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

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

Case Nos. 23823, 23824, 23984,
24048, 24049, 24050, 24051,
24118, 24141, 24150, 24151,
24154, 24155, 24172, 24173,
24188, 24208, 24209, 24210,
24211, 24212, 24213, 24214,
24215, 24216, 24217, 24218,
24219, 24220, 24224, 24225,
24226, 24227, 24228, 24229,
24230, 24231, 24232, 24250,
24251, 24254, 24261, 24264,
24265, 24266, 24267, 24268,
24269, 24270, 24271, 24272,
24273

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HEARING

DATE: Thursday, March 21, 2024
TIME: 8:15 a.m.
BEFORE: Hearing Examiner Gregory A. Chakalian
LOCATION: New Mexico Energy, Minerals and Natural
Resources Department
Pecos Hall, Wendell Chino Building
1220 South Saint Francis Drive
Santa Fe, NM 87505
REPORTED BY: James Cogswell
JOB NO.: 6591421

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A P P E A R A N C E S

ON BEHALF OF TEXAS STANDARD, E.G.L. RESOURCES, RED RIVER ENERGY, VIPER ENERGY PARTNERS, KAISER-FRANCIS OIL COMPANY, AND MEWBOURNE OIL COMPANY:

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

ON BEHALF OF ARMSTRONG ENERGY CORPORATION, COG
OPERATING, AVANT OPERATING, LLC, PERMIAN RESOURCES,
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A P P E A R A N C E S (Cont'd)

ON BEHALF OF MATADOR PRODUCTION COMPANY, FASKEN OIL,
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PERMIAN OPERATING, LLC:

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

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

ALSO PRESENT:

Leonard Lowe, Technical Examiner, Oil
Conservation Division (by videoconference)
Sheila Apodaca, Law Clerk, Oil Conservation
Division
Freya Tschantz, Law Clerk, Oil Conservation
Division
Dean McClure, Technical Examiner, Oil
Conservation Division (by videoconference)
Chris Reudelhuber, Witness (by videoconference)
Charles Creekmore, Witness
Ray Brandhurst, Witness

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I N D E X

WITNESSES:	DX	CX	RDX	RCX
FARLEY DUVALL				
By Mr. Lowe	74			
TAYLOR WARREN				
By Mr. Lowe	100			
TAYLOR WARREN				
By Mr. Lowe	107			
SAMUEL COX				
By Mr. Lowe	111			
DON JOHNSON				
By Mr. Lowe	129			
REX D. BARKER				
By Mr. Lowe	154			
ISAAC OLIVAS				
By Mr. Rankin	236		280	
By Mr. McClure		238		290
By Mr. Rankin	294			

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I N D E X (Cont'd)

WITNESSES:	DX	CX	RDX	RCX
CARLOS LOPEZ				
By Mr. Rankin	295			
By Mr. McClure		298		
OWEN HEHMEYER				
By Mr. Rankin	301			
By Mr. McClure		307		

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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
Case 23984:		
Exhibit Tab A	Compulsory Pooling Checklist	71/73
Exhibit Tab B	Affidavit of Farley Duvall, Land Professional	71/73
Exhibit Tab C	Affidavit of Elizabeth Scully, Geologist	71/73
Exhibit Tab D	Affidavit of Rohit Sinha, Reservoir Engineer	72/73
Exhibit Tab E	Declaration of Deana M. Bennett	72/73
NO.	DESCRIPTION	ID/EVD
Case 24048:		
Exhibit 1	Order Number R-21986	82/85
Exhibit 2	Landman.s Affidavit	82/85
Exhibit 3	Affidavit of Mailing	83/85
Exhibit 4	Affidavit of Publication	84/85
Exhibit 5	Application and Proposed Notice	84/85

E X H I B I T S (Cont'd)		
NO.	DESCRIPTION	ID/EVD
Case 24049:		
Exhibit 1	Pooling Checklist	87/90
Exhibit 2	Landman.s Affidavit	87/90
Exhibit 3	Geologist's Affidavit	89/90
Exhibit 4	Affidavit of Mailing	89/90
Exhibit 5	Affidavit of Publication	89/90
Exhibit 6	Application and Proposed Notice	89/90
NO.	DESCRIPTION	ID/EVD
Case 24050:		
Exhibit 1	Order No. R-21902	91/92
Exhibit 2	Landman.s Affidavit	91/92
Exhibit 3	Affidavit of Mailing	91/92
Exhibit 4	Affidavit of Publication	91/92
Exhibit 5	Application and Proposed Notice	92/92
NO.	DESCRIPTION	ID/EVD
Case 24051:		
Exhibit 1	Pooling Checklist	92/94
Exhibit 2	Landman.s Affidavit	93/94
Exhibit 3	Geologist's Affidavit	93/94

