh, I'm sorry. So let's
17 see.

18 THE HEARING EXAMINER: So you're in all
19 six?

20 MR. PARROT: Let me just --

21 THE HEARING EXAMINER: Go ahead.

22 MR. PARROT: Let me check on 21981. I
23 don't believe we have entered an appearance in that
24 case. It's just the first five.

25 THE HEARING EXAMINER: Okay. All

1 right. Thank you, Mr. Parrot.

2 So the proposal then, if I'm
3 understanding it is that these cases, 3 through 8,
4 proceed to hearing on November 16, 2023?

5 Is that what I'm understanding,
6 Mr. Savage?

7 MR. SAVAGE: Yeah. That would be the
8 plan. I'd appreciate that.

9 THE HEARING EXAMINER: Okay. Ms.
10 Salvidrez, what's the usual procedure for that? What
11 do we need to do to make that happen?

12 MS. SALVIDREZ: the Division will issue
13 a prehearing order in all of these cases.

14 THE HEARING EXAMINER: All right. Ms.
15 Salvidrez is planning on retiring later this year, so
16 you better hope by then that they have a replacement
17 for Bill Brancard because we'll all be in trouble
18 otherwise.

19 She's a knowledge base here, and, you
20 know, there's no substitute for historical knowledge
21 in state agencies. So I never miss an opportunity to
22 thank her for her assistance and experience.

23 Moving on, let's see here. Let me get
24 to the docket sheet. Okay. So I think that does it
25 for status conferences this morning. I believe we

1 have cases 9 through 14 consolidated, and they're all
2 Colgate Operating, LLC. May I have an entry of
3 appearance for Colgate Operating in case number 23640?

4 MS. HARDY: Good morning, Mr. Examiner.
5 Dana Hardy with Hinkle Shanor on behalf of Colgate.

6 THE HEARING EXAMINER: Good morning,
7 Ms. Hardy. Ms. Hardy, let me ask you. Am I right,
8 are cases 9 through 14 consolidated?

9 MS. HARDY: Yes, Mr. Examiner. I would
10 like to consolidate them for presentation.

11 THE HEARING EXAMINER: Perfect. All
12 right.

13 May I have entries of appearance for
14 any other interested parties or persons in cases 9
15 through 14 on today's docket?

16 MS. BENNETT: Good morning, everyone.
17 Deana Bennett from Modrall Sperling, and I'm entering
18 an appearance in all of the cases for Avant Operating.
19 And I am preserving Avant's rights to seek de novo
20 review to the extent necessary. So no objection to
21 the cases moving forward by affidavit.

22 THE HEARING EXAMINER: Thank you, Ms.
23 Bennett.

24 MS. BENNETT: Thank you.

25 THE HEARING EXAMINER: Any other

1 interested parties or persons in these cases, 9
2 through 14? All right.

3 Ms. Hardy, you may proceed.

4 MS. HARDY: Thank you. In these cases,
5 Colgate seeks to pool uncommitted interest within the
6 Bone Spring and Wolfcamp formations underlying
7 Sections 9 and 10, Township 20 South, Range 28 East,
8 in Eddy County. And Colgate is requesting that
9 Permian Resources be designated operator of the
10 spacing units and wells.

11 In case number 23640, Colgate seeks to
12 pool interest in the Bone Spring formation underlying
13 a 320-acre standard horizontal spacing unit comprised
14 of the north half of the north half of Sections 9 and
15 10. That unit will be dedicated to the Koala 9 Fed
16 Com 111H, 121H, and 131H wells.

17 In case number 23641, Colgate seeks to
18 pool uncommitted interest also in the Bone Spring
19 underlying a 320-acre standard horizontal spacing unit
20 comprised of the north half of the south half of
21 Sections 9 and 10. That unit will be dedicated to the
22 Koala 9 Fed Com 113H, 123H, and 133H wells.

23 In case number 23642, Colgate seeks to
24 pool interest in the Bone Spring underlying a 320-acre
25 standard horizontal spacing unit comprised of the

1 south half of the north half of Sections 9 and 10.
2 That unit will be dedicated to the Koala 9 Fed Com
3 112H, 122H, and 132H wells.

4 And in case number 23643, this is
5 another Bone Spring application seeking to pool
6 interest in a 320-acre standing horizontal unit
7 comprised of the south half of the south half of
8 Sections 9 and 10. That unit will be dedicated to the
9 Koala 9 Fed Com 114H, 124H, and 134H wells.

10 So those four cases involve the Bone
11 Spring and collectively pool the bone spring
12 underlying the entirety of Sections 9 and 10.

13 The two Wolfcamp cases are 23644 and
14 23645. And both of these cases are in a gas pool,
15 which result in the larger spacing that makes these
16 units standard spacing units.

17 In case number 23644, Colgate seeks to
18 pool the Wolfcamp underlying a 640-acre standard
19 horizontal spacing unit comprised of the north half of
20 Sections 9 and 10. That unit will be dedicated to the
21 Koala 9 Fed Com 201H and 202H wells.

22 In case number 23645, Colgate seeks to
23 pool uncommitted interest in the Wolfcamp underlying a
24 640-acre standard horizontal unit comprised of the
25 south half of Sections 9 and 10. That unit will be

1 dedicated to the Koala 9 Fed Com 203H and 204H wells.

2 The exhibit packets that we've
3 submitted for these cases include Exhibit A, which is
4 the testimony of Landman Mark Haddock [ph] and his
5 related exhibits. The exhibits include the
6 application and proposed notice of hearing, the C-
7 102s, the plot of tracts, ownership interest, and list
8 of uncommitted interest to be pooled, and the sample
9 well proposal letter, AFEs, and chronology of
10 contacts.

11 (Cases 23640-23645 Exhibit A was marked
12 for identification.)

13 Exhibit B is the geology testimony of
14 Geologist Chris Canton [ph] along with his exhibits
15 that include a regional locator map, Wolfcamp and Bone
16 Spring structure maps, cross section locator map,
17 structural cross section, stratigraphic cross section,
18 and a gun barrel diagram.

19 (Cases 23640-23645 Exhibit B was marked
20 for identification.)

21 Exhibit C is my self-affirmed
22 statement, which sets out when we sent the notice
23 letter, a chart of the date of the return receipts, as
24 well as the certified mail cards. And we did timely
25 publish notice in the Carlsbad Current-Argus on July

1 6th.

2 (Cases 23640-23645 Exhibit C was marked
3 for identification.)

4 So with that, unless there are
5 questions, I ask that the exhibits be admitted into
6 the record and that these cases be taken under
7 advisement. Thank you.

8 THE HEARING EXAMINER: Thank you,
9 Ms. Hardy.

10 Ms. Bennett, questions for Ms. Hardy?

11 MS. BENNETT: Thank you. No questions.

12 THE HEARING EXAMINER: All right. Who
13 wants to go first for OCD? I don't see any hands
14 leaping in the air, but any questions from OCD?

15 MR. MCCLURE: Do you want me to go
16 first, Hailee, or?

17 MS. THOMPSON: Yeah. You can go first.

18 MR. MCCLURE: All right. Mr. Harwood,
19 I do have a couple of quick questions and
20 clarifications, I guess, for Ms. Hardy.

21 Ms. Hardy, what is the requested
22 drilling supervision and production supervision rates
23 for all six of these cases?

24 MS. HARDY: For all six of the cases,
25 it looks like the checklist states 8,000 and 800.

1 MR. MCCLURE: I was going to say. Now
2 that is in disagreement with the landman's statement
3 and the proposal letter that went out to the interest
4 owners.

5 MS. HARDY: Okay. So it looks to me
6 like I think the landman's testimony is actually
7 correct. It's 10,000 and 1,000. So it looks like
8 I'll need to submit corrected checklist.

9 MR. MCCLURE: Okay --

10 MS. HARDY: I can do that.

11 MR. MCCLURE: Oh. Go ahead?

12 MS. HARDY: I was just going to say
13 sorry about that. I'll be happy to submit that
14 shortly.

15 MR. MCCLURE: Okay. Sounds good. And
16 while we're doing that, there's two other corrections
17 for -- additional corrections. It looks like on the
18 Bone Spring pools, docket number 9 through 12, it
19 looks like the pool that's listed for that is a moral
20 pool rather than the Bone Spring pool. The actual
21 correct pool should be the Old Millman Ranch Bone
22 Spring associated, pool code 48035.

23 MS. HARDY: 48035?

24 MR. MCCLURE: Yes, ma'am.

25 MS. HARDY: Okay -- as well.

1 MR. MCCLURE: It sounds good.

2 And then on your Wolfcamp cases, that's
3 docket number 13 and 14. It appears that the admin
4 made a minor typo. But it appears that the checklist
5 has the primary product listed as oil when it should
6 be gas.

7 MS. HARDY: Okay.

8 MR. MCCLURE: Beyond that, I think
9 that's all the questions I have for you, Ms. Hardy.
10 Thank you.

11 MS. HARDY: Okay. Thank you. We'll
12 get those corrected.

13 THE HEARING EXAMINER: Ms. Thompson?

14 MS. THOMPSON: I have no questions.

15 THE HEARING EXAMINER: I have a
16 question for Ms. Thompson or Mr. McClure. With these
17 deficiencies in the checklist, I'm assuming, and tell
18 me if I'm wrong, we can take these cases under
19 advisement. But do they need to be subject to
20 continuance for, you know, questions which the amended
21 the checklist might bring from other parties?

22 MS. THOMPSON: They can be taken under.

23 THE HEARING EXAMINER: Okay. All
24 right.

25 MR. MCCLURE: I -- have to say, I

1 apologize. One thing that Mr. Brancard was he had
2 taken under advisement but leave the record open for
3 the submittal of the requested documents.

4 THE HEARING EXAMINER: Okay. Well, I'm
5 getting an echo here. I'm not sure why that is.
6 Anyone have any ideas on that?

7 MR. MCCLURE: Yeah, I'm having it as
8 well. I think it may be on Ms. Hardy's side, but I
9 could be mistaken.

10 THE HEARING EXAMINER: All right. Well
11 then, Ms. Hardy, your exhibits will be admitted, and
12 these cases will be taken under advisement with the
13 proviso that you'll submit revised checklist and
14 correct the other technical errors that Mr. McClure
15 caught.

16 (Cases 23640-23645 Exhibit A, Exhibit
17 B, and Exhibit C was received into
18 evidence.)

19 MS. HARDY: Thank you very much. I
20 will do that.

21 THE HEARING EXAMINER: All right. Is
22 there anything else in cases 9 through 14 on today's
23 docket from anyone? All right.

24 In that case, we will move on to cases
25 15 through 18 on the docket. These are four cases of

1 the applicant is Flat Creek Resources, LLC. May I
2 have an entry of appearance for the applicant?

3 MS. SHAHEEN: Thank you, Mr. Examiner.
4 Sharon Shaheen on behalf of Flat Creek Resources, LLC.

5 THE HEARING EXAMINER: Good morning,
6 Ms. Shaheen. Am I correct that these four cases are
7 consolidated?

8 MS. SHAHEEN: That is correct.

9 THE HEARING EXAMINER: Okay. Thanks.
10 Entry of appearance for any other interested parties
11 or persons in cases 15 through 18 on today's docket?

12 MS. VANCE: Good morning, Mr. Hearing
13 Examiner. Paula Vance with the Santa Fe office of
14 Holland and Hart on behalf of Devon Energy Production
15 Company. And we're just making an entry of appearance
16 to preserve rights. We are not objecting to the cases
17 moving forward this morning.

18 THE HEARING EXAMINER: Okay. Thank
19 you, Ms. Vance.

20 Any other interested parties or persons
21 in these cases?

22 MS. VANCE: And just one note,
23 Mr. Hearing Examiner, Devon made an entry of
24 appearance in just two of the cases, and that's case
25 numbers 23588 and 23590.

1 THE HEARING EXAMINER: Thank you,
2 Ms. Vance.

3 All right. I know that the hearing
4 examiners are going to have questions for you in these
5 cases, Ms. Shaheen. I'm just giving you a heads up.

6 There are apparently alternative
7 requests that Flat Creek is seeking in these cases.
8 So I'm giving you a heads up, you might want to
9 explain those in your presentation so that we can
10 streamline this and maybe answer some questions ahead
11 of time.

12 But there are alternative requests here
13 that are, how should we say, nonconformist. I won't
14 use the word odd, but they're not usual. So with
15 that, I'll turn it back over to you.

16 MS. SHAHEEN: Thank you, Mr. Examiner.

17 Good morning, everyone. Yes, I
18 recognize these are a little bit unusual, but I have
19 done this one before with Titus in Simpaxi [ph] wells.
20 And I think that was before Ms. Thompson's time, but I
21 think Mr. McClure may have been around. That was the
22 first part of 2020. It seems like that might have
23 been right before the pandemic, but I lose track of
24 time since we've had the pandemic. But those cases
25 were case number 20897 and 20899.

1 And the reason that we have this
2 alternative request here has to do with the
3 uncertainty of when we would have federal permits in
4 hand because there are some lease expirations out
5 there that are looming. So that is the basis for the
6 request for the alternative approvals of spacing
7 units.

8 I'll note at the outset that this
9 concerns Sections 7 and 18 of Township 23 South, Range
10 26 East, in Eddy County. Case number 23587 and 23589
11 concern the west half. One is Bone Spring, the other
12 is Wolfcamp.

13 Case numbers 23588 and 23590 concern
14 the east half. One is in Bone Spring, and one is in
15 Wolfcamp.

16 In case number 23587, Flat Creek seeks
17 an order pooling all committed mineral interests in
18 the Bone Spring in a nonstandard 640-acre, more or
19 less, spacing unit comprised of the west half of
20 Sections 7 and 18.

21 And as an alternative, a nonstandard
22 600-acre unit comprised of the west half, the
23 northwest quarter of section 18, the west half of the
24 southwest quarter of Section 18, and the northeast
25 quarter of the northwest quarter of Section 18 if

1 timing issues arise with the federal permits.

2 This will be dedicated to the Rena 7
3 Fed Com 601H well, and the footages are there in the
4 affirmation as well as the checklist.

5 We did seek approval initially in this
6 application for the nonstandard spacing unit; however,
7 we'll be withdrawing that request for approval by
8 hearing, and we'll be proceeding administratively with
9 respect to that approval.

10 In case number 23588, applicant seeks
11 an order from the Division pooling all -- excuse me.
12 I'm going to skip to 23589 if you don't mind just to
13 stay in the west half for now.

14 Applicant seeks an order from the
15 Division pooling all uncommitted mineral interests in
16 the Wolfcamp. These are Purple Sage wells. And this
17 would be a standard 640-acre unit comprised of the
18 west half of Sections 7 and 18.

19 As an alternative, using the same
20 acreage that we proposed for the Bone Spring well,
21 that's the west half of Section 7, northwest quarter
22 of Section 18, west half of the southwest quarter of
23 section 18, and the northeast quarter of the southwest
24 quarter of Section 18. I hope I'm not getting these
25 mixed up, my west half and my east half. And then

1 here, it says we will seek administrative approval of
2 the alternative nonstandard spacing unit.

3 Going back now, we'll turn to the east
4 half in case number 23588. Flat Creek seeks an order
5 pooling all uncommitted mineral interest in the Bone
6 Spring in the standard 640-acre spacing unit. Here,
7 we'll have a proximity well with proximity tracts
8 comprised of the east half of Section 7 and 18.

9 And as an alternative, a standard 520-
10 acre spacing unit comprised of the east half of
11 Section 7, the northeast quarter of Section 18, and
12 the northwest quarter of the southeast quarter of
13 Section 18.

14 And I'll note here that we submitted an
15 amended Exhibit A6 I believe it is, with C-102s that
16 reflect this proximity tract for the 603H. I think
17 that we included the 603H, it wasn't identified as a
18 priority well or it didn't indicate on the C-102 that
19 it was a proximity well in the exhibit that we filed
20 on Tuesday. But yesterday, we filed the amended
21 exhibit for the 603H.

22 And in case number 23590, this is the
23 Wolfcamp in the west half. Applicant seeks an order
24 pooling all uncommitted mineral interest in the
25 Wolfcamp Purple Sage. Standard 640-acre unit

1 comprised of the east half of Section 7 and 18.

2 As an alternative, here we seek a
3 standard 480-acre unit comprised of the east half of
4 Section 7 and the northeast quarter of Section 18.
5 The first and last take points are all expected to be
6 standard.

7 The affirmation is Exhibit A, and
8 attached thereto is Exhibit A-1 with the general
9 location map. The Exhibits A-2 are the tract maps,
10 that's at PDF 44. The Exhibits A-3 are the tract
11 ownership maps.

12 (Cases 23587-23590 Exhibit A through
13 Exhibit A-3 were marked for
14 identification.)

15 Here, we indicated primarily the
16 ownership of Stateline Operating and Stateline -- I
17 forget the name of the other Stateline entity, but
18 they are both related to Flat Creek. And I'm looking
19 for the paragraph here where we explain the relation
20 there.

21 But we do have a management agreement
22 or an operating agreement to make these applications
23 on behalf of -- here it is, paragraph 16, Stateline
24 Operating and Stateline Royalties is a partnership
25 that Flat Creek manages whereby Stateline is the

1 record title owner of Flat Creek and Stateline's lease
2 hold and minerals, and Flat Creek is the designated
3 operator and manager of these assets, pursuant to a
4 management services agreement.

5 Moving along. Exhibits A-3 indicate
6 the ownership in each tract, primarily for Stateline
7 Operating, Stateline Royalties. There are a number of
8 unleased mineral interests in one tract here, and the
9 unit ownership can be found in Exhibits A-3 and A-4.
10 You can see the ownership breakdown of interests and
11 the lists of the pertinent leases in Exhibits A4.

12 (Cases 23587-23590 Exhibit A-4 was
13 marked for identification.)

14 And basically, you'll see we've
15 highlighted everyone there because we haven't
16 finalized the number of leases, but there are
17 asterisks there next to the names of folks where Flat
18 Creek is on the verge of signing leases.

19 The chronology of contacts with all of
20 these owners is attached as Exhibit A-5, and we've
21 separated that into the east half and the west half.

22 (Cases 23587-23590 Exhibit A-5 was
23 marked for identification.)

24 C-102s, please take a look at the
25 amended Exhibit A-6 that we filed yesterday. Exhibit

1 A7 includes all of the well proposal letters. Exhibit
2 A8 includes the notice letters that went out, one to
3 the east half folks and one to the west half folks.

4 (Cases 23587-23590 Exhibit A-6, Exhibit
5 A-7, and Exhibit A-8 were marked for
6 identification.)

7 At tab four, we have the affirmation
8 the geologist, along with the usual geology exhibits.
9 I don't believe there's anything unusual here. We
10 have the location map with the basin; the gun barrel;
11 a structure map for the Bone Spring; a structure map
12 for the Wolfcamp; cross section reference map; and
13 cross section into isochores, one for the Bone Spring
14 and one for the Wolfcamp.

15 Exhibit C is my affirmation of notice.
16 We've mailed to a number of people, some of whom were
17 ultimately unlocatable, but we also published on July
18 20th. So we believe that we've satisfied the notice
19 requirements.

20 (Cases 23587-23590 Exhibit C was marked
21 for identification.)

22 And with that, I will stand for
23 questions.

24 THE HEARING EXAMINER: Okay.
25 Ms. Vance, you first.

1 MS. VANCE: I don't have any questions
2 at this time. Thank you.

3 THE HEARING EXAMINER: All right.
4 Ms. Thompson, let me ask you then to lead off if you
5 have questions for Ms. Shaheen.

6 MS. THOMPSON: Yeah, I have a handful.
7 I guess first I wanted to take a look at the tract
8 maps, and have you explain a little bit more about
9 Tract 7 and Tract 5 on the east and half west sides
10 for the BLM. Are those on your included acreage, or
11 are those not being part of the included acreage?

12 MS. SHAHEEN: So with respect to the
13 first alternative, we are seeking to pool all of the
14 tracts. Tracts 1 through 7 in the west half.

15 If we don't get the federal permits in
16 time, we seek to pool Tracts 1 through 6. And I'll
17 stop here because I want to note that the landman is
18 in attendance. If there are any questions that I
19 can't answer, and also if I've gotten anything wrong,
20 I would ask Mr. Gregory to speak up.

21 But that's my understanding. The
22 alternative would be to pool Tracts 1 through 6. The
23 preference would be to pool Tracts 1 through 7,
24 assuming we can get the federal permits on time. And
25 that's the west half.

1 So moving to the east half, it's a
2 little more nuanced. Assuming we get the federal
3 permits on time, we would pool all Tracts 1 through 5.

4 In the Bone Spring, if we don't have
5 the federal permits in time, we would pull Tracts 1
6 through 4. But in the Wolfcamp, with would only pool
7 tracts 1 through 3. And we tried to indicate that
8 there with the double red line. That was our hope
9 that the answer to your question would be clear by
10 looking at the double red lines.

11 MS. THOMPSON: Okay. I see that. And
12 then moving down a little bit towards your ownership
13 breakdown page. Can I assume that the highlighted
14 yellow are the owners that you're pooling?

15 MS. SHAHEEN: That's right. Except for
16 those -- well, I mean, we're pooling them now because
17 we don't have the leases signed.

18 MS. THOMPSON: Right.

19 MS. SHAHEEN: And so we see there's
20 some asterisks at the beginning of some of these
21 folks, like Maria Elizabeth Caselbone [ph], and
22 Cherry, and Phyllis.

23 MS. THOMPSON: Yeah.

24 MS. SHAHEEN: We have leases that we're
25 executing as of today or this week.

1 MS. THOMPSON: Okay. So the ones in
2 bold that are asterisked are ones that you're trying
3 to execute?

4 MS. SHAHEEN: That's right.

5 MS. THOMPSON: Okay. So generally, we
6 do ask that there be, like, something on this page
7 that indicates that the yellow are the pool interest
8 owners and, like, you know, ones that are, you know,
9 signed like a JOA or an agreement are marked with
10 something else to make it a little easier. I'm not
11 sure if you would be able to resubmit this page.

12 MS. SHAHEEN: Absolutely. In the
13 affirmation, it does state that the highlighted
14 parties are to be pooled and that the asterisked
15 parties are in the process of being leased. But if
16 you would like for me to submit a revised --

17 MS. THOMPSON: Yeah because I'm not,
18 like, actually seeing that quite easily on here.

19 MS. SHAHEEN: Okay.

20 MS. THOMPSON: That actually does bring
21 me to my last point that I was going to talk about,
22 which is having multiple cases in one packet, which I
23 have brought up at previous dockets before where when
24 you have complex cases that are all, you know, more
25 than one cases in one packet, makes it quite difficult

1 to see what's going on and quite a bit longer for me
2 to review and get these orders sent out.

3 So in general, though not a
4 requirement, the Division has been requesting, you
5 know, one case per packet, so.

6 MS. SHAHEEN: I apologize for missing
7 that advice in the past, and I will definitely submit
8 individual packets for each application going forward.
9 And I'm happy to do that now if you'd prefer if it
10 would make it easy for you.

11 MS. THOMPSON: This one is already
12 submitted, so I would only do that way if Dean McClure
13 asks for your to submit any other supplementary
14 documents. But with that, I have no other questions.
15 I turn it to Mr. McClure.

16 THE HEARING EXAMINER: Mr. McClure,
17 before you proceed, let me just make the point. I
18 just hope that all counsel paid attention to what Ms.
19 Thompson said and the Division's preference in cases
20 like Ms. Shaheen is presenting. I take that to heart,
21 and you know, make note of it for your future
22 applications.

23 Mr. McClure?

24 MR. MCCLURE: Thank you, Mr. Harwood.

25 Yes, Ms. Shaheen, where to start. I'm

1 just kidding. I guess a very quick point.

2 If you could please review your
3 templates and ensure that we have the correct website
4 addresses on everything you have. I know in a couple
5 of these, we still have the old state.nm.gov website
6 addresses on these. I believe page 86 and 95 of 182
7 for all four of these exhibits.

8 MS. SHAHEEN: I appreciate that. I'm
9 sorry that we missed that. You said pages 86 and 95?

10 MR. MCCLURE: Yes, 86 and 95 of 182
11 total on what I'm looking at. It looks like it's your
12 notice to the interest owners, I guess. Oh, go ahead.
13 I'm sorry.

14 MS. SHAHEEN: No. I was just saying so
15 it's emnrd.state.nm.us; that's not the correct
16 address? Is that --

17 MR. MCCLURE: Let me bring it up right
18 now.

19 MS. SHAHEEN: It pulls up the webpage,
20 and I could be getting confused. But when I click on
21 it there, it does pull up the webpage. And maybe it's
22 just being --

23 MR. MCCLURE: Well, I'm thinking it's
24 still being auto forwarded at the moment. But I think
25 the correct website should be emnrd.nm.gov I believe

1 should be in there instead of the emnrd.state.nm.us.
2 That's my understanding at least.

3 MS. SHAHEEN: I have it posted on my
4 corkboard, here. And I will double check as soon as
5 we're done.

6 MR. MCCLURE: Okay. Thank you. I
7 guess the more important stuff -- that was just kind
8 of a sidebar.

9 I was going to say you referenced cases
10 20897 and 20899. Now I do see in those cases where
11 you did request an alternative spacing unit or
12 alternative pool area, I guess. But within the
13 hearing orders that were issued for that R-21204 and
14 R-21206; is it your understanding that there was
15 anything actually granted by the Division in regard to
16 an alternative pooled area?

17 MS. SHAHEEN: My recollection, and now
18 it's three years ago, and I'm a little bit older. My
19 recollection is that those were approved as requested.
20 But I'm happy to go back and take a look at them and
21 confirm that, or if it's something different, to let
22 you know.

23 MR. MCCLURE: Yeah. I was going to
24 say, just doing a quick read through them, it doesn't
25 appear that there's any additional language that's in

1 there beyond what the template was at that time.

2 And I know there's the Exhibit A in
3 there because it looks like it predates the current
4 application checklist or whatnot it's called. But in
5 regard to that Exhibit A, it didn't appear that there
6 was any reference to anything different from, I guess,
7 whatever the primary request was, I guess, for those
8 cases.

9 So I guess, in these particular cases,
10 bringing the question to now, is these spacing units
11 that are proposed pooled areas that are listed in the
12 application checklist, is that the, I guess, primary
13 request here or not because it seemed like when you
14 were presenting, maybe what you had initially stated
15 as the first request wasn't necessarily always in
16 alignment with what's in the application checklist.

17 So I guess I wasn't sure maybe what the
18 first request, if that's the way of saying it is for
19 each of these cases.

20 MS. SHAHEEN: The first request for
21 each of these cases is that we pull the entirety of
22 the east half and the west half -- sorry the entirety
23 of the east half in Sections 7 and 18. And that would
24 include the federal land. That's the first and
25 preferred spacing unit -- or as you pooled acreage,

1 that's the preferred.

2 But if we don't get those federal
3 permits, then we have to pull out the federal leases,
4 and those are the second preferred pooled area. Does
5 that help?

6 MR. MCCLURE: Yeah. So just to
7 confirm, and that would also go for the west half as
8 well for the entirety of the west half rather than
9 excluding that southeast quarter of the southwest
10 quarter of Section 18?

11 MS. SHAHEEN: Right.

12 MR. MCCLURE: Okay. Thank you. Yeah.
13 I don't know what the Division's thoughts will be on
14 here. I wonder if it might be approach of if you
15 don't get it, you may just have to come back and amend
16 the order perhaps. But we'll discuss that and see
17 what we want to do.

18 Regardless though, could you maybe go
19 into a little bit detail about the federal lease? I
20 know on our GIS, it says NM 092900, and it's showing
21 it as being authorized currently. But maybe they're
22 referencing there in your exhibits that referenced
23 that it may be getting terminated; is that correct?

24 MS. SHAHEEN: I don't believe the
25 lease's expirations relate to the federal leases. The

1 lease expirations, I believe, relate to the state
2 leases.

3 So the issue with the federal leases is
4 we don't know whether we will get the federal permits
5 in time to drill before the state lease's expiration
6 comes up. That's the issue.

7 So for us to come back and ask to
8 amend, if we don't get the federal permits, it defeats
9 the purpose because at that point, it's taken a while
10 for orders to come out from the Division. The lease
11 expirations may already be here. Yeah.

12 MR. MCCLURE: So to confirm your
13 concern here, it's that one or more of the state
14 leases may terminate before the BLM approves the APD
15 to drill a well to hold that acreage; is that correct?

16 MS. SHAHEEN: You said it so much
17 better than I did. Yes. That is correct.

18 MR. MCCLURE: So then as an
19 alternative, your plan then is to submit an APD that
20 excludes the federal acreage so as not to need an BLM
21 APD; is that what you're saying?

22 MS. SHAHEEN: I haven't drilled down,
23 but I think that if we did submit an APD that did not
24 include the federal acreage, then we would not need a
25 federal APD and we would not need a com agreement with

1 BLM.

2 MR. MCCLURE: I mean, yeah. I mean,
3 you're absolutely correct. But I mean, in order to
4 hold that state acreage, you'd have to go ahead and
5 drill the well. That excludes the federal acreage;
6 correct?

7 MS. SHAHEEN: That's right. And we
8 would have to have that pooled in advance before
9 drilling. And so that's why we're asking for the
10 approval of the alternative at this point so that when
11 it comes down to do we have the permits or not and we
12 need to drill, then we can go ahead and drill without
13 having to file an amended application.

14 If there weren't the lease expirations,
15 we would do exactly what we're suggesting, which is to
16 come back with amended applications. But because we
17 have these lease expirations and because I did this
18 once before, we were hoping that this would be
19 something that the Division would approve.

20 MR. MCCLURE: Okay. So I guess just to
21 confirm then, essentially what Flat Creek's plan here
22 would be is to submit the current APDs; one to the
23 BLM, one to us. The one to us would exclude the
24 federal acreage, the one to the BLM would include it.

25 And then if the BLM does not approve

1 the APD that includes the federal acreage, Flat Creek
2 would then proceed to drill based on the state APD,
3 which presumably, at that point, would have already
4 been approved, assuming that you don't get approval
5 for the federal APD before the state leases terminate?

6 MS. SHAHEEN: Right now, there are
7 three federal permits pending, so they're currently
8 waiting on the engineering phase for final approval.
9 So we've already started the process of getting the
10 federal permits. We just don't know when they'll get
11 approved.

12 And if we get to the point, and again,
13 Mr. Gregory is online here if he wants to weigh in and
14 testify and provide any additional information, but if
15 we get to the point where, hey, we don't have the
16 federal permits yet; they're not giving us any
17 indication as to when we're going to get them, then I
18 think they would choose the second alternative, the
19 least preferred alternative, and go forward and leave
20 out the federal acreage and then seek just your state
21 APD approving the pooling for the state and the
22 private fee lands.

23 So I don't think we would be having two
24 sets of permits pending at the same time. We've got
25 the federal permits pending right now. If we don't

1 get them in time, then we'll turn to the state and get
2 the state APDs.

3 MR. MCCLURE: I guess do you know a
4 timeline on when the state land office wishes to
5 terminate the state leases?

6 MS. SHAHEEN: If I remember correctly,
7 the first lease expiration may be coming up in
8 November, but I'm not certain about that. Mr. Gregory
9 may have that information a little more handy. I
10 don't have that.

11 MR. GREGORY: Yeah. Good morning,
12 everybody. This is Mike Gregory.

13 THE HEARING EXAMINER: Mr. Gregory,
14 hold on just a second. If you're going to provide
15 factual testimony, I need to swear you in as a
16 witness.

17 MIKE GREGORY,
18 called as a witness and having been first duly sworn
19 to tell the truth, the whole truth, and nothing but
20 the truth, was examined and testified as follows:

21 THE HEARING EXAMINER: All right. Go
22 ahead.

23 THE WITNESS: Yeah. So we've got four
24 state leases that expire November 1st. And yeah.

25 I think y'all were saying it exactly

1 correct, where we've got federal APDs pending. We're
2 waiting on just one of the phases right now, the
3 engineering phase.

4 Our hope is that we get those permits
5 and can drill the wells in order to satisfy the
6 November lease expirations with the state land office.
7 In the event we cannot get the permits in time, then
8 we will plan to just seek permits from NMOCD and drill
9 on the shorter alternative units.

10 MR. MCCLURE: Okay. I understand.
11 Thank you, Mr. Gregory. I guess the only follow up I
12 have to that is on the how the state leases are set,
13 you need to not only have it drilled, but also be
14 producing prior to November; is that correct, or?

15 THE WITNESS: We're working with the
16 state land office right now. We've been in
17 communication with them since early March of this
18 year. And so, we're working hand in hand with them.
19 They advised that we get back with them after this
20 hearing to touch base on plans to go forward.

21 MR. MCCLURE: Did it sound like there
22 was the possibility of simply extending those state
23 leases so they wouldn't terminate?

24 THE WITNESS: Yeah. I don't -- I don't
25 want to speak for the state land office. They didn't

1 say yes or no to that question. So I think the
2 possibility is there, but I can't speak for them. And
3 they didn't provide any guarantees or anything by any
4 means.

5 MR. MCCLURE: Okay. Thank you. Okay.
6 I got a little bit more follow up question, maybe
7 touching a little bit on Ms. Thompson's question
8 earlier. I don't know if it'd be better for
9 Ms. Shaheen or Mr. Gregory, but however you wish to
10 proceed, Ms. Shaheen.

11 MS. SHAHEEN: I'm happy to give it a
12 shot, and I will refer it to Mr. Gregory if I don't
13 have an answer.

14 MR. MCCLURE: Okay. Sounds good.
15 Just to confirm, so as far as pooling
16 the unleased mineral interest owners that have the
17 star next to them, I guess, are we only pooling them
18 in case the lease agreement that's not executed yet
19 does not go through then? Because we're thinking
20 they're going to be executed within the week is what'd
21 you'd mentioned earlier; correct, Ms. Shaheen?

22 MS. SHAHEEN: Well, that was my
23 understanding about some of these, but you know,
24 there's no guarantee as to when someone's going to
25 sign something. But they have been working hand in

1 hand. Mr. Gregory has been working hand in hand with
2 a number of these folks and with their counsel. Some
3 of them have counsel, to come to an agreement as soon
4 as possible.

5 MR. MCCLURE: Okay. Yeah. Thank you.
6 Yeah, I understand where you're coming from. I was
7 just confirming as to what the thought was, I guess,
8 behind that. I think that may be all my questions.
9 Thank you, Ms. Shaheen.

10 MS. SHAHEEN: Thank you, Mr. McClure.
11 And I would offer, I can take a look at the
12 transcripts from those Titus cases and point out
13 anywhere there that might be helpful related to your
14 question about the orders in those cases if you'd
15 like. Just let me know.

16 MR. MCCLURE: I guess towards that end,
17 presuming, I guess, somewhat dependent on what
18 Mr. Harwood is thinking, but it could be beneficial if
19 you wanted to submit some sort of follow up in that
20 regard because looking at the hearing order and the
21 exhibit attached, it doesn't seem, at least at this
22 later date, that the Division had authorized, you
23 know, what was requested for in the application.