E X H I B I T S (Cont'd)		
NO.	DESCRIPTION	ID/EVD
Case 24051:		
Exhibit 4	Affidavit of Mailing	93/94
Exhibit 5	Affidavit of Publication	93/94
Exhibit 6	Application and Proposed Notice	93/94
Case 24172:		
Exhibit A	Self-Affirmed Statement of Taylor Warren	97/99
Exhibit B	Self-Affirmed Statement of Shane Seals	98/99
Exhibit C	Self-Affirmed Statement of Dana S. Hardy	98/99
Case 24173:		
Exhibit A	Self-Affirmed Statement of Taylor Warren	97/106
Exhibit B	Self-Affirmed Statement of Shane Seals	98/106
Exhibit C	Self-Affirmed Statement of Dana S. Hardy	98/106

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case 24188:		
4	Exhibit Tab A	Compulsory Pooling Checklist	109/111
5	Exhibit Tab B	Affidavit of Samuel Cox,	
6		Land Professional	110/111
7	Exhibit Tab C	Affidavit of Greg Buratowski,	
8		Geologist	110/111
9	Exhibit Tab D	Declaration of Deana M.	
10		Bennett	110/111
11			
12	NO.	DESCRIPTION	ID/EVD
13	Case 24208:		
14	Exhibit A	Self-Affirmed Statement of	
15		Matthew Langhoff	119/119
16	Exhibit B	Self-Affirmed Statement of	
17		Dana S. Hardy	119/119
18			
19	NO.	DESCRIPTION	ID/EVD
20	Case 24209:		
21	Exhibit A	Self-Affirmed Statement of	
22		Matthew Langhoff	122/122
23	Exhibit B	Self-Affirmed Statement of	
24		Dana S. Hardy	122/122
25			

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case 24210:		
4	Exhibit A	Self-Affirmed Statement of	
5		Matthew Langhoff	122/122
6	Exhibit B	Self-Affirmed Statement of	
7		Dana S. Hardy	122/122
8			
9	NO.	DESCRIPTION	ID/EVD
10	Case 24212:		
11	Exhibit A	Self-Affirmed Statement of	
12		Matthew Langhoff	123/123
13	Exhibit B	Self-Affirmed Statement of	
14		Dana S. Hardy	123/123
15			
16	NO.	DESCRIPTION	ID/EVD
17	Case 24211:		
18	Exhibit Tab A	Compulsory Pooling Checklist	125/128
19	Exhibit Tab B	Affidavit of Don Johnson,	
20		Land Professional	125/128
21	Exhibit Tab C	Affidavit of Ben Kessel,	
22		Geologist	125/128
23	Exhibit Tab D	Declaration of Deana M.	
24		Bennett	126/128
25			

E X H I B I T S (Cont'd)		
NO.	DESCRIPTION	ID/EVD
Case 24213:		
Exhibit Tab A	Compulsory Pooling Checklist	134/134
Exhibit Tab B	Affidavit of Don Johnson, Land Professional	134/134
Exhibit Tab C	Affidavit of Ben Kessel, Geologist	134/134
Exhibit Tab D	Declaration of Deana M. Bennett	134/134
Case 24214:		
Exhibit A	Compulsory Pooling Application Checklist	135/137
Exhibit B	Application of Chase Oil Corporation for Compulsory Pooling	135/137
Exhibit C	Self-Affirmed Statement of Derik Smith, Landman	136/137
Exhibit D	Self-Affirmed Statement of Charles Sadler, Geologist	136/137
Exhibit E	Self-Affirmed Statement of Notice	137/137
Exhibit F	Affidavit of Publication	N/A

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

NO.	DESCRIPTION	ID/EVD
Case 24215:		
Exhibit A	Compulsory Pooling Application Checklist	141/143
Exhibit B	Application for Compulsory Pooling	141/143
Exhibit C	Self-Affirmed Statement of Hanna Bollenbach, Landman	141/143
Exhibit D	Affidavit of Daniel Brugioni, Geologist	141/143
Exhibit E	Self-Affirmed Statement of Notice	142/143
Exhibit F	Affidavit of Publication	142/143
Case 24216:		
Exhibit A	Compulsory Pooling Application Checklist	146/146
Exhibit B	Application for Compulsory Pooling	146/146
Exhibit C	Self-Affirmed Statement of Hanna Bollenbach Landman	146/146

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

NO.	DESCRIPTION	ID/EVD
Case 24216:		
Exhibit D	Affidavit of Daniel Brugioni, Geologist	146/146
Exhibit E	Self-Affirmed Statement of Notice	146/146
Exhibit F	Affidavit of Publication	146/146
NO.	DESCRIPTION	ID/EVD
Case 24217:		
Exhibit A	Compulsory Pooling Application Checklist	147/147
Exhibit B	Application for Compulsory Pooling	147/147
Exhibit C	Self-Affirmed Statement of Hanna Bollenbach Landman	147/147
Exhibit D	Affidavit of Daniel Brugioni, Geologist	147/147
Exhibit E	Self-Affirmed Statement of Notice	147/147
Exhibit F	Affidavit of Publication	147/147

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

NO.	DESCRIPTION	ID/EVD
Case 24218:		
Exhibit A	Compulsory Pooling Application Checklist	148/148
Exhibit B	Application for Compulsory Pooling	148/148
Exhibit C	Self-Affirmed Statement of Hanna Bollenbach Landman	148/148
Exhibit D	Affidavit of Daniel Brugioni, Geologist	148/148
Exhibit E	Self-Affirmed Statement of Notice	148/148
Exhibit F	Affidavit of Publication	148/148
NO.	DESCRIPTION	ID/EVD
Case 24219:		
Exhibit A	Self-Affirmed Statement of Rex D. Barker	150/152
Exhibit B	Self-Affirmed Statement of Darin A. Dolezal	151/152
Exhibit C	Self-Affirmed Statement of Dana S. Hardy	151/152

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

NO.	DESCRIPTION	ID/EVD
Case 24220:		
Exhibit A	Self-Affirmed Statement of Rex D. Barker	150/156
Exhibit B	Self-Affirmed Statement of Darin A. Dolezal	151/156
Exhibit C	Self-Affirmed Statement of Dana S. Hardy	151/156
NO.	DESCRIPTION	ID/EVD
Case 24224:		
Exhibit A	Compulsory Pooling Application Checklist	158/160
Exhibit B	Application of COG Operating LLC for Compulsory Pooling	158/160
Exhibit C	Self-Affirmed Statement of Michael Monju, Landman	158/160
Exhibit D	Self-Affirmed Statement of Ben Breyman, Geologist	158/160
Exhibit E	Self-Affirmed Notice Statement	160/160
Exhibit F	Notice of Publication	160/160

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case 24225:		
4	Exhibit A	Compulsory Pooling	
5		Application Checklist	166/167
6	Exhibit B	Application of COG Operating	
7		LLC for Compulsory Pooling	166/167
8	Exhibit C	Self-Affirmed Statement of	
9		Michael Monju, Landman	166/167
10	Exhibit D	Self-Affirmed Statement of	
11		Ben Breyman, Geologist	166/167
12	Exhibit E	Self-Affirmed Notice	
13		Statement	167/167
14	Exhibit F	Notice of Publication	167/167
15			
16			
17	NO.	DESCRIPTION	ID/EVD
18	Case 24226:		
19	Exhibit A	Compulsory Pooling	
20		Application Checklist	168/168
21	Exhibit B	Application of COG Operating	
22		LLC for Compulsory Pooling	168/168
23	Exhibit C	Self-Affirmed Statement of	
24		Michael Monju, Landman	168/168
25			

E X H I B I T S (Cont'd)		
NO.	DESCRIPTION	ID/EVD
Case 24226:		
Exhibit D	Self-Affirmed Statement of Ben Breyman, Geologist	168/168
Exhibit E	Self-Affirmed Notice Statement	168/168
Exhibit F	Notice of Publication	168/168
NO.	DESCRIPTION	ID/EVD
Case 24227:		
Exhibit A	Pooling Checklist	170/172
Exhibit B	Landman.s Affidavit	169/172
Exhibit C	Affidavit of Mailing	170/172
Exhibit D	Certified Notice Spreadsheet	170/172
Exhibit E	Affidavit of Publication	171/172
Exhibit F	Application and Proposed Notice	171/172
NO.	DESCRIPTION	ID/EVD
Case 24228:		
Exhibit Tab A	Affidavit of Sophia Guerra, Land Professional	173/175
Exhibit Tab B	Declaration of Deana M. Bennett	174/175

E X H I B I T S (Cont'd)		
NO.	DESCRIPTION	ID/EVD
Case 24229:		
Exhibit Tab A	Affidavit of Sophia Guerra, Land Professional	175/175
Exhibit Tab B	Declaration of Deana M. Bennett	175/175
NO.	DESCRIPTION	ID/EVD
Case 24230:		
Exhibit A	Application of Ameredev Operating, LLC for Extension	177/179
Exhibit B	NMOCD Order No. R-22864	177/179
Exhibit C	Self-Affirmed Statement of Lizzy Laufer, Landman	177/179
Exhibit D	Self-Affirmed Statement of Notice	177/179
Exhibit E	Affidavit of Publication	177/179
NO.	DESCRIPTION	ID/EVD
Case 24250:		
Exhibit Tab 1	Reference for Case No. 24250	N/A/182
Exhibit Tab 2	Exhibit A: Self-Affirmed Statement of Andy Bennett, Landman	181/182

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

NO.	DESCRIPTION	ID/EVD
Case 24250:		
Exhibit Tab 3	Exhibit B: Self-Affirmed Statement of Joe Dixon, Geologist	181/182
Exhibit Tab 4	Exhibit C: Self-Affirmed Statement of Notice, Darin C. Savage	182/182
Case 24265:		
Exhibit A	Application of Crockett Operating, LLC for Compulsory Pooling	192/194
Exhibit B	Copy of Order R-22613	192/194
Exhibit C	Self-Affirmed Statement of Percy Engineer, Landman	193/194
Exhibit D	Self-Affirmed Statement of Notice	193/194
Exhibit E	Affidavit of Publication	194/194