24 But you know, as you point out, I
25 didn't go through and read the transcript, so I'm not

1 sure what might have been spoken to within the hearing
2 itself. But it could potentially be beneficial to the
3 Division in determining what we wish to do in these
4 cases, I guess, if we had something in that regard.

5 I guess what are your thoughts toward
6 that end, Mr. Harwood?

7 THE HEARING EXAMINER: Well, a lot of
8 this is, frankly, over my head. But it sounds to me,
9 from my uninformed layperson's perspective, that we're
10 not clear whether there is Division precedent for
11 what's been requested here.

12 I guess my thoughts, based on listening
13 to this exchange, are whether or not we can proceed to
14 take this case under advisement at this time or
15 whether we need to continue it until such time as we
16 have a better understanding of whether or not what's
17 being requested essentially hedging Flat Creek's bets
18 is either authorized or in the best interest of OCD
19 and its goals.

20 I guess those are my thoughts,
21 Mr. McClure and Ms. Thompson and Ms. Shaheen. And why
22 don't you all chime in and correct me if I'm wrong,
23 which is pretty usual.

24 MS. SHAHEEN: I might just say that
25 there's precedent in doing this with respect to

1 vertical wells. And I know no one's drilling vertical
2 wells these days, but the idea to do that with Titus
3 came out of the history of doing that with vertical
4 wells.

5 And I'll take a look at the transcript,
6 and maybe what I can do is file a supplemental
7 affirmation perhaps for me or maybe I could just point
8 out the page and line numbers in the transcript where
9 I think indicate that the Division was amenable to
10 approving the alternatives in those previous cases.

11 MR. MCCLURE: And I guess, what are
12 your thoughts in regard to continuing the case to a
13 later docket in the near future where we could revisit
14 your submittal?

15 MS. SHAHEEN: I don't know that it's
16 necessary. I think if we make the supplemental
17 referral to the transcript, unless you believe it
18 would somehow be helpful to hear from me again, I
19 don't know that there's any additional facts that we
20 need to have that aren't already available to the
21 Division. I can give that some thought, but I would
22 suggest that it be taken under advisement, leave the
23 record open for me to supplement with those transcript
24 citations.

25 I guess what I don't want is for the

1 Division to deny the applications without giving us
2 another opportunity if you felt it was necessary to
3 hear from us again. That would be my only concern.

4 THE HEARING EXAMINER: Let me ask you
5 this, Ms. Shaheen. Let's assume the worst-case
6 scenario. You go back to the transcripts, and they do
7 not provide support for the precedent you believe may
8 exist, you know, in support of the application in
9 these four cases. Then what?

10 MS. SHAHEEN: I would probably confer
11 with Titus's folks if I read the transcripts and there
12 wasn't an indication that the Division was planning to
13 approve both alternatives.

14 And I too, like you, can be wrong
15 often, but my very strong recollection is that the
16 Division approved both alternatives even if it may not
17 be evident in the Exhibit A. But I'll need to take a
18 look at that before I can weigh in further.

19 THE HEARING EXAMINER: Okay.
20 Mr. McClure, Ms. Thompson, final thoughts on how the
21 two of you would prefer to proceed here, either
22 continuance or taken under advisement with the
23 discussed supplementation?

24 MR. MCCLURE: Do you have thoughts,
25 Ms. Thompson?

1 MS. THOMPSON: Yeah, I've not quite
2 seen something like this before. The biggest, I
3 guess, problem is, I guess, whether or not you
4 actually do get those federal leases because when
5 writing an order, we do attach the checklist that
6 pretty much lays out what you're allowed to have and
7 what you're not allowed to have. The order's not
8 super specific as far as whether or not you're having
9 those leases. It could cause problems down the road.

10 I guess we could potentially take it
11 under advisement; however, I would definitely request
12 that supplementary document that Mr. McClure was
13 asking for along with the one I was asking for as far
14 as the full parties, so.

15 THE HEARING EXAMINER: You know, I'm
16 thinking Ms. Shaheen, that probably the safer course
17 for OCD in a case like this where the precedent is
18 uncertain is for us to continue this case rather than
19 take it under advisement. I mean, we can admit your
20 exhibits and continue the case pending submission of,
21 you know, this additional information and poof that's
22 been discussed; would that be acceptable? I know it's
23 not your preference, but.

24 MS. SHAHEEN: Right. If that's the
25 Division's preference, I won't argue with you. I

1 would just simply ask that we be put on the next
2 docket, which would be August 3rd.

3 THE HEARING EXAMINER: Ms. Salvidrez,
4 can we squeeze Flat Creek into that docket?

5 MS. SALVIDREZ: Yes. I will continue
6 these four cases to August 3rd.

7 THE HEARING EXAMINER: Okay.

8 MS. SHAHEEN: Thank you, Marleen.

9 THE HEARING EXAMINER: Okay. Anything
10 else from anyone else on these four cases, the Flat
11 Creek Cases, 15 through 18?

12 MS. SHAHEEN: If you don't mind, I want
13 to make sure that I'm providing Ms. Thompson and
14 Mr. McClure with everything they need. And that is
15 the revised A-4 indicating on the Exhibit that the
16 highlighted parties are those that who are being
17 pooled, and the asterisks relate to anticipated
18 leases; and then provide citations to the transcripts
19 in the Titus cases. Is that it, or is there anything
20 else?

21 MS. THOMPSON: And then can you double
22 check that link for the OCD website?

23 MS. SHAHEEN: Oh, right. I agree with
24 Mr. McClure. In the future, I need to make sure it's
25 the .gov address.

1 MR. MCCLURE: And Ms. Shaheen, I think
2 that pretty much encapsulates what we were looking at
3 as far as the Titus cases. I mean, if you wanted to
4 add an extra paragraph or something there at your
5 discretion, that'd be fine. But I mean, we're not
6 really looking for a big ten-page legal argument by
7 any stretch of the imagination, though. Just some
8 sort of citation should be fine.

9 MS. SHAHEEN: Okay. I'll make it
10 brief. Thank you.

11 MR. MCCLURE: Yep. Thank you. The
12 only other thing I was going to say is earlier, I'd
13 referenced that I didn't think the application
14 checklist had included your primary request, that
15 being the entirety of the west half and the east half,
16 and I am mistaken on that. I didn't notice that
17 there's an extra field that is added to the admin
18 checklist in these cases, that being alternative
19 description. So I was accidentally reading that
20 instead of the primary description, I guess.

21 So I guess, no questions in regard to
22 that. Just stating that I was mistaken earlier in
23 what I said. But thank you, Ms. Shaheen.

24 Thank you, Mr. Harwood.

25 THE HEARING EXAMINER: Sure. I'm glad

1 I'm not the only one.

2 Okay. Anything else from anyone in
3 these cases 15 through 18? I'm hearing nothing.

4 I note that we've been going almost an
5 hour. But since cases 19 through 22 can be disposed
6 of quickly, I'm proposing that we do that, and then
7 we'll take a ten-minute break.

8 Hearing no opposition, to that, let's
9 call cases 19 through 22. They're all Matador
10 Production Company cases. May I have an entry of
11 appearance for the applicant in those cases?

12 MS. VANCE: Yes. Hello, again. Good
13 morning, Examiners. Paula Vance with the Santa Fe
14 office of Holland and Hart on behalf of the applicant,
15 Matador Production Company.

16 THE HEARING EXAMINER: Thank you,
17 Ms. Vance.

18 And entry of appearance for any other
19 interested parties or persons in cases 19 through 22?

20 MR. SAVAGE: Good morning, Mr. Hearing
21 Examiner.

22 Good morning, Technical Examiners.

23 Darin Savage with Abadie and Schill on
24 behalf of Coterra Energy and Cimarex Energy Company,
25 et al.

1 THE HEARING EXAMINER: Thank you,
2 Mr. Savage.

3 Anyone --

4 MR. PARROT: Good morning, all. This
5 is --

6 THE HEARING EXAMINER: Yeah.

7 MR. PARROT: Apologies, Mr. Examiner.
8 Good morning, all. This is James
9 Parrot from Beatty and Wozniak on behalf of EOG
10 Resources, Inc., entering an appearance.

11 THE HEARING EXAMINER: Thank you,
12 Mr. Parrot.

13 Anyone else? Okay. My understanding
14 is that there was a motion to dismiss filed in all
15 four of these cases. If I'm not mistaken, it was
16 filed after OCD's deadline, but I think it will be
17 granted anyway. And I'm not sure this is news to
18 anyone.

19 Ms. Salvidrez, could you fill us in on
20 the procedural details of that?

21 MS. SALVIDREZ: I will dismiss these
22 four cases.

23 THE HEARING EXAMINER: Okay. I'm
24 hearing silence from everybody. I assume that's a
25 consensus request, and that's what everyone wants?

1 MS. VANCE: Yes, Mr. Hearing Examiner.
2 And as indicated in our motion to dismiss, Matador
3 will refile similar applications at a later date.

4 THE HEARING EXAMINER: Okay. Thank
5 you, Ms. Vance.

6 Anything else from anyone in cases 19
7 through 22?

8 MR. PARROT: Nothing from EOG. Thank
9 you.

10 MR. SAVAGE: Nothing. Thank you.

11 THE HEARING EXAMINER: Okay. Well,
12 thank you, all.

13 Let's see. It's almost 30 minutes
14 after the hour. Let's take a break and reconvene at
15 40 minutes after the hour. We'll see you all back in
16 13 minutes.

17 (Off the record.)

18 THE REPORTER: We are now back on the
19 record.

20 THE HEARING EXAMINER: That's great.
21 Thank you, Ms. Fulton.

22 Okay, everyone. Let's see. Where does
23 that take us to? Cases 23 and 24 on today's docket,
24 23585 and 586. I believe those are consolidated. May
25 I have an appearance for the record from the applicant

1 in those two cases?

2 MS. MCLEAN: Yes, Mr. Examiner. Jackie
3 McLean with Hinkle Shanor on behalf of Mewbourne Oil
4 Company.

5 THE HEARING EXAMINER: Good morning,
6 Ms. McLean.

7 MS. MCLEAN: Good morning.

8 THE HEARING EXAMINER: Welcome aboard.

9 MS. MCLEAN: Thank you.

10 THE HEARING EXAMINER: Am I correct
11 that these are consolidated?

12 MS. MCLEAN: That is correct.

13 THE HEARING EXAMINER: All right. Entry
14 of appearance for any other interested persons in
15 cases 23 and 24 or interested parties?

16 MS. BENNETT: Good morning, everyone.
17 Deana Bennet from Modrall Sperling in Albuquerque, New
18 Mexico, on behalf of Marathon Oil Permian in these two
19 cases. And I'm entering our appearance to preserve
20 Marathon's rights to seek de novo review to the extent
21 necessary. But I have no objection to the cases
22 proceeding by affidavit.

23 THE HEARING EXAMINER: Thank you,
24 Ms. Bennett.

25 Anyone else? Okay.

1 Ms. McLean, back to you.

2 MS. MCLEAN: Thank you.

3 In case numbers 23585 and 23586,
4 Mewbourne is seeking an order pooling all uncommitted
5 interest in the Bone Spring formation in the west half
6 of Sections 21 and 28, Township 18 South, Range 35
7 East in Lea County.

8 And in case number 23585, Mewbourne is
9 seeking an order pooling all committed interests in
10 the Bone Spring formation underlying a 328-acre
11 standard horizontal spacing unit comprised of the west
12 half west half of Sections 21 and 28, Township 18
13 South, Range 35 East. And Mewbourne seeks to dedicate
14 the unit to the Belgian Blue 28/21 State Com number
15 501H well.

16 And then in case number 23586,
17 Mewbourne seeks an order pooling uncommitted interests
18 in the Bone Spring formation underlying a 320-acre
19 standard horizontal spacing unit comprised of the east
20 half west half of Sections 21 and 28, Township 18
21 South, Range 35 East. And the unit will be dedicated
22 to the Belgian Blue 28/21 State Com number 523H well.

23 The exhibit packets in case numbers
24 23585 and 23586, which were submitted to the Division
25 for these cases contain Exhibit A, which is the land

1 professional's testimony and related land exhibits,
2 including the application and proposed notice of
3 hearing, C-102s for the wells, a plot of tracts,
4 ownership interest, a list of the uncommitted interest
5 pool, as well as a sample well proposal letter, AFEs,
6 and a chronology of contact.

7 (Cases 23585 and 23586 Exhibit A was
8 marked for identification.)

9 Exhibit B is the geology testimony and
10 related exhibits which include a location map, Bone
11 Springs sub-c structure map, and a stratigraphic cross
12 section.

13 (Cases 23585 and 23586 Exhibit B was
14 marked for identification.)

15 And finally, Exhibit C, which is the
16 notice testimony, sets out when our firm sent the
17 notice letter to the interested parties, a chart that
18 provides a date each notice letter, and the date each
19 return was received, as well as the certified mail
20 cards in support. And finally, an affidavit of
21 publication from the Hobbs News-Sun, which shows that
22 we timely published on June 11, 2023.

23 (Cases 23585 and 23586 Exhibit C was
24 marked for identification.)

25 And with that, I ask that Exhibits A,

1 B, and C be admitted into the record in case numbers
2 23585 and 23586 and that these cases be taken under
3 advisement. And I'm happy to answer any questions
4 that you might have about these cases.

5 THE HEARING EXAMINER: Thank you,
6 Ms. McLean.

7 Ms. Bennett?

8 MS. BENNETT: Thank you. I have no
9 questions.

10 THE HEARING EXAMINER: All right. This
11 time, we'll start with Mr. McClure.

12 MR. MCCLURE: Yes. Mr. Harwood, I have
13 no questions for either of these cases.

14 THE HEARING EXAMINER: Ms. Thompson?

15 MS. THOMPSON: Yes. I have no
16 questions for these cases.

17 THE HEARING EXAMINER: All right.
18 Well, Ms. McLean, thank you for your brevity. Your
19 Exhibits A through C will be admitted, and cases 23
20 and 24 will be taken under advisement.

21 (Cases 23585 and 23586 Exhibit A,
22 Exhibit B, and Exhibit C were received
23 into evidence.)

24 MS. MCLEAN: Thank you. I appreciate
25 it.

1 THE HEARING EXAMINER: Anything else
2 from anyone in cases 23 and 24 on today's docket?

3 Hearing nothing, we will move right
4 along to case number 25, which is case 23633, Oxy USA
5 Inc. Entry of appearance for the applicant, please.

6 MR. RANKIN: Good morning,
7 Mr. Examiner. May it please the Division, Adam Rankin
8 appearing on behalf of the applicant in this case.

9 THE HEARING EXAMINER: Good morning,
10 Mr. Rankin.

11 Entry of appearance for any other
12 interested parties or persons in case number 25? All
13 right. For the record, I hear silence.

14 So Mr. Rankin, given that there's no
15 opposition I guess, you can take this away by
16 affidavit.

17 MR. RANKIN: Thank you, Mr. Hearing
18 Examiner.

19 This case has been continued from the
20 pervious docket due to the need to perfect notice by
21 publication. We presented this case in full at the
22 previous docket and identified that the notice of
23 publication was two days late.

24 For that reason, we have continued the
25 case to this docket for purposes of perfecting that

1 notice. Otherwise, Oxy has submitted its supplemental
2 exhibits that were requested by the Division. And at
3 this time, we would ask that the case be taken under
4 advisement.

5 THE HEARING EXAMINER: Thank you,
6 Mr. Rankin, especially for jogging my memory.

7 Let me ask if Ms. Thompson or
8 Mr. McClure have any additional questions for
9 Mr. Rankin based on what's been submitted in the
10 interim.

11 MR. MCCLURE: No questions here,
12 Mr. Harwood. It looks like they submitted as
13 requested. And I don't see any entries in the case
14 file in regard to additional entries of appearance or
15 anything, so I think I'm satisfied.

16 MS. THOMPSON: I have no questions.

17 THE HEARING EXAMINER: Okay.
18 Mr. Rankin, your case will be taken under advisement.

19 MR. RANKIN: Thank you very much.

20 THE HEARING EXAMINER: Okay. Thank
21 you.

22 Anything else in case number 23633?
23 Okay.

24 That brings us to the next block of
25 cases, which is a large block. Let's see, we are

1 talking cases number 26 through 57. These are Cimarex
2 Energy Company and Read and Stevens, Inc., cases. All
3 of these cases involve those two entities.

4 Let me first have an entry of
5 appearance for Cimarex Energy Company, please.

6 You're muted, Mr. Zimsky, if you're
7 trying to talk.

8 MR. SAVAGE: Thank you. Good morning,
9 Mr. Hearing Examiner.

10 Good morning, Technical Examiners.

11 Darin Savage with Abadie Schill on
12 behalf of Cimarex Energy Company. Also present is
13 Bill Zimsky from Abadie Schill's Durango office.

14 MR. ZIMSKY: Good morning.

15 THE HEARING EXAMINER: Okay. Thank
16 you, Mr. Savage.

17 Let me have entries of appearance for
18 Read and Stevens, Inc., please.

19 MR. RANKIN: Good morning, Mr. Hearing
20 Examiner. Adam Rankin with the Sante Fe office of
21 Holland and Hart, appearing on behalf of the applicant
22 in this case, Read and Stevens, and Permian Resources
23 Operating, LLC. And with me today is my colleague,
24 Paula Vance.

25 THE HEARING EXAMINER: Thank you,

1 Mr. Rankin.

2 Okay. Entry of appearance for any
3 other parties? I realize this is a long list of
4 cases. So entry of appearance for other parties in
5 this set of cases?

6 MR. JONES: Good morning, Mr. Examiner.
7 Blake Jones with Steptoe and Johnson, appearing on
8 behalf of Northern Oil and Gas who is an interested
9 party in the Sections 5 and 8 cases, those being case
10 number 23448 through 23455, 23594 through 23597, and
11 23516 through 23523.

12 THE HEARING EXAMINER: Thank you,
13 Mr. Jones.

14 Others?

15 MR. MORGAN: Yes. Good morning,
16 Mr. Examiner. Scott Morgan with Cavin and Ingram,
17 appearing on behalf of Sandstone Properties, LLC., in
18 the Bane and the Joker cases, which are 42 through 57
19 on the docket.

20 Our understanding at this time is that
21 the parties are not seeking to pool any interests that
22 may be owned by Sandstone. I think the title reflects
23 that we're here to simply preserve rights if
24 necessary.

25 THE HEARING EXAMINER: Thank you,

1 Mr. Morgan.

2 Anyone else? Okay.

3 Let me tell everybody what the Division
4 has decided to do, and Mr. McClure, Ms. Thompson, jump
5 in and correct me if I'm wrong.

6 There was a motion to continue these
7 cases that was filed. And I might add, vigorously
8 opposed. The Division has decided, given the
9 magnitude of these cases and the amount of time that
10 they are expected to take, that we will continue the
11 cases, and not necessarily for the reasons requested
12 in the motion for continuance by the way, so don't
13 take this as a reflection of how the OCD may have
14 evaluated or may evaluate that motion. But it's
15 simply from the perspective of OCD and its time
16 constraints today.

17 The decision is to continue these cases
18 to a special hearing date. I'll ask Ms. Salvidrez to
19 chime in and provide the dates. I think this has been
20 discussed already with folks via email, and there may
21 have been a date that's already been settled upon.

22 But anyway, that's the way we're going
23 to proceed in these cases. We're going to set aside a
24 day to hear this particular block of cases, maybe two
25 days if necessary.

1 Ms. Salvidrez, would you take it from
2 here on the dates that we're talking about?

3 And then we'll hear from all the
4 parties and see if we can't pick a day.

5 MS. SALVIDREZ: Well, sure, Rip.

6 So the dates that we have are
7 Wednesday/Thursday, August 9th and 10th;
8 Wednesday/Thursday August 23rd/24th;
9 Wednesday/Thursday September 13th/14th;
10 Wednesday/Thursday September 27th/28th.

11 THE HEARING EXAMINER: Okay. Thank
12 you.

13 Mr. Rankin, let me hear from you first.

14 MR. RANKIN: Thank you, Mr. Hearing
15 Examiner.

16 And I'll just state, we're obviously
17 disappointed not to be able to present our case today
18 but understand and appreciate the Division's
19 willingness to set these cases for a special hearing
20 date so that we can, nevertheless, proceed at the
21 earliest opportunity.

22 In light of that and our preference, we
23 are requesting a hearing on the 9th and 10th of
24 August. Our witnesses are not available for the
25 second options there. So in order to proceed on the

1 earliest date, we're asking for August 9th and 10th.

2 THE HEARING EXAMINER: Thank you,
3 Mr. Rankin.

4 Mr. Savage?

5 MR. SAVAGE: Yes. Thank you,
6 Mr. Hearing Examiner. We appreciate the wisdom of the
7 OCD, the Division, and we realize that there are many
8 factors involved regarding the magnitude of these
9 cases.

10 In our motion, in wrestling and
11 grappling with some of the issues in these cases,
12 there was an issue that we believe is an issue of
13 first impression for the Division that the Division
14 has not resolved or opined about. And we describe a
15 little bit about it in the top two options and
16 questions in our motion. We believe that this issue
17 is essential to receive some feedback from the
18 Division on the issue prior to the hearing on the
19 merits. In effect, we think it would be not -- be
20 essential, it would help to have some kind of
21 declaratory ruling.

22 Read and Stevens has pointed out the
23 importance of the unresolved issue in their response
24 as it involves the allocation statute 70-2-17. There
25 appear to be two approaches available to Cimarex for

1 satisfying the statute, but which approach depends on
2 how the Division defines and applies certain terms of
3 the statute and the correlative rights.

4 Therefore, as a foundational matter,
5 Cimarex really needs feedback from the Division in
6 order to determine which approach applies. And
7 therefore, respectfully, we would like to have the
8 opportunity to brief the issue and have a short
9 prehearing conference prior to the hearing on the
10 merits.

11 And therefore, we would like to have
12 the hearing on merits the September 13th and 14th. So
13 that would still fit in the timeline and time
14 allocation of the OCD, but it would add just one
15 additional step that is essential for proceeding on
16 the case with this kind of magnitude.

17 And despite Read and Stevens' argument
18 that these cases are simple, they are not. They are
19 very complicated, and the issues involved are very
20 complicated and novel. So I would thank the Division
21 for the consideration of this request.

22 THE HEARING EXAMINER: Thank you,
23 Mr. Savage.

24 Mr. Jones or Mr. Morgan, do you have
25 things to add? I mainly want to hear about your

1 availability on these now two sets of proposed dates.

2 MR. JONES: Both sets of dates work for
3 Northern Oil and Gas. Nothing further to add. Thank
4 you.

5 MR. MORGAN: Mr. Examiner, both sets of
6 dates work for Sandstone Properties as well.

7 THE HEARING EXAMINER: Okay. Thank
8 you.

9 Mr. Rankin, I want to just briefly
10 return to you and ask you if you agree with Mr. Savage
11 that there's a need for further briefing on an issue
12 of first impression before this proceeds to hearing on
13 the merits?

14 MR. RANKIN: Mr. Examiner, I do not
15 agree that this requires briefing. This is a pretty
16 straightforward issue about correlative rights. The
17 statute is very clear on what's required for
18 allocation of production under a pooling order within
19 a spacing unit. And it's required and mandated, and
20 there's really no flexibility.

21 First impression here is not the
22 geology or complexity of engineering, it's simply the
23 position that Cimarex is taking about requesting the
24 Division to essentially shut off the ability of
25 working interest owners to access their underlying

1 minerals. So our view is it's not complex at all.

2 But if Mr. Savage would like to brief
3 the issue, he's certainly welcome to do so. You know,
4 I can't stop him from doing that, but I don't think
5 it's necessary. And we would of course respond.

6 But my concern is in burdening the
7 parties and the Division with long, you know,
8 cumbersome briefing on an issue that is really,
9 frankly, very straightforward. And I see it,
10 Mr. Examiner, as a, you know, not only a burden, but
11 also, you know, I have concerns about it ultimately
12 delaying a hearing on the merits. So number one.

13 And then number two, we do not have
14 full witness -- on the 13th or 14th.

15 THE HEARING EXAMINER: I'm sorry. You
16 cut out there, MR. Rankin. You don't have witnesses
17 available on September the 13th or 14th?

18 MR. RANKIN: That's correct. Not all
19 of our witnesses are available those dates.

20 THE HEARING EXAMINER: If we selected
21 those dates, could you get those people to be
22 available?

23 MR. RANKIN: Unfortunately, no.
24 Unfortunately, I would not be able to.

25 THE HEARING EXAMINER: Okay.

1 MR. SAVAGE: Mr. Harwood, if I may say
2 that there is another selection option subsequent to
3 the 13th and 14th, and that would be the last set of
4 dates in September. That would be available within
5 the framework that the Division is proposing.

6 MR. RANKIN: Mr. Examiner, I haven't
7 heard whether Cimarex's witnesses are unavailable for
8 August 9th or 10th yet. And I guess, you know, before
9 we move to the very last date that has been provided,
10 I'd like to know whether Cimarex's witnesses would be
11 available for the 9th or 10th.

12 THE HEARING EXAMINER: I thought I
13 heard they were.

14 MR. SAVAGE: Mr. Harwood, we believe
15 that the witnesses would be available for those dates
16 in August, but we believe that that would be premature
17 considering the need for additional briefing and
18 preference would be a prehearing conference.

19 THE HEARING EXAMINER: Okay.
20 Mr. Savage, what are your dates in September that
21 you're proposing?

22 MR. SAVAGE: 13th and 14th is what we
23 had proposed, but --

24 THE HEARING EXAMINER: I'm sorry.

25 Mr. Rankin, the dates in September that

1 you're proposing?

2 MR. RANKIN: I'm sorry, Mr. Examiner.
3 We do not propose dates in September. We're proposing
4 the 9th and 10th of August. We don't have witness
5 availability for the August 23rd, 24th, or the
6 September 13th or 14th dates.

7 THE HEARING EXAMINER: Okay. Who was
8 it that mentioned the dates later in September? What
9 dates were those?

10 Is that you, Mr. Savage?

11 MR. SAVAGE: Yes.

12 Marlene, can you provide the last set
13 of dates in September?

14 MS. SALVIDREZ: Sure, Mr. Savage. It
15 is Wednesday/Thursday September 27th/28th.

16 MR. SAVAGE: Yes. So, you know, that
17 is a large set of time frame for Read and Stevens to
18 not be available with witnesses. You would think that
19 they would be available over one of those options in
20 September.

21 THE HEARING EXAMINER: Well, we haven't
22 heard that they aren't.

23 So Mr. Rankin, that's the question to
24 you. Would your witnesses be available September 27th
25 and 28th?

1 MR. RANKIN: Witnesses are available
2 those dates, Mr. Examiner; however, I have heard that
3 both Cimarex and Permian both have witnesses available
4 for the 9th and 10th. So our strong preference would be
5 to take the earliest date for which all parties are
6 available.

7 And let me just take the moment to
8 remind the examiners in the Division where we are and
9 how we got here. These cases and this contested
10 hearing that was set for today has been pending since
11 April at which date, on April 6, both parties, Cimarex
12 and Permian, agreed that day would be the date for the
13 hearing.

14 And prior to that, both parties had
15 sent out well proposals to one another. Cimarex was
16 well aware, based on the dates in the well proposals,
17 that Permian was seeking to pool both the Bone Spring
18 and Wolfcamp. So these well proposals and the
19 knowledge of what each company's plans were and have
20 been, have been known for some time. And so at this
21 point, we've been waiting for more than three months
22 to have a contested hearing.

23 The only thing that's new, which really
24 isn't, but apparently, it's new to Cimarex, is that
25 the Wolfcamp is a viable formation in this area.

1 And given that, we really don't see any
2 justification for going beyond the earliest available
3 date to both parties. And so we ask that we set this
4 case for hearing on the 9th and 10th of August.

5 THE HEARING EXAMINER: Okay.

6 MR. SAVAGE: Mr. Harwood, if I could
7 add just a little bit of coloring to that?

8 THE HEARING EXAMINER: Sure. Go ahead.

9 MR. SAVAGE: Okay. Thank you. I don't
10 mean to be going back and forth like this, but these
11 are important issues.

12 So to put it in perspective, Cimarex
13 filed these applications initially for these lands.
14 Then Read and Stevens asked for an objection and a
15 continuance. We accommodated that so they could do
16 their well proposals and file competing applications.
17 And then that was for the Bone Spring.

18 And then they wanted additional pooling
19 applications for the Wolfcamp. And there is a lot of
20 controversy in this area over how you would approach
21 the development of the Wolfcamp or even if you should
22 approach the development of the Wolfcamp, which raised
23 a lot of issues.

24 But nonetheless, Cimarex and the
25 Division accommodated their need for time for the

1 competing applications. And as we developed our
2 cases, we came to confront and encounter the very
3 default issues. And as a result, prior to the
4 deadline, we ask for this continuance, and we think it
5 is in the best interest.

6 Mr. Harwood, typically, in competing
7 applications, you look at the AFEs. And the AFEs
8 might show variations between 15 and 20 percent
9 differences in the cost.

10 Here we have a magnitude of difference
11 in cost of probably 100 percent. It's an additional
12 quarter of a billion dollars to drill Read and
13 Stevens' plan versus Cimarex's plan. And that is a
14 huge amount.

15 And it warrants the additional time.
16 We're still trying to stay in the time frame of the
17 Division. And we're just asking for the Division's
18 consideration on some very important issues.

19 THE HEARING EXAMINER: Okay. Well,
20 here's what I'm proposing we do, and Mr. McClure or
21 Ms. Thompson, feel free to jump in if you wish.

22 I'm not somebody who likes to see cases
23 delayed and delayed. On the other hand, I think when
24 people generally request more briefing on an issue,
25 it's probably in the best interest to provide them

1 that. So given the short time frame between now and
2 August the 9th, what I'm proposing, Mr. Savage, is
3 that you have your brief into us by July the 26, next
4 Wednesday, and then a response brief to the Division
5 by, let's say, August the 3rd.

6 Mr. Rankin, are those dates acceptable
7 to the two of you? That will give the Division a
8 little time to review your briefing. We won't need
9 any reply brief; we can get it all in your brief in
10 chief and your response. We'll review those.

11 And then on August the 9th, we'll start
12 out with Mr. Savage's issue of first impression and
13 deal with that first. But have all your witnesses
14 ready to proceed on August the 9th.

15 How does that sound to you guys?

16 MR. RANKIN: Mr. Examiner, would you
17 mind, just so I understand the timing and the
18 sequencing. Would you mind recapitulating that for
19 me, so I get it just right?

20 THE HEARING EXAMINER: Sure. I'm
21 proposing that Mr. Savage have the brief he wants to
22 file in by the 26, next Wednesday. And then you have
23 your brief into us by the Wednesday After that, August
24 the 3rd.

25 MR. RANKIN: Okay.

1 THE HEARING EXAMINER: I know it's a
2 short time frame, but I'm trying to accommodate
3 everybody.

4 MR. RANKIN: And then we, nevertheless,
5 plan on an August 9th and 10th hearing?

6 THE HEARING EXAMINER: I think so. You
7 know, this is the best, fairest compromise I can come
8 up with on short order.

9 MR. RANKIN: Mr. Examiner, I fully
10 endorse your approach, I don't necessarily believe
11 that briefing is required. I would vehemently oppose
12 stringing this case out, this contest out, over the
13 issues that Cimarex themselves have brought to the
14 table.

15 And so I agree with you and I'm happy
16 to comply. And we can turn around a response brief by
17 August 3rd and be prepared to go to hearing on the 9th
18 and 10th.

19 THE HEARING EXAMINER: Mr. Savage, can
20 you get your brief in by next Wednesday?

21 MR. SAVAGE: Yes, Mr. Harwood. I can
22 get the briefing.

23 The difficulty with that short fuse is
24 that we have in place outstanding Wolfcamp
25 applications. And we have also a motion in place

1 addressing what the Division should do with those
2 Wolfcamp applications, whether they should be
3 dismissed or whether they should be included.

4 We really need feedback from the
5 division to make that determination of what to do with
6 those Wolfcamp applications that Cimarex has in place.
7 I don't think we can do it within that time frame
8 that's proposed.

9 So the feedback we want from the
10 Division, our decision about how to present the
11 elements that are in place depends directly on the
12 feedback we've received.

13 THE HEARING EXAMINER: Are you talking
14 about feedback on your pending motion for continuance?

15 MR. SAVAGE: No. The feedback from the
16 brief that we propose. We need basically some kind of
17 declaratory ruling from the Division on the unresolved
18 issue of first impression that we will be discussing.

19 THE HEARING EXAMINER: Well, you know,
20 Mr. Savage, I think what you're going to have to do is
21 just be ready to proceed to hearing on August the 9th.
22 You know, give it your best shot in the briefing. If
23 there was a declaratory ruling in your favor at the
24 outset of the hearing on the 9th, then maybe some of
25 this goes away. But I think you should simply have it

1 all in by the 9th and be prepared to proceed on the
2 merits.

3 MR. SAVAGE: That's fair.

4 THE HEARING EXAMINER: Okay.

5 MR. SAVAGE: Mr. Examiner, if we could
6 do an alternate form, similar to what Ms. Sheehan, I
7 guess, did this morning. We could present two
8 packets, providing alternate options for the Division
9 to consider. I think we could approach it that way.
10 Thank you.

11 THE HEARING EXAMINER: Okay. It
12 remains unresolved whether or not that approach is
13 something the Division can consider, but I'll leave it
14 up to your ingenuity, Mr. Savage. I think the only
15 thing we can do that's fair to everybody is go ahead
16 on the 9th and 10th, and you all get in whatever
17 briefing you think is dispositive of these issues
18 between now and then by the deadlines we discussed.

19 MR. SAVAGE: All right. That's fair
20 enough. We appreciate that. Thank you. We can do
21 that.

22 THE HEARING EXAMINER: Based on that
23 discussion, anything else from you, Mr. Jones, or you,
24 Mr. Morgan?

25 MR. JONES: Nothing further. Thanks.

1 MR. MORGAN: Nothing further from
2 Sandstone. Thank you.

3 THE HEARING EXAMINER: Mr. McClure or
4 Ms. Thompson, anything you wish to add?

5 MR. MCCLURE: Nothing from me,
6 Mr. Harwood.

7 MS. THOMPSON: Nothing from me.

8 THE HEARING EXAMINER: All right.
9 Okay. Is there anything else in cases 26 through 57
10 on today's docket? Okay. Hearing nothing. Wait.
11 Somebody was talking --

12 MR. SAVAGE: Yes. I'm sorry,
13 Mr. Harwood. Just one more item to be able to manage
14 the approach as we prepare for August 9.

15 It would be nice to have, like, some
16 kind of guidance in terms of a supplemental prehearing
17 order maybe where we can propose supplements to the
18 hearing packets that represent the additional
19 alternative approach pursuant to the brief.