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

NO.	DESCRIPTION	ID/EVD
Case 24272:		
Exhibit A	Self-Affirmed Statement of Mark Hajdik	196/204
Exhibit B	Self-Affirmed Statement of Chris Reudelhuber	196/204
Exhibit C	Self-Affirmed Statement of Dana S. Hardy	197/204
NO.	DESCRIPTION	ID/EVD
Case 24261:		
Exhibit A	Self-Affirmed Statement of Charles Creekmore, Landman	210/217
Exhibit B	Self-Affirmed Statement of Ray Brandhurst, Petroleum Engineer	211/217
Exhibit C	Self-Affirmed Statement of Notice	214/217
Exhibit D	Affidavit of Publication	215/217

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case 24264:		
4	Exhibit A	Self-Affirmed Statement of	
5		Charles Creekmore, Landman	210/217
6	Exhibit B	Self-Affirmed Statement of	
7		Ray Brandhurst, Petroleum	
8		Engineer	211/217
9	Exhibit C	Self-Affirmed Statement of	
10		Notice	214/217
11	Exhibit D	Affidavit of Publication	215/217
12			
13	NO.	DESCRIPTION	ID/EVD
14	Case 24273:		
15	Exhibit A	Application	231/236
16	Exhibit B	Self-Affirmed Statement of	
17		Isaac Olivas, Facilities	
18		Engineer	231/237
19	Exhibit C	Self-Affirmed Statement of	
20		Carlos Lopez, Ph.D., Geology	235/297
21	Exhibit D	Self-Affirmed Statement of	
22		Owen Hehmeyer, Ph.D.,	
23		Reservoir Engineer	302/305
24	Exhibit E	Self-Affirmed Notice	
25		Statement	305/307

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

NO.	DESCRIPTION	ID/EVD
Case 24273:		
Exhibit F	Affidavit of Publication	305/307

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P R O C E E D I N G S

MR. HEARING EXAMINER: It is 8:15 a.m. on March 21st. We are on the record in the Oil Conservation Division Hearings.

I'm going to give a little notice to the parties that from now on during a status conference I'm going to ask some questions that I have not asked in the past, and this is to move the cases to a hearing or to get them resolved in some other matter.

I'm going to be asking when the case was filed, how many continuances have been granted, what's the live dispute, how long do the parties expect to negotiate a settlement, and what are the issues to resolve at a hearing.

So I am calling case number 23823 and 23824. Entrance of appearance, please.

MR. BRUCE: Mr. Examiner, Jim Bruce representing Texas Standard.

MS. HARDY: Mr. Examiner --

MR. HEARING EXAMINER: Are there any other parties, Mr. Bruce?

MS. HARDY: Yes, Mr. Examiner. Dana Hardy with Hinkle Shanor on behalf of Armstrong Energy Corporation.

1 MR. HEARING EXAMINER: Are the only two
2 parties?

3 MR. BRUCE: Those are the only parties,
4 yes, sir.

5 MR. HEARING EXAMINER: And Ms. Hardy,
6 you filed a objection to hearing by affidavit?

7 MS. HARDY: I believe that we did.

8 MR. HEARING EXAMINER: Okay. You
9 believe you did. All right.

10 MS. HARDY: Well, I think that we've
11 been -- the parties have been talking for quite a
12 while on these cases. So I don't recall if we
13 actually objected or if the matter had just been
14 continued.

15 MR. HEARING EXAMINER: Thank you.
16 Mr. Bruce, was there an objection filed?

17 MR. BRUCE: I don't recall one,
18 Mr. Examiner. The party -- this case was filed
19 sometime, I think, maybe September -- these cases.
20 And the parties have been in discussions, and I
21 voluntarily continued the cases several times, and I
22 believe Ms. Hardy continued and wants just to keep the
23 discussions going.

24 As of now, although the parties have
25 been in discussions for months, I believe they've kind

1 of stalled. And so I think this case should be set
2 for a contested hearing. Maybe in the end, it won't
3 be contested. Ms. Hardy's client has not filed
4 counterapplications, but this was notified as a final
5 status conference. And so it just needs to be set for
6 a hearing at the division's convenience.

7 MR. HEARING EXAMINER: Ms. Hardy?

8 MS. HARDY: I agree with Mr. Bruce,
9 Mr. Examiner. At this point I think it makes sense to
10 set a contested hearing, although I'm still hopeful
11 the parties might be able to reach a resolution. I
12 think it would make sense to set this case for a
13 hearing on the second June docket, if that's a
14 possibility. That would give the parties a little bit
15 more time but would also allow us -- would give us,
16 you know, an impending deadline.

17 MR. HEARING EXAMINER: I'm looking at
18 your entry of appearance filed in November on this
19 case. The case was originally filed in September --
20 early September -- by Mr. Bruce. There have been,
21 let's see, we have had continuances in September,
22 October, November, December, and then again in
23 February.

24 I don't see an objection. I'm looking
25 for an objection. I don't see one.

1 MR. BRUCE: I don't -- I don't think
2 there was one, Mr. Examiner, because the parties were
3 trying to work things out.

4 MR. HEARING EXAMINER: Right. I do see
5 that. I see, actually, Mr. Bruce, that you filed an
6 unopposed motion for continuance in November saying
7 that the motion is made at the request of two working
8 interest owners who desire further negotiations with
9 the applicant.

10 MR. BRUCE: Yes, sir.

11 MR. HEARING EXAMINER: Okay.

12 MS. HARDY: All right. We didn't file
13 an objection because we didn't feel we needed to --

14 MR. HEARING EXAMINER: Okay.

15 MS. HARDY: -- because we were in
16 communications.

17 MR. HEARING EXAMINER: Okay. Okay. So
18 we'll set this for a contested hearing, but I'm going
19 to advise the parties that once I set this for a
20 contested hearing because this case is -- and the
21 number of continuances that we've had on this, we're
22 not going to continue this contested hearing unless
23 the parties settle.

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

25 MS. HARDY: Understood.

1 MR. BRUCE: What is the date of that?

2 MR. HEARING EXAMINER: I haven't set
3 one yet, Mr. Bruce. Ms. Hardy?

4 MS. HARDY: Oh, I was just saying that
5 we understand.

6 MR. HEARING EXAMINER: Okay. So I just
7 want to make sure that the parties understand because
8 I -- yeah, okay.

9 MR. BRUCE: Understood.

10 MR. HEARING EXAMINER: So Sheila or
11 Freya -- well, let's go back to the parties for a
12 moment. Is there a reason why this case shouldn't be
13 heard in May?

14 MR. BRUCE: I mean that's okay with me,
15 but you know, I'm okay with June, too.

16 MR. HEARING EXAMINER: My preference
17 would be May. Ms. Hardy?

18 MS. HARDY: Mr. Examiner, we already
19 have several contested hearings set on the May 2nd
20 docket. So based on Armstrong's availability, I think
21 we would prefer the second June docket, but I think
22 the second May docket would also be a possibility that
23 might work.

24 MR. HEARING EXAMINER: And so you know
25 that contested hearings frequently are vacated by the

1 parties who wish to negotiate further. I mean that's
2 what happened today. We had contested hearings today.
3 We have contested hearings next week. April, they're
4 all -- been vacated.

5 So that doesn't deter me from setting a
6 contested hearing, plus we can set a special hearing
7 as well. But the second May docket is fine with me.

8 Freya?

9 MS. TSCHANTZ: Yes --

10 MR. HEARING EXAMINER: Okay, good. I
11 don't know that you were on the record when you said
12 that.

13 MS. TSCHANTZ: [No audible response.]

14 MR. HEARING EXAMINER: No.

15 MS. TSCHANTZ: [No audible response.]

16 MR. HEARING EXAMINER: Okay. All
17 right. I heard Freya say that it's fine to add to the
18 second May docket. What is the date for the second
19 May docket?

20 MS. HARDY: I believe it's May 16th,
21 Mr. Examiner.

22 MR. HEARING EXAMINER: Okay, very good.
23 May 16th. What are the issues, Mr. Bruce, that you
24 think we'll be dealing with at the hearing?

25 MR. BRUCE: I think Armstrong Energy --

1 Ms. Hardy's client -- and there's some people along
2 with Armstrong supporting Armstrong -- they've been
3 negotiating terms on joinder, and neither party is
4 happy with the offers and counteroffers. And so I
5 suppose what we're getting into is have the parties
6 made a good faith effort to negotiate?

7 I think -- I don't -- I haven't heard
8 anything -- any contest regarding the development
9 program of Texas Standard. Maybe that will come up,
10 and I defer to Dana on that. But I think that's the
11 biggest issue I see.

12 MR. HEARING EXAMINER: Ms. Hardy?

13 MS. HARDY: I agree that that is the
14 primary issue. I think Texas Standard may -- I mean,
15 I apologize -- I think that Armstrong may also have
16 concerns regarding the development generally, but I
17 know they've been working to communicate with Texas
18 Standard --

19 MR. HEARING EXAMINER: Okay.

20 MS. HARDY: -- and try to resolve those
21 concerns. So I don't know where they are right now.

22 MR. HEARING EXAMINER: Okay.

23 MS. HARDY: It seems to be geological
24 and engineering issues.

25 MR. HEARING EXAMINER: Okay. Ms.

1 Hardy, will you have witnesses for that case?

2 MS. HARDY: Yes, we will.

3 MR. HEARING EXAMINER: Okay. Okay.

4 All right. So Mr. Bruce, I'm going to set this --
5 we're going to issue a prehearing order. So Freya,
6 will you keep track of -- thank you.

7 We're going to issue a prehearing order
8 in the order it is going to specify that we are not
9 going to vacate and reset for a status conference. So
10 the parties will either go to a contested hearing on
11 May 2nd, or they will resolve through negotiations and
12 dismiss the case before the May 16 hearing. Do the
13 parties understand?