20 We just as for some kind of timeline as
21 that hearing approaches the week before. Anything
22 supplemental that both parties would like to submit as
23 exhibits, we can do so. And then any objections to
24 those following that. And then we should be prepared
25 for the August 9 hearing.

1 MR. RANKIN: Mr. Examiner, may I add to
2 Mr. Savage's comments?

3 THE HEARING EXAMINER: Sure.

4 MR. RANKIN: I appreciate Mr. Savage
5 raising this question because I actually had intended
6 to myself.

7 You know, Mr. Examiner, given the
8 nature of this case and the fact that the parties have
9 been planning and preparing for this contested hearing
10 for several months, we do have, we believe, a nearly
11 complete set of exhibits and testify. So I don't
12 believe that there's a need to really make many
13 adjustments or changes to the prehearing order that's
14 in place other than, really, to amend the date. I do
15 believe that, you know, including the dates of the
16 briefing would also make sense.

17 The one other item that I think I would
18 like to see, Mr. Examiner, is, as you may be aware,
19 Cimarex has submitted a request for an issuance of a
20 subpoena on some production of documents. And so we
21 are anticipating being able to work with Cimarex to
22 come to an agreement on the scope and to produce those
23 documents without having to come back to the Division
24 on objections.

25 But in light of those requests and the

1 documents that we anticipate producing, we expect that
2 Cimarex may have some additional exhibits or testimony
3 that they would like, you know, to contribute to the
4 hearing. So given that, we ask that the prehearing
5 order would be amended to require any additional
6 exhibits and testimony to be submitted and served one
7 week in advance of the hearing.

8 THE HEARING EXAMINER: Okay. Let's
9 see. That would be August the 2nd. That's the day
10 before the response brief is due. Does that pose a
11 problem for you?

12 MR. RANKIN: That would be our response
13 brief, Mr. Examiner. And that wouldn't be a problem
14 for us.

15 THE HEARING EXAMINER: Okay. So
16 additional exhibits deadline August 2nd?

17 MR. RANKIN: I think that's appropriate
18 for both sides.

19 THE HEARING EXAMINER: Additional, I
20 should say, exhibits and witness testimony deadline?

21 MR. RANKIN: Correct.

22 THE HEARING EXAMINER: Is that workable
23 for you, Mr. Savage?

24 MR. SAVAGE: Yeah. That's appropriate.
25 Thank you.

1 Mr. Rankin, that's a very good idea.

2 THE HEARING EXAMINER: Okay. All
3 right. Okay. So we'll get out an amended prehearing
4 order that includes those three dates. I'm making
5 notes to self.

6 And I know you're both experienced at
7 this, far more than I am. But when and if we get to
8 the presentation of these cases, I just ask you both
9 to do your best to be thinking about how we streamline
10 the presentation so that it includes all the
11 information that the technical examiners will need to
12 consider for all of these cases without any
13 repetition. Maybe that'll be a challenge, but I'm
14 sure the two of you can rise to it.

15 The goal will be to hear everything we
16 need to hear, and nothing more and nothing twice; does
17 that make sense?

18 MR. RANKIN: Mr. Examiner, on that
19 point, I would recommend that we simply ask each
20 witness to confirm that the adoption of their
21 testimony under oath, and then proceed immediately to
22 cross examination and examination by the examiners
23 rather than take the unnecessary time to have each
24 witness summarize their testimony.

25 So my recommendation would be simply to

1 proceed on the written submissions, and then go right
2 into cross without summary.

3 THE HEARING EXAMINER: I don't want to
4 get into the details of how that happens. It sounds
5 like a good idea, and I would encourage you and
6 Mr. Savage to confer between now and then on, you
7 know, the procedural details of how to carry that out;
8 okay?

9 MR. RANKIN: Will do. Appreciate it.

10 THE HEARING EXAMINER: All right.
11 Great. All right. Thank you, guys.

12 Let's see. Anything else then in cases
13 26 through 57? Okay. All right. Thank you, all, for
14 that discussion.

15 And let's move onto the next to last
16 item on today's document, item 58, case 23295. That's
17 Cimarex Energy Company, entry of appearance for
18 Cimarex, please.

19 MR. SAVAGE: Yes. Good morning,
20 Mr. Hearing Examiner.

21 Good morning, Technical Examiners.

22 Darin Savage with Abadie Schill Santa
23 Fe office on behalf of Cimarex Energy Company.

24 THE HEARING EXAMINER: What a surprise,
25 Mr. Savage.

1 MR. SAVAGE: Wearing me out today.

2 THE HEARING EXAMINER: Entry of
3 appearance for any other interested parties in this
4 case 58?

5 MR. BRUCE: Mr. Examiner, Jim Bruce
6 representing Pride Energy Company. And this case
7 should also be combined with the final case, 22853.

8 THE HEARING EXAMINER: Okay. Thank
9 you, Mr. Bruce. Yes. I see Ms. Sulvidrez's ellipsis
10 here, and I just overlooked them. All right.

11 So Mr. Savage, I take it you enter an
12 appearance in 22853 as an interested party?

13 MR. SAVAGE: Yes. This is a contested
14 case between the two, so yes. We are entering an
15 appearance. We have entered an appearance, but we
16 also have competing exhibits and testimony.

17 THE HEARING EXAMINER: Okay. So you
18 both have witnesses this morning?

19 MR. SAVAGE: We do. We have witnesses
20 available.

21 MR. BRUCE: Yes.

22 THE HEARING EXAMINER: Okay. Before we
23 get into that then, let me ask are there any other
24 interested parties in cases 23295, 22853?

25 MS. MUNDS-DRY: Good morning,

1 Mr. Hearing Examiner. Ocean Munds-Dry for COG
2 Operating, LLC, and Concho Oil and Gas, LLC.

3 THE HEARING EXAMINER: Okay. Thank
4 you, Ms. Munds-Dry.

5 Anyone else?

6 MS. BENNETT: Good morning. Deana
7 Bennett from Modrall Sperling, and we've entered an
8 appearance in both cases on behalf of Chevron and on
9 behalf of Marathon Oil Permian, LLC. And if I
10 inadvertently didn't enter an appearance on both cases
11 on behalf of both entities, I intended to do so. And
12 so I'm doing so today. Thank you.

13 THE HEARING EXAMINER: Thank you,
14 Ms. Bennett.

15 Anyone else in these two cases?

16 Ms. Munds-Dry, Ms. Bennett, are you
17 offering any kind of exhibits or testimony in these
18 cases?

19 MS. MUNDS-DRY: For COG and Concho, no,
20 we are not. Thank you, Mr. Harwood.

21 THE HEARING EXAMINER: Okay.

22 MS. BENNETT: Thank you, Mr. Harwood.
23 We are not either.

24 THE HEARING EXAMINER: All right. But
25 I take it you want the opportunity to ask questions

1 and cross-examine witnesses?

2 MS. BENNETT: Mr. Harwood, Deana
3 Bennett here. I don't intend to, but I suppose if
4 something really juicy happens, I might not be able to
5 help myself. But it's not my intention to ask any
6 questions today or offer any comments on any exhibits.

7 THE HEARING EXAMINER: Thank you.

8 MS. MUNDS-DRY: And Mr. Harwood, I'll
9 just say ditto. I'll try to resist temptation, but I
10 do not intend to ask any cross-examination.

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

13 So do you all have all your witnesses
14 here and available to testify?

15 MR. BRUCE: I believe so.

16 MR. SAVAGE: I believe so, Mr. Harwood.

17 THE HEARING EXAMINER: How many
18 witnesses are we talking about?

19 MR. BRUCE: I have two, a landman and a
20 geologist.

21 MR. SAVAGE: And Cimarex has three.
22 That would be a landman, geologist, and reservoir
23 engineer.

24 THE HEARING EXAMINER: Okay. All
25 right. I don't have their names, but I'm assuming

1 that those five individuals are present and accounted
2 for at this hearing?

3 MR. BRUCE: They should be online I
4 believe.

5 THE HEARING EXAMINER: Okay. All
6 right. Give me the names, I guess. That's probably
7 the best way to proceed.

8 MR. BRUCE: Mr. Examiner, Pride's
9 landman is Matthew Pride, and then the geologist is
10 Harvin Broughton. That's H-A-R-V-I-N
11 B-R-O-U-G-H-T-O-N.

12 THE HEARING EXAMINER: B-R-O-U-G-H?

13 MR. BRUCE: Yes.

14 THE HEARING EXAMINER: Okay.
15 Mr. Savage?

16 MR. SAVAGE: Yes. Cimarex's landman is
17 John Coffman. Our Geologist is Staci Mueller. And
18 our engineer is Mark McCoy.

19 THE HEARING EXAMINER: Okay. All
20 right. Would those five people, if you haven't turned
21 on your screen, would you turn on your screen? All of
22 you turn on your screens.

23 I see Mr. McCoy, Ms. Mueller,
24 Mr. Broughton.

25 MR. PRIDE: This is Matthew Pride. I'm

1 calling in by phone.

2 THE HEARING EXAMINER: Okay. All
3 right, Mr. Pride. Okay.

4 All right. Would all five of you
5 please raise your right hand?

6 All right. So given that these two
7 cases are consolidated and separate applicants, have
8 you guys figured out who goes first, Mr. Savage,
9 Mr. Bruce? I would think that's something you guys
10 probably had agreed on.

11 MR. BRUCE: To tell you the truth, I
12 don't think Mr. Savage and I have talked about that.

13 MR. SAVAGE: We have not, but --

14 THE HEARING EXAMINER: You want to flip
15 a coin, or who's going first?

16 MR. SAVAGE: Mr. Bruce, who do you want
17 to go first?

18 MR. BRUCE: You know, it doesn't matter
19 to me. Yeah. Maybe a coin flip.

20 MR. SAVAGE: You know, you filed the
21 application initially, and you know, we were brought
22 in through negotiations and having to file a competing
23 application. So maybe you should go first.

24 MR. BRUCE: I don't mind going first.

25 THE HEARING EXAMINER: I'm not sure we

1 could trust either of you on a coin toss anyway, so.

2 Mr. Bruce, why don't you lead off?

3 MR. BRUCE: Okay. Do you mind if I
4 make a very brief opening statement, Mr. Harwood?

5 THE HEARING EXAMINER: The key word is
6 brief.

7 MR. BRUCE: It will be.

8 These cases involve the same lands, the
9 west half west half of Sections 12 and 13, 19 South 34
10 East. Pride is pooling the Wolfcamp formation and
11 Cimarex is pooling the Bone Spring formation. And
12 just in case you haven't guessed it, this is going to
13 be a brief preview of the cases you just discussed
14 between Cimarex and Read and Stevens.

15 Cimarex wants to bar Pride from
16 developing. Pride's well is proposed to be in the
17 upper Wolfcamp. Cimarex wants to prevent Pride from
18 developing the upper Wolfcamp.

19 Cimarex says the third Bone Spring
20 completion will produce from the upper Wolfcamp, but
21 there are a couple of problems here. The Bone Spring
22 and the Wolfcamp are placed in different pools by the
23 Division. That's one item. Item two, Cimarex is not
24 set to form a Wolf/Bone pool.

25 And this is extremely important,

1 Cimarex owns a 50 percent interest in the Bone Spring.
2 They also own 5 percent in the Wolfcamp. But Pride
3 owns zero percent in the Bone Spring as opposed to 25
4 percent in the Wolfcamp.

5 Under Cimarex's plan, the third Bone
6 Spring well would drain the upper Wolfcamp. And under
7 the current situation, all production would be
8 allocated to the third Bone Spring well. Pride
9 wouldn't recover a dime of production.

10 This is a classic violation of
11 correlative rights. And as a result, Pride's
12 application must be approved. Thank you.

13 MR. SAVAGE: Mr. Harwood, if I could
14 provide a short introduction that provides our
15 perspective and context, and then let Mr. Bruce
16 proceed? Ours is pretty short, and it would provide
17 the Division with a full view of the two opposing
18 sides.

19 THE HEARING EXAMINER: Since these
20 cases are combined, Mr. Savage, I just would, you
21 know, this will be your opening statement in your case
22 as well as a response to Mr. Bruce's statement. Is
23 that okay?

24 MR. SAVAGE: Yes. If I could just do a
25 short statement that would respond to Mr. Bruce, and

1 then we can proceed with Mr. Bruce, that would be
2 great.

3 THE HEARING EXAMINER: Most of it's
4 over my head. Bear in mind, it's all for elucidation
5 of Mr. McClure and Ms. Thompson.

6 MR. SAVAGE: Thank you.

7 Mr. Bruce is correct about the
8 description of the subject lands and the development
9 of the subject lands. It's Thursday, and tomorrow I
10 note that Oppenheimer was opening up in theatres.
11 I've been thinking about Robert J. Oppenheimer.

12 He was a big fan of the Heisenberg
13 Uncertainty Principle, and this principle says that
14 you can't know both the speed and the position of an
15 electron at the same time. It's one or it's the
16 other.

17 And that is the guiding principle that
18 the Division should keep in mind for these competing
19 cases because in these cases, we will provide expert
20 witness who will show that given the nature of the
21 reservoir and the geology in these lands, you can't
22 drill and develop both the third Bone Spring formation
23 and the upper Wolfcamp formation in the manner
24 proposed by Pride Energy and at the same time prevent
25 waste, achieve optimal production, protect correlative

1 rights, and avoid the drilling of unnecessary wells as
2 it required and mandated by the Division.

3 As you will see, these cases, given the
4 landing zone of Pride Energy's Go State well along
5 with the nature of the geology, requires the
6 development of either the third Bone Spring or the
7 upper Wolfcamp. This is clearly an either/or
8 situation.

9 Cimarex's expert witness will show that
10 the third Bone Spring should be drilled and developed,
11 and that drilling the upper Wolfcamp based on the
12 landing zone proposed by Pride Energy should be
13 prohibited under the Oil and Gas Act because it would
14 result in the drilling of unnecessary wells resulting
15 in waste and fail to meet optimum levels of production
16 in the subject plans. Thank you.

17 THE HEARING EXAMINER: Thank you, Mr.
18 Savage.

19 Let me ask as a preliminary matter, do
20 either of you have objections to the expertise of your
21 opponent's experts?

22 MR. BRUCE: I do not.

23 MR. SAVAGE: No objection.

24 THE HEARING EXAMINER: Well, let me ask
25 you, Mr. McClure, Ms. Thompson, are you familiar with

1 these experts; do you want to question their
2 expertise?

3 MR. MCCLURE: Mr. Harwood, I don't have
4 any objections to them being qualified as experts.

5 MS. THOMPSON: I have no objections.

6 MR. SAVAGE: Mr. Harwood, if I might
7 just point out. Mr. McCoy, our reservoir engineer, he
8 has not testified before the Division before. If you
9 want, he could describe his credentials briefly. And
10 we provided a resume for the Division's review.

11 THE HEARING EXAMINER: Okay. Let's
12 limit those credential-type questions then to folks
13 who have not previously testified before the Division.
14 And let's dispense with them for witnesses who have.

15 That in mind, Mr. Bruce, since you're
16 going first, you can call your first witness.

17 Go ahead, Mr. Bruce.

18 MR. BRUCE: Mr. Examiner, just to get
19 these administrative items out of the way, I have
20 submitted seven exhibits. Exhibit 1 is simply the
21 application and the proposed notice. Exhibit 4 is the
22 affidavit of certified notice. Exhibit 5 is the
23 certified notice spreadsheet. Exhibit 6 is the
24 affidavit of publication. and Exhibit 7 is the
25 pooling checklist.

1 (Case 22853 Exhibits 1 through 7 were
2 marked for identification.)

3 I would simply ask that they're, you
4 know, notice was given to everyone either my certified
5 mail or by publication. And I simply request that
6 Exhibits 1, 4, 5, 6, 7 be admitted into the record at
7 this point.

8 THE HEARING EXAMINER: What about 2 and
9 3?

10 MR. BRUCE: Those are the landman's and
11 geologist's affidavits and exhibits, so I'll ask the
12 end of the presentation about those.

13 THE HEARING EXAMINER: Any objection,
14 Mr. Savage?

15 MR. SAVAGE: No objection. Thank you.

16 THE HEARING EXAMINER: Those exhibits
17 will be admitted into the record.

18 (Case 22853 Exhibits 1 through 7 were
19 received into evidence.)

20 MR. BRUCE: I would first call Matthew
21 Pride as my witness. And let the record note he was
22 duly sworn in.

23 //

24 //

25 //

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

5 DIRECT EXAMINATION

6 BY MR. BRUCE:

7 Q Mr. Pride, would you state your full name
8 for the record?

9 A Matthew Pride.

10 Q And you have previously testified before the
11 Division; correct?

12 A I have.

13 Q This doesn't get into your expertise, but I
14 do want to go through a couple of things.

15 Your name is the same of the company. I presume
16 you are a co-owner of the company?

17 A Yes, I am.

18 Q And how long has Pride been in business?

19 A A little over 40 years.

20 Q And you've been involved in the New Mexico
21 oil and gas business but also in other states; have
22 you not?

23 A Yes, I have.

24 Q My question is have you ever seen two cases
25 like this in your practice before in the oil and gas

1 business?

2 A No. We have not been involved in a case
3 like this before.

4 Q Okay. Secondly, there's your self-verified
5 statement, and you have attached various attachments,
6 there's a land plot, C-102, those are Exhibit 2-A to
7 your affidavit.

8 (Case 22853 Exhibit 2-A was marked for
9 identification.)

10 Now in this case, first and foremost, Pride is
11 seeking to first pool the Wolfcamp formation in the
12 west half west half of Sections 12 and 13 of 19, 34;
13 correct?

14 A That's correct.

15 Q And your exhibits give the Wolfcamp pool the
16 pool code that you contact the Division's Hobbs office
17 regarding that information?

18 A Yes, I did.

19 Q And in Cimarex's case, they're seeking to
20 pool only the Bone Spring formation; is that --

21 A Yes.

22 Q Let's go into the interest ownership a
23 little bit. Exhibit 2B is your list of tracts and
24 interest owners. It shows that Pride Energy owns the
25 Bone Spring formation in Tract 3, the west half of the

1 northwest quarter?

2 (Case 22853 Exhibit 2-B was marked for
3 identification.)

4 A No. Pride Energy owns Wolfcamp 25 percent
5 in Wolfcamp in Tract 3.

6 Q Okay. I think the tract number is the same
7 in Cimarex's exhibits as yours. Does Pride Energy own
8 any interest in the Bone Spring formation in this --

9 A No, we don't.

10 Q -- in these well units?

11 A No, we do not.

12 Q And what is your understanding as to
13 Cimarex's ownership in your well unit?

14 A In the Wolfcamp, Cimarex owns 50 percent
15 working interest -- excuse me -- 50 percent in Bone
16 Springs, but 25 percent in the Wolfcamp.

17 Q What about in the Bone Springs?

18 A In the Bone Springs, Cimarex owns 50
19 percent, but owns 25 percent in the Wolfcamp.

20 Q Okay. And there are exhibits, a sample
21 proposal letter to the parties, and then a summary of
22 interest; those were prepared by you or under your
23 supervision?

24 A Yes, they were.

25 Q In looking at your ownership list, there are

1 a ton of people to be force pooled. What is the
2 reason for this? You've been in touch with these
3 people; what is their general impression?

4 A Well, Tract number 1 is the tract that is
5 divided up among several owners. And so we proposed
6 the wells, and -- and none of them have signed a joint
7 operating agreement or anything, so.

8 Q They've been informed about what's going on
9 by both sides obviously?

10 A Yes. We've informed them with our well
11 proposals and AFEs.

12 Q Are they just kind of sitting on the fence
13 to see what happens?

14 A Yes.

15 Q So it's not for lack of negotiations, just
16 nobody's made up their mind on what they want to do
17 yet; is that a fair statement?

18 A That's correct. I've discussed with many of
19 those owners, and they're just basically sitting on
20 the fence and waiting and not doing anything.

21 Q Finally, your AFE for the Wolfcamp well, is
22 that AFE fair and reasonable in Lea County?

23 A Yes -- yes.

24 Q Now I want to ask follow up questions that
25 just came in over the few days. In your affidavit,

1 you state that Pride is targeting the best zone in the
2 Wolfcamp; is that fair to say?

3 A Yes. The upper Wolfcamp being the best zone
4 in the Wolfcamp.

5 Q And Cimarex wants you to lower your landing
6 zone -- and I'll get into this with Mr. Broughton
7 too -- wants you to lower your landing zone by about
8 200 feet; correct?

9 A Yes.

10 Q Does Pride want to do this?

11 A No, we do not.

12 Q In your experience, is that lower Wolfcamp
13 as good as the upper Wolfcamp producibility-wise?

14 A No, it is not.

15 Q And to your knowledge, there is no Wolf/Bone
16 pool in this immediate area that would allocate
17 productions somehow among the Wolfcamp and lower third
18 Bone Spring; is there?

19 A No. There is no Wolf/Bone pool in this
20 general area.

21 Q And is it a fair representation that if the
22 reserves in your upper Wolfcamp are produced by that
23 third Bone Spring well, they would be reported as by
24 third Bone Spring production; wouldn't they?

25 A That's correct.

1 Q And you would get zippo?

2 A Yes. We wouldn't receive anything.

3 Q I'm just going through my notes here a
4 little bit, Mr. Pride. Bear with me.

5 Regarding that prior myriad of cases, you
6 were probably listening into that status conference on
7 those cases; were you not?

8 A Yes, I -- I did.

9 Q Were you provided with as copy of a letter
10 from Cimarex to CM Resources discussing proposal over
11 in that area?

12 A Yes.

13 Q And I didn't have time to get this on the
14 record. It's a very recent record, a letter, June 15.
15 Doesn't it basically say that Cimarex's third Bone
16 Spring well in this area will produce the primary
17 concentrations of hydrocarbons in the Wolfcamp, which
18 are in the upper Wolfcamp?

19 A Yes, that's what it specifically says.

20 Q Would that be fair to Pride Energy Company?

21 A No, it would not be.

22 Q One final question. I think Chevron
23 submitted a letter of support to Cimarex. From the
24 data you've seen, is Chevron's interest in the Bone
25 Spring the same as it is in the Wolf Camp?

1 A To my knowledge, it is the same.

2 Q So what Cimarex is proposing has no adverse
3 effect on Chevron either way?

4 A No, it doesn't.

5 Q Okay. Was Exhibit 2 and attachments A
6 through D, were those documents prepared by you or
7 under your supervision or complied from company
8 business records?

9 (Case 22853 Exhibit 2-C and Exhibit 2-D
10 was marked for identification.)

11 A Yes, they were.

12 Q And in your opinion, is the approval of
13 Pride's application to pool the Wolfcamp formation in
14 the interest of conservation and the prevention of
15 waste?

16 A Yes, it is.

17 Q And as to Cimarex's pooling application, you
18 don't have any interest in that, so you don't care
19 really?

20 A Well --

21 Q Other than preventing you from drilling your
22 well?

23 A Yes, that's right.

24 MR. BRUCE: Thank you, Mr. Pride.

25 And Mr. Examiner, I tender Exhibit 2

1 and its attachments into evidence and turn over the
2 witness.

3 THE HEARING EXAMINER: Thank you,
4 Mr. Bruce.

5 Any objection, Mr. Savage?

6 MR. SAVAGE: No objection. Thank you.

7 (Case 22853 Exhibit 2-A through Exhibit
8 2-D were received into evidence.)

9 THE HEARING EXAMINER: All right.
10 Questions for Mr. Pride?

11 Mr. Savage, questions for Mr. Pride?

12 MR. SAVAGE: Yes. Do you want me to
13 begin my cross examination at this time?

14 THE HEARING EXAMINER: Yes.

15 MR. SAVAGE: Okay.

16 CROSS-EXAMINATION

17 BY MR. SAVAGE:

18 Q Mr. Pride, thank you for your time and
19 consideration of the questions I will be asking.

20 If I say anything that you didn't hear or
21 didn't understand, please let me know and ask me to
22 repeat it.

23 If you need extra time to consider and
24 address the question, that is not a problem, so do not
25 feel rushed in any way. And if you feel rushed,

1 please let me know.

2 A All right.

3 Q So you said that Pride has been operating
4 for about four years; is that correct?

5 A We've been operating wells for close to 40
6 years.

7 Q Oh, I'm sorry. I misheard. Forty years.

8 So how long have you worked in this area of
9 Lea County, the area surrounding the subject plans?

10 A We've been in Lea County for a little over
11 20 years.

12 Q Okay. So Pride has drilled wells in the
13 upper Wolfcamp and in the subject lands or lands
14 surrounding the subject lands?

15 A Not -- not in the Wolfcamp in the -- in the
16 subject lands or the land --

17 Q I guess I need to define, you know, the
18 subject lands, you know, being the legal description
19 that we provided.

20 And then the surrounding area, it looks like
21 on the maps, that is possibly about six miles west and
22 five miles east. Somewhere in those parameters. So
23 you have not drilled upper Wolfcamp wells in this
24 area?

25 A Not in this immediate area.

1 Q Okay. Have you drilled wells in the third
2 Bone Spring in the subject lands or the surrounding
3 area of interest?

4 A We -- we drilled -- yes. We drilled Bone
5 Spring wells in Section 13.

6 Q In Section 13. Okay. And if I'm looking
7 correctly at the OCD records, those would be the Go
8 State wells in the Bone Spring, 101H, 102, 203, 204;
9 looks like there's about six wells?

10 A That's correct.

11 Q Okay. And in any of these units, did you
12 also drill any wells in the Wolfcamp?

13 A No.

14 Q So you never did any co-development? It was
15 just the Bone Spring that you drilled and not the
16 Wolfcamp?

17 A Yes. And the Go State wells -- the Bone
18 Spring wells are holding the leases, but we may drill
19 Wolfcamp wells in the future. At the time we were
20 drilling the Bone Spring wells, we were holding the
21 leases, and there was no need to drill any additional
22 wells at this time. But we will -- we may drill
23 Wolfcamp wells in the future.

24 Q To put this in larger perspective, you've
25 been operating, you said, for 20 years, and you have

1 no Wolfcamp wells in the surrounding area; is that
2 correct?

3 A In this immediate area, that's correct.

4 Q Okay. Thank you. Would it be fair to say,
5 based on your experience, your long experience of 20
6 years in this area, operators typically don't drill
7 both formations in the unit, they drill one or the
8 other, and that most of the wells are in the Bone
9 Spring and not the Wolfcamp as your wells are in
10 Section 13?

11 A No. That's -- there's many -- there's been
12 many third Bone Spring and upper Wolfcamp wells
13 drilled in the same spacing unit throughout Lea and
14 Eddy County.

15 Q Well, Eddy County is not in the surrounding
16 area; would you agree with that?

17 A Well, throughout Lea County.

18 Q And we're talking about a particular area of
19 Lea County; would you agree with that?

20 A What was the question?

21 Q You were talking about a particular,
22 specific area of Lea County, and that is the immediate
23 area surrounding the subject lands; is that correct?

24 A Yeah. There are wells in the general area
25 that have produced from the third Bone Spring as well

1 as the upper Wolfcamp in the same spacing unit.

2 Q Okay. Would it be fair to refer to these as
3 co-development units?

4 A What do you mean by co-development? I
5 mean --

6 Q Co-developing the Bone Spring and the
7 Wolfcamp?

8 A Yes. Some of the other wells were drilled
9 to both formations and produced in the same spacing
10 unit.

11 Q Okay. Do you know how many co-development
12 units there might be in this area?

13 A Oh, I don't know how many right off the top
14 of my head, but.

15 Q Okay. So there could just be maybe a
16 couple, a handful. You don't know how many; correct?

17 A -- know how many.

18 Q Okay. Mr. Pride, you stated in your
19 testimony that there is not uniform ownership in the
20 Bone Spring and Wolfcamp formations, and I'll quote
21 from your written testimony "Adopting Cimarex's
22 position will severely adversely affect the
23 correlative rights of the interest owners in the
24 Wolfcamp formation." Is this a true and correct
25 representation of your statement?

1 A Yes.

2 Q So you're saying it will severely adversely
3 affect the correlative rights of all the interest
4 owners?

5 A I'm saying that the -- there are different
6 owners in the Wolfcamp, and also the third Bone
7 Springs. They differ. And Pride does not own any
8 interest in the Bone spring -- or the third Bone
9 Spring. Cimarex owns twice as much interest in the
10 third Bone Spring as it does in the Wolfcamp. And
11 there may be other owners -- both. I'm not too sure.

12 Q Okay. Let me just clarify if I could. When
13 you say the owner in the Wolfcamp without correlative
14 rights adversely severely affected, you're meaning
15 that the owner wouldn't receive the same share of
16 production in the Bone Spring if it were drilled than
17 it would receive in the Wolfcamp. And you're pointing
18 out that that applies to Pride, it applies to Cimarex,
19 but you also seem to be implying that it applies to
20 all the other owners?

21 A What I'm saying is that the interest differs
22 than the Wolfcamp and the third Bone Spring. So if a
23 third Bone Spring well is drilled, then the
24 Wolfcamp -- the owners in the Wolfcamp are not going
25 to receive any revenue from that.

1 Q Okay. Looking at the ownership in both
2 Wolfcamp and the ownership in the Bone Spring, isn't
3 it true that about every owner owns the exact same
4 share in the Bone Spring as it does in the Wolfcamp?
5 And there's 19 owners listed, excluding the curative.

6 So every owner would own the exact same
7 share in the Wolfcamp and the Bone Spring except for
8 pride as you point out, and except for Cimarex; is
9 that correct?

10 A Well, I don't know the answer to that
11 question as to the Bone Spring. The list that we
12 prepared, the owners are the owners in the Wolfcamp.

13 Q Okay. So you haven't provided that
14 information. But would it surprise you that that is
15 the case for all of the remaining owners?

16 A I really don't -- I really don't know. I
17 don't have the list of the owners of the Bone Spring.
18 We're only including the Wolfcamp.

19 Q Okay. So far, can we assume that that is
20 the case and, in my view, looking at the two
21 ownerships, it is the case.

22 But hypothetically, let's assume that it is
23 the case. And if it is the case, and we're under that
24 assumption, Cimarex drills the Bone Spring and
25 produces the Bone Spring, wouldn't all of the

1 remaining owners, except for Pride and Cimarex,
2 receive their fair share of their amount of production
3 from the bone spring from those subject lands?

4 A Under that -- under your assumption, they
5 would. But Pride still would not receive a dime.

6 Q Okay. We understand that. You know, we
7 appreciate that. But all the remaining owners would
8 receive their fair share, and their correlative rights
9 would be protected; correct?

10 A Under your -- under your assumption, they
11 would.

12 Q Okay. And, in fact, if the Bone Spring
13 happened to produce more, all the owners, except for
14 Pride and Cimarex, their correlative rights would be
15 enhanced; is that corrected under that assumption?

16 A Well, under that assumption, if they produce
17 more -- I mean, we're just assuming things now.

18 Q Okay. Thank you. Another question I would
19 like to clarify, you say in your statement there are
20 two separate reservoirs in the Wolfcamp and Bone
21 Spring formations in your testimony. Is that correct
22 that you say that there are two separate reservoirs?

23 A Yes. And the OCD recognizes the Wolfcamp as
24 a separate -- separate formation or pool from the Bone
25 Spring. And Pride believes that both reservoirs

1 should be developed separately.

2 Q Okay. So you're using the term "reservoir."
3 Is "reservoir: different from "formation" in your
4 understanding?

5 MR. BRUCE: I object to that. He
6 didn't use the term "reservoirs." He said they're
7 designated into different pools by the Division.

8 I think Mr. Savage's representation is
9 mischaracterizing what Mr. Pride said.

10 THE HEARING EXAMINER: Mr. Savage, just
11 rephrase the question, please.

12 MR. SAVAGE: I will. Thank you. I'm
13 looking at his testimony right now trying to see if
14 there was some clarification in there. It says, I'm
15 not mistaken, Mr. Pride testified "The OCD recognizes
16 the Wolfcamp as a separate formation from the Bone
17 Spring formation. Pride believes both reservoirs" --
18 and I understood that to mean the equation of the
19 Wolfcamp formation as a reservoir and the Bone Spring
20 formation as a reservoir. Mr. Pride believes both
21 reservoirs should and must be separately developed.
22 So that was the information I was asking about for
23 classification.

24 BY MR. SAVAGE:

25 Q If I can rephrase the question, then let me

1 ask this. Is reservoir and formation the same thing?

2 A Yeah. What I was saying is that the OCD
3 recognizes the Wolfcamp as a separate formation of
4 pool from the Bone Spring pool.

5 Q Okay. So not reservoir necessarily?

6 A Many times, those words are interchanged
7 within the industry.

8 Q You feel that they're interchangeable.
9 Okay. I appreciate that comment. I'll reserve that
10 question for Pride's geologist when we arrive there.
11 But I thank you for the clarification.

12 As Mr. Bruce pointed out, Cimarex had asked
13 you to lower your proposed landing zone a bit as a
14 compromise that would allow both Pride and Cimarex to
15 go forward with their development; is that correct?

16 A That is correct.

17 Q But you refused to do this; am I right?

18 A Yes. We -- we didn't want to lower the
19 landing zone. My question, I guess, to Cimarex if
20 they think it's going to be communicated, why don't
21 they raise their landing point by 200 feet?

22 Q Well, is it true that your ownership, as you
23 point out, is in the whole Wolfcamp formation;
24 correct?

25 A Yes.

1 Q And it's not in the Bone Spring. So if you
2 wanted to develop your rights to the full potential,
3 wouldn't lowering the landing zone, wouldn't that put
4 your wellbore squarely in the Wolfcamp for full
5 development of the Wolfcamp?

6 A Well, I'm not a geologist -- the geologist
7 that picked the location where to drill.

8 Q Okay. And the geologist that's testifying
9 today pick the location to drill?

10 A No -- no. Our in-house geologist picked
11 that.

12 Q Okay. Is the in-house geologist available
13 today?

14 A No, he is not.

15 MR. SAVAGE: Okay. All right. Thank
16 you, Mr. Pride. I appreciate your time.

17 I have no further questions.

18 THE HEARING EXAMINER: Mr. Bruce, brief
19 redirect, if any?

20 MR. BRUCE: Let me see. No more
21 questions, Mr. Examiner.

22 THE HEARING EXAMINER: Thank you,
23 Mr. Bruce.

24 Mr. McClure, questions for Mr. Pride?

25 MR. MCCLURE: Yes, Mr. Harwood. I do

1 have a potentially quick question. It may be
2 something for the geologist, perhaps.

3 A quick clerical issue for Mr. Bruce.

4 MR. BRUCE: Yes.

5 MR. MCCLURE: It appears that there may
6 have been a slight typo, just so you're aware, on your
7 pool code in both Mr. Pride's testimony as well as the
8 application checklist.

9 MR. BRUCE: Okay.

10 MR. MCCLURE: I think it's as simple as
11 I think the eight and two was reversed. It should be
12 98247, rather than 92847.

13 MR. BRUCE: Okay. I will check on
14 that. And I also noted another typo, which is I think
15 I had wrong footage in the surface hole location. So
16 I was going to correct that anyway, so.

17 MR. MCCLURE: Okay. Sounds good.
18 Yeah. Just before anything's settled, we'll just need
19 a new application checklist. Essentially, an amended
20 one. Thank you.

21 Mr. Pride, this may be questions for
22 your geologist. If so, then I'll pull back my
23 question, and I'll just ask the geologist.

24 Just for two very quick questions, just
25 to make sure, I guess, I'm on the same page. Is Pride

1 in agreement that Cirmarex's wells would produce from
2 the Wolfcamp if they're drilled as proposed?

3 THE WITNESS: Yeah, I mean that -- that
4 may be a question more for the geologist as far as on
5 where they would produce from. But I mean, they --
6 their landing point is in the third Bone Spring.

7 MR. MCCLURE: Okay. Thank you. I'll
8 go ahead and withdraw that question then and probably
9 this next one as well. But just confirm, I guess, is
10 Pride in agreement that their wells, as proposed,
11 would produce from the Bone Spring?

12 THE WITNESS: No. We think that our
13 well is going to produce from the Wolfcamp.

14 MR. MCCLURE: Okay. So then Pride's
15 position is that you're in disagreement that your
16 wells, as proposed, will not drain from the Bone
17 Spring?

18 THE WITNESS: Yes. That's what our
19 view is that we're going -- we would produce from the
20 upper Wolfcamp formation.

21 MR. MCCLURE: And only from the upper
22 Wolfcamp?

23 THE WITNESS: Yes.

24 MR. MCCLURE: Okay. Thank you. No
25 more questions, Mr. Pride.

1 Thank you, Mr. Bruce.

2 And thank you, Mr. Hardwood.

3 THE HEARING EXAMINER: Thank you.

4 Ms. Thompson, questions for Mr. Pride?

5 MR. MCCLURE: You might be muted,

6 Ms. Thompson, if you're trying to talk.

7 THE HEARING EXAMINER: She must have
8 left it to you, Mr. McClure. All right. So may this
9 witness be excused?

10 MR. BRUCE: Yes, Mr. Examiner.

11 THE HEARING EXAMINER: Mr. Savage?

12 MR. SAVAGE: Yes. That would be fine.

13 Thank you.

14 THE HEARING EXAMINER: Okay. It's five
15 minutes after the hour. Folks, what's the preference?
16 Would you like a ten-minute break before we call the
17 next witness?

18 I guess, Mr. Bruce, that would be your
19 last witness; correct?

20 MR. BRUCE: Correct. Yeah. I'd like a
21 short break, you know, even if it's just five minutes,
22 and I'm pretty sure we can finish up with my last
23 witness by about noon.

24 THE HEARING EXAMINER: Okay. Well,
25 let's take a break until 1:15. I'm sorry. I'm going

1 to try and remember to say until 15 minutes after the
2 hour because I'm in Eastern Time. So 11:15 your time,
3 folks. We'll go off the record for now and be back at
4 15 after.

5 (Off the record.)

6 THE REPORTER: Back on the record.

7 THE HEARING EXAMINER: Mr. Savage, are
8 you here?

9 And Mr. Bruce?

10 MR. BRUCE: I am.

11 MR. SAVAGE: Yes. Thank you.

12 THE HEARING EXAMINER: I see
13 Mr. Savage's smiling face.

14 Mr. Bruce, you may call your next
15 witness -- your last witness; right?

16 MR. BRUCE: Correct.

17 THE HEARING EXAMINER: Okay.

18 MR. BRUCE: Yes. I'll call
19 Mr. Broughton as my witness.

20 HARVIN BROUGHTON,
21 called as a witness and having been first duly sworn
22 to tell the truth, the whole truth, and nothing but
23 the truth, was examined and testified as follows:

24 //

25 //

DIRECT EXAMINATION

BY MR. BRUCE:

Q Mr. Broughton, could you state your full name and city of residence?

A Yes. My name is Harvin Broughton. I live in Midland, Texas.

Q And you are a geologist by trade?

A That is correct, yes.

Q And you've previously testified before the Division?

A Yes, sir. I have.

Q Okay. And you're familiar with the issues involved in these cases?

A Yes, I am.

Q You've submitted your exhibit, Mr. Broughton, your testimony and your exhibits, the area map, the cross sections, the structure maps. And you reviewed, I would say, quite a bit of well data both in the Bone Spring and the Wolfcamp in this area?

A That is correct, yes.

Q And do you adopt Exhibit 3 and the various attachments as your testimony and your exhibits?

(Case 22853 Exhibit 3 was marked for identification.)

A Exhibit 3 --

1 Q Yes, Exhibit 3. Yeah, that is yours.

2 A Yes.

3 Q And do you adopt those as your testimony and
4 exhibits?

5 A Yes -- yes, sir. I do.

6 Q Okay. And let me ask you since you're the
7 geologist for this case. Pride wants to drill in the
8 upper Wolfcamp. And Mr. Pride addressed this too, but
9 is whether you're looking at Lea County or Eddy
10 County, is the upper Wolfcamp generally recognized as
11 the best zone to test in the Wolfcamp?

12 A In -- in this area, it seems like it is the
13 best -- best part of the Wolfcamp, yes. I -- I did
14 not review any deeper Wolfcamp wells in -- in further
15 down parts of the section, but just the activity in
16 this interval suggests that it is the best.

17 Q And Cimarex has requested Pride to lower its
18 landing zone by 200 feet. Are you getting into
19 shales, or what are you getting into there when you do
20 that?

21 A Well it's -- it would be getting into poorer
22 quality reservoir. You know, I'm -- I'm not a
23 completions engineer or a frack engineer and I don't
24 want to sound like I'm offering myself up as that.

25 But you know, I would -- you know, on the

1 issue of -- of moving the landing depth down, the
2 primary zones in the Wolfcamp that you would want to
3 access or frack would be those upper sands. So it
4 would be up to a -- to a frack engineer to decide how
5 low you could go and actually still access those
6 sands.

7 And I wouldn't -- you know, I wouldn't put a
8 footage on that. Maybe you could lower it some,
9 but -- but again, I wouldn't -- I wouldn't make the
10 decision on how -- if you could or how far down you
11 would want to move your -- or could move your wellbore
12 and still access the -- the better high permeability
13 sands at the top of the formation.

14 Q Okay. And let me see. As usual, I'm
15 running through all my handwritten notes. I've got to
16 decipher them.

17 One thing, you've seen the same
18 correspondence from Cimarex, and you've looked at
19 their exhibits tendered for this hearing?

20 A Yes, sir. I have, yes.

21 Q What is your general impression of what
22 they're saying regarding the production of the upper
23 Wolfcamp from their third Bone Spring well if you
24 could?

25 A Well, I'm -- I guess I'm a little confused

1 by a couple of different documents that I've seen.

2 You know, in preparation for this, I ran across some
3 other cases and some of the -- of the cases that were
4 discussed prior to the beginning of our hearing.

5 And on their -- on their motion to continue
6 the hearing -- the hearing dated July 17th of 2023, on
7 page 2, they have a question where within that
8 question, they clearly state that the third Bone
9 Spring appears to contribute approximately 74 percent
10 to the production, and the percentage from the upper
11 Wolfcamp appears to contribute 26 percent. And that
12 would be from a Bone Spring -- third Bone Spring well
13 landed in the third Bone Spring.

14 So that's -- that's suggesting that wells
15 drilled in the -- in the lower part of the third Bone
16 Spring sand are, you know, getting roughly three
17 quarters -- but 25 percent from -- from below the top
18 of the Wolfcamp.

19 But then I found -- I was given this Cimarex
20 letter dated June 15, 2023. And this is -- this is in
21 reference to the Mighty Pheasant wells. And I think
22 we've already touched on this -- this exhibit, but
23 Cimarex is now claiming that the hydrocarbons will
24 primarily come from the upper Wolfcamp.

25 So those -- those seem to be a little

1 contradictory to me. I don't know what the answer is.
2 But it seems like that's kind of the -- you know, and
3 I realize that's six miles away from -- or roughly six
4 miles away from the Go State 401H, but I wouldn't
5 suspect that you'd have that drastic of a change over
6 that -- between the -- you know, the interaction
7 between the two formations over that -- that type of
8 interval.

9 So I was a little confused by how they
10 were -- about the numbers there and what -- what they
11 believed was coming from where.

12 Q And have you looked at offsetting Wolfcamp
13 production over to the east? I believe there's some
14 Mewbourne wells over there.

15 A I have looked at that, yes.

16 Q What kind of wells are
17 they?

18 A Well those -- those are very good wells.
19 There's about a dozen wells over there. Some of them
20 Mewbourne, some of them drilled by a company called
21 Katana. And you know, the -- the first Mewbourne well
22 in Section 20 and 29 -- and the reason I focused on
23 these is these are -- these are two-mile wells, so
24 these are similar to what -- what we were proposing up
25 at the -- the Go State. You know, recovered 457,000

1 barrels of oil in just 20 months, which is pretty good
2 well.

3 The other one just to the east of it
4 recovered 430,000 barrels in 33 months, which is
5 considerably more than the -- than the Wolfcamp --
6 than the third Bone Spring wells up in Section 11 and
7 12 that Cimarex has.

8 Matter of fact, because those wells
9 recovered, respectively, 296,000 and 250,000, but over
10 a ten-year period. These wells made these volumes --
11 the wolf -- the Mewbourne wells made these volumes
12 in -- one of them in less than two years, and the
13 other one in -- in just a little less than three
14 years. So there -- there's something different about
15 the top of the Wolfcamp there that's making those so
16 prolific, I believe.

17 Q So a couple of things. What are the names
18 of Cimarex's Wolfcamp wells nearby? Those are the
19 Teal wells?

20 A Those are third Bone Spring wells.

21 Q Yeah.

22 A One of them is the Quail State 1H, and
23 that's one legal location to the west of -- of
24 the -- in Section 11. And then the other well is the
25 Teal 12 State Com 2H, that's in the -- the east half

1 of the west half of Section 12. So those -- both of
2 those are 1-mile laterals.

3 Q Okay. But it seems to me, based on the
4 results of the Katana and Mewbourne wells that the
5 upper Wolfcamp is a viable target?

6 A Oh, it's absolutely a viable target.

7 Q And Cimarex third Bone Spring wells you just
8 mentioned aren't as productive as those Wolfcamp
9 wells?

10 A Well, I mean, let me -- let me say this.
11 This -- this is a good third Bone Spring area. And
12 those wells, I think, probably are good. But that
13 doesn't mean that the Wolfcamp's not good.

14 So it's kind of a good problem to have where
15 you've got two highly prospective zones that lie right
16 on top of each other. It's just the, you know, the
17 depth severance complicates how it gets -- how it gets
18 developed. But, you know, the third -- third Bone
19 Spring is a good interval there, for sure.

20 Q Okay. But you are dealing with wells that
21 are, what, more than two miles deep?

22 A Yeah. They're -- they're -- yeah. They're
23 10,000 foot-ish. T-B-D.

24 Q Yeah. So I mean, the only way you get these
25 is to drill these wells; is that a fair statement?

1 A Well, I think it would be -- I think it
2 would not be a good situation to not -- to not at
3 least get to test the Wolfcamp in this area,
4 particularly since there's good Wolfcamp, you know,
5 just east of there.

6 The -- the toe of these Mewbourne wells is
7 just two miles east of the heel of the -- of the
8 proposed Go State well. So it's really -- really not
9 that far away, and, you know, ban -- banning drill of
10 the -- or at least testing of the Wolfcamp in this
11 area would be -- I think it would be a mess, but
12 that's -- that's my opinion.

13 MR. BRUCE: I'm just, once again, going
14 through my handwritten notes here, Mr. Examiner, so
15 give me a second.

16 BY MR. BRUCE:

17 Q I might have one or two more follow up
18 questions, but do you have anything other than what
19 was stated above? Do you believe Pride's tests are a
20 good situation to test the upper Wolfcamp in this
21 immediate area?

22 A Well, if you're the -- if you're the owner
23 of Wolfcamp rights, you're certainly going to want to
24 land a well in the Wolfcamp.

25 And I guess there's a big argument about

1 whether a third Bone Spring landing, you know, what
2 exactly it drains, and an upper Wolfcamp landing --
3 I'm talking about just the landing of the wellbore --
4 you know, what it actually drains.

5 And I'm, you know, I'm not trying to address
6 that, although there certainly is more than likely
7 interaction between those two formations or possibly
8 reservoirs if you want to say it that way. But you
9 know, that's brought about by -- by the fracking
10 activity.

11 So you know, the fracks, you know, again,
12 I -- I just have a geologist working knowledge of
13 hydraulic fracturing, but the industry convention is
14 that fracks do grow up and down as well as laterally,
15 you know, in this case, east and west. So by a
16 certain degree. And a completion engineer would have
17 to -- to design the frack to exploit the, you know,
18 the depths that you're trying to contact.

19 Q One final thing. We haven't really talked
20 about this, Mr. Broughton.

21 A Okay.

22 Q Actually, a number of years ago, people
23 started drilling, say second Bone Spring wells. You
24 took a section of land, they might drill four Bone
25 Spring wells, and then started drilling six and even

1 eight wells in that section, in the second Bone Spring
2 sand.

3 A That's correct.

4 Q And there was often talk about the
5 parent-child relationship among those wells; are you
6 familiar with that?

7 A Yeah. I'm familiar with parent-child
8 relationship. But it doesn't just apply to second or
9 third Bone Spring wells. That -- that applies to a
10 lot of different intervals.

11 Q And if recall, I've done a number of cases
12 on that, it means when you're drilling these wells in
13 fairly close proximity, it's better to complete them
14 at the same time, and then they compete equally for
15 reserves; is that correct?

16 A Well --

17 Q Or if you drill a well and then wait a year
18 or two and drill another well, it might not be as
19 nearby, it might not be as productive?

20 A Yeah. I think evidence has shown that
21 waiting a certain period of time can be detrimental to
22 the -- to the second well. So, you know, if you look
23 at the area between the Quail State number 1 and the
24 Teal -- the Teal 12 State Com number 2H, you know,
25 those would be parent wells.

1 And drilling another third Bone Spring, you
2 know, landing at that same depth, we would possibly
3 expect to see some depletion, you know, through there
4 because these wells have removed, you know, well over
5 a half a million barrels of oil, you know, over ten
6 years. So it would not be surprising to see some
7 depletion in that -- pressure depletion is what I'm
8 talking about -- in that area.

9 MR. BRUCE: Yeah. Okay. Okay. I just
10 wanted to get that into the record. Thank you,
11 Mr. Broughton.

12 And Mr. Examiner, I move the admission
13 of Pride's Exhibit 3.

14 THE HEARING EXAMINER: Any objection,
15 Mr. Savage?

16 MR. SAVAGE: No objection. Thank you.

17 THE HEARING EXAMINER: Pride's 3 will
18 be admitted.

19 (Case 22853 Exhibit 3 was received into
20 evidence.)

21 MR. BRUCE: And I pass the witness.

22 THE HEARING EXAMINER: Mr. Savage,
23 cross-examination?

24 MR. SAVAGE: Thank you. Yes. Hold on
25 just a minute. Okay.

1 CROSS-EXAMINATION

2 BY MR. SAVAGE:

3 Q Mr. Broughton, good morning. Thank you for
4 your time --

5 A Good morning.

6 Q Thank you for your time and consideration of
7 my questions.

8 Again, I give this preface. If during my
9 questioning I say anything that you didn't hear or
10 didn't understand, please let me know and ask me to
11 repeat it.

12 A All right.

13 Q If you need extra time to consider and/or
14 address the question, that is not a problem, so do not
15 feel rushed. And if you feel rushed, let me know.

16 A Okay.

17 Q Mr. Broughton, I want to start off going
18 back a little bit to the questions that Mr. McClure,
19 Technical Examiner, raised a little bit.

20 But to get there, I want to see if I can
21 clarify some things about the difference between
22 formation -- Bone Spring formation, Wolfcamp
23 formation -- and reservoir.

24 Formation and reservoir are not equivalent
25 and not the same things; is that correct?

1 A Not -- not always. There's -- I suppose
2 there could be a case where they are, but --

3 Q Okay. just so I'm understanding, some
4 hypotheticals. So could have the Bone Spring
5 formation, you could have reservoir in there, and then
6 you could have a separate Wolfcamp formation -- upper
7 Wolfcamp, you could have a reservoir in there, or you
8 could have the third Bone Spring and upper Wolfcamp
9 and you could have, for example, a single reservoir
10 that crosses two formations; is that correct?

11 A That is -- that is true, yes.

12 Q Okay. So in that scenario, depending on
13 where that reservoir might exist between those two
14 formations, if you drill, let's say the third Bone
15 Spring or if you drill the upper Wolfcamp, you could
16 have production from both formations. For example,
17 you have, like, 75 percent from the Bone Spring and 25
18 percent from the Wolfcamp; correct?

19 A Yes. I believe -- yes.

20 Q As a possibility?

21 A Possibility, sure.

22 Q Okay. So therefore, you really need to be
23 careful when you analyze production from formations
24 and make distinctions about the reservoir; would you
25 agree with that?

1 A Oh, absolutely.

2 Q Okay. Now Mr. Bruce has brought up this
3 proposal letter a number of times. And it sounds like
4 you have a reviewed a number of documents. And it
5 looks like these are from the cases involving the
6 Mighty Pheasant, Loosey Goosey, and Joker and Bane
7 wells; is that correct?

8 A That -- that would be correct, yes.

9 Q In your review of these, do those cases look
10 incredibly complicated?

11 A You know, from a reservoir engineering,
12 maybe. In geology and fracking and -- and all those
13 factors they might be very complicated.

14 From a land standpoint -- from a regulatory
15 standpoint -- and of course, I'm not a landman or an
16 attorney, but it -- it's surprising to me that people
17 owning -- owning interest in the Wolfcamp are not
18 allowed to drill Wolfcamp wells. That -- that just,
19 logically, doesn't make much sense to me.

20 Q Okay. But you'd agree that the geological
21 science -- engineering could be very, very complicated
22 in those cases?

23 A Sure. It -- it could be. If you're trying
24 to figure out where frack jobs are going up or
25 down -- or left or right, and you're trying to figure

1 out more than where the frack job is coming is where
2 the -- where the fluids are actually coming from. I
3 mean, that's -- that's pretty challenging I would say.

4 Q Okay. And you, yourself, had some confusion
5 over it sounds like you looked at a motion, and the
6 motion talked about -- what was it -- 74 percent, 26
7 percent?

8 A Right.

9 Q And then you looked at the well proposal, and
10 it talked about reducing the upper Wolfcamp?

11 A Yeah, I mean, they -- they seem to be in
12 direct opposition to each other, those comments.

13 Q What -- if you were informed that the well
14 proposal was part of a application that pooled the
15 upper Wolfcamp separately?

16 A You're going to have to repeat that for me.
17 Sorry.

18 Q Would it help inform and resolve the
19 confusion if you were told that that particular well
20 proposal was part of an application to pool the
21 Wolfcamp separately?

22 A I'm -- I'm sorry. I don't -- I don't
23 understand.

24 Q So if I remember right, the motion that you
25 looked at, it was a single option that if you pool

1 just the Bone Spring and you produced you would get,
2 let's assume, 75 percent production from the Bone
3 Spring and 25 percent from the upper Wolfcamp.

4 A Okay. so we're assuming that; right?

5 Q Right. We're assuming that.

6 A Okay.

7 Q Now, if you were trying to, you know, have
8 those differences in production conform to pooled
9 units, you could, as an alternative, for example, pool
10 the Bone Spring and say that you're accounting for 75
11 percent, which would then be viewed as 100 percent,
12 and then pool the Wolfcamp. And what you get out of
13 the Wolfcamp would be the 100 percent that the upper
14 Wolfcamp from that pooled unit; would you agree with
15 that?

16 A I -- I don't follow that at all. I'm
17 terribly sorry. I'm not --

18 Q I understand. And therefore, I would say
19 that's a reflection of how complicating trying to
20 apply the regulatory rules to the geological sciences
21 as best you can is a very complicated process.

22 A Right -- right. I think that's the
23 complicated part is how -- how the rules fit what we
24 think the geology is.

25 Q So would you agree then that that letter,

1 which was part of a pooling application of the
2 Wolfcamp and not the Bone Spring was -- is taken out
3 of context in these proceedings?

4 A I don't know if it's taken out of context or
5 not. All I know is I read what I read, and it seems
6 to be in contradiction to itself. That's all I know.

7 Q Okay. But it's possible that providing the
8 right context, it would resolve those differences.
9 That confusion would resolve itself?

10 A Well, one of them clearly states a very
11 specific percentage coming from the Bone Spring. I'm
12 talking about the motion to -- I mean, very specific
13 numbers. It's not like 75/25; it's 74/26. So
14 somebody has worked to get that information; right?
15 To get those numbers.

16 And then I come to the other -- the
17 letter -- the supplement the proposal to drill dated
18 June 15 and it says that the wells landed in the lower
19 third Bone Spring will produce primarily from the
20 Wolfcamp. So I -- those just seem in opposition to
21 me.

22 Q Within the pooled unit of the Wolfcamp;
23 correct?

24 A I don't know what context I could see that
25 would -- would change my opinion of that.

1 Q Okay. Well, fair enough. It's fair to
2 leave it there, it is a complicated matter to discuss,
3 and it can take a long time to resolve it.

4 A Okay. Sure.

5 Q Lets go back to the reservoir, this
6 reservoir --

7 A Okay.

8 Q -- that may exist in the Bone Spring and
9 part of the Wolfcamp. Are you familiar with baffles
10 and barriers within the reservoir?

11 A Yes. I am familiar with the concept of
12 that, yes.

13 Q Okay. Did you analyze whether or not
14 there's any baffling or natural barriers between the
15 third Bone Spring and the upper Wolfcamp?

16 A Yes. And I don't believe there are any --
17 any baffles. And when I think, more specifically,
18 they're -- they're frack baffles, you know, or frack
19 barriers.

20 You know, some formations might have a hard,
21 tight interval on them that would prevent a frack -- a
22 frack job from penetrating either from above or below.
23 Yeah.

24 I -- I agree that there are no -- you know,
25 and I looked at the Cimarex geology presentation also,

1 and I am in agreement with that.

2 Q Okay. So you drill the third Bone Spring.
3 You produce maybe 74 percent from the Bone Spring and
4 maybe 26 percent from the Wolfcamp.

5 A Right.

6 Q You drill the upper Wolfcamp, and you pool
7 probably, it sounds like to me, primarily, from the
8 Bone Spring; is that correct? Because that's where
9 the -- if you assume that's where the location of the
10 reservoir is.

11 A I -- I don't agree with that. I mean,
12 the -- the upper Wolfcamp sands can be quite prolific
13 from -- you know, it's demonstrated by the Mewbourne
14 wells that I showed you. I -- I would absolutely not
15 say that the predominance of the production would be
16 coming from the Bone Spring. Not in that scenario.

17 Q Would you say that without a baffle, you'd
18 have communication between the formation and the
19 reservoir?

20 A I would say it's likely. But I -- to a
21 degree, I couldn't -- couldn't say.

22 Q Okay. You emphatically said, it sounds
23 like, that if you drilled the third Bone Spring that
24 you would pool from the upper Wolfcamp because of the
25 communication; correct?

1 A It would pull to some degree. I mean, it
2 certainly could for sure.

3 Q Okay. And therefore, ergo, if I understand
4 what you're saying, if you drill the upper Wolfcamp,
5 especially where the Pride proposes his well, I think
6 it's very close to the base of the third Bone Spring,
7 about 100 feet --

8 A Roughly 100 feet, yes.

9 Q That could very well pull from the third
10 Bone Spring; correct?

11 A Yes and no. You know, when you're -- when
12 you're landing a well -- any well, the completion
13 engineer is going to try to decide how far up, how far
14 down, how far out the frack needs to go to exploit
15 the -- the interval that he's trying to -- to contact.
16 So in this case, you have 100 feet plus or minus.

17 You know, you -- the completion engineer
18 could design a frack around growing up roughly 100
19 feet and down whatever it grows and -- and not
20 specifically try to -- to frack past the -- the top of
21 the Wolfcamp formation or that -- that boundary,
22 whether -- whatever you call it. The -- the formation
23 or reservoir or whatever you call it, not try to frack
24 into that.

25 So that would just be relying on people to

1 do the right thing and only design their frack to go,
2 you know, based on volumes and rates, to only go
3 certain -- certain distance.

4 Q Okay. And I remember right, you said you
5 were not a completion engineer?

6 A I am -- I am not, no. I am not. But I --
7 but I've worked with a lot of them, and so the
8 opinions I express on fracking are a summary of
9 knowledge I've gained through people I've worked with,
10 industry publications, and, you know, that.

11 But I don't design frack jobs or analyze the
12 data from frack jobs. So I want to be clear on that.

13 Q Okay. And Pride Energy had the opportunity
14 to provide a completion engineer or a reservoir
15 engineer today to help inform the Division; you'd
16 agree with that?

17 A Say that again, please?

18 Q Pride Energy had an opportunity to provide a
19 completion engineer or reservoir engineer to this
20 proceeding; you'd agree with that?

21 A Well, I -- I don't know if that's the case
22 or not. I mean, I don't know.

23 Q But you do know that they did not because --

24 A Oh, I -- I think it's obvious. Yes, sir.

25 Q Thank you. Is it possible to drill in one

1 formation where the reservoir exists, straddles
2 formations and run the production potential of the
3 reservoir; drill into one of the formations to the
4 reservoir; and permanently damage, possibly, the
5 reservoir?

6 A How are you defining damage?

7 Q Undermining the optimal production
8 potential.

9 A I -- I don't know that you could damage it.
10 You might -- you might remove some of the reserves
11 from it, but I don't know if I would call that damage.

12 Q Okay. If I could just get a little bit of
13 context on your background.

14 A Uh-huh.

15 Q You have worked in the area of Lea County
16 surrounding the subject lands, how long have you
17 worked in that area?

18 A I worked for Concho Resources for 11 years.
19 I was mainly up on the northwest shelf, so a little
20 bit north of here. And then, you know, my last year
21 and a half or so was in the basin on -- on Wolfcamp,
22 third Bone Spring-type wells.

23 Q Okay. I believe Mr. Pride explained this,
24 but you were retained by Pride Energy to testify in
25 this matter?

1 A Yes, sir. Tha's correct.

2 Q But you're not the geologist who helped
3 develop the Go State wells or the Pride wells from
4 their inception?

5 A No -- no, sir. You're correct. I am not.

6 Q Okay. So for example, you did not advise
7 Pride Energy on such matters as depth and location of
8 the 401H well --

9 A No.

10 Q -- take points --

11 A No.

12 Q -- best landing zone?

13 A No. But I see what they've done, and I
14 agree with it. I just -- I wasn't the one who picked
15 it. I mean, they're -- they're drilling it just with
16 accordance to normal setbacks.

17 So I mean, as long as that fits, you know, I
18 agree with the landing depth, so -- but I am -- you're
19 right. I am not the person who -- who staked the well
20 and did the well plan and all that.

21 Q And it's obvious the Division does not have
22 the opportunity to talk to the geologist who was
23 involved in that?

24 A Yeah. I don't know.

25 Q Do you have any idea of the general ratio of

1 Bone Spring wells compared to Wolfcamp wells in the
2 general area of interest surrounding the subject
3 lands?

4 A There's a whole lot -- I don't know what
5 the -- I wouldn't have a numerical, you know,
6 comparison. But I know there's a whole bunch of lower
7 Bone Spring wells, and not that many upper Wolfcamp
8 wells yet.

9 Q So there's a whole bunch of Bone Spring --

10 A Yes,

11 Q -- and very few Wolfcamp?

12 A At this time, yeah. I mean, I remember 20
13 years ago, there weren't any horizontal Wolfcamp or
14 Bone Spring wells. So you start somewhere; right?

15 Q Twenty years ago, there was only Bone
16 Spring; correct?

17 A Yeah, and it was just getting started maybe
18 25 years ago. But I mean, to not -- to not test this
19 in this area I think would be a mistake.

20 Q Okay. So Pride Energy has Bone Spring wells
21 in this area. And in fact, we discussed -- I assume
22 you heard in the previous testimony -- six Go State
23 wells?

24 A Uh-huh.

25 Q Those are all in the Bone Spring?

1 A I -- I did not include those wells in my
2 review. But -- but if Mr. Pride says they are, they
3 are.

4 Q Would it be possible for Pride Energy or an
5 operator who has an existing Bone Spring well to test
6 the Wolfcamp in that unit and not undermine an
7 existing unit with the test?

8 A Could you please repeat that for me?

9 Q Yeah. Would it be possible for an operator
10 who has drilled in the existing Bone Spring well in
11 the unit, could they not test -- these wells are in
12 the same area; correct? They are in Section 13?

13 A I believe that's right. Yes, sir.

14 Q Okay. So they're in Section 13. So they're
15 basically in the subject lands. They just happen to
16 be right adjacent if I understand the layout?

17 A Okay. Yeah. Okay.

18 Q Okay?

19 A Sure.

20 Q Okay. So is it possible that Pride Energy
21 could test the Wolfcamp in the subject lands in one of
22 those existing units for potential production?

23 A I guess it's possible, but I mean, the --
24 their plan is to do Section 12 and 13, a two-mile
25 lateral. I mean, you're going to run into the same --

1 you're going to run into the same issues possibly with
2 the Wolfcamp directly underlying the Bone Spring.
3 I -- I don't know if that helps anything or not.
4 Maybe it does.

5 Q Okay. Could you explain from a geological
6 perspective why most units in this area, both
7 historically and currently in the subject lands, have
8 mostly the Bone Spring and not the Wolfcamp? And if
9 they do, if they drill the Wolfcamp, is it either/or
10 scenario, or do you agree with that?

11 A I'm not certain that it's an either/or
12 scenario. That would come down to the completion and
13 the completion engineers and -- and all that. You
14 know, I don't know that there necessarily mutually
15 exclusive.

16 As far as why the Bone Spring is more --
17 currently more prolific, it's because that was a
18 successful interval, and that's where people were
19 targeting.

20 Now -- now they've figured out that the Bone
21 Spring might -- I mean, the Wolfcamp might actually be
22 better, at least in certain areas, so that's
23 becoming -- I mean, there's Wolfcamp wells being
24 drilled, you know, all over the place. That might be
25 the hottest play in -- in New Mexico.

1 Q Within this surrounding area? It's
2 obviously not the hottest place --

3 A Well, it's going to move from area to area.
4 It's not going to stay in one place; right? People
5 are going to test other areas. Just because it's not
6 now doesn't mean it won't be in a year or two years or
7 five years.

8 Q Or 50 years.

9 A You pick the time frame.

10 Q Okay. Thank you. Finally in your analysis
11 of the subject land, did you compare the Bone Spring's
12 potential for production as a comparison with the
13 Wolfcamp's potential for production?

14 A Well, I -- I did that through the production
15 numbers that I -- that I gave earlier to -- to
16 Mr. Bruce. So yeah. I did compare the -- the
17 production of those Mewbourne wells down in Section
18 29 -- 20, 29 and the, you know, to the -- to the two
19 Cimarex wells up in 11 and 12.

20 Q And talking about the subject lands, did you
21 compare the Bone Spring's potential for production
22 with the Wolfcamp's potential for production?

23 A Just looking at the formation thicknesses
24 and presence, yes.

25 Q And would it be fair to say that the Bone

1 Spring's potential for production is greater than the
2 Wolfcamp's potential for production I the subject
3 lands?

4 A Not necessarily, no. I -- I looked at the
5 Cimarex presentation -- geologist presentation, and
6 she had done some S-O phi-h maps, and while that's all
7 good work, and I agree with all of that, you know, the
8 S-O phi-h, they're using that as a proxy for
9 potential.

10 And I think there's -- there's more to
11 deliverability to the wellbore, more than -- more to
12 production than just the S-O phi-h. So she's showing
13 a -- you know, it's a -- it's a quite good, thick
14 third Bone Spring sand interval. It's 240 feet thick,
15 roughly. And she's computing twice as much S-O phi-h.
16 And I don't -- I don't disagree with that.

17 But that's not the only -- that's not the
18 only factor that determines the productivity of a
19 well.

20 Q But it's possibly something that could be
21 resolved one way or the other with the right data?

22 A It -- it would be more easily resolved with
23 a Wolfcamp wellbore actually. You can calculate
24 whatever you want. At some point, somewhere around
25 here, someone's going to need to drill an upper

1 Wolfcamp well. And either it'll -- or it'll be good,
2 or it won't, so.

3 Q And Pride Energy could do that in one of
4 their existing Bone Spring wells and the subject lands
5 in Section 13?

6 A I -- I can't say that. But I mean,
7 possibly. I don't know that, but possibly.

8 MR. SAVAGE: Okay. Thank you,
9 Mr. Broughton. That's all the questions I have.

10 MR. BROUGHTON: You're welcome.

11 THE HEARING EXAMINER: Thank you,
12 Mr. Savage.

13 Mr. Bruce, redirect for Mr. Broughton?

14 MR. BRUCE: I don't think so. I think
15 I may reserve in case something comes up during their
16 technical testimony, just briefly recall him. But at
17 this point, I pass on that.

18 THE HEARING EXAMINER: Okay. Thank
19 you.

20 Then at this time, Ms. Thompson, we'll
21 start with you. Questions for Mr. Broughton, the
22 Pride geologist?

23 MS. THOMPSON: Hi, yes. Apologies
24 again for my dropping off. I had some internet
25 difficulties earlier.

1 When it comes to the depth between the
2 Wolfcamp and the Bone Spring formations, you're saying
3 that there would be communications within those
4 pools --

5 THE WITNESS: Well, there certainly
6 could be, yes.

7 MS. THOMPSON: I'm trying to word my
8 question correctly. How much of an overlap, in
9 general, when it comes to these horizontal wells when
10 it comes to fracking when they're within that, like,
11 what was it, 100 feet I believe is what they were
12 saying on top of each other?

13 THE WITNESS: Findings -- what do you
14 mean by overlap? How far apart would the wellbores
15 land?

16 MS. THOMPSON: Right.

17 THE WITNESS: Well, I mean it depends
18 on your completion. You kind of start with what you
19 think you can drain and what you need to drain, and
20 you design your -- your lateral landing depth based on
21 that. So I mean, it could be 300 feet, 400 feet, 200
22 feet. It's hard to put -- it's hard to put a number
23 on it without getting a completion engineer involved
24 in it and deciding what -- what you can access.

25 The most important thing in my opinion

1 to landing an upper Wolfcamp well is that you can
2 access those sands up at the -- up at the top of the,
3 you know, up near the top of the Wolfcamp formation
4 top.