14 MR. BRUCE: Yes, sir.

15 MS. HARDY: Yes, Mr. Examiner.

16 MR. HEARING EXAMINER: Okay, good. Is
17 there anything more on those two cases before we move
18 on?

19 MR. BRUCE: No, sir.

20 MR. HEARING EXAMINER: Okay. Very
21 good. Thank you.

22 I'm now calling a group of consolidated
23 cases, 24118, 24118, 24154, 24155 entries of
24 appearance.

25 MS. BENNETT: Good morning,

1 Mr. Examiner. Deana Bennett on behalf of Avant
2 Operating.

3 MR. HEARING EXAMINER: Avant. Thank
4 you.

5 MR. BRUCE: Mr. Examiner, Jim Bruce on
6 behalf of E.G.L. Resources.

7 MR. HEARING EXAMINER: Thank you, sir.

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

11 MR. HEARING EXAMINER: XTO. Thank you.

12 MS. BENNETT: And Mr. Examiner, Deana
13 Bennett again on behalf of Durango Production, also
14 noted on here as Sabre Operating.

15 MR. HEARING EXAMINER: Thank you. Is
16 there --

17 MS. HARDY: Mr. Examiner, Dana Hardy on
18 behalf of COG Operating. Thank you.

19 MR. HEARING EXAMINER: COG, you said,
20 Ms. Hardy?

21 MS. HARDY: That's correct.

22 MR. HEARING EXAMINER: Thank you. Are
23 those all the parties, Ms. Bennett?

24 MS. BENNETT: As far as I know, yes.

25 MR. HEARING EXAMINER: All right.

1 Sounds good. Where are we on this case?

2 MS. BENNETT: So these cases, 24118 and
3 24119, were filed by Avant on December 5th. And then
4 E.G.L. through Mr. Bruce filed competing cases, the
5 24154 and 24155, on January 5th. And the parties were
6 working towards -- well, we were engaged in preparing
7 for our contested hearing today. And then the parties
8 engaged in some discussions, and those discussions
9 have so far been fruitful.

10 But there is always a chance that they
11 may not resolve all of the issues. And so what we
12 have requested is that the hearing today be vacated,
13 and we appreciate the divisions doing so. And I would
14 request that these cases be set for a contested
15 hearing in May.

16 MR. HEARING EXAMINER: Okay. Let's
17 go -- thank you, Ms. Bennett -- let's go now,
18 Mr. Bruce. Do you have anything to add to that?

19 MR. BRUCE: No. I really don't. All I
20 know is that executives from both parties have met
21 recently, and I think they anticipate doing more of
22 that. But no, Ms. Bennett is correct.

23 MR. HEARING EXAMINER: Mr. Bruce, what
24 are the issues that we need to resolve at the hearing?

25 MR. BRUCE: I suppose the usual --

1 geology and engineering, the development plans, which
2 often involve surface use. I think the applications
3 are pretty similar in that nonstandard spacing units
4 are requested. There's a difference between the
5 parties and their initial wells being drilled.

6 But -- but these cases involve one --
7 two of the competing cases involve the Bone Spring.
8 Two involve the Wolfcamp. So it's really a whole
9 development of this certain section of land. And so
10 we'll get into all the geology and engineering. I
11 don't think there's going to be a real land dispute.

12 I think the title was -- there's a ton
13 of interest owners out there in this property,
14 Mr. Examiner, and giving notice was a pain in the you
15 know what. But I think it's mainly geology and
16 engineering, and then I defer to Ms. Bennett.

17 MR. HEARING EXAMINER: At the hearing,
18 are you going to have witnesses?

19 MR. BRUCE: Oh, yes.

20 MR. HEARING EXAMINER: I thought so.
21 Okay. Ms. Vance?

22 MS. VANCE: I have nothing further to
23 add.

24 MR. HEARING EXAMINER: Will you have
25 witnesses at the hearing?

1 MS. VANCE: No, we will not.

2 MR. HEARING EXAMINER: What is your
3 role?

4 MS. VANCE: Currently, we are just
5 observing, and maintaining our rights.

6 MR. HEARING EXAMINER: Yeah. Thank
7 you. Ms. Hardy?

8 MS. HARDY: I'm in the same position as
9 Ms. Vance, Your Honor, where COG has an interest in
10 these lands and is monitoring these cases and
11 preserving its appellate rights.

12 MR. HEARING EXAMINER: Okay. But you
13 don't anticipate having witnesses at the hearing?

14 MS. HARDY: Correct.

15 MR. HEARING EXAMINER: All right.
16 Ms. Bennett, I'll set this for a special hearing in
17 May. Let's talk about a date. I'm not going to put
18 it on the 2nd or the 16th. So let's talk about a date
19 in May that works. We'll start with you. What days
20 work for you?

21 MS. BENNETT: I'm just going to quickly
22 look at my calendar, and that requires me getting my
23 phone. That's why I apologize for using my phone
24 during the hearing, but -- and of, I would like to,
25 then, confirm the date with our respective clients.