5 MS. THOMPSON: Do you know what the
6 total depth of the upper Wolfcamp is, like, from -- to
7 the depth -- by chance?

8 THE WITNESS: Well, short answer is
9 yes. How quickly can I find it is another -- another
10 issue. Let me see here. I've got -- I've got
11 something with it on there. I just want to make sure
12 I'm -- let me do this. I put that in my presentation.
13 I think it's -- it should be on -- apologies, I don't
14 have that number handy.

15 MS. THOMPSON: Okay. Is it safe to say
16 that, like, by them requesting you to move it down by
17 200 feet, you would be outside of that upper Wolfcamp?

18 THE WITNESS: Yeah. So -- so in -- in
19 my type log that's my last exhibit, attachment F, the
20 top of the Wolfcamp is at most exactly at 10,900 feet;
21 okay? And it might be -- you know, and I've got the
22 landing depth a little bit deeper than what they're
23 saying. I've got it about 200 feet in.

24 And I've -- I've tried to -- you know,
25 this well that I'm using is -- is in the southeast

1 southeast of Section 13. And of course, our subject
2 well is in the southwest southwest of Section 13. So
3 there's a little bit of structural difference. But I
4 mean, essentially, they've got a -- Pride has an
5 estimated landing depth of 11,092, which would --
6 which would put you, you know, 150-ish feet from the
7 top of the Wolfcamp. Somewhere between 100 and 150.

8 MS. THOMPSON: Okay. And then I'm not
9 sure if they had talked about where their well was
10 supposed to be at, but it's going to be, like,
11 essentially, right on top of the formation --

12 THE WITNESS: Yeah.

13 MS. THOMPSON: -- in the Bone Spring?

14 THE WITNESS: Their two existing wells
15 that I've referenced, the Teal and the -- let's see.
16 The Teal -- the Teal State and the Quail State are --
17 are both roughly 100 feet above the top of the
18 Wolfcamp, roughly. So I would assume that their
19 landing depth for this -- for their new proposal, the
20 Showbiz well would be in that -- in that range.

21 MS. THOMPSON: Okay. And that gives
22 about 250 feet difference, so.

23 THE WITNESS: Correct.

24 MS. THOMPSON: Okay. Let's see here.
25 You said that this was also a wildcat well --

1 exploratory well?

2 THE WITNESS: I wouldn't call it a
3 wildcat or -- I would call it a maybe a step out from
4 what we kind of know there in -- from the Mewbourne
5 wells and the Katana wells a couple of sections to the
6 east. I don't know if wildcat's the word, but.

7 MR. BRUCE: Ms. Thompson, this is Jim
8 Bruce. There is the Airport Wolfcamp pool that's
9 about a mile and a half to the north. And I almost
10 put that on my pleadings, but the OCD informed us
11 otherwise. So the Mewbourne wells, and then the
12 Airport Wolfcamp would be the two nearest Wolfcamp
13 pools.

14 MS. THOMPSON: Okay. Yeah. I'm not
15 sure if I have any other questions at the moment, but
16 I'm going to go ahead and turn it over to Mr. McClure.

17 THE HEARING EXAMINER: MS. Thompson,
18 thank you.

19 Mr. McClure, your turn.

20 MR. MCCLURE: Thank you, Mr. Harwood.
21 I do have a few questions for Mr. Boughton.

22 I guess my very first question is,
23 Mr. Boughton, are aware of any disagreement with the
24 pick for the top of the Wolfcamp, base of the Bone
25 Spring in this area between yourselves and Cimarex?

1 THE WITNESS: No. I -- no.

2 MR. MCCLURE: Okay. Earlier in
3 testimony, not to try to put words in your mouth or
4 anything. But if I recall, you referenced higher
5 permeability sandstones towards the top of the
6 Wolfcamp; is that correct?

7 THE WITNESS: Yes. Higher porosity and
8 permeability.

9 MR. MCCLURE: I guess are these
10 situated right at the top of the Wolfcamp, right
11 against the base of the Bone Spring?

12 THE WITNESS: Depends on which well you
13 look at. In some cases, they probably are. In -- in
14 my type log, there's a little bit of separation
15 between them. But I -- but I wouldn't call that a --
16 I wouldn't call that a baffle or barrier that -- that
17 little, short interval between them, so.

18 MR. MCCLURE: Now, I assume that when
19 you mentioned higher permeability, a relative term.
20 But I guess do you have kind of a -- of magnitude of
21 what you believe that permeability may be?

22 THE WITNESS: I don't -- I don't have a
23 number that I could give you. But I'm -- I'm looking,
24 and I'm kind of -- I'm kind of thinking about these
25 Mewbourne wells over to the southwest. And to make

1 those kind of fluid volumes, you must have -- I'm just
2 anecdotally, you must have pressure and good
3 permeability.

4 MR. MCCLURE: So I mean, it's not in
5 the nanodarcy then is what you're saying? It's higher
6 permeability than that?

7 THE WITNESS: Right. Well, it would
8 certainly be --

9 MR. MCCLURE: Perhaps microdarcy -- oh
10 I'm sorry --

11 THE WITNESS: Right -- right. I don't
12 think it would be nanodarcy. I don't.

13 MR. MCCLURE: And I'd you reference
14 that you think it might be in the millidarcy, then?

15 THE WITNESS: It would be in the
16 millidarcy range pretty certainly.

17 MR. MCCLURE: Okay. Thank you. Yeah.
18 That was essentially all I was trying to gather was
19 just a very general --

20 THE WITNESS: Right.

21 MR. MCCLURE: -- sense of how many
22 zeros you have after the period.

23 THE WITNESS: I'm sorry -- I'm sorry I
24 don't have number for you, but I don't have --

25 MR. MCCLURE: Oh, no, no.

1 THE WITNESS: -- a number for you.

2 MR. MCCLURE: Okay. Now earlier I
3 guess, and again, not to put words in your mouth. It
4 almost seemed like perhaps Pride seeded that there
5 could be production going across the barrier between -
6 - let me restart that question. I'm sorry.

7 It almost seemed like you would perhaps
8 seeded that Pride wells could potentially be producing
9 from the Bone Spring; is that an accurate statement,
10 and if so, is it that you're seeding the possibility,
11 but not that you believe it would be producing from
12 the Bone Spring?

13 THE WITNESS: I'm seeding the
14 possibility that that could happen. To what -- you
15 know, if it's happening and to what degree, I would
16 not, you know, be able to -- to speak directly to
17 that. But -- but it's certainly -- I mean, you've got
18 two prolific reservoirs, one on top of the other -- or
19 formations, however you want to say it. It -- you
20 know, it's hard to imagine with, you know, fracking
21 that there wouldn't be some communication between the
22 two, up or down.

23 MR. MCCLURE: But I guess, backing up a
24 little bit to Mr. Pride's testimony, it was his belief
25 that Pride's well -- and not to try to put words in

1 his mouth either --

2 THE WITNESS: Right.

3 MR. MCCLURE: -- but that Pride's wells
4 as opposed would not produce from the Bone Spring. Is
5 that to your understanding still what Pride's position
6 is?

7 THE WITNESS: I would suggest, you
8 know, when we get to that point, that the completion
9 engineer be consulted, and a frack be designed that
10 would not penetrate that and not try to get into
11 the -- to the lower part of the Bone Spring.

12 And then you would -- you would --
13 that's where you would maybe make your decision about
14 moving your landing zone down some if -- if, you know,
15 if the completion engineer agreed that -- that they
16 could do that.

17 So I'm saying it's certainly possible.
18 But, you know, how much, to what degree, I think it's
19 very difficult to -- to know that; right?

20 MR. MCCLURE: Yeah. I guess as a
21 follow up to that, I guess are you saying it would be
22 Pride's intent to ensure or as much as is possible to
23 ensure I guess, that the fractures would not propagate
24 into the bone spring?

25 THE WITNESS: Well, my recommendation

1 to Pride would be to -- to get a completion engineer
2 and give them the parameters of what we're trying to
3 drain and design a frack job around that. That --
4 that would be my recommendation.

5 But of course, you know, I don't work
6 for Pride full-time. I'm a consultant. But that
7 would be my recommendation is to try to restrict the
8 height growth as best you can.

9 Now, you know, that may not be 100
10 percent doable. So -- but, you know, by the same
11 token, if you're drilling third Bone Spring wells,
12 you've got the same problem, so.

13 MR. MCCLURE: And I guess to your
14 understanding and kind of what's maybe what was
15 testified to today is Pride's intent to produce from
16 the upper Wolfcamp and not produce from the Bone
17 Spring; correct?

18 THE WITNESS: That -- I mean, my
19 understanding from talking to Mr. Pride, that is
20 exactly correct. There is no intent of trying to
21 drill third Bone Spring wells that just happen to land
22 in the Wolfcamp.

23 MR. MCCLURE: Okay. Thank you. Now
24 earlier I had asked Mr. Pride and then withdrew that
25 question to save it for yourself, that question being

1 does Pride believe that Cimarex's wells, as proposed,
2 will drain from the upper Wolfcamp?

3 THE WITNESS: Well, the -- the readings
4 that I've done from Cimarex's documentation here
5 suggest that they believe it, so I guess I would not
6 disagree with them there.

7 MR. MCCLURE: I believe that's all the
8 questions I have for you, Mr. Boughton. Thank you.

9 Thank you, Mr. Bruce.

10 And thank you, Mr. Harwood. I think
11 you're muted, Mr. Harwood.

12 THE HEARING EXAMINER: Thank you.
13 Sorry.

14 Mr. Broughton, just a few follow up
15 questions from my perspective of complete geologic
16 ignorance. I've never met a geologist I could
17 understand, but that's just because you talk a
18 different language from regular people.

19 But my understanding from your
20 testimony is that it's more than likely that there is
21 interaction between the Bone Spring and Wolfcamp
22 formations; did I hear that correctly?

23 THE WITNESS: Yeah. What I want to
24 specify is that, you know, I the natural state, they
25 may be separate reservoirs. But certainly once you

1 start fracking, there's probably going to be some
2 interrelations, some crosstalk -- you'll hear that
3 term, cross talk -- between the two. It's certainly
4 possible just because of the proximity.

5 THE HEARING EXAMINER: And that's
6 because fracking creates vertical as well as
7 horizontal cracks?

8 THE WITNESS: That is correct, yes. It
9 goes up and down and -- and sideways to a degree.

10 THE HEARING EXAMINER: So the other
11 point I took from your testimony, and of course there
12 were many. I don't mean to downplay any others. But
13 I believe you confirmed an answer to an earlier
14 question, which is the term "formation" is not always
15 synonymous with "reservoir"?

16 THE WITNESS: I don't think it has to
17 be.

18 THE HEARING EXAMINER: In other words,
19 I think your point was it's not always synonymous with
20 "reservoir" because reservoirs may cross formations?

21 THE WITNESS: That -- that can happen,
22 yes.

23 THE HEARING EXAMINER: All right.
24 Okay. Any further questions from Mr. Bruce for
25 Mr. Broughton based on the questions I asked or the

1 questions that Mr. McClure or Ms. Thompson asked?

2 MR. BRUCE: No, sir.

3 THE HEARING EXAMINER: Mr. Savage, any
4 last questions for Mr. Broughton?

5 MR. SAVAGE: If you're giving me an
6 opportunity to ask additional question; correct? Let
7 me look at my notes here and see if -- yeah. I do
8 have an additional question.

9 RECROSS EXAMINATION

10 BY MR. SAVAGE:

11 Q Mr. Broughton?

12 A Yes.

13 Q So when you're preparing for this, when
14 Pride Energy contracted with you and you're in
15 discussion with how you would proceed, did you in any
16 way recommend to them that they would need a frack
17 engineer to accomplish what they are wanting to
18 accomplish, and that it does not encroach upon the
19 third Bone Spring?

20 A I -- I never had any discussions with
21 Mr. Bruce or Mr. Pride about completion engineers or
22 any of that. I simply focused on the geologic
23 background that they wanted me to develop for -- for
24 this particular area.

25 Q Okay. And then when we talked about one of

1 the things that the completion engineer would
2 recommend and what you said. You said you would
3 recommend that they get a completion engineer.

4 And one of the things that you said, the
5 completion engineer would likely recommend, if I'm
6 correct, is to move the wellbore down -- move the
7 landing zone down so that the fracks don't reach into
8 the --

9 A That's not exactly what I said. I said that
10 completion engineer -- you know, the most important
11 component in my opinion is to make sure your frack
12 accesses the upper Wolfcamp sands.

13 So if -- if it's possible to move that
14 wellbore down, the frack engineer -- and still access
15 those, then I think, you know, the frack engineer
16 would make that decision of whether you should or
17 could, and then by how much.

18 Q Okay. And so Pride Energy and the frack
19 engineer could make that decision prior to drilling?

20 A Correct -- correct.

21 Q And if they did that in coordination with
22 Cimarex, it sounds to me, based on what I'm looking at
23 in Cimarex's testimony, is that both development plans
24 could go forward without waste and drilling
25 unnecessary wells, et cetera; correct?

1 A Yeah. I mean, if -- if Pride were to be
2 able to move their -- their well boar down and Cimarex
3 were able to move theirs up, that would be better for
4 everybody for sure.

5 MR. SAVAGE: All right. Thank you,
6 Mr. Broughton. I appreciate it.

7 THE WITNESS: You're welcome.

8 MR. SAVAGE: Thank you, Mr. Harwood,
9 for allowing me to address those follow up questions.

10 THE HEARING EXAMINER: You're welcome,
11 Mr. Savage.

12 So Mr. Bruce, do you rest your case
13 number 22853 at this point?

14 MR. BRUCE: Yes, sir.

15 THE HEARING EXAMINER: All right.
16 Great. Let's see. It's about 15 minutes after the
17 hour. How about we break for lunch.

18 And Mr. Savage, you take your case
19 at -- how about we take an hour for lunch; does that
20 work for folks?

21 MR. BRUCE: Yes.

22 MR. SAVAGE: Yes. Thank you.

23 THE HEARING EXAMINER: Mr. McClure,
24 would you rather take less time than that? I mean,
25 it's later for me than it is for your guys, so you

1 guys call the shots. I'm a captive audience.

2 MR. MCCLURE: To be honest, it doesn't
3 matter to me what you want to do, Mr. Harwood. I was
4 just shrugging because I don't have a preference.
5 However you want to handle it.

6 THE HEARING EXAMINER: All right.
7 Well, let's break for an hour and come back at 15
8 after the next hour, whatever that is where you guys
9 are; okay? So we'll be back at 1:15 New Mexico Time
10 if my arithmetic is correct. Thank you all.

11 (Off the record.)

12 THE REPORTER: We are now back on the
13 record.

14 THE HEARING EXAMINER: Thank you.

15 Mr. Savage, are you ready to proceed
16 with your case?

17 MR. SAVAGE: I am, Mr. Harwood. And I
18 would like to begin by getting the noticed exhibits
19 out of the way so we can focus on the substance.

20 THE HEARING EXAMINER: However you wish
21 to proceed.

22 MR. SAVAGE: Okay.

23 THE HEARING EXAMINER: Do we have
24 Mr. Bruce on the line as well?

25 MR. BRUCE: Yes, sir.

1 THE HEARING EXAMINER: Okay. All
2 right.

3 Go ahead, Mr. Savage.

4 MR. SAVAGE: Thank you. My name is
5 Darrin Savage, representative and attorney for Cimarex
6 Energy Company. I testify today based on the noticed
7 Exhibit D and our hearing packet and Sub-Exhibits D1
8 through D3 that all uncommitted working interest
9 owners, overriding royalty interest owners and regular
10 title owners were sent notice in a timely manner, and
11 publication notice was timely published in the Hobbs
12 News-Sun, a newspaper of general circulation in Lea
13 County, New Mexico, as shown in the Exhibit D3.

14 (Case 23295 Exhibit D through Exhibit
15 D-3 were marked for identification.)

16 There were no unlocatable parties
17 working interest owners or otherwise. The four
18 lenders to overriding royalty interest owners are
19 listed as in transit. The mailing report and reports
20 of receipts return are provided in Exhibit D2, and a
21 sample notice letter is provided in Exhibit D1. I ask
22 that the Exhibits D and all Sub-Exhibits, D1 through
23 D3 be admitted into the record, and I'm available for
24 any questions.

25 THE HEARING EXAMINER: Mr. Bruce, any

1 objection to those exhibits?

2 MR. BRUCE: No, Mr. Examiner.

3 THE HEARING EXAMINER: All right. They
4 will be admitted, Mr. Rankin [sic].

5 (Case 23295 Exhibit D through Exhibit
6 D-3 were received into evidence.)

7 MR. SAVAGE: Thank you.

8 THE HEARING EXAMINER: Do you have
9 questions I suppose, Mr. Bruce, for Mr. Savage on
10 those exhibits, or do you want reserve those for his
11 witnesses? You don't get to ask twice.

12 MR. BRUCE: I'll just do some follow up
13 after Mr. Savage questions his witness.

14 THE HEARING EXAMINER: Perfect. Okay.
15 Mr. Savage, back to you.

16 MR. SAVAGE: Thank you.

17 I'd like to call our landman witness,
18 expert witness John Coffman. As you know, he's been
19 sworn in, and he has testified before the Division.

20 JOHN COFFMAN,
21 called as a witness and having been first duly sworn
22 to tell the truth, the whole truth, and nothing but
23 the truth, was examined and testified as follows:

24 //

25 //

DIRECT EXAMINATION

BY MR. SAVAGE:

Q Mr. Coffman, can you give the Division your full name and current employment?

A Yeah. John Coffman, and I'm a landman at Coterra.

Q Okay. Is this your written testimony here in Exhibit A?

(Case 22853 Exhibit A was marked for identification.)

A Yes.

Q Okay. And I noticed in Exhibit A, it asked for -- of 8,000 for drilling and 800 for production. I believe that is a typo; is that correct?

A That's correct. It should be 7,000 and 700.

Q Okay. And that was what was sent with the well proposal; correct?

A Correct. It's in the -- of the OA that was provided.

Q Okay. So with that correction, do you acknowledge your testimony as being accurate and truthful to the best of your knowledge?

A I do.

Q Okay. Mr. Coffman, let's go over a little bit of some of the history between you and Pride

1 Energy.

2 You had received notice that Pride Energy
3 had proposed a well in case 22853 for compulsory
4 pooling of uncommitted mineral interest owners in the
5 Wolfcamp formation underlying the subject lands; is
6 that correct?

7 A Correct.

8 Q And this was for the Go State well, number
9 401H; correct?

10 A Correct.

11 Q And when you received this, did you have any
12 concerns about Pride's 401H well?

13 A Yeah. I was concerned about how close their
14 landing zone was to the third Bone Spring where we own
15 a higher interest.

16 Q Okay. And you talked to your team about
17 this, Cimarex team?

18 A Correct. They shared the same hesitations
19 and concerns.

20 Q Did you and your team reach out to Pride to
21 try to engage in any kind of negotiations to resolve
22 this matter?

23 A Yeah. We had a few different negotiations.
24 One was to lower the landing zone. Another was to try
25 and blend the interest across the third Bone Spring

1 and the Wolfcamp.

2 And then we vetted a few offers. I think
3 Matt made an offer of \$1,000 an acre, which is
4 drastically different than the value that we put on
5 the acreage. And then I think he also offered a carry
6 deal that was also not within market.

7 Q So it sounds like for these -- substance of
8 offers and back and forth?

9 A Yes.

10 Q And in the end, you were not able to reach
11 an agreement or resolution; correct?

12 A That's correct.

13 Q And thus, here we are today.

14 Going over your exhibits, Exhibit 1, these
15 are the C-102s for the wells you proposed; correct?

16 (Case 23295 Exhibit A-1 was marked for
17 identification.)

18 A Correct.

19 Q And you note on them the formation -- the
20 Exhibit A-2 is your ownership report; correct?

21 (Case 23295 Exhibit A-2 was marked for
22 identification.)

23 A Correct.

24 Q You heard the discussion in the previous
25 testimony with Pride Energy landman. Can you confirm

1 that all the owners in the upper Wolfcamp own the same
2 amounts and percentages in the third Bone Spring
3 except Pride and, of course, Cimarex?

4 A Yes. That's correct.

5 Q Okay. So really, Pride is the only party
6 who would be excluded, and everybody else's
7 correlative rights would be protected and perhaps even
8 enhanced; correct?

9 A Correct.

10 Q Okay. Exhibit A-3 is your well proposal; is
11 that correct?

12 (Case 23295 Exhibit A-3 was marked for
13 identification.)

14 A Correct.

15 Q And do you believe that the costs are fair
16 and reasonable for this area and these lands?

17 A Yes, I do.

18 Q Okay. And your Exhibit A-4 is your
19 chronology of contacts with the owners; correct?

20 (Case 23295 Exhibit A-4 was marked for
21 identification.)

22 A That's correct.

23 Q Okay. And not only are the negotiations
24 that you had with Pride Energy reflected in this
25 exhibit, but also what the contacts and negotiations

1 that you had with the other working interest owners as
2 well; correct?

3 A Correct.

4 Q And this is over the course of quite a
5 while, up to seven months?

6 A Yeah. I'd say a year or some, yes.

7 Q Okay. And from your perspective as the
8 landman with your experience in this area, which
9 formations see more activities in place in general?

10 A Predominantly Bone Spring.

11 Q Can you just give the Division an idea of
12 what kind of activities?

13 A I'd say the majority of third Bone Spring in
14 this area.

15 Q Okay. And in your estimation, as a result,
16 Bone Spring interest would be considered a lot more
17 valuable than the Wolfcamp interest on the market?

18 A Correct -- yes.

19 Q And yet, you still tried to work with Pride
20 Energy, offering to blend contractual interest across
21 some of the -- as I understand it, and you may correct
22 me, but blending contractual interest, that means
23 Pride Energy would get some interest in the third Bone
24 Spring?

25 A Correct.

1 Q And that was against your own economic
2 interest; is that correct?

3 A That's correct.

4 Q And yet, you still offered to try to reach a
5 good faith compromise?

6 A Yes, that's correct.

7 Q And in your statement, you point out that
8 Pride Energy has drilled wells in or near the subject
9 lands, and I know you heard the discussion of those
10 wells in the previous testimony?

11 A That's correct.

12 Q And those are all Bone Spring wells?

13 A From my knowledge, yes. Correct.

14 Q And none in the Wolfcamp?

15 A Correct.

16 Q And now we have this one, the 401H in the
17 Wolfcamp?

18 A That's correct.

19 Q And those other wells, Pride Energy owned in
20 the Bone Spring?

21 A To my knowledge, yes.

22 Q Okay. And this one, Pride Energy
23 acknowledges that they do not own in the Bone Spring;
24 correct?

25 A That's correct.

1 Q In your view of your long-term negotiations
2 with Pride Energy, is it your view that this is really
3 what's driving Pride Energy's push to develop the
4 Wolfcamp at all costs over the Bone Spring?

5 A Could you repeat that?

6 Q Do you see this as a major factor in Pride
7 Energy's push to develop the Wolfcamp at all costs
8 over the Bone Spring?

9 A I think ownership is the primary factor,
10 yes.

11 Q Okay. Mr. Coffman, based on what you have
12 heard earlier today, is there anything else you would
13 like to add or clarify for the Division?

14 A I'd say we have multiple committed owners in
15 this west half west half proration unit, including
16 Hanley and Laha [ph]. And we have Concho, COG under
17 an operating agreement right now. And we have the
18 support of Chevron for our development in the Bone
19 Spring even though they own in the Wolfcamp as well.

20 Q Based on your description of the value of
21 the Bone Spring, it would be a highly sought after
22 project?

23 A That's correct.

24 Q And then the commitments reflect that in
25 your opinion?

1 A Correct.

2 Q Let's talk a little bit about the option
3 that you offered to lower the landing zones. That is
4 one of the options that you did offer; correct?

5 A Yeah. We requested Pride to lower the
6 landing zone; that's correct.

7 Q And is that still on the table?

8 A Yes.

9 Q Okay. And I know you're not a geologist or
10 an engineer. But as a discussion within the team, if
11 Pride Energy lowered that landing zone to the
12 specification that your team has asked for, and that's
13 described as your alternative landing zone, Cimarex
14 would agree to that. And both Cimarex could go
15 forward with the third Bone Spring, and Pride energy
16 could go forward with the Wolfcamp; is that correct?

17 A That's correct, yes, sir.

18 Q Okay. So that sounds to me like we're
19 looking at a very viable solution based on what the
20 Pride Energy's geologist has testified to; correct?

21 A I agree.

22 MR. SAVAGE: Okay. Mr. Coffman, I
23 don't have any further questions.

24 I would like to submit the land
25 exhibits at this time. I would like to submit Landman

1 Exhibit A, and also Sub-Exhibits A1 through A4 into
2 the record. And I have Mr. Coffman available for any
3 questions from the Division.

4 THE HEARING EXAMINER: Thank you,
5 Mr. Savage.

6 Mr. Bruce, objections to Cimarex's
7 Exhibit A, including subparts?

8 MR. BRUCE: No.

9 THE HEARING EXAMINER: All right.
10 They'll be admitted into the record, and you may cross
11 examine Mr. Coffman.

12 (Case 23295 Exhibit A through Exhibit
13 A-4 was received into evidence.)

14 CROSS-EXAMINATION

15 BY MR. BRUCE:

16 Q Mr. Coffman, the questions right at the end,
17 you said you -- and whenever I say it, I mean you,
18 Cimarex, requested Pride to lower the landing zone
19 another -- I don't know the exact depth -- another
20 couple hundred feet into the Wolfcamp; is that
21 correct?

22 A That's correct.

23 Q Did you ever offer to change Cimarex's
24 landing zone? In other words, move it upwards into
25 the third Bone Spring reservoir?

1 A No, we did not.

2 Q And then you mention another option was
3 blending interest. On what basis, what percentages?

4 A It would be based on our working interest
5 percentage and the discrepancy between Pride's working
6 interest discrepancy and the Wolfcamp.

7 So we did not reach -- or, I guess, broach
8 that subject on what the actual percentages would be,
9 but it was -- that negotiation, or, I guess, path of
10 negotiation was denied prior to discussing any
11 contractual blending.

12 Q Okay. But I'm guessing that it wouldn't be
13 a straight acreage basis; the
14 geologist/engineers -- basically allocation of three
15 quarters to third Bone Spring and one quarter to the
16 Wolfcamp; would that play into the blending of
17 interests?

18 A If you're asking if it would be net for net
19 on value, no, it would not.

20 MR. SAVAGE: And Mr. Harwood, I'm going
21 to object to that question. That is information taken
22 from other lands distant and another case, a pooling
23 case, that has a number of factors that do not pertain
24 to this case. And there has been no assessment either
25 by Pride Energy and the geologist or that they've

1 provided any sustenance of the percentages involved.

2 THE HEARING EXAMINER: Okay. Well you
3 can cross-examine the witness on that. It goes to the
4 weight, not the admissibility.

5 Go ahead, Mr. Bruce.

6 MR. BRUCE: Okay.

7 BY MR. BRUCE:

8 Q Mr. Coffman, forget this case. Let's just
9 take your first pooling in the same acreage second
10 Bone Spring well. What is the allocation of
11 production based upon under the pooling statute?

12 A I'm just a landman. I don't know about how
13 the first -- or I guess, the second and third Bone
14 Spring would be allocated.

15 Q No, no. I'm not talking about the third --
16 don't even worry about these lands. You're drilling a
17 Bone Spring well. Forget any sites between Wolfcamp
18 and Bone Spring.

19 You've got a bunch of interest owners, like
20 you do in this case. Take any Bone Spring owner,
21 first pooling the Bone Spring generally, the entire
22 Bone Spring formation, and you've got 20 different
23 interest owners, which is pretty similar to this case.

24 How is allocation made among those interest
25 owners in the various fracks?

1 MR. SAVAGE: I'm going to object to
2 that question. The ownership is uniform. I don't see
3 the relevance of that question.

4 MR. BRUCE: Well, wait a minute. No.

5 BY MR. BRUCE:

6 Q Under the pooling statute, Mr. Coffman,
7 isn't production allocated solely on an acreage basis?

8 A Yes.

9 Q So you take your Tract 1, there's whatever,
10 20 parties -- I forget the number. Regardless of what
11 happens, that tract will be allocated one quarter of
12 the production --

13 A I agree with that.

14 Q Excuse me?

15 A I agree with --

16 THE HEARING EXAMINER: Hold on. We're
17 having interference from a Jason and a call-in user
18 number 2. Will you guys please put yourself on mute?

19 BY MR. BRUCE:

20 Q Okay. And again, I'll just ask you, under
21 the pooling statute, allocation on just a regular,
22 uncontested, pooling case is allocated between the
23 various tracts solely on an acreage basis; isn't that
24 correct?

25 A Yes, that is correct.

1 Q It doesn't matter how good one tract may
2 compare, say the north half, northwest quarter of 12
3 as compared to the west half's southwest quarter of
4 Section 13. There may be different geology during
5 that two miles. That doesn't come into account. It
6 is solely acreage; is it not?

7 A Correct.

8 Q But what you're telling me, you're talking
9 about blending interest but using Cimarex's position
10 that 25 percent of production will come from the
11 Wolfcamp and 75 percent roughly, I forget --

12 MR. SAVAGE: I'm going to object to
13 that, Mr. Harwood. We've already established that
14 those ratios do not apply to this case. He's already
15 answered the question. Mr. Coffman's already answered
16 the question.

17 MR. BRUCE: What he's testified about
18 is what --

19 THE HEARING EXAMINER: Now, hold on.
20 Let's not step all over each other. Remember, we have
21 a court reporter who's trying to take all this down.

22 MR. BRUCE: Yes, sir.

23 THE HEARING EXAMINER: So Mr. Savage,
24 you know the end of Mr. Bruce's question, but let him
25 finish it and then object.

1 And you know, we don't have to say over
2 like a radio transmission, but that's pretty much what
3 it is.

4 MR. BRUCE: All I'm saying is I'm
5 simply using their testimony saying that 76 percent of
6 the production comes from the third Bone Spring, and
7 24 percent comes from the upper Wolfcamp. That's in
8 their testimony.

9 BY MR. BRUCE:

10 Q Now, when you say you're making a blending
11 of interest, you're not using solely acreage, you're
12 using those percentage interests; aren't you?

13 MR. SAVAGE: May I object at this point
14 and provide an explanation to my objection?

15 THE HEARING EXAMINER: Sure. Make a
16 record, Mr. Savage.

17 MR. SAVAGE: Thank you.

18 So Mr. Coffman's already answered this.
19 There is no issue of blending. Blending was initiated
20 as a discussion. Pride Energy refused to do the
21 blending to explore the blending, and therefore, this
22 is a moot point. There is no issue here to address.

23 THE HEARING EXAMINER: Hold on,
24 Mr. Bruce.

25 You know, this issue of settlement

1 discussions and negotiations was raised on direct
2 examination. So I think you've opened the door to
3 this, Mr. Savage, and you can address it on redirect
4 with your witness.

5 MR. SAVAGE: Okay. Thank you. Yes.

6 BY MR. BRUCE:

7 Q And I'm not asking what the final
8 negotiation points were, but I'm asking you were not
9 using only acreage, you were using those percentage
10 interest in making your offer blending the interest;
11 is that correct?

12 A The blending would be on depths, on a depth
13 basis, not a surface acre basis.

14 Q Explain?

15 A So we would be blending between the third
16 Bone Spring and the upper Wolfcamp on those ownership
17 percentages. I do agree on a surface acre basis, the
18 third bone spring and the Wolfcamp, upper Wolfcamp,
19 would be separate ownership.

20 Q Okay. But you're talking depth. So
21 obviously, there's a difference between the depth of
22 the third Bone Spring that you're asking to include as
23 to the depths of the Wolfcamp being included?

24 A I would agree that the third Bone Spring and
25 the upper Wolfcamp are in different depths.

1 Q Okay. And do you have any OCD order or
2 authority to do this other than it must be voluntary?

3 A No.

4 Q You also said that the correlative rights of
5 the interest owners in the Bone Spring would be
6 enhanced by doing what you want to do; please explain.

7 A Well, I think that would lend itself to the
8 geology of the rock, and I think Staci will be getting
9 into that later on.

10 Q But doesn't that mean you'd be getting some
11 of Pride's reserves?

12 A No.

13 Q Well then, how are their third Bone Spring
14 rights enhanced by denying Pride the right to drill?

15 A I think Staci's going to go over how the
16 third Bone Spring is better rock.

17 Q Okay. And I don't mind if you defer to
18 another witness. Anytime you want to do that, go
19 ahead.

20 Now, this isn't one of your exhibits, but
21 you glanced upon it. You talked about there was third
22 Bone Spring activity versus Wolfcamp authority in this
23 area. And I think it's the engineer who had a chart
24 showing all the third Bone Spring versus Wolfcamp
25 wells.

1 But I noticed one thing is there was no
2 completion date for any of these wells. What is the
3 timeframe you're looking at? When was the third Bone
4 Spring activity springing up so to speak versus
5 Wolfcamp activity?

6 A If this is in Mark's testimony, then I would
7 have to defer that question to him.

8 Q Okay. That's fine, Mr. Coffman. Okay. A
9 few other questions.

10 Now, there are two pools out here. So I
11 just want to verify that Pride owns from the top of
12 the Wolfcamp formation to the base of the Wolfcamp
13 formation; correct?

14 A Correct.

15 Q It does not own from the base of the
16 Wolfcamp X-Y to the base of the Wolfcamp; is that a
17 fair statement?

18 A Yes.

19 Q Let me go through my notes to make sure I am
20 not missing anything.

21 And you can defer on this one too, but I'll
22 probably ask all the witnesses this. How far above
23 the top of the Wolfcamp will the lower third Bone
24 Spring landing be, approximately? I'm not asking --

25 A Oh, I'd have to defer to Staci or Mark on

1 that.

2 Q Okay. That's fine. And you know, I brought
3 up that June 15th letter to your interest letters
4 saying that if Cimarex has its way, its well will
5 produce the primary concentrations of hydrocarbons in
6 the Wolfcamp, which are in the upper Wolfcamp; you do
7 not disagree with that statement?

8 A Could you repeat the question?

9 THE HEARING EXAMINER: Yeah. Please
10 rephrase that. "Do you not disagree," I don't even
11 understand that.

12 Q Do you agree that your letter says that your
13 third Bone Spring well will produce the primary
14 concentration of hydrocarbons in the Wolfcamp, and
15 those primary concentrations are in the upper
16 Wolfcamp; is that correct?

17 A No. I disagree. I don't think I sent that
18 letter out to any owners in this particular proration
19 unit.

20 Q No. That's not the point. You sent it over
21 in the other myriad of cases that were at the status
22 conference; did you not?

23 MR. SAVAGE: Mr. Harwood, I'm going to
24 object to this. I don't see the relevance in another
25 case miles away pertains to the exhibits that have

1 been introduced -- did we introduce the letter? Did
2 Mr. Bruce -- letter?

3 MR. BRUCE: No. I only got it early
4 this morning, and therefore, I -- present --

5 THE HEARING EXAMINER: I mean, I don't
6 know how far away it is. I'll leave it to the
7 technical examiners whether distance makes it
8 irrelevant.

9 I'll allow the question.

10 BY MR. BRUCE:

11 Q Okay, Mr. Coffman. The wells you wrote that
12 about -- and I forget the well names -- over in 20
13 South 34 East; correct?

14 A Correct.

15 Q And these wells that we're here for today
16 are in 19 South 34 East. I mean, I'm pretty good at
17 calculating distances. I have two engineering
18 degrees. But these groups of wells are about 6 miles
19 apart; would that be a fair statement?

20 A I'd have to rely on your two engineering
21 degrees.

22 Q That's probably a danger, but what the heck.
23 But would you expect there to be any
24 different results from wells 5 or 6 miles away?

25 A Oh, I couldn't say. I'm just a landman.

1 Q But you're taking the same position in those
2 Cimarex/Read and Stevens cases that you're taking
3 today?

4 A We did not provide the same letter for this
5 case that we did for those cases.

6 Q I'm not saying you provided -- is Cimarex
7 taking the same position in the Read and Stevens and
8 Cimarex cases in a few weeks as it is today in the
9 Pride/Cimarex cases?

10 A And what would that position be?

11 Q That the upper Wolfcamp should not be
12 completed; it should be produced from the third Bone
13 Spring.

14 A I'd say there's similar cases. I don't
15 think they're exactly the same.

16 Q Well, nothing's ever exactly the same. But
17 they are similar?

18 A I would agree they're similar.

19 MR. BRUCE: Let me just check a couple
20 things, and then I'll let you go. Thank you,
21 Mr. Coffman. I won't bother you anymore.

22 THE WITNESS: Thank you, Mr. Bruce.

23 THE HEARING EXAMINER: Mr. Savage, I
24 suspect you might have some redirect?

25 MR. SAVAGE: Thank you, Mr. Harwood.

REDIRECT EXAMINATION

BY MR. SAVAGE:

Q Mr. Coffman, the Mighty Pheasant/Loosey Goosey lands, Mr. Bruce calculated those as being about 6 miles away. Geology changes quite a bit over 1 mile or 2 miles. 6 miles, it could possibly change quite a bit as well, is that correct?

A It could, yes.

Q And Mr. Bruce is bringing up this well proposal letter. And that well proposal letter that discussed the production of the upper Wolfcamp, that was sent out in relation to a proposed pooling application for the upper Wolfcamp; correct?

A Correct.

Q And in those cases with the Mighty Pheasant and Loosey Goosey, Cimarex is really grappling with some novel and issue of first impression about how to handle this to protect the working interest owners from massive amounts of costs and expenditure; is that correct?

A That's correct.

Q And in those letters, because they're related to the pooling applications for the upper Wolfcamp, you have to look at those specifically for pooling just the Wolfcamp. Pooling would be

1 specifically of the Wolfcamp, and the production
2 therefore would be part of that pool unit of the
3 Wolfcamp; correct?

4 A Correct.

5 Q Do you think that Mr. Bruce is kind of
6 taking advantage of the confusion around some of these
7 issues between those cases and using it to his
8 advantage on this case?

9 A Yes. I think he's taking a part of a very
10 complicated case and applying it to this case.

11 Q And somebody would not be able to do that if
12 those issues of first impression and those novel
13 issues were addressed by the Division so there could
14 be some clarification?

15 A Correct.

16 Q And you believe that that clarification is
17 needed --

18 A Yes.

19 Q -- not only for this case, to understand
20 this case, but to understand any case involving those
21 other wells?

22 A I agree.

23 Q Okay. Mr. Bruce asked about the enhanced
24 correlative rights, you pointed out that all the
25 owners in the Wolfcamp are the same owners in the Bone

1 Spring except for Pride; correct?

2 A Correct.

3 Q And when you said enhanced correlative
4 rights, you were talking about just all the owners,
5 those 19 owners, except for Pride; correct?

6 A Correct,

7 Q So if the Bone Spring produces prolifically,
8 those 19 owners would be the ones whose correlative
9 rights would be enhanced; correct?

10 A Correct.

11 Q Not Pride. We all agree that Pride would be
12 excluded from the Bone Spring?

13 A That's correct,

14 Q Okay. And because you knew that they'd be
15 excluded, you were sympathetic to the position of
16 Pride; correct?

17 A That's correct.

18 Q And that's why you offered the option to
19 possibly explore blending these interests?

20 A that's correct.

21 Q And the blending of the interest, the
22 surface acres do not apply to that. This is an offer
23 of a contractual agreement, voluntary, outside the
24 scope of the jurisdiction of the Division; correct?

25 A That's correct.

1 Q And if it were agreed upon, it would be a
2 private agreement; correct?

3 A Yes. That's correct.

4 Q And so it has no relevance to this
5 particular case?

6 A Correct.

7 Q Let me look at my notes as well.

8 The percentage that they keep bringing up,
9 the 25 percent and the 75 percent, that also pertains
10 to the other case as well; correct?

11 A That's correct.

12 Q And that was part of Cimarex's efforts to
13 wrestle with this question of how do you correspond
14 and reconcile the regulations and the statutes with
15 the actual product that's being produced; correct?

16 A Correct.

17 Q And that's a very complicated thing. I
18 mean, we do the best we can, the legislature on the
19 regulatory side and the agencies. And I don't see how
20 they do it often, but they do wrestle with this to
21 accurately protect correlative rights in terms of what
22 the actual real-world production based on the
23 geological sciences; correct?

24 A Correct.

25 Q And Cimarex, in good faith, really has

1 attempted to grapple with this and other parties
2 appear to be taking advantage of Cimarex's effort and
3 belittling it and trivializing it; do you agree with
4 that?

5 A I agree.

6 MR. SAVAGE: Okay. Thank you,
7 Mr. Coffman. I don't have any further questions.

8 THE WITNESS: Thank you.

9 THE HEARING EXAMINER: All right,
10 Mr. Savage. Thanks.

11 Mr. McClure, why don't you lead off?

12 MR. MCCLURE: Thank you, Mr. Harwood.

13 Mr. Coffman, or maybe this is a
14 question for Mr. Savage. Right at the very start, you
15 mentioned a typo that was in regard to the rates;
16 correct?

17 THE WITNESS: Yes, that's correct.

18 MR. MCCLURE: So it should not be
19 7,700, it should be what did you say?

20 THE WITNESS: I think it was shown at
21 8,800, and it should be 7,700.

22 MR. MCCLURE: Okay. Yeah, I was going
23 to say on the application checklist, it looks like it
24 is 7,700. So that's why I might be a little confused,
25 maybe later on in the testimony maybe it has it

1 mislabeled then. But I guess to confirm though, the
2 7,700 is correct?

3 THE WITNESS: Yes, correct.

4 MR. MCCLURE: Okay. Thank you. Just
5 to confirm, Cimarex does have interest in the Wolfcamp
6 in this tract; correct?

7 THE WITNESS: Yes, that's correct.

8 MR. MCCLURE: Now, as to this
9 particular application for compulsory pooling though,
10 you're only requesting to pool interest in the Bone
11 Spring; correct?

12 THE WITNESS: That's correct.

13 MR. MCCLURE: And I guess, probably
14 later witnesses will be able to provide me a better
15 answer. But just as a basic to your understanding,
16 Cimarex believes that these wells, as proposed, will
17 produce from the Wolfcamp; correct?

18 THE WITNESS: Our wells, the Showbiz
19 wells?

20 MR. MCCLURE: Well, the ones proposed
21 in here, I don't remember the name of them wouldn't
22 scrolling down. Showbiz, that's correct. Yes. I'm
23 sorry.

24 Do you want me to re-ask the question?

25 THE WITNESS: Yeah, that'd be great.

1 MR. MCCLURE: Okay. Is it your
2 understanding that as proposed, the Showbiz wells --
3 and when I say as proposed, I mean their current
4 depths I guess and target formation -- is it your
5 understanding that they will produce from the
6 Wolfcamp?

7 THE WITNESS: I would say the third
8 Bone Spring one would be the one that's, I guess,
9 would fall into that bucket. But I would have to
10 defer to Jenny [sic] or Mark on that fact.

11 MR. MCCLURE: Well, I guess, is it your
12 understand that -- I mean, the Bone Spring three is
13 obviously the one right above the Wolfcamp. But I
14 guess, would it be your understanding that at least
15 one of the wells is being opposed by Cimarex is also
16 going to produce from the upper Wolfcamp?

17 THE WITNESS: I'd defer to Staci, the
18 geologist on that.

19 MR. MCCLURE: Okay.

20 THE WITNESS: She'll give you a better
21 answer than I will.

22 MR. MCCLURE: Oh, yeah. I mean, the
23 only reason I was even following on it is it kind of
24 leads up to my next question, which I think is more
25 likely in your realm. I guess if we suppose -- and

1 let's leave it blank whether Cimarex is proposing that
2 they are going to drain the upper Wolfcamp, but that
3 kind of seemed like that was the basis on what this
4 case is built upon. If we suppose that that is the
5 case, is Cimarex of the position that they have the
6 right to produce that formation without it being
7 pulled?

8 THE WITNESS: No. I think we would
9 argue that the upper Wolfcamp has a chance at
10 producing more of the third Bone Spring than the third
11 Bone Spring has of producing the upper Wolfcamp.

12 And I would -- not to ramble, but I
13 would say that if you have the same ownership that
14 backs the third sand development instead of a Wolfcamp
15 development, drilling the third Bone Spring would
16 protect their correlative rights as well.

17 MR. MCCLURE: Yeah. And as if you were
18 to let me shoe hole that in, I guess, for my next
19 question. When we were talking about allocating the
20 right thought process when you were referring to
21 blending interest, your intent was to make interest
22 identical between the Wolfcamp and Bone Spring; is
23 that correct?

24 THE WITNESS: I don't know about
25 identical. I think the values are different between

1 the third Bone Spring and the upper Wolfcamp based on
2 my understanding, which is elementary for -- from a
3 reservoir and geological standpoint. But at some
4 ratio in which Pride would own in the Bone Spring and
5 we would own additional in the Wolfcamp at whatever
6 ratio that would be for contractual interest across
7 the formations.

8 MR. MCCLURE: Oh, yeah. Well, I mean,
9 I'm just trying to think of how to phrase this, I
10 guess. Understanding that the ratio of transfer
11 interest would be dependent upon value whatever,
12 that's something for the private entities to discuss,
13 do you think that the final intent of this would be to
14 make whatever share it is that it ends up being, that
15 it would be identical between the two?

16 THE WITNESS: On a value basis, yes.
17 That would be the intent.

18 MR. MCCLURE: Okay. As far as the
19 persons being pooled here, being compulsory
20 pooled -- I'm trying to see what the indication is to
21 make sure as what all parties are being pooled.

22 I think on page -- you may not have it
23 in front of you, but maybe Mr. Savage can assist, page
24 35 of 120, there's a list, it's titled Complete List
25 of Parties, Persons to be Pooled. Is it pretty much

1 every single person in this particular list are the
2 ones requested to be pooled?

3 THE WITNESS: Actually, Chevron,
4 Poncho, Hanley, Laha [ph], and COG Operating are
5 committed to us. And I do not -- I mean, we're open
6 to having everybody sign an OA.

7 But currently, for the entirety of the
8 west half west half of 12 and 13, we have 89 percent
9 of the working interest supporting our development.

10 MR. SAVAGE: MR. McClure, if I could
11 add to that. That completed list was intended to be a
12 completed list of uncommitted interest owners, but
13 apparently some of the committed interest parties got
14 in there inadvertently. And if we're allowed to
15 provide to a revised list of that completed list. But
16 the intention was to list all the uncommitted parties
17 as a recapitulation for the convenience of the
18 Division.

19 MR. MCCLURE: Okay. Yeah. And
20 depending on how this goes, we would want something
21 like that submitted.

22 MR. SAVAGE: We will make a note of
23 that. And I apologize for that. No good deed goes
24 unpunished; right?

25 MR. MCCLURE: But I guess following

1 into my next question, it has referenced here record
2 title owners. And on that, it has Pride listed out as
3 a record title owner. Was it the intent to pool Pride
4 into the Bone Spring stuff here if they own dual
5 percent interest, or is this solely on record title
6 ownership and none of their working interest, which
7 they have in the Wolfcamp?

8 THE WITNESS: This is solely for record
9 title for the Bone Spring.

10 MR. MCCLURE: Okay. I think that may
11 be all my questions for Mr. Coffman.

12 Thank you, Mr. Coffman.

13 Thank you, Mr. Savage.

14 And thank you, Mr. Harwood.

15 THE WITNESS: Thank you.

16 THE HEARING EXAMINER: All right.

17 Ms. Thompson, questions for Mr. Coffman?

18 MS. THOMPSON: Yes. I'll follow up on
19 Mr. McClure's.

20 Mr. Coffman, when it comes to the
21 working interest owners, I see that Coterra Energy has
22 working interest in the Wolfcamp formation; is that
23 correct?

24 THE WITNESS: That's correct.

25 MS. THOMPSON: And so Pride Energy

1 being able to grow the Wolfcamp formation, Coterra
2 would still be getting some royalties off of that;
3 correct?

4 THE WITNESS: That's correct.

5 MS. THOMPSON: And you said you did try
6 to reach an agreement through various means such as
7 having them either move their -- zone or also by
8 pooling the overall interests; right?

9 THE WITNESS: Yeah. Blending, yes.

10 MS. THOMPSON: Blending. Did you ever
11 propose a movement of your well that's in the third
12 Bone Spring up a little bit to them?

13 THE WITNESS: No we didn't because we
14 still think that their landing zone would be producing
15 from the Bone Spring.

16 MS. THOMPSON: And you briefly touched
17 that you think that their well has a higher chance of
18 producing from the Bone Spring than yours from the
19 Wolfcamp; correct?

20 THE WITNESS: correct.

21 MS. THOMPSON: Why is that?

22 THE WITNESS: Well, this is based on
23 my, also, elementary knowledge of completions, but I
24 believe, in my opinion, fracks tend to grow upward
25 rather than downward.

1 MS. THOMPSON: I think I'm going to
2 reserve the rest of my questions for our next witness.
3 So I have no further questions at the moment.

4 THE HEARING EXAMINER: Okay.
5 Mr. Savage, any additional questions for your witness
6 based on questions from Mr. McClure and Ms. Thompson?

7 MR. SAVAGE: I think I'm going to
8 reserve my questions. I do have related questions,
9 but I think they're best addressed and answered with
10 Ms. Mueller and Mr. McCoy.

11 THE HEARING EXAMINER: Okay. How about
12 you, Mr. Bruce? Any additional questions based on
13 questions from the technical examiners?

14 MR. BRUCE: No, sir.

15 THE HEARING EXAMINER: All right. May
16 this witness be excused then, Mr. Savage?

17 MR. SAVAGE: Yes, Mr. Coffman can be
18 excused. Thank you.

19 THE HEARING EXAMINER: You may call
20 your next witness.

21 MR. COFFMAN: Thank you.

22 MR. SAVAGE: Okay. I would like to
23 call the geologist of Cimarex, Staci Mueller.

24 //

25 //

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

5 THE WITNESS: Can you hear me?

6 MR. SAVAGE: Yes.

7 DIRECT EXAMINATION

8 BY MR. SAVAGE:

9 Q Ms. Mueller, you've been accepted as an
10 expert witness, and you have testified before the
11 Division previously. Can you just give a real quick
12 description of your educational background?

13 A Yeah. I have my bachelors in geophysical
14 engineering and my masters in geophysics from Colorado
15 School of Minds.

16 Q And you have worked how long for Cimarex?

17 A I've worked at Cimarex for six and a half
18 years, and I've worked this specific asset in Lea
19 County since July 2018.

20 Q And your written testimony, it's represented
21 by Exhibit B; is that correct?

22 A Correct.

23 Q And you acknowledge your statement as being
24 accurate and truthful to the best of your knowledge?

25 A Yes, I do.

1 Q Okay. Ms. Mueller, I would like to go back
2 to some of the issues that we've discussed in
3 Mr. Coffin's testimony. And it seems like there's a
4 serious confusion of terms, and terms being tossed
5 around regarding production, producing, communication;
6 and I would like to get your perspective on this.

7 So as I understand because there is no
8 baffle or natural barriers between these two
9 formations, third Bone Spring and upper Wolfcamp,
10 there is going to be and there is substantial
11 communication between the formations; is that correct?

12 A Correct.

13 Q And that is basically flow of product?

14 A Of Hydrocarbons and water, yes.

15 Q Okay. So when you go out to this area, the
16 subject lands. And let's say you pool an uncontested
17 situation, you drill and pool the third Bone Spring in
18 a similar unit, and you start producing the third Bone
19 Spring. Under the regulations, under the specific
20 technical terms of the regulations, you are pooling
21 the third Bone Spring and you are producing the third
22 Bone Spring; right?

23 A Right.

24 Q And the owners in that third Bone Spring,
25 they're going to be deemed to receive their portion of

1 the 100 percent of production; correct?

2 A Correct.

3 Q But in reality, what's going on in this area
4 10,000 feet under the ground is that that wellbore is
5 producing some large percentage of the third Bone
6 Spring; correct?

7 A Right.

8 Q And it's also pulling hydrocarbons from the
9 upper Wolfcamp; correct?

10 A Some, yes.

11 Q Some. And so there are owners in that upper
12 Wolfcamp that are being deprived. Basically, that
13 hydrocarbons are being taken from them. They actually
14 have of record ownership of those hydrocarbons;
15 correct?

16 A Correct.

17 Q But the regulations are not nuanced and
18 specific enough to account for their loss; correct?

19 A Correct.

20 Q And so that's just kind of, like, collateral
21 loss, collateral damage, which the Division accepts;
22 correct?

23 A Yes.

24 Q Okay. So you wouldn't really call those
25 upper Wolfcamp under the regulations produced; right?

1 It's incidental?

2 A Yeah.

3 Q Okay. So in those other cases with the
4 Mighty Pheasant and the Loosey Goosey, Cimarex really
5 worked hard to make a good faith effort to try to
6 figure out how to account for those owner's interests
7 after Permian Resources pooled the Wolfcamp. Cimarex,
8 who did an application for the Bone Spring, then
9 really made a good faith effort to try to account for
10 those owners that would otherwise be lost; is that
11 correct?

12 A That's correct.

13 Q And doing that, they filed an application
14 for the Wolfcamp; correct?

15 A Correct.

16 Q And within the confines, the specific
17 context, regulatory context of that pooling
18 application for the Wolfcamp, we were allowed to use
19 the term "produced" because under that context, that
20 becomes the fine -- the wellbore is in the lower third
21 Bone Spring is going to drain that. We -- a framework
22 to protect those correlative rights; correct?

23 A Correct.

24 Q And that is when it becomes produced?

25 A Right.

1 Q And this is complicated; would you agree?

2 A Yes.

3 Q And we really need the Division's input for
4 these kinds of cases, for this case, definitely for
5 the Mighty Pheasant case; do you agree with that?

6 A I agree.

7 Q Okay. So that said, let's go back to your
8 exhibits. You mention in your testimony that Cimarex
9 has had some geological successes in this area. Can
10 you give the Division a description of those?

11 A Yeah. So Cimarex has been an established
12 operator offset the subject lands with about 35
13 horizontal wells drilled within the basal third sand,
14 same landing zone that we're proposing here, starting
15 in 2010 through last year.

16 So we've taken advantage of triple combo
17 logs on deep -- wells and have run our own logs on
18 most third sand developments in the area to better
19 characterize the Bone Spring and Wolfcamp formations.

20 And so from those mapping efforts along with
21 offset production analyses, we've concluded that the
22 third sand is the most economic target instead of the
23 upper Wolfcamp.

24 Q Okay. And did you mention how many total
25 wells you have produced or drilled in this area

1 successfully?

2 A Within the third Bone Spring sand alone, 35.

3 Q Okay. Your exhibits here, and I'm going to
4 pull them up again.

5 Okay. So you have 8 geology exhibits, B-1
6 through B-8. Can we go through each one and describe
7 its relevance to this case and to Cimarex's position
8 in these cases?

9 (Case 22853 Exhibit B-1 through Exhibit
10 B-8 were marked for identification.)

11 A Sure.

12 Q And if applicable, can we show how the
13 exhibits relate to the need to drill and develop third
14 Bone Spring instead of the upper Wolfcamp?

15 A Okay. So Exhibit B-1 is just a summary of
16 the maximum horizontal stress direction throughout the
17 Permian Basin. At showbiz, the max horizontal stress
18 is about North 70 degrees East, indicating that the
19 well should be drilled in the north/south direction
20 instead of east/west. So Pride's doing the exact same
21 thing.

22 Q Exactly. Exhibit B-2?

23 A Exhibit B-2 is a structure map
24 representative of our third sand target, which shows
25 about 200 feet of structural relief from heel to toe.

1 And I also wanted to note we have
2 seismic -- 3-D seismic coverage over this whole area,
3 which would also help with geosteering since we have
4 quite a bit of structural relief over this well slot.

5 Q Okay. Exhibit B-3?

6 A B-3 is an isopach of the third sand. It
7 shows consistent thickness of about 200 to 220 feet
8 across the horizontal spacing unit.

9 Q And you heard the other geologist talk about
10 thickness of the two formations in relation to the
11 comparison of potential for production. Is this
12 something that you could evaluate to determine
13 potential production?

14 A Yes. That will be in a later exhibit. I
15 try to quantify what the total reservoir is being
16 represented as. So I'll show PH later.

17 Q That's good. All right. Exhibit B-4?

18 A B-4 is a little more complicated. So this
19 is a structural cross section across about 5 miles.
20 It shows gamma ray in the first tract, and then
21 resistivity in the second tract highlighted solid red
22 below 20 ohms, so I'm trying to highlight the main
23 third Bone Spring sand reservoir.

24 And then I have PE -- or the photoelectric
25 displayed as well as neutron and density porosity.

1 And then I've displayed Cimarex's third sand target in
2 the green line.

3 So in the middle log, I'm showing red arrows over
4 the resistivity tract, and then yellow arrows over the
5 neutron and density porosity tract. And that's to
6 emphasize the different geomechanical units and show
7 that the upper Wolfcamp sands have a very similar --
8 or have very similar log properties as the third sand,
9 indicating that they're most likely part of the same
10 reservoir tank.

11 Q Okay. So let's add to that discussion that
12 we've earlier. So formations are different from
13 reservoir?

14 A Correct.

15 Q As I understand this, we're looking at a
16 single reservoir that crosses the two formations?

17 A Correct. Yes.

18 Q And the majority of the reservoir is located
19 in the third Bone Spring?

20 A Correct.

21 Q Okay. Exhibit B-5?

22 A B-5. So an example of a map that we use to
23 evaluate reservoir quality in both the Bone Spring and
24 the Wolfcamp is ϕ -h, which is just porosity times
25 height. And so here I'm comparing the ϕ -h between

1 the third sand and the upper Wolfcamp sands, which is
2 Pride's target.

3 And I've calculated the average phi-h within
4 the third sand at Showbiz to be 18.3 porosity feet.
5 And then the average phi-h within the Wolfcamp sands
6 is about 9.3 porosity feet.

7 So it's showing that the third sand is at
8 least 66 percent of the total reservoir, while the
9 Wolfcamp sands might contribute up to 33 percent.

10 Q Okay. And that describes the communication
11 and the potential extraction. But in terms of
12 producing, it does not address what the conventions of
13 the regulation need to be for the actual regulatory
14 framework or production; correct?

15 A Right. My point here is that the third sand
16 is the established target throughout the area. That's
17 what everybody's been targeting around here up until
18 very recently. And yeah.

19 Q Right. So we're not saying that that
20 smaller percentage in the Wolfcamp, that we're
21 intending to produce it from a regulatory standpoint;
22 right?

23 A No.

24 Q That's what parties keep accusing us of.
25 We're trying to be accurate in the assessment in the

1 actual geology, and then make the different effort of
2 applying it to the regulatory framework; do you agree?

3 A I agree.

4 Q Okay. Exhibit B-6?

5 A So this is a Wolfcamp structure map, showing
6 all of the third sand and Wolfcamp sand producers that
7 we have data for. And I've called out the location of
8 the proposed Go State Wolfcamp well, which is
9 surrounded by third sand production in the blue
10 diamonds. And then Wolfcamp sand production begins
11 much further south.

12 Q So it looks from here, clearly, that the Go
13 State 401H well is clearly an anomaly; would you agree
14 with that?

15 A Yes.

16 Q Okay. And are there any Wolfcamp wells in
17 this surrounding area?

18 A There might be a couple. Due to limited
19 well control moving to the east, it's very difficult
20 to pick out whether a well is within the third sand or
21 the very, very upper part of the Wolfcamp. But I've
22 done my best to classify wells within the third sand
23 versus the scattering of a couple Wolfcamp sand wells.

24 Q Okay. Those couple of Wolfcamp wells, do
25 you happen to know what their production might be?

1 I'm just curious.

2 A I do not.

3 Q All right. Thank you. Exhibit B-7, can you
4 explain that?

5 A Yeah. So that's a gun barrel view of the
6 Showbiz section. It shows Cimarex's Showbiz 301H.
7 That's a proposed target in line with offset
8 producers. And then Pride's Go State proposed target
9 is kind of an anomaly for the area and located only
10 100 feet below our third sand well.

11 So we actually propose that Pride moves
12 their target down another 200 feet for adequate
13 separation from the third sand reservoir. And then
14 that would allow us both to develop the Wolfcamp and
15 the third sand separately.

16 Q Okay. So you said that 100 foot is an
17 anomaly; typically, it would be lower. Is that what
18 you're saying?

19 A I'm saying the Wolfcamp sands target is an
20 anomaly.

21 Q Okay. And then as you point out, you
22 propose this alternate landing zone. And that is
23 still on the table; correct, as an option?

24 A Correct.

25 Q And that would allow both parties to proceed

1 with the development, and you would get the full
2 development of the Bone Spring and the full
3 development of the Wolfcamp; correct? The Wolfcamp --
4 upper Wolfcamp shale, not the entire Wolfcamp.

5 Q Okay. And if I understand this, Pride
6 Energy's geologist seemed to describe an approach that
7 Pride Energy could take working with an engineer. If
8 I understand this, they could look at this alternate
9 landing zone, and they could design a frack pattern
10 that would extend up and would actually cover the full
11 upper Wolfcamp and produce the full upper Wolfcamp; is
12 that correct?

13 A Yeah. That's what he proposed.

14 Q That's what he proposed. And do you agree
15 that that is a clear possibility?

16 A I don't. I'm not a completions engineer.
17 But from a geologic perspective, I don't see really
18 any indication of frack baffles between their landing
19 and our landing that would prevent fractures from
20 growing up into the third sand.

21 Q Okay. Mr. McCoy should address this.

22 A Sure.

23 Q Okay. Exhibit B-8?

24 A B-8. So that speaks kind of to the lack of
25 clarity that we've gotten on the proposed target

1 T-B-D. The left most wells located at the structural
2 equivalent at the first take point while the right
3 most well is at the structural equivalent at the last
4 take point.

5 Because there's so much structural relief
6 from heel to toe, the reference T-B-D for the Go State
7 could have either been at 100 feet from the third
8 sand, which we don't agree with; or 235 feet from the
9 third sand, which would have been a little better.

10 And we had reached out to Pride for
11 clarification, and we're told that the target is just
12 the upper Wolfcamp. So I didn't really understand
13 what they were really targeting up until I saw their
14 exhibits a couple days ago.

15 But I think now we have much better
16 clarification, and it is up within the 100 feet from
17 the third sand.

18 Q So that I understand this right, you believe
19 that they're intentionally targeting the third Bone
20 Spring sand by the landing zone?

21 A I don't know about their intentions, but
22 they are encroaching upon the third sand, definitely.

23 Q Okay. And so that's the full set of geology
24 exhibits; correct?

25 A Correct.

1 Q So some general questions about those.
2 Would it be correct to say that the third Bone Spring
3 is not only the preferable formation to drill and
4 develop in this area, but that it is the only
5 formation that really justifies drilling and
6 development?

7 A Yes. The third sand along with a few other
8 Bone Spring targets. We also propose the first and
9 second sand.

10 Q Okay. And then from a geological
11 perspective, what would happen if an operator or
12 operators drill both the third Bone Spring and the
13 upper Wolfcamp with the landing zone as proposed by
14 Pride Energy?

15 A I think there would be significant
16 interference between the wells due to a lack of any
17 frack baffle. And what I mean by frack baffle, on
18 Exhibit B-4, I kind of classify it. I'm looking at
19 low gamma ray, high resistivity, and very low
20 porosity, approaching zero percent, which is
21 indicative of a very tight carbonate. And that's
22 difficult to propagate hydraulic fractures through.

23 So there are no indications of carbonate
24 separating the Wolfcamp from the Bone Spring.

25 Q Okay. And for the benefit of the Division,

1 what would happen if just the upper Wolfcamp were
2 drilled and developed?

3 A The Wolfcamp well would probably drain a
4 significant amount of reserves in the third sand and
5 likely only less than a third within the upper
6 Wolfcamp based on the phi-h map, which is my best
7 attempt at quantifying the reserves. But yeah. So
8 that's based on my Exhibit B-5, the phi-h maps.

9 Q And from a geological point of view, would
10 drilling the upper Wolfcamp possibly ruin or
11 permanently damage the full potential of the
12 reservoir? It sounds like, based on what you
13 described, it possibly might.

14 A Yeah. By targeting just the upper Wolfcamp
15 sands, I would say the total upper Wolfcamp shale and
16 sands reservoir wouldn't be fully drained. The
17 reservoir tank would instead shift up into the third
18 sand.

19 Q Ms. Mueller, is there anything else you
20 would like to highlight or emphasize for the
21 examiners?

22 A No. That's it.

23 MR. SAVAGE: All right. Well, thank
24 you for a thorough testimony.

25 Mr. Examiner, I would like to submit

1 geology Exhibit B, and also Exhibits B-1 through B-8
2 into the record.

3 THE HEARING EXAMINER: Any objection,
4 Mr. Bruce?

5 MR. BRUCE: No, sir.

6 THE HEARING EXAMINER: They'll be
7 admitted, Mr. Savage.

8 (Case 22853 Exhibit B-1 through Exhibit
9 B-8 were received into evidence.)

10 MR. SAVAGE: Thank you. And Ms.
11 Mueller is available for cross examination.

12 THE HEARING EXAMINER: All right.
13 Mr. Bruce?

14 MR. BRUCE: Sure. I've got a few
15 questions if I can get organized here a little bit.

16 CROSS-EXAMINATION

17 BY MR. BRUCE:

18 Q Ms. Mueller, is there any question in your
19 mind that a lower third Bone Spring completion will
20 produce from the upper Wolfcamp?

21 A I think because there's a lack of frack
22 baffles, and I have testified that I believe it's one
23 continuous reservoir interval from the upper Wolfcamp
24 through the third sands that there should be some
25 minor contribution from the Wolfcamp; but the majority

1 of production will be from the third Bone Spring sand.

2 Q Let me ask you this. Where is the third
3 Bone Spring landing point for Cimarex's proposed well?
4 How far above the top of the Wolfcamp?

5 A So our planned landing I believe is about 50
6 feet above the top of the Wolfcamp, which is the
7 standard landing across the area. Just because that
8 is the most poorest, basal clean sand lobe that
9 everybody targets; however, we do our due diligence
10 when actually drilling the well, we don't aim for the
11 center of that -- what we call the C lobe, we actually
12 aim for more closer to the top, where there's a shale
13 string just so that we know exactly where we are in
14 zone.

15 So it would be probably around 75 feet from
16 the top of the Wolfcamp.

17 Q Okay. So based on the testimony today, your
18 completion will be a lot closer to the Wolfcamp than
19 Pride's completion will be to the Bone Spring?

20 A I would say they're about equal.

21 Q Would you agree that in this area, the upper
22 Wolfcamp is generally the best Wolfcamp zone to
23 produce?

24 A Yes.

25 Q And I think I might have phrased this case

1 to Mr. Coffman, but if you believe there will be
2 communication between the lower third Bone Spring and
3 the upper Wolfcamp, why hasn't Cimarex start to form a
4 Wolf/Bone pool?

5 A I think that question is slightly outside of
6 my expertise.

7 Q Okay. But why hasn't Cimarex sought to
8 force pool the upper Wolfcamp zone? It owns an
9 interest in that zone and has a legal right to do so.
10 Why isn't it seeking to force pool that zone?

11 A Because we plan to drill within just the
12 third Bone Spring.

13 Q And produce from the upper Wolfcamp?

14 A That's not the intention of Cimarex. We
15 intend to produce from the third Bone sand.

16 Q Well, isn't that kind of contradictory to
17 what the testimony is? You're saying the Bone Spring
18 is the best zone to produce, and it will produce the
19 vast majority of hydrocarbons from the upper Wolfcamp?

20 A No. I think I said it will produce the vast
21 majority of hydrocarbons from the third Bone Spring
22 sand, which is the primary reservoir based on my phi-h
23 maps.

24 Q But you will produce from the Wolfcamp also.
25 That's what all your -- says.

1 MR. SAVAGE: Mr. Harwood, I'm going to
2 object to this. And I'm going to do an objection for
3 clarification.

4 We do not believe that the term
5 "produce" is proper to describe the drainage from the
6 upper Wolfcamp. We believe that under the regulatory
7 frame, production is from the pooled formation, and
8 that becomes the finest production. And then the
9 drainage is incidental, and it is not production.

10 MR. BRUCE: Well, I'm not quite sure
11 what Mr. Savage is saying.

12 BY MR. BRUCE:

13 Q But their whole case is based on the fact
14 that the third Bone Spring will produce the upper
15 Wolfcamp; isn't that correct, Ms. Mueller?

16 A No. I would say our case is based on the
17 fact that the upper Wolfcamp well will mostly drain
18 from the third sand.

19 Q Okay. I'll let that go for a while.

20 So in other words, what you're saying is
21 that the upper Wolfcamp will produce from the lower
22 third Bone Spring, but the lower third Bone Spring
23 will not produce anything from the upper Wolfcamp?

24 A I didn't say not anything.

25 But I think I need to clarify that hydraulic

1 fractures primarily grow upward. And I've observed
2 from studies such as HFTS2, that Mark's going to touch
3 on later, as well as time lapsed geochemistry and
4 fiber data that hydraulic fractures and drainage tends
5 to have an extreme upward bias. So I would be more
6 worried about the upper Wolfcamp draining from an
7 overlying formation.

8 Q Well, you said it's the same -- I forget
9 the language you used, I'll try to look it up.

10 Basically, you said upper Wolfcamp will --
11 Bone Spring basically the same geological -- and
12 really, don't scratch all of the path of least
13 resistance; they can go up and down as Mr. Broughton
14 said, they can go sideways. They follow the path of
15 least resistance; don't they?