1 But I imagine just about any day in May will work for
2 me.

3 MR. HEARING EXAMINER: Okay. Okay.

4 MS. BENNETT: So do you prefer a
5 Thursday or a --

6 MR. HEARING EXAMINER: We have this
7 room reserved on Thursdays.

8 MS. BENNETT: Okay.

9 MR. HEARING EXAMINER: Except when the
10 commission meets, but I -- Sheila [sic], when is the
11 May meeting for the commission? Would it be the 9th?

12 MS. TSCHANTZ: It's May 9th.

13 MR. HEARING EXAMINER: All right. So
14 we can't have the 9th.

15 MS. BENNETT: Okay. So May 23rd is
16 wide open for me.

17 MR. HEARING EXAMINER: Okay.
18 Mr. Bruce, does May 23rd work for you and your
19 witnesses?

20 MR. BRUCE: Yes, sir.

21 MR. HEARING EXAMINER: Okay, very good.
22 So Freya, would you please issue a pre-hearing order
23 for a special hearing --

24 MS. TSCHANTZ: Yes, I will.

25 MR. HEARING EXAMINER: -- May 23rd?

1 MS. TSCHANTZ: [No audible response.]

2 MR. HEARING EXAMINER: Okay. I can't
3 hear you, Freya, so I'm assuming that you will.

4 MS. TSCHANTZ: Yes. That's correct.

5 MR. HEARING EXAMINER: Oh, I can hear
6 you now. Thank you. And again, the parties are
7 advised that I will not continue or vacate a special
8 hearing in favor of a status conference. So you have
9 this time to prepare and to negotiate and you can
10 either dismiss the cases before May 23rd, or we go to
11 hearing on May 23rd.

12 Is there anything left on these cases
13 from the parties?

14 MS. BENNETT: Not from Avant. Thank
15 you, Mr. Hearing Examiner.

16 MR. HEARING EXAMINER: Thank you.

17 MR. BRUCE: No, Mr. Examiner.

18 MR. HEARING EXAMINER: Okay, thank you.
19 I believe that we are on case number 24150. It is
20 consolidated with '51, Marathon Oil Permian.

21 MS. BENNETT: Good morning,
22 Mr. Examiner. Deana Bennett on behalf of Marathon Oil
23 Permian, LLC.

24 MR. HEARING EXAMINER: Good morning.
25 Any other parties, Ms. Bennett?

1 MS. BENNETT: Yes. Mr. Bruce --

2 MR. HEARING EXAMINER: Mr. Bruce.

3 MS. BENNETT: -- represents Red River
4 in this case.

5 MR. HEARING EXAMINER: Mr. Bruce?

6 MR. BRUCE: Yes, Mr. Examiner, I
7 represent Red River Energy which filed an objection to
8 hearing by affidavit. I am also verbally entering
9 today an appearance for Viper, V-I-P-E-R, Energy
10 Partners.

11 And the parties have been in
12 discussions -- and I'll let Ms. Bennett step in -- but
13 I think this started originally when Red River hadn't
14 gotten well proposals early enough to really assess
15 the property or to, yeah, assess the property and the
16 prospects. And it was set for, I think, the first
17 hearing in March. Ms. Bennett graciously continued
18 the case to this hearing.

19 Today, I still object to presentation
20 by affidavit, but I don't think this case should be
21 kicked far down the road. The only thing I ask is
22 both my clients have told me they have made offers or
23 counteroffers to Matador -- or excuse me, Marathon,
24 but they haven't heard back from them. And I just ask
25 Ms. Bennett to have Marathon respond to my clients and

1 maybe if they can't come to agreement, then we go to
2 hearing.

3 I don't know how contested it would be
4 because my clients are not filing counterapplications.
5 But nonetheless, I don't think this should be kicked
6 down the road unless Ms. Bennett wants it kicked down
7 the road two or three months. I think maybe some time
8 in April may be good for it.

9 MR. HEARING EXAMINER: This case was
10 filed in early January. Is that right, Ms. Bennett?

11 MS. BENNETT: [No audible response.]

12 MR. HEARING EXAMINER: Okay. And we've
13 had one continuance so far. So Ms. Bennett, how long
14 do you want me to delay this case so that negotiations
15 can be explored?

16 MS. BENNETT: Thank you, Mr. Examiner.
17 Yes, these cases were filed in early January. And
18 upon hearing from Red River, Marathon did voluntarily
19 continue these cases from a January docket to the
20 March 21st docket to allow time for the parties to
21 engage in discussions. And it's my understanding that
22 there have been discussions. I don't know that those
23 discussions will result in an agreement.

24 And so what I would propose is that we
25 set these cases for a contested hearing sooner rather

1 than later, just because if there isn't an agreement,
2 we need to keep the process moving forward.

3 I am not aware of Viper's
4 communications with Marathon because of the entry of
5 appearance just today. So I haven't had a chance to
6 see where those stand. So with that being said, I
7 would suggest either -- it's not going to be a long
8 contested hearing.

9 We will have -- I will have three
10 witnesses. Mr. Bruce may have witnesses. I'm not
11 sure. But as Mr. Bruce said, the only issue really
12 will be about good faith negotiations. And so I would
13 suggest that -- or in my opinion this could probably
14 go on a regular docket date. So perhaps April 4th or
15 April 18th.