16 A Again, from the data I've seen, they tend to
17 follow a more upward direction than down.

18 Q But in your affidavit, paragraph 14 "Cimarex
19 has proposed the superior development plan, which
20 captures most hydrocarbons within the combined third
21 sand and upper Wolfcamp reservoir." You keep on
22 saying you don't intend to produce the upper Wolfcamp.
23 I mean, it's in your testimony that you are going to
24 produce the upper Wolfcamp.

25 MR. SAVAGE: Objection. Can you point

1 out where it is in the testimony?

2 MR. BRUCE: Paragraph 14, her
3 affidavit.

4 THE HEARING EXAMINER: She's entitled
5 to see what you're referring to, Mr. Bruce, in all
6 fairness.

7 MR. BRUCE: I understand. And you
8 know, Mr. Harwood, I only operate by phone. But it's
9 paragraph 14.

10 MR. SAVAGE: Paragraph --

11 THE HEARING EXAMINER: I believe he's
12 referring to page 62 of 120 if that helps you,
13 Mr. Savage.

14 MR. SAVAGE: Paragraph 14. I don't see
15 the word "produced" in here, Mr. Bruce.

16 MR. BRUCE: Okay. Procure. How about
17 "captures"?

18 MR. SAVAGE: Okay. That's good. Let's
19 define our terms. Mr. Bruce, we talked about this,
20 and "production" as we're defining it comes from an
21 establish pooled unit. Everything else refers --
22 distinguishable. "Capture," "incidental drainage."

23 We really need to get the terms
24 straight because there are plenty of operators out
25 there draining and capturing hydrocarbons from the

1 upper Wolfcamp where they have pooled the third Bone
2 Spring. And the Division has defined the production
3 of that third Bone Spring as producing. And yet,
4 they're allowed, and they're sanctioned, and they're
5 approved to capture because it's incidental. You
6 can't do anything about it. It's incidental to the
7 process.

8 MR. BRUCE: I'm not saying anything
9 about incidental. What's the difference between
10 Cimarex capturing reserves from the upper Wolfcamp or
11 producing reserves from the upper Wolfcamp. Tell me
12 the technical or common sense difference.

13 MR. SAVAGE: Okay. I will tell you
14 that. And this is something, really, that we're
15 asking the Division to opine on and make declarations
16 on because this is so important. It's so important.
17 It's very important for the Mighty Pheasant and Loosey
18 Goosey cases. So I appreciate the question.

19 So within the regulatory framework,
20 once you pool the third Bone Spring and you produce
21 from that pooled unit, that is producing. That is a
22 very specific term under the regulatory framework, and
23 capturing is not.

24 Capturing is a term of art within the
25 industry. You know, it coincides with drainage,

1 capturing, incidental drainage. But when you're
2 looking within the regulatory framework -- and that's
3 why we really need some direction from the Division to
4 be able to go through what's going to be a mega set of
5 cases. And that's why this case is very important,
6 and I'm glad you're asking these questions.

7 MR. BRUCE: So on the other hand, it's
8 okay if Pride's upper Wolfcamp well captures
9 hydrocarbons within the combined third Bone Spring and
10 Wolfcamp --

11 MR. SAVAGE: You know, it's not an
12 unqualified okay, but it's certainly a possibility
13 that the Division has to decide, and it's based on
14 what is the best development plan to select from the
15 set of factors that the Division is going to consider.

16 THE HEARING EXAMINER: Let me interrupt
17 here, just --

18 MR. BRUCE: I'm done.,

19 THE HEARING EXAMINER: Hold on,
20 Mr. Bruce.

21 You know, I think the technical
22 examiners understand this. I'm almost certain they do
23 because even I am beginning to get it.

24 It seems to be, this is probably more
25 appropriate for your guys' closing argument rather

1 than -- I mean, let's keep it orderly.

2 Mr. Bruce, if you have further
3 questions for Ms. Mueller, ask them.

4 You know, if you guys want to argue
5 these points in closing, that's fine. But I think
6 probably OCD understands, you know, the point that
7 you're both trying to get across.

8 Let's keep it orderly.

9 If you'll just continue with your
10 questions of Ms. Mueller, and let's get on through
11 Mr. Savage's witnesses.

12 MR. BRUCE: Yes. And I just have a few
13 left.

14 BY MR. BRUCE:

15 Q And this pertains to, Ms. Mueller, the
16 attachments to your affidavit. And I'll tell you what
17 I'm getting to fairly quickly.

18 But if you look at your Exhibit B-1,
19 Ms. Mueller, you're showing the same approximate
20 stress direction for both the wells involved in these
21 two cases as well as the area within five, six, eight
22 miles; is that a fair statement?

23 A Yes.

24 Q And then your Exhibit B-2, the structure.
25 You really highlighted these things really well, and I

1 appreciate it. Showing the well unit for the two
2 subject wells. The structure is fairly similar,
3 whether you're looking at these two cases or whether
4 you're looking at, say, the Mighty Pheasant well. The
5 structure is fairly gentle; is it not?

6 A There's actually twice as much structural
7 relief in this case than at the Mighty Pheasant.

8 Q Okay. That's fair. Well, I won't ask you a
9 question other than say B-4 is the one where I said
10 the third Bone Spring and the Wolfcamp X-Y behave as
11 one geomechanical reservoir. That's your main exhibit
12 on that; is it not?

13 A Correct.

14 Q And then I'm going to the next one, B-5. It
15 looks like the phi-h for the third Bone Spring sand is
16 similar for these two wells as it is 6 miles to the
17 southwest where the Mighty Pheasant wells are,
18 relatively?

19 A The Mighty Pheasant has, approximately, over
20 70 percent of total reservoir within the third sand.

21 Q Okay.

22 A It's significantly higher down there.

23 Q But I mean there's not that much difference
24 between the two areas?

25 A I would say it's two thirds versus three

1 quarters.

2 Q And then the same thing, the phi-h for the
3 Wolfcamp, once again, a township away. The numbers
4 look pretty similar; do they not?

5 A Correct.

6 Q And the reason I'm asking you this is that I
7 asked Mr. Coffman about similarity -- and of course,
8 he's not a geologist. He gave the correct answer,
9 "You'll have to ask somebody else."

10 But the geology between these two cases and
11 the massive fight you guys are going to indulge in in
12 a few weeks, it looks like you're looking at the same
13 piece of geology to my layman's eyes in the two
14 separate groups of cases; is that correct?

15 A Besides the difference in structural relief
16 and higher phi-h in the third sand, that's pretty much
17 correct.

18 MR. BRUCE: Okay. Thank you very much,
19 Ms. Mueller.

20 I have no further questions,
21 Mr. Harwood,

22 THE HEARING EXAMINER: Mr. Savage,
23 redirect?

24 MR. SAVAGE: I would like to address
25 the questions to just clarify that.

1 REDIRECT EXAMINATION

2 BY MR. SAVAGE:

3 Q Ms. Mueller, you do agree and understand as
4 Cimarex grapples with these issues and the Division is
5 facing what we consider issues of first impression,
6 that these terms need to be well defined, "capture,"
7 "drainage," "production"; correct?

8 A Correct.

9 Q And if they're not well defined as you have
10 seen in how they're being utilized and basically
11 weaponized to undermine Cimarex -- do you agree
12 they're being used to weaponize Cimarex's good faith
13 efforts to reach a proper development plan?

14 MR. BRUCE: I object to the
15 characterization of "weaponization." Each party is
16 protecting their own interest.

17 MR. SAVAGE: Fair enough, Mr. Bruce.

18 THE HEARING EXAMINER: Well,
19 Mr. Savage, I'm going to sustain that objection. I
20 mean, this is a geologist. I mean, you need to call a
21 weapons specialist for a question like that.

22 MR. SAVAGE: I need to call a linguist
23 for the diagnosis of the metaphor.

24 THE HEARING EXAMINER: I mean, you can
25 argue that. I think we get the point. But the

1 geologist can't testify -- I agree with Mr. Bruce. So
2 let's move on.

3 BY MR. SAVAGE:

4 Q Ms. Mueller, do you agree that this really
5 requires some serious review analysis and
6 investigation, both these cases?

7 A Yes.

8 MR. SAVAGE: Okay. And you gave a very
9 good overview, and your exhibits are good. And I'm
10 going to leave at that. I appreciate your time.

11 THE HEARING EXAMINER: All right.
12 Ms. Thompson, let's go to you first for questions for
13 Ms. Mueller.

14 MS. THOMPSON: Hi, yes. I have a
15 handful of questions. Let's see. It's just going to
16 be a little bit of reiterating to make sure I
17 understand everything.

18 So you said that according to your phi
19 chart that you say it's one reservoir that spans
20 between both Bone Spring and Wolfcamp formations;
21 correct?

22 THE WITNESS: Yes. I see similar
23 geomechanical properties, and that tells me it's
24 probably one reservoir.

25 MS. THOMPSON: Okay. And then

1 according to that chart as well, you said that
2 majority of it, or 66 percent of it, lays within the
3 Bone Spring formation?

4 THE WITNESS: Yes. 66 percent of the
5 phi-h lies within the third sand.

6 MS. THOMPSON: And then you also talked
7 about priorities when it came to the two different
8 formations and how they're very similar, and that's
9 why there would be an interaction if there was a well
10 placed in the Wolfcamp formation; correct?

11 THE WITNESS: Correct. I see
12 similarities between the third sand and then the upper
13 Wolfcamp sands. But I would classify the Wolfcamp a
14 shale differently.

15 MS. THOMPSON: Different. Okay. And
16 so I guess when a well is placed within these
17 different formations, they would act very similar
18 according to, I guess, fracking properties or --

19 THE WITNESS: I'm sorry. What was the
20 question?

21 THE HEARING EXAMINER: I think you're
22 freezing, Ms. Thompson, if you can hear us?

23 MS. THOMPSON: Yes, I can hear you.
24 Can you hear me?

25 THE HEARING EXAMINER: Yeah. We can

1 hear you now. I think you froze for the last 30
2 seconds. You may need to repeat.

3 MS. THOMPSON: Okay. I was saying that
4 because of their similarities, that the -- actually,
5 I'm going to go ahead and actually just drop that
6 question altogether.

7 In your statement, I believe it was
8 paragraph 12 if I'm correct, you said that there was a
9 vertical distance of 100 feet; that's correct?

10 THE WITNESS: Sorry. Trying to find
11 it.

12 There's 100-foot separation between
13 Pride's landing and Cimarex's landing.

14 MS. THOMPSON: Okay. I think I might
15 have seen it in a different section of your statement
16 then.

17 What would you say would be, like, a
18 reasonable, I guess, distance for there not to be
19 communications between the wells or drainage out of
20 the Bone Spring formation?

21 THE WITNESS: That's a really tough
22 question because there hasn't been a whole lot of
23 Wolfcamp and third sands co-development up here. I
24 would say down in southern Lea County, we have
25 300-foot separation in many cases. So that's why we

1 were kind of leaning on our expertise down in south
2 Lea to come up with the barrier up here.

3 MS. THOMPSON: Is that why the proposed
4 new location is another 200 feet below where the Go
5 State Com was proposed as I see on your Exhibit B-7?

6 THE WITNESS: Yes. That's correct.

7 MS. THOMPSON: You talked a little bit
8 about frack baffles. I also see the new proposed
9 location is near a lower frack baffle. You don't
10 think that this new proposed location would cause an
11 issue for Pride energy?

12 THE WITNESS: I don't think so because,
13 again, from the data I've seen, hydraulic fractures
14 and drainage tend to be biased upward. And we also
15 see in the case of our lower second Bone Spring sand
16 and Avalon landings, there are many other instances in
17 the Bone Spring where we do land right on top of a
18 frack barrier, and we don't see it hurting us at all.

19 MS. THOMPSON: Let's see. I'm sorry.
20 I'm trying to find one other question that I thought I
21 had.

22 You answered all my questions. Thank
23 you very much.

24 THE HEARING EXAMINER: Ms. Thompson, if
25 you come up with another one while we turn it over to

1 Mr. McClure, feel free to jump back in. Mr. McClure?

2 MR. MCCLURE: Thank you, Mr. Harwood.

3 Mr. Savage, just to confirm, your next
4 witness will discuss the nature of the proposed
5 fracturing; correct?

6 MR. SAVAGE: I believe that he will.
7 Thank you.

8 MR. MCCLURE: Okay. Yep. And then
9 just additional clarification, in any potential
10 closing arguments, it would be your intention to go
11 into greater detail regarding definition of
12 production, citation of the stuff from the OCD
13 statute, whatnot; correct?

14 MR. SAVAGE: I would like in the
15 closing to point out the importance of that. I will
16 leave out weaponization; I think that was a little bit
17 over the top. But you know, when emotions begin to
18 run a little bit, things come out like that; right?

19 MR. MCCLURE: I was just confirming
20 because I know in Ms. Mueller's original testimony,
21 there might have been some mention to that. But I
22 don't know if she's the appropriate witness for me to
23 ask about that. So I'm just confirming. Go ahead.

24 MR. SAVAGE: I believe Ms. Mueller
25 could -- she has been involved in discussions, and I

1 believe those terms address probably closely more than
2 anything else having to reconcile the geological
3 sciences with the regulatory scheme. I think she
4 could speak to how those terms are used in geology and
5 how they have to be translated into a regulatory
6 scheme. I think that's really important and needs to
7 be precisely defined.

8 You know, when you talk about
9 preventing waste, what actually does that mean in
10 what's going on under the ground. You know, when you
11 talk about correlative rights -- there's dynamics
12 going on under the ground that have terminology, and
13 we really need to understand what that
14 means -- virtual connectivity interruption -- discuss
15 that. I think she'd be open for questions.

16 MR. MCCLURE: Okay. Thank you,
17 Mr. Savage.

18 Ms. Mueller, I guess on that topic, are
19 you aware of precedent set by the OCC as to the
20 definition of production, and what is expected I guess
21 as far as in situations like this?

22 THE WITNESS: No, I am not.

23 MR. MCCLURE: Okay. Thank you. We'll
24 probably leave that to you, Mr. Savage.

25 MR. SAVAGE: All right. That's fair

1 enough. Thank you.

2 MR. MCCLURE: Okay. Quick questions
3 for you, Ms. Mueller. To your understanding, is there
4 any disagreement between Cimarex and Pride in regards
5 to where the top of the Wolfcamp is actually occurring
6 in this area?

7 THE WITNESS: No. I think we agree.

8 MR. MCCLURE: Okay. Earlier, Pride had
9 testified that they believe the permeability in the
10 upper sands at the top of the Wolfcamp was likely just
11 a -- of magnitude around about in the millidarcy
12 range; would you agree with that assessment?

13 THE WITNESS: Yes, I would. Up here in
14 the more proximal part of the basin, that's correct.

15 MR. MCCLURE: Okay. Thank you. It was
16 part of your testimony that if Pride were to drill
17 their wells, it would hurt the ultimate recovery from
18 let's just say the combined reservoir, including both
19 formations. Was that assessment based upon Cimarex
20 not drilling their wells and only being produced by
21 Pride's wells?

22 Do you want me to ask again, or?

23 THE WITNESS: Yeah.

24 MR. MCCLURE: Okay. Just to lay out
25 the speculation. Okay.

1 If Pride were to drill their wells,
2 would Cimarex also drill their wells if both operators
3 were given the authority to do so?

4 THE WITNESS: No, we would not.

5 MR. MCCLURE: Okay. And is that the
6 basis for your earlier testimony that Pride drilling
7 their wells would lead to a loss or less recovery from
8 the reservoir?

9 THE WITNESS: Yes. That's correct.

10 MR. MCCLURE: Okay. Thank you. I was
11 speculating that's kind of where we were going. And
12 it might have been in your written testimony, but I
13 just wanted to confirm.

14 Actually, I think that might be all the
15 questions I have for you, Ms. Mueller. Thank you,
16 Ms. Mueller.

17 Thank you, Mr. Savage.

18 And thank you, Mr. Harwood.

19 THE HEARING EXAMINER: Thank you,
20 Mr. McClure.

21 I have a couple of questions for
22 Ms. Mueller, if I may.

23 Ms. Mueller, the term drainage has been
24 used by various folks during your examination and
25 cross-examination. As a layperson, when I hear the

1 word "drainage," I think of gravity as playing a role
2 in that process. Does gravity play a role in the
3 process when it comes to oil and gas extraction?

4 THE WITNESS: I would say reservoir
5 pressure plays more of a role than just gravity.

6 THE HEARING EXAMINER: Okay.
7 Hypothetically, if someone drills down into the upper
8 part of this Wolfcamp formation, and then, you know,
9 exposes fractures in that area, does gravity play a
10 role in the concept of drainage under those
11 circumstances?

12 In other words, does gravity play a
13 role in which way a reservoir will flow?

14 THE WITNESS: It's probably more of a
15 question for Mark.

16 But I can say that as you get deeper
17 and deeper, the pressure gets higher and higher. And
18 so fractures will tend towards lower pressure in
19 formations above you.

20 THE HEARING EXAMINER: Okay. All
21 right. So pressure plays a much greater role at those
22 depths than mere gravity?

23 THE WITNESS: Correct.

24 THE HEARING EXAMINER: I'm not asking
25 you for a regulatory definition in my last question, I

1 promise.

2 From a geologist perspective, can you
3 explain to us your understanding of the difference
4 between "producing" and "incidental capture" or
5 "drainage"?

6 THE WITNESS: I'm not sure what the
7 current definition of "producing" is to the OCC;
8 however, it sounds like it's more of -- it's about the
9 intention. "Producing," to me, sounds like you're
10 intentionally targeting a certain reservoir, whereas
11 "incidentally capturing" means that you don't have a
12 frack baffle between where you were landing a well
13 versus the offset formation that probably has
14 hydrocarbon in it.

15 THE HEARING EXAMINER: Okay. And
16 that's exactly where we are in this case; is it not?

17 THE WITNESS: Correct.

18 THE HEARING EXAMINER: All right.
19 Anything further from you, Mr. Savage, with respect to
20 questions I asked or those Mr. McClure or Ms. Thompson
21 asked?

22 MR. SAVAGE: No, Mr. Harwood. I think
23 that these are very important topics and terms to
24 discuss. And I appreciate the discussion.

25 THE HEARING EXAMINER: Thank you.

1 Mr. Bruce, anything further from you?

2 MR. BRUCE: No. As I suggested before,
3 I may bring back Mr. Broughton for two or three
4 minutes of testimony regarding geological statements,
5 but I have nothing further of Ms. Mueller. And we'll
6 let her go free.

7 MR. SAVAGE: And Mr. Harwood, I too
8 would like to reserve the right for rebuttal witnesses
9 from my witnesses if that would be okay.

10 THE HEARING EXAMINER: Okay, then.

11 Ms. Mueller, you stand by if you would
12 for the remainder of this.

13 And Mr. Savage -- well, let's see.
14 It's three o'clock. Why don't we take a ten-minute
15 break, and then we'll continue with your last witness;
16 okay?

17 MR. SAVAGE: Sounds good. Thank you.

18 THE HEARING EXAMINER: All right.
19 Let's come back at ten after three.

20 (Off the record.)

21 THE REPORTER: We are now back on the
22 record.

23 THE HEARING EXAMINER: Thank you.

24 Mr. Savage, take it away. Bring on
25 your next witness.

1 MR. SAVAGE: Thank you. I would like
2 to call Mr. Mark McCoy, Engineer.

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

7 DIRECT EXAMINATION

8 BY MR. SAVAGE:

9 Q Mr. McCoy, you've been sworn in, and you
10 have not testified previously before the Division,
11 provided the resume. Can you briefly describe your
12 educational qualifications and your work experience?

13 A Sure. Can you all hear me?

14 Q Yes.

15 A Perfect. So my educational experience, I'm
16 a mechanical engineer. I went to the University of
17 Oklahoma. And I've been working for Coterra Energy,
18 previously Cimarex Energy, for the past two years as a
19 reservoir engineer in Eddy and most recently Lea
20 County.

21 MR. SAVAGE: And I ask that Mr. McCoy
22 be tendered as an expert witness given his
23 qualifications even though he has not testified
24 previously.

25 THE HEARING EXAMINER: Any objection,

1 Mr. Bruce?

2 MR. BRUCE: Absolutely not.

3 THE HEARING EXAMINER: All right. It
4 will be so recognized.

5 MR. SAVAGE: Thank you.

6 BY MR. SAVAGE:

7 Q Mr. McCoy, do you acknowledge your written
8 statement as here in Exhibit C, is that correct?

9 (Case 22853 Exhibit C was marked for
10 identification.)

11 A Yes.

12 Q And you acknowledge your statement as being
13 accurate and truthful to the best of your knowledge?

14 A Yes.

15 Q In your testimony, you talked in your
16 statement about third Bone Spring sand or third Bone
17 Spring being the primary target in the substantial
18 area, I believe, surrounding the subject lands; is
19 that correct?

20 A Yes.

21 Q Can you explain to the Division about the
22 significance of the third Bone Spring in this area?

23 A Sure. In the area near the subject lands, I
24 would describe the third Bone Spring as the most
25 productive and most consistent formation. Because of

1 this, it's been drilled the highest number of times
2 because it has the best economics. And I think both
3 our company and Pride Energy have recognized the
4 potential of this formation by drilling wells in this
5 formation.

6 Q Thank you. And I would like to bring up the
7 possible distinction. You remember that the expert
8 witness for geology for Pride energy said that
9 previously this used to be all the third Bone Spring,
10 but now the Wolfcamp is starting to show up as a
11 potential unit; do you remember that?

12 A Yes, I do.

13 Q Can you describe or speak to what
14 contribution and maybe what potential future
15 contribution, if any, that the Wolfcamp really has a
16 chance of making it in this area?

17 A I think it has a very limited potential in
18 this area. Especially in areas that the third Bone
19 Spring has already been drilled.

20 Q And the subject plans is one of those areas
21 with the third Bone Spring, it's already been drilled;
22 correct?

23 A Correct.

24 Q Okay. And you have six exhibits, C-1
25 through C-6. I'd like you to go through each one and

1 explain it's relevance to these cases. Mr. Bruce
2 happened to reference I believe your first exhibit,
3 C-1. It looks like it's very telling. Could you
4 describe what the significance is?

5 (Case 22853 Exhibit C-1 through Exhibit
6 C-6 were marked for identification.)

7 A Sure. So Exhibit C-1 is just a visual
8 demonstration showing that the third Bone Spring has
9 been drilled many times. In contrast, the Wolfcamp
10 has been tested, in fact, by our own company. But
11 it's not very successful. And therefore, the drilling
12 of this formation has not been repeated to nearly the
13 same extent that the third Bone Spring has.

14 Q And can you describe the -- between the
15 subject land and what, to me, looks like the only
16 viable Wolfcamp test or producing units; is that
17 correct?

18 A Yes. The nearest Wolfcamp well to the
19 subject lands is about 2 or 3 miles away.

20 Q Okay. Exhibit C-2, you have a graph. Can
21 you describe it's significance?

22 A Yes. The purpose of this slide is -- this
23 exhibit is just to highlight that we've tested the
24 third Bone Spring and the Wolfcamp in the same
25 section.

1 And, in fact, we pumped a much more
2 comprehensive modern frack on the Wolfcamp well five
3 times larger than that than we executed on the third
4 Bone Spring, and we still achieved worse results in
5 the Wolfcamp.

6 So this just proves that Bone Spring
7 production outpaces the productivity of the Wolfcamp
8 by a vast amount, proving that the majority of their
9 reserves lie in the third sand, and also the best flow
10 properties are in the third sand.

11 Q And that's clearly illustrated by the nature
12 of that graph; correct?

13 A Correct.

14 Q Okay. Exhibit C-3, it provides the even
15 more complicated-looking spaghetti-type graph; can you
16 describe it's meaning?

17 A Sure. So Exhibit C-3 is supposed to drive
18 home the same point that Exhibit C-2 pointed out;
19 however, the difference is that in Exhibit C-2, that
20 was just a test that our own company performed. In
21 Exhibit C-3, it shows what other operators have been
22 doing, and it proves that it's the same conclusion
23 that we came to after our test.

24 So all of the blue lines show Bone Spring --
25 third Bone Spring production, whereas the orange/brown

1 lines show Wolfcamp production. So near the subject
2 lands, in general, the third Bone Spring is anywhere
3 from two times to five times more productive than the
4 Wolfcamp. In fact, some of these third Bone Spring
5 wells are some of the very best wells on a cumulative
6 oil per foot basis in the entire county.

7 Q That orange line at the very bottom, that's
8 described as Airstrip, Mr. Bruce mentioned -- I think
9 I'm getting the term confused, but that was Airport.
10 This is Airstrip. That does not coincide --

11 A I don't believe that there are any wells
12 named the Airport in this area.

13 Q Okay. Just wanted to make sure.
14 Exhibit C-4, can you explain that?

15 A So I've already established with Exhibit C-2
16 and C-3 that the third Bone Spring is the better
17 target; however, Exhibit C-4 shows why this is an
18 issue to Cimarex.

19 So it's not just you can drill the Wolfcamp
20 and get a poorer well result and then drill the third
21 Bone Spring and get a strong well result. If you
22 drill both of these wells at the same time in the same
23 section, they're going to be competing for the third
24 Bone Spring reserves.

25 And this Exhibit C-4 references a public

1 study called Hydraulic Fracturing Test Site 2, which
2 we called HFTS2 for short. This is in northern Loving
3 County in the Delaware basin. And the findings of
4 this study show that hydraulic fractures from the
5 Wolfcamp grow primarily up.

6 And it also shows that pressure gauges in
7 the third Bone Spring sand observed a drawdown of
8 4,000 PSI after one year from the Wolfcamp wells
9 below. So there were no wells in the third Bone
10 Spring, only in the Wolfcamp. And there was a
11 significant drawdown observed in the third Bone
12 Spring.

13 And so this is really concerning for us
14 because the Wolfcamp Y sand target at HFTS2 is
15 actually further away from the third Bone Spring than
16 Pride's proposed landing. So we're expecting to see a
17 similar to greater relative of depletion in the third
18 Bone Spring as was observed in this HFTS2 study.

19 Q Okay. So if I understand this, so Mr. Bruce
20 pointed out, well, you know, isn't Cimarex's third
21 Bone Spring wellbore about the same distance or
22 closer -- I think Ms. Mueller said the same
23 distance -- than the Pride energy's Go State wellbore.

24 But you're pointing out that because of the
25 nature of the reservoir and developing it at the same

1 time, that even though it may be similar, they have
2 serious consequences or different consequences; is
3 that correct or did I misunderstand that?

4 A No. That's correct.

5 Q Okay. Let's see here. Let's go into
6 Exhibit C-5.

7 A So Exhibit C-5 is our proposed plan to
8 protect correlative rights. We understand that
9 Wolfcamp owners have a right to develop their
10 minerals. And it's not fair for us to just tell
11 Pride, "No, you can't drill your Wolfcamp well because
12 we think a large amount of production comes from the
13 third Bone Spring," because there is still production
14 in oil contained within the Wolfcamp.

15 And so our compromise would be for Pride to
16 lower their landing zone in order to decrease the
17 magnitude of drainage from the Wolfcamp to the third
18 Bone Spring.

19 Q And if I understand this right, with a
20 completion engineer, they could design the fracks to
21 Pride Energy and the working interest owners and the
22 Wolfcamp would receive the benefit of the formation?

23 A It's -- yes. I believe that you could land
24 the Wolfcamp well lower where Cimarex is proposing
25 Pride land their well and frack the well such that you

1 will fracture into the Wolfcamp sands.

2 Q Okay. And you see this as a viable solution
3 to this particular contested cases?

4 A Yes. I think this is a viable solution. I
5 am still hesitant to drill a Wolfcamp test well. I'm
6 uncertain of what the results will be. And I'm still
7 uncertain what the impact will be on the third Bone
8 Spring.

9 That is why we've also proposed that Pride
10 should test the Wolfcamp below their existing third
11 Bone Spring wells. That way, they are proving that
12 they think that these are really two separate
13 reservoirs that they'll say we'll drill under our well
14 because we believe that it's not going to have an
15 impact or it will have a very small impact. And then
16 go test it where they don't own the Bone Spring
17 second.

18 Q Okay. And they can do this in the subject
19 lands right now with the wells that they have and
20 still not negatively impact the proposed unit?

21 A That's correct.

22 Q Okay. The last exhibit, Exhibit C-6, you
23 have a long list of wells. Looks like most of them
24 are third Bone Spring; is that correct?

25 A Correct. And that list of wells is just

1 listing out all the wells that I've referenced in
2 Exhibits C-1, C-2, and C-3.

3 Q And am I correct, all your calculations are
4 based on data from this set of wells?

5 A Correct. And I will mention the two wells
6 that are not mentioned in that list in Exhibit C-6 are
7 Pride's own third Bone Spring wells. We believe those
8 have been producing since October of 2021; however,
9 there hasn't been any C-115 production reported to the
10 OCD, so we haven't been able to analyze the results of
11 those wells.

12 Q Okay. And as I remember, Pride Energy also
13 has an issue with not having production data
14 available; is that correct?

15 A Yes. That was Pride who I was referring to.

16 Q Oh. That's what you were referring to.
17 Okay.

18 A Correct.

19 Q All right. Let's see here. If the Wolfcamp
20 is drilled from an engineering perspective, the upper
21 Wolfcamp, could that potentially permanently damage
22 the reservoir?

23 A Yes, and I believe that permeant damaging
24 would be decreasing the amount of reserves that could
25 be recovered from the third Bone Spring.

1 Q And you agree with Ms. Mueller that Cimarex
2 would not -- Bone Spring if somebody drills in --
3 correct?

4 A Correct. And the reason for that would be
5 economic viability. It's difficult to make money if
6 there's someone else who is draining your reserves.

7 Q And it would be your opinion that no prudent
8 operator would drill the third Bone Spring also?

9 A Correct.

10 Q And therefore, that is where you get into
11 the issue of waste and the violation of correlative
12 rights; correct?

13 A That's correct because we are not confident
14 that a well landed in the top of the Wolfcamp can
15 efficiently drain all of the reserves that a well
16 landed in the third Bone Spring could drain.

17 Q Okay. Can you speak to Mr. Harwood's
18 question about gravity and pressure and how those come
19 into play as a product is developed or produced?

20 A Sure. I think the Hydraulic Fracture Test
21 Site 2 study that I referenced; it proves what we can
22 intuitively think about how fractures will propagate.

23 So as you go deeper into the ground, your
24 pressure will increase. So if you were fracturing the
25 formation, fractures are going to grow towards the

1 lowest pressure area, and the lowest pressure area
2 tends to be above your wellbore rather than below,
3 which is why it's easier to have efficient drainage
4 from landing low in a reservoir rather than landing at
5 the top of a reservoir.

6 Q And that's why Pride Energy's location is
7 the serious threat over to the reservoir over your
8 planning --

9 A That's correct.

10 Q Mr. McCoy, is there anything else you would
11 like to highlight or emphasize to help the examiners
12 understand the nature of this case?

13 A I don't think so.

14 MR. SAVAGE: Mr. Examiner, I would like
15 to admit for the record Engineering Exhibit C, and
16 also Exhibit C1 through C6.

17 THE HEARING EXAMINER: Any objection,
18 Mr. Bruce?

19 MR. BRUCE: No, sir.

20 THE HEARING EXAMINER: All right.
21 Those six exhibits are admitted.

22 Mr. Bruce, cross examination for
23 Mr. McCoy?

24 (Case 22853 Exhibit C through Exhibit
25 C-6 were received into evidence.)

1 MR. BRUCE: Yeah. A few questions.

2 CROSS-EXAMINATION

3 BY MR. BRUCE:

4 Q Mr. McCoy, when we talk about fractures,
5 regardless of the zone, you're basically saying
6 fractures primarily grow up; do they not?

7 A Correct.

8 Q Can they also grow down?

9 A I think that that is possible, yes.

10 Q Looking at your Exhibit C-4, it appears that
11 the Wolfcamp depth severance, which you outline in
12 red, Cimarex target is within 50 feet of that line and
13 the Pride completion is within 100 feet of that. So
14 they're further away from the Wolfcamp depth severance
15 than Cimarex; is that correct according to your
16 exhibits?

17 A Yes. That's correct.

18 Q And you know, you're asking Pride to move
19 its starting zone about a couple hundred feet, I
20 forget what the exact is, but that's roughly what it
21 is. Why can't you move the third Bone Spring up a
22 couple hundred feet?

23 A I think that's a good question. We could
24 raise our landing zone; however, that is not our
25 preferred landing.

1 The reason would be there are over 200 wells
2 in the nearby area in the third Bone Spring that are
3 landed very similarly to our proposed target. Some of
4 the very best wells in the county are landed similarly
5 to how we are proposing to land our well.

6 So we think that it is at an unnecessary
7 risk to change something that is working very well.

8 Q Well, and I understand completely what
9 you're saying. But doesn't Pride also have the
10 authority to determine what is best for producing its
11 reservoir, where it's going to land the zone?

12 A I'm sorry. Could you repeat the question?

13 Q You say yes, you could complete your third
14 Bone Spring sand upwards, but in Cimarex's judgement,
15 it's best to complete it lower in your preferred zone.
16 Well, doesn't Pride have the same right to complete
17 its well in its preferred zone?

18 A Because of the demonstrated tendency of
19 hydraulic fractures to grow upwards in addition to the
20 large amount of prudent reserves and strong flow
21 properties in the third Bone Spring, I believe that
22 Pride's proposed target is infringing upon Cimarex's
23 correlative rights to develop in the third Bone
24 Spring.

25 Q Well, that seems to be a -- Cimarex's

1 testimony.

2 Going to your Exhibit C-6, as I commented
3 before, what period of time were all of these third
4 Bone Spring sand wells completed?

5 A In this area, third Bone Spring wells have
6 been drilled for over the past ten years, or maybe a
7 little bit beyond that.

8 Q Okay. What about the Wolfcamp wells?

9 A The earliest record that I have a Wolfcamp
10 well being drilled in this area is around 2013. So
11 it's a similar time frame.

12 Q Have Wolfcamp wells become more common, say,
13 in the last few years?

14 A More common than?

15 Q Well, I mean, could you redo this exhibit to
16 show the completion dates of each of these wells?

17 A Sure. I could do that.

18 Q See, to get an idea, you know, you say the
19 same time frame, but based on my geologist's
20 testimony, there are a number of recently completed
21 Wolfcamp wells. And so it appears that more recently,
22 the Wolfcamp is becoming a bigger quality target. And
23 that's why I would like to see when these wells were
24 completed. Just year. I don't need month, day, year.
25 But it would be nice to see. And if you don't want to

1 do it, I'd have to ask the hearing examiner, I don't
2 know if I'm so inclined. And he may not want to do it
3 anyway. But it would be nice to see the progress of
4 third Bone Spring completion versus Wolfcamp; don't
5 you think?

6 A I reviewed that data. It's all publicly
7 available.

8 Q Well, it's not in the record here. It'd be
9 awfully nice to see that data and compare it. But
10 when I have clients do this, I generally have them
11 put -- so the differences, et cetera.