16 MR. HEARING EXAMINER: So I want to ask
17 you a question before I go to Mr. Bruce. The issue at
18 hearing will be good faith negotiations. How is that
19 an issue for a hearing?

20 MS. BENNETT: Good question. I think
21 what -- I mean Marathon's position will be that they
22 have engaged in good faith negotiations which is a
23 prerequisite to pooling -- to filing a compulsory
24 pooling application. And that is one of the factors
25 that the division considers in a contested case.

1 There are seven factors, one of which is good faith
2 negotiations.

3 So I think the evidence would be
4 limited to -- or the dispute would be limited to what
5 efforts Marathon made to reach agreement with Viper
6 and Red River, and whether those discussions -- I mean
7 the fact that the discussions are not fruitful is not
8 evidence of bad faith, of course, because that's what
9 the compulsory pooling statute and why we all come to
10 these compulsory pooling cases.

11 But it would be whether Marathon
12 negotiated with Viper and Red River in good faith and
13 whether they, in turn, negotiated with Marathon in
14 good faith. As Mr. Bruce said, there's no contest
15 over operatorship here. So those other factors that
16 usually go to operatorship would not be at issue.

17 MR. HEARING EXAMINER: That's helpful.
18 Thank you. How much -- so by asking for -- you said
19 an April hearing?

20 MS. BENNETT: Yes, mm-hmm.

21 MR. HEARING EXAMINER: Okay. So it's
22 March 21st now. You feel that gives you enough time
23 to conclude negotiations?

24 MS. BENNETT: Well, originally, I was
25 going to stand firm on April 4th until I learned of

1 Viper's entry of appearance today. And I simply don't
2 have enough information to evaluate Marathon's
3 discussions with Viper at this point. So I think that
4 having been said, I guess April 18th would probably be
5 the better date, just given the fact that I don't know
6 what's happened so far with Viper.

7 MR. HEARING EXAMINER: So the
8 April 18 -- I'll ask you, Mr. Bruce, in just a
9 moment -- April 18 has, it looks like, some contested
10 hearings already on that docket. So I would want to
11 set a special hearing in April, maybe toward the end
12 of April to hear this case, because that's how April
13 18 stands now.

14 So is another date after the April 18th
15 work for you, Ms. Bennett?

16 MS. BENNETT: Yes. Just checking my
17 calendar again.

18 MR. HEARING EXAMINER: And Mr. Bruce,
19 how do you feel about a contested hearing after the
20 April 18 docket?

21 MR. BRUCE: That would be fine,
22 Mr. Examiner. I may have a couple of landmen
23 testifying. But I do agree with Ms. Bennett that it
24 won't be an exceptionally long contested hearing if,
25 indeed, it is contested.

1 MR. HEARING EXAMINER: Okay. And that
2 will give you enough time to complete negotiations?

3 MR. BRUCE: Yes. And I will press my
4 clients on more information, which I will share with
5 Ms. Bennett.

6 MR. HEARING EXAMINER: Okay. Okay. So
7 are we looking at the 25th of April then?

8 MS. BENNETT: Unfortunately,
9 Mr. Examiner, I am flying out to see Willie Nelson
10 that day.

11 MR. HEARING EXAMINER: What about
12 earlier in that week --

13 MS. BENNETT: Yes.

14 MR. HEARING EXAMINER: -- on the 23rd?

15 MS. BENNETT: That works for me.

16 MR. HEARING EXAMINER: That does work
17 for you?

18 MS. BENNETT: Mm-hmm.

19 MR. HEARING EXAMINER: Mr. Bruce, does
20 the 23rd of April work for you?

21 MR. BRUCE: That is perfectly fine.

22 MR. HEARING EXAMINER: April 23rd. So
23 Freya, would you issue a prehearing order for a
24 special hearing April 23rd?

25 MR. TSCHANTZ: Mr. Hearing Examiner,

1 the room is --

2 MR. HEARING EXAMINER: Sorry?

3 MR. TSCHANTZ: -- already reserved for
4 another hearing.

5 MR. HEARING EXAMINER: Wait. We just
6 have an echo, so I couldn't hear you.

7 MR. TSCHANTZ: Can you hear me now?

8 MR. HEARING EXAMINER: Perfect. Well,
9 yes, but there's still an echo.

10 MR. TSCHANTZ: The room is already
11 reserved on April 22nd -- 23rd. I apologize.

12 MR. HEARING EXAMINER: Well, we could
13 have it virtually then, couldn't we?

14 MR. TSCHANTZ: Yes.

15 MR. HEARING EXAMINER: I think you're
16 nodding, but I can't tell.

17 MR. TSCHANTZ: Yes.

18 MR. HEARING EXAMINER: Okay. All
19 right. So then you're not seeing anything is wrong
20 with April 23rd if we have a virtual hearing?

21 MR. TSCHANTZ: No.

22 MR. HEARING EXAMINER: You're saying
23 that this room is engaged April 23rd?

24 MR. TSCHANTZ: That's correct