12 THE HEARING EXAMINER: We're getting
13 little far off field here. Let's try and keep it to
14 the questions. All right.

15 MR. BRUCE: I was just going to close
16 that.

17 THE HEARING EXAMINER: Okay.

18 BY MR. BRUCE:

19 Q And whatever the types of wells here,
20 they're all horizontal wells; isn't true, Mr. McCoy?

21 A All the wells included and listed; is that
22 what you're asking?

23 Q Yeah.

24 A That's correct.

25 MR. BRUCE: Okay. Mr. Examiner, I

1 think that's all I have for this witness.

2 THE HEARING EXAMINER: Thank you,
3 Mr. Bruce. Thank you.

4 MR. Savage, redirect?

5 MR. SAVAGE: Mr. Harwood, I think that
6 Mr. McCoy has thoroughly explained our engineering
7 data and exhibits. And so I don't have any further
8 questions for him.

9 THE HEARING EXAMINER: Thank you,
10 Mr. Savage.

11 So Mr. McClure, you lead off this time,
12 if you will.

13 MR. MCCLURE: Thank you, Mr. Harwood.

14 Mr. McCoy, in regard to making a
15 determination of the extent of the fractures, based
16 upon your earlier testimony, your determinations were
17 essentially based upon the referenced study that you
18 cited earlier; correct?

19 THE WITNESS: Yes. I think that
20 reference study is a really good quantitative
21 assessment of what we already intuitively believe
22 about the direction of the growth of hydraulic
23 fractures.

24 MR. MCCLURE: And I guess how similar
25 is the reservoir at the location where this study was

1 conducted, and the acreage referenced here in this
2 case?

3 THE WITNESS: In terms of the reservoir
4 quality, I would have to defer to the geologist on
5 that question.

6 MR. MCCLURE: I guess was that into
7 consideration when you adopted the results from that
8 study?

9 THE WITNESS: Yes, it was.

10 MR. MCCLURE: So then since Cimarex is
11 using that study, then would you speculate that the
12 determination was made that the formations are
13 relatively similar?

14 THE WITNESS: Yes. I would say that
15 the formations are relatively similar.

16 MR. MCCLURE: Okay. In regard to the
17 actual frack design in that study versus the frack
18 schedule and/or design for what Pride is proposing,
19 based upon that, would you expect to see similar
20 results?

21 THE WITNESS: Yes, I would.

22 MR. MCCLURE: Do you believe that
23 changing the frack schedule could lower the upper
24 bounds of the fracture?

25 THE WITNESS: I think that it is really

1 difficult to achieve something like that. It's not
2 something that I've seen done, and it's difficult to
3 measure the success of something like that.

4 MR. MCCLURE: When it comes to
5 fractures, yeah. I mean, it's all simulations and you
6 actually go in and conduct micro seismic results.

7 In the study that you referenced, is
8 that what they did was conduct microseismical results
9 in order to determine the extent of the fractures, or
10 is it just production history?

11 THE WITNESS: The draw down observed by
12 the pressure gauge in the third Bone Spring was the
13 primary way that we determined that fractures had
14 grown up and then led to subsequent drainage of the
15 third Bone Spring.

16 MR. MCCLURE: So then the vertical
17 extent of the fractures were not determined; it was
18 simply a demonstration that the third Bone Spring was
19 being drained?

20 THE WITNESS: I'm not aware if they did
21 or did not measure the vertical extent of the
22 fractures.

23 MR. MCCLURE: I guess your conclusion
24 that you testified to though, is that based then upon
25 the drop in pressure in the third Bone Spring?

1 THE WITNESS: Yes, it is.

2 MR. MCCLURE: But you don't know what
3 the extent of the hydraulic fracture was?

4 THE WITNESS: I do not know the exact
5 extent, no.

6 MR. MCCLURE: Would it be safe then to
7 say that we don't know how much of that was -- not to
8 get too much into the phrases, but incidental drainage
9 versus direct drainage I guess from the hydraulic
10 fracture?

11 THE WITNESS: I believe the gauge was
12 actually recording while the hydraulic fracturing was
13 taking place. And if my memory is correct, the gauge
14 saw large spikes in pressures, which would be
15 indicative of hydraulic fractures in that zone.

16 MR. MCCLURE: Okay. So it wasn't a
17 draw down in pressure; it was based upon while the
18 fracture was occurring, they determined there was a
19 frack hit how wherever this pressure gauge was?

20 THE WITNESS: Yes. That would be an
21 initial determination of maybe a fracture growing into
22 the zone. But that wouldn't determine whether that
23 fracture contributed to the flow of the wellbore or
24 not. But what is indicative of oil flowing from the
25 third Bone Spring to the Wolfcamp is the large

1 drawdown in pressure. For reference, 4,000 PSI after
2 one year is nearly half of the reservoir pressure.

3 MR. MCCLURE: Okay. Let me confirm, I
4 guess. Your conclusion is perhaps primarily based
5 upon the drawdown. But you believe that the fracture
6 may have got into the Bone Spring three because of the
7 pressure spike during fracture operations; is that
8 correct?

9 THE WITNESS: That's correct.

10 MR. MCCLURE: And further, you're
11 testifying that pride's proposed completion is very
12 similar to the ones conducted in that study?

13 THE WITNESS: Yes.

14 MR. MCCLURE: In regard to the
15 propagation of a fracture, do you agree that the rock
16 properties also play a significant role in how that
17 fracture is going to propagate?

18 THE WITNESS: Certainly.

19 MR. MCCLURE: Okay. The poor pressure
20 only being a part of the story; correct?

21 THE WITNESS: Correct.

22 MR. MCCLURE: So would it be accurate
23 then to state that perhaps the conclusion that the
24 fracture mostly travels upwards is based upon the
25 study that you're referencing rather than merely a

1 general consensus that a fracture will tend to go more
2 upward than downward; is that correct?

3 THE WITNESS: I'm sorry. Could you
4 please repeat the question?

5 MR. MCCLURE: Okay. Your conclusion
6 that the fracture is going to propagate upwards more
7 than it does downwards, is that based upon the results
8 from that study, or is that taken from the general
9 generality that a fracture may propagate upward more
10 generally than downward?

11 THE WITNESS: I would say that that's
12 based on the study. We don't have a study that shows
13 the opposite. But we do have a study that shows
14 fracks grow primarily upwards.

15 MR. MCCLURE: Well to that certain
16 greater degree depending on the rock properties, I
17 would I agree, I guess, with your assessment.

18 I guess with the conception [sic] that
19 Pride intends for their fracture to not extend into
20 the Bone Spring three, would that make a difference on
21 Cimarex's intention to drill the wells in the Bone
22 Spring?

23 THE WITNESS: You're saying if Pride
24 intends not to fracture the third Bone Spring, does
25 that impact whether or not we would like to drill our

1 third Bone Spring well?

2 MR. MCCLURE: Yes. That's absolutely
3 correct. That is what I'm asking.

4 THE WITNESS: I have low confidence in
5 the ability of any operator to have a very controlled
6 hydraulic fracture network. So my answer would be we
7 would drill the well if we believe that it's going to
8 be a strong economic result.

9 MR. MCCLURE: I guess just to ask
10 another question in relation to your last response, I
11 guess is it accurate to say that perhaps where your
12 concern is, is that you don't believe that Pride will
13 be able to limit their fracture to only the upper
14 Wolfcamp?

15 THE WITNESS: If they land where
16 they're currently proposing to land, I believe that
17 they will have no ability to control whether or not
18 the fracture goes into the third Bone Spring.

19 MR. MCCLURE: And I don't want to put
20 words in their mouth, but based upon Pride's earlier
21 testimony, it had sounded like they had intended to
22 consider lowering their target in order to not
23 fracture into the Bone Spring. If that is correct
24 with that consideration, do you still believe that
25 they would be incapable of not fracturing into the

1 Bone Spring?

2 THE WITNESS: If they decrease the
3 depth of their well as we're proposing, I think the
4 increased buffer will decrease the likelihood of
5 they -- their wellbore draining reserves from the
6 third Bone Spring.

7 MR. MCCLURE: Thank you, Mr. McCoy. I
8 have no other questions.

9 Thank you, Mr. Savage.

10 Thank you, Mr. Harwood.

11 THE HEARING EXAMINER: Thank you,
12 Mr. McClure. Before I turn it over to you,
13 Ms. Thompson, let me ask a couple follow up questions
14 so I don't forget them.

15 Mr. McCoy, my understanding from your
16 testimony is that fractures tend to propagate from
17 high to low repressure?

18 THE WITNESS: That's correct.

19 THE HEARING EXAMINER: In this case,
20 the high pressure is underneath the Bone Spring
21 formation, and the lower pressure is in the Bone
22 Spring formation?

23 THE WITNESS: As you decrease in depth,
24 your pressure increases.

25 THE HEARING EXAMINER: Okay. All

1 right. So that's the basis then for your belief that
2 the fractures below the Bone Spring formation would
3 propagate upwards?

4 THE WITNESS: That is correct. That in
5 addition the HFTS2 study.

6 THE HEARING EXAMINER: And that study,
7 has that been made available to OCD for review?

8 THE WITNESS: We can certainly provide
9 that to you.

10 THE HEARING EXAMINER: Mr. Savage, can
11 you provide that study?

12 MR. SAVAGE: I will. I'll get a copy
13 of that -- or did you want me to email it to you?

14 THE HEARING EXAMINER: No. Make it
15 available to Mr. McClure and Ms. Thompson.

16 MR. SAVAGE: Okay. I will do that.

17 THE HEARING EXAMINER: And of course,
18 Mr. Bruce.

19 MR. SAVAGE: Yes.

20 THE HEARING EXAMINER: Mr. McCoy, my
21 last question. The study that you referenced, there's
22 been testimony that there is no geologic barrier
23 between Wolfcamp and the Bone Spring lower formation.
24 Was the study conducted in a similar geologic
25 formation where there's no barrier between the two

1 formations?

2 THE WITNESS: To the best of my
3 knowledge, it was.

4 THE HEARING EXAMINER: Okay. All
5 right. Ms. Thompson?

6 MS. THOMPSON: Hi. Yeah.

7 Hello, Mr. McCoy. I'm kicking back off
8 of Mr. McClure and Mr. Harwood.

9 By having Pride move their zone down
10 200 feet as you suggested, would that put them outside
11 of the reservoir?

12 THE WITNESS: Outside of the Wolfcamp
13 reservoir?

14 MS. THOMPSON: The suggested reservoir
15 that is shared between both the Wolfcamp and the Bone
16 Spring formations?

17 THE WITNESS: It would decrease the
18 overlap I think a significant amount.

19 MS. THOMPSON: But the study showing
20 that in general, I guess, hydraulic fractures
21 propagate upwards by them also lowering their pay
22 zone, would they not be able to utilize the full
23 extent of their hydraulic fracture to, I guess,
24 produce from that 33 percent of the Wolfcamp?

25 THE WITNESS: I do not believe that

1 lowering the landing zone will impair Pride's ability
2 to drain their Wolfcamp minerals.

3 MS. THOMPSON: Now -- the study --
4 found that because it propagates upwards based off of
5 pressure, what's the extent with the -- pressure for
6 Cimarex to be pooling form Wolfcamp formation with its
7 proximity to the top of the Wolfcamp?

8 THE WITNESS: Are you asking how -- to
9 what degree will the Bone Spring well deplete the
10 pressure of the Wolfcamp?

11 MS. THOMPSON: Yeah.

12 THE WITNESS: I don't have any data on
13 that, and so I'm not able to speak to that.

14 MS. THOMPSON: During that study that
15 you were talking about, the HFTS2, was the well
16 already in place in the Bone Spring formation before
17 they had drilled the Wolfcamp well and that's when
18 they noticed that the pressure dropped?

19 THE WITNESS: The -- there is no
20 horizontal well that is producing reserves from the
21 third Bone Spring in that study. That is simply a
22 test where they place a gauge to simply observe the
23 third Bone Spring. So yeah. All the wells were in
24 the Wolfcamp for that study.

25 MS. THOMPSON: Wolfcamp. Okay. so

1 they haven't done a similar test or gauges in the
2 Wolfcamp and checked against the Bone Spring
3 formation; right?

4 THE WITNESS: Not that I'm aware of,
5 no.

6 MS. THOMPSON: I think that is all my
7 questions for the moment, so.

8 THE HEARING EXAMINER: Mr. Savage,
9 questions based on questions from Mr. McClure, myself,
10 and Ms. Thompson??

11 MR. SAVAGE: I don't believe so. I
12 would like to reserve Mr. McCoy as a rebuttal witness
13 if needed.

14 THE HEARING EXAMINER: Okay. All
15 right. How about you, Mr. Bruce? Any further
16 questions based on the questions from myself,
17 Mr. McClure, or Ms. Thompson?

18 MR. BRUCE: Yeah. Just very briefly.

19 RE CROSS EXAMINATION

20 BY MR. BRUCE:

21 Q Mr. McCoy, you said and excuse me if I'm
22 paraphrasing you, but you have no confidence in any
23 operator to have a controlled fracture; is that a fair
24 statement?

25 A I was referring to controlling the upward

1 high growth of hydraulic fractures. So in reference
2 to the upward high growth of hydraulic fractures, that
3 statement holds true.

4 Q But it doesn't apply to downward fractures?

5 A Correct. That is not what I was
6 referencing.

7 Q But you're not denying that that may occur?

8 A I believe that hydraulic fractures tend to
9 grow upwards.

10 Q Tend to?

11 A They can grow in any direction.

12 MR. BRUCE: They can grow in any
13 direction. Okay. Thank you, Mr. McCoy.

14 THE HEARING EXAMINER: Okay. Thank
15 you, Mr. Bruce.

16 Mr. Savage, is that the end of your
17 presentation?

18 MR. SAVAGE: I believe so, Mr. Harwood.

19 THE HEARING EXAMINER: At least for
20 now. I understand you reserve the right for rebuttal.
21 So we'll have to see if Mr. Bruce plans to recall his
22 geologist.

23 Mr. Bruce, did you want to recall
24 Mr. Broughton?

25 MR. BRUCE: Sorry. I was on mute.

1 Yes, sir. I do for just a few questions.

2 THE HEARING EXAMINER: Okay. You open
3 him up to cross examination by everybody. You all
4 both understand rebuttal witnesses, you know, have to
5 run the gauntlet again. So let's keep it brief if we
6 could.

7 MR. SAVAGE: Perfect.

8 MR. BRUCE: I understand.

9 REDIRECT EXAMINATION

10 BY MR. BRUCE:

11 Q Mr. Broughton, are you there please?

12 A I am. Yes, sir.

13 Q Okay. First question, you seen the
14 geologist's testimony and their slide -- exhibit slide
15 on phi-h. Is the phi-h the only factor in the
16 producibility of the formation?

17 A Phi-h is a really good kind of a high-level
18 overview of the geology in the area. And it's really
19 reflecting kind of the storativity or what's
20 available -- what the pore space allows for -- for
21 fluids to exist and the S-O part of it refers to, you
22 know, quantifies the oil part.

23 But typically, in the producing side of it,
24 you know, that's all about what's in play. So that's
25 kind of a static measurement of what's in place. But,

1 you know, there's other factors that -- that
2 contribute towards what actually comes out of -- out
3 of the rock. You know, reservoir pressure,
4 permeability are kind of two primary ones. Presence
5 or lack of any natural fracturing that may exist.

6 And then offset production, the parent-child
7 relationship is kind of what I'm talking about there
8 where, you know, the ability to properly stimulate the
9 formation based on the fact that the pressure might be
10 reduced due to depletion over an interval.

11 So, you know, S-O phi-h and I -- I saw the
12 slide, I agree with it. It does show that there's --
13 there's considerably more S-O phi-h in the third Bone
14 Spring than in the Wolfcamp, but I'm not certain that
15 I would agree that that's the main driving factor.

16 And I'll reference the Mewbourne wells that
17 I've pointed to down in Section 19 -- I mean, I'm
18 sorry 20 and 29 of 19 35 that have really, really high
19 production rates. And they're landed basically in the
20 same spot as the -- as the proposed Pride well. So
21 roughly 100 -- kind of at the base of that upper
22 Wolfcamp sand package.

23 And those are pretty -- pretty stellar
24 wells. I don't know where they rate in New Mexico as
25 far as production rates, but they look pretty good to

1 me. So you know, just two miles to the east of our
2 subject lands.

3 Q Okay. And how many upper Wolfcamp wells are
4 there in this area around the Mewbourne wells?

5 A Well, of two-mile wells that are kind of
6 similar to what Pride is proposing, there's 11 of them
7 there. And there's a drill by Mewbourne and a company
8 called Katana.

9 Q On some of them, is there much production
10 data yet?

11 A Some of them are very new. Some of those
12 Katana wells are just, you know, a few months into
13 production. So those are extremely new, so I
14 didn't -- I picked a couple of good Mewbourne wells
15 really to demonstrate the potential. So I picked the,
16 you know, probably the best two, I guess.

17 Q And then I think before you said there could
18 be communication between the zones, but you know, that
19 depends on a number of factors; doesn't it?
20 Completions, the fracking. And at this point,
21 Wolfcamp development is new and you're 2 miles
22 underground, there's some uncertainty, is there?

23 A Well, yeah. There's uncertainty with
24 everything. Yeah. I mean, the Bone Spring has been
25 extensively developed across this entire area, but

1 that doesn't mean that the Wolfcamp won't be at some
2 point also.

3 So I -- I just think time will tell. You
4 know, there's 12 -- or 11 wells right here. Maybe
5 that moves to the east, maybe it moves to the west or
6 north and south. I mean, we don't -- we don't know
7 yet.

8 But you know, the log data that we have in
9 that area, which at those depths is -- is somewhat
10 sparse, suggests that, you know, the upper Wolfcamp is
11 certainly a potential producer. So you know, I mean,
12 somebody needs to get in there and test it, and they
13 will, so.

14 Q Okay. One other question. If the parties
15 agree that -- I would guess they're generally in
16 agreement the fracks tend to grow up more than down.

17 Wouldn't it be more efficient to drill the
18 deeper landing zone and take advantage of the upward
19 growth rather than relying on the downward growth from
20 the third Bone Spring well?

21 A Well, yeah. I mean, except for the
22 ownership and depth severance issue. I mean, if all
23 you were considering was -- was just geology and
24 reservoir, it might be -- you know, since -- since we
25 all believe, and I think that's kind of the industry

1 convention that all over things being equal, fracks
2 will tend to grow more up than down.

3 It might be more efficient to drill the
4 deeper well and let it naturally follow its path
5 upward rather than drilling a -- an upper well in the
6 hopes that it might grow down enough to -- to
7 successfully drain the Wolfcamp.

8 So but -- but that doesn't take int
9 consideration depth severances ownership differences,
10 and all that, so.

11 Q Okay. And then two final questions.

12 If the lower Wolfcamp, which Cimarex wants
13 Pride to land it's well in has lower quality, could
14 that impair a proper frack of Pride's well?

15 A Well, it could. And that's -- that's why my
16 suggestion earlier was that we would need to get a
17 completion engineer involved in that. You know, I
18 couldn't say how far down below the current proposed
19 landing depth would be safe to drill and exploit the
20 well without being detrimental to it. So that, you
21 know, I hate to be evasive on that, but it -- it would
22 be difficult for me to say that.

23 Q Okay. And then finally, you sat through
24 this, and you heard Mr. Savage's and my argument about
25 capture of reserves. And I don't want to get into

1 that argument again, but if one well incidentally
2 captures reserves from another well, that's not a
3 capture and release program; is it? I mean, they all
4 go to that well that captured it; correct?

5 A Yeah. From a regulatory standpoint, I would
6 say yes -- yes, I -- I guess. I mean, whatever comes
7 out of what wellbore is going to get assigned to the,
8 you know, the production.

9 Q Yeah. One particular wellbore, not both of
10 them.

11 A Right. Well, unless there was some other
12 agreement in place. I -- I don't ...

13 MR. BRUCE: Correct. Okay. Well,
14 thank you very much.

15 That's all the questions I have, Mr.
16 Examiner.

17 THE WITNESS: Okay.

18 THE HEARING EXAMINER: Thank you,
19 Mr. Bruce. Mr. Savage?

20 MR. SAVAGE: Yes. Thank you.

21 Just a couple of questions here.

22 RECROSS-EXAMINATION

23 BY MR. SAVAGE:

24 Q You keep referencing the need to test the
25 Wolfcamp. I think we're kind of covered this.

1 A All right.

2 Q Mr. McCoy said in his testimony, and I think
3 he backs it up by data in the exhibits. There's a
4 risk to test -- if you drill in this undeveloped unit,
5 and you test the Wolfcamp, there could be very
6 negative consequences that would result of that test;
7 is that possible?

8 A Well, negative results for who? I mean,
9 they may be positive results for -- for Pride.

10 Q Negative results to the reservoir, to the
11 possible damage undermining the reservoir.

12 A I -- I don't see that. I mean, I don't -- I
13 don't know how you're defining damage, but I -- I
14 assume you mean penetration of the frack into the
15 lower wolf -- lower part of the third Bone Spring sand
16 and -- and doing some depletion there. I mean, I
17 don't know if I'd call that -- virtual connectivity
18 interruption -- for Cimarex it would be a negative
19 consequence, for Pride and those -- and the Wolfcamp
20 owners, it might be a positive circumstance.

21 Q To avoid any possible negative consequence
22 that --

23 A Well, then you don't drill any well.

24 Q Well, as you pointed out previously, you
25 said that it's possible to test an existing Bone

1 Spring well that Pride has. You can test the Wolfcamp
2 without that concern; is that correct?

3 A Well, I mean, from a geology standpoint,
4 that may be true. That might bring up other
5 implications that I'm not aware of. So I can't just
6 answer yes to that.

7 Q -- other implications that we could rely on
8 not to answer a question; is that correct?

9 A Say that again please, sir?

10 Q Do you always think of other implications to
11 not answer a question; is that correct?

12 A Well, the other implications I'm talking
13 about is other ownership and the other lands that I'm
14 not familiar with. And there may be other issues that
15 that brings up that I just can't anticipate. Is it
16 possible from a geologist standpoint, it probably is,
17 yes.

18 Q You say you agree with Ms. Mueller's graphs
19 and analysis --

20 A Yes.

21 Q You said the -- factors that could affect
22 the interpretation. What are the other factors you
23 are talking about?

24 A I'm talking -- you mean -- you mean in
25 addition the S-O phi-h?

1 Q That's correct. A condition that you might
2 have to consider.

3 A Right. Well, reservoir pressure. I'm
4 talking about natural reservoir pressure.
5 Permeability of the rocks, any natural fracturing that
6 may or may not exist and how it relates from one
7 formation to the other, if it relates.

8 And then any offset production, in other
9 words, the parent-child issue. Is there any depleted
10 interval around it where you would possibly inhibit
11 your ability to get the -- the design frack job
12 implemented. And there's probably more. Those are
13 just ones that came to mind.

14 Q Yes. Thank you. I appreciate that. Did
15 you look at any of those factors when you analyzed
16 subject lands that are under consideration?

17 A No, I did not. Other than the fact that
18 I -- I was extending on from the high production rates
19 on the Mewbourne wells that there had to be good
20 reservoir pressure and good permeability and --

21 Q Right. In other words --

22 A Another point there is that you could make
23 the claim that those wells just fracked into the third
24 Bone Spring. But the third Bone Spring there is half
25 the thickness that it is up in the subject lands.

1 So I mean, I don't think you'd get the type
2 of results you'd get on those -- those Mewbourne upper
3 Wolfcamp wells if all you were producing was the --
4 was the third Bone Spring -- or predominantly
5 producing was the third Bone Spring. It's just that
6 thick there.

7 Q You're over 2 miles away looking at the
8 Mewbourne wells, but you weren't looking at these
9 factors as it pertained to the subject lands under
10 examination; correct?

11 A Well, I had no way to look at that in the --
12 you know, there aren't any Wolfcamp wells there yet,
13 so I didn't have any production data to rely on.

14 Q Could you have looked at the Pride energy's
15 Bone Spring production and somehow projected what some
16 of those factors might have been?

17 A Well, not from production you couldn't --
18 you couldn't -- you could say it's good or it's not
19 good, and if I look at the production on -- on just
20 the two, Cimarex third Bone Spring wells there, I
21 mean, those are pretty good wells. So I would say
22 that there's pretty good permeability and pretty good
23 pressure in that area. But, you know, what does
24 "pretty good" mean, so.

25 MR. SAVAGE: Okay. Thank you for your

1 time. I appreciate it.

2 MR. BROUGHTON: All right.

3 THE HEARING EXAMINER: Okay, folks.
4 The hour is getting late, even in your neck of the
5 woods.

6 So recognizing that, are there
7 additional questions from you, Ms. Thompson, or from
8 you, Mr. McClure, for Mr. Boughton?

9 MS. THOMPSON: I have no questions at
10 this time.

11 MR. MCCLURE: No questions here,
12 Mr. Harwood.

13 THE HEARING EXAMINER: Okay. May this
14 witness be excused, Mr. Bruce?

15 MR. BRUCE: Yes, sir.

16 THE HEARING EXAMINER: Mr. Savage?

17 MR. SAVAGE: I would like to bring back
18 Ms. Mueller just very quickly.

19 THE HEARING EXAMINER: Bring back who?

20 MR. SAVAGE: Ms. Mueller, she's the
21 geologist witness.

22 THE HEARING EXAMINER: Okay. But not
23 Mr. McCoy?

24 MR. SAVAGE: Well, can they do it
25 simultaneously? They seem to complement one another.

1 THE HEARING EXAMINER: You know, I want
2 to limit it to rebuttal testimony to what Mr.
3 Broughton just said. True rebuttal testimony. We're
4 not going to rehash anything that either one of them
5 said before; okay?

6 MR. SAVAGE: Correct. Yes. You know,
7 I could let Ms. Mueller and Mr. McCoy decide who would
8 best respond to that. Would that be a proper request?

9 THE HEARING EXAMINER: Absolutely. I
10 mean, whatever enhances the Division's understanding
11 of the relative positions is good to go.

12 MR. SAVAGE: Okay. Ms. Mueller,
13 Mr. McCoy, you heard the geologist witness rebuttal
14 discussing the phi-h testing of the Wolfcamp, the
15 additional factors that need to be considered, and
16 those Mewbourne wells. Which one of you would like to
17 address those comments that he made?

18 MR. MCCOY: I can speak to production
19 results of the Mewbourne wells, and that's all.

20 MR. SAVAGE: Okay. Ms. Mueller, would
21 you like to add anything to the phi-h in regarding to
22 the other factors?

23 MS. MUELLER: No. I agree that phi-h
24 is not the only factor in regards to production. It's
25 just one of the methods that I use to quantify the

1 amount coming from the third Bone Spring sand versus
2 the upper Wolfcamp.

3 MR. SAVAGE: Did you look at any of the
4 factors that he listed?

5 MS. MUELLER: I did look at oil
6 saturation. Difficult to tell about hydraulic
7 fractures. I think pressure is obvious based on
8 offset production. But phi-h seem to be a good
9 driving factor.

10 MR. SAVAGE: Okay. Thank you.

11 Mr. McCoy, please give your review of
12 the Mewbourne wells and their relevance to this case.

13 MR. MCCOY: Yes. My -- my opinion of
14 the Mewbourne Hartford [ph] well, if you reference my
15 exhibit C-3, the place that that would fall on that
16 plot is actually below the Vernaray [ph] Wolfcamp well
17 after 1,000 days. And so while it may be considered a
18 successful well result, I just want to clarify that
19 the production is not in the same scale as third Bone
20 Spring wells in the subject lands.

21 MR. SAVAGE: Thank you, Mr. McCoy.
22 that seems to put it in perspective, do you agree?

23 MR. MCCOY: Yes.

24 MR. SAVAGE: Thank you.

25 Mr. Harwood, we're finished with that.

1 THE HEARING EXAMINER: Thank you,
2 Mr. Savage.

3 Mr. Bruce, any questions of these two
4 witnesses based on their rebuttal testimony?

5 MR. BRUCE: No, sir.

6 THE HEARING EXAMINER: Okay. Mr.
7 McClure, Ms. Thompson, questions of these two
8 witnesses based on their rebuttal testimony?

9 MR. MCCLURE: No question here,
10 Mr. Harwood.

11 MS. THOMPSON: No questions here,
12 Mr. Harwood.

13 THE HEARING EXAMINER: All right. So
14 Mr. Savage, does that conclude your case?

15 MR. SAVAGE: It does. Thank you.

16 THE HEARING EXAMINER: Here's what I'm
17 going to propose given the lateness of the hour, and
18 I'd like you all to let me know your thoughts.

19 This has been a very interesting, and
20 for me, an educational presentation from both sides.
21 It highlights some interesting and difficult issues.
22 And I'm thinking that rather than asking you both to
23 provide oral closing arguments, which would be off the
24 cuff and limited in time -- I would limit you both to
25 no more than ten minutes -- I'm proposing that you

1 both submit written closing arguments summarizing your
2 respective positions, and the issues as you see them
3 within, say, the next ten days and maybe limited to
4 ten pages each.

5 How does that sound to you, Mr. Savage?

6 MR. SAVAGE: That sounds like a very
7 good suggestion. Thank you.

8 THE HEARING EXAMINER: It'll give you
9 both a chance to compose your thoughts, if you need to
10 get a transcript of the hearing record, and you know,
11 present your arguments in a more organized fashion.
12 Mr. Bruce, your thoughts?

13 MR. BRUCE: I completely agree with you
14 and Mr. Savage.

15 I suppose the only thing I know I can
16 put together a closing argument within ten days. If
17 we don't have the transcript by then, we might want
18 to -- Mr. Savage, you step in -- might be good to ask
19 a few more days just so we can review the transcript.

20 THE HEARING EXAMINER: Well, what I'm
21 proposing is you get it in within ten days. And if
22 you need to make arrangements with the court reporter
23 for an expedited transcript, that will be up to you
24 and at your expense.

25 But I think time is of the essence,

1 especially since these cases impact other Cimarex
2 cases. It seems to me that time is of the essence.

3 MR. BRUCE: That is fine with me,
4 examiner Harwood.

5 And Marlene, you can probably get this
6 to me, the email address for the court reporter so I
7 can take care of that that way.

8 THE HEARING EXAMINER: I'm sure
9 Ms. Fulton can provide that to us today.

10 MR. BRUCE: Thank you.

11 MR. SAVAGE: Mr. Harwood, if I could
12 ask. Since the evidence was referenced from the other
13 cases and was used in this case and they're obviously
14 closely related, it would be appropriate for me to
15 address the issue in the other case as well, and the
16 closing brief as they apply to this case.

17 I don't want to do anything that looks
18 like I'm, you know, moving between cases. But it
19 would be nice to be able to have that latitude to
20 fully develop the understanding of the issues.

21 THE HEARING EXAMINER: And I think you
22 should both feel free to do that. I mean, the goal
23 here is to enhance the Division's overall
24 understanding of these issues.

25 In the other Cimarex case, your

1 opponent, Mr. Savage, says that there aren't any
2 issues of first impression. So you know, we're left
3 in a bit of a conundrum, and I think it would be to
4 the Division's best interest to understand the big
5 picture as much as possible from both side's
6 perspectives in this case, and then we'll hear an
7 entirely new perspective in the other Cimarex case.

8 MR. SAVAGE: I agree. I would say that
9 today's hearing rules out that you can discount that
10 there's any -- first impression. But I would -- glad
11 to explain.

12 MR. BRUCE: And Mr. Harwood, I mean,
13 you know, the exhibits in the other myriad of cases
14 have been filed, and they are available to us. So if
15 Mr. Savage wants to use some of those, we may some of
16 those too.

17 THE HEARING EXAMINER: Okay. All
18 right. So if you'll both file your -- I don't know
19 what day it is, but if you can both file your
20 respective closing arguments within ten days of today,
21 that would be great. And Ms. Fulton, can you give
22 everybody your email address before I forget it?

23 THE REPORTER: Yes. I will type it in
24 the chat.

25 THE HEARING EXAMINER: Oh, that's a

1 good idea. Okay.

2 MS. BENNETT: Mr. Hearing Examiner?

3 THE HEARING EXAMINER: Yes?

4 MS. BENNETT: This is Deana Bennett.

5 And while we're wrapping up some of the procedural
6 issues here, I did just want to reiterate what was
7 alluded to before, which is that Chevron has submitted
8 a letter. We submitted a prehearing statement on
9 Thursday, and we submitted a letter in support of
10 Cimarex's development plan. So that's in the record
11 as well as we submitted it on Thursday. And I just
12 wanted to make that clear for the record as it was
13 alluded to earlier today.

14 THE HEARING EXAMINER: I suspect that
15 Mr. Savage will draw support from that, Ms. Bennett.

16 MS. BENNETT: Thank you.

17 MR. BRUCE: And I just want to confirm
18 the date. You said ten days?

19 THE HEARING EXAMINER: And I haven't
20 looked at the calendar, but what does that make --

21 MR. BRUCE: Yeah. That falls on a
22 weekend.

23 THE HEARING EXAMINER: Of course.

24 MR. BRUCE: I just want a specific
25 date. I don't work well with nonspecific dates.

1 THE HEARING EXAMINER: Why don't we say
2 the 31st? That's a generous 12 days.

3 MR. BRUCE: Thank you.

4 THE HEARING EXAMINER: Okay. All
5 right. Well, I'm sure everybody hates it when we
6 reach the point where I say I believe that concludes
7 today's hearings, but unless there's anything further
8 from anyone on these last few consolidated cases, I
9 believe it's fair to say that we are in adjournment.

10 MR. MCCLURE: MR. Harwood, I think
11 maybe the only other thing I might have missed it if
12 you mentioned it again is the submittal of the
13 checklist from Pride, and the submittal of that study
14 and the new copy -- or the amended list of pooled
15 persons.

16 THE HEARING EXAMINER: Thanks for the
17 reminder, Mr. McClure. I had indeed overlooked it.
18 All right. Well, thank you all for a very interesting
19 presentations and an interesting case.

20 MR. SAVAGE: It was a pleasure to meet
21 you all.

22 THE HEARING EXAMINER: Yeah. We'll see
23 you don't the road.

24 MR. SAVAGE: Thank you.

25 MR. BRUCE: For better or worse.

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MR. SAVAGE: Or both.

(Whereupon, the meeting concluded at
5:19 p.m.)

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CERTIFICATE OF DEPOSITION OFFICER

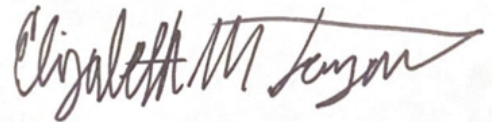
I, DANA FULTON, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that 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
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A handwritten signature in dark ink, appearing to read "Elizabeth M. Ferguson", is written over a light blue rectangular background.

ELIZABETH FERGUSON

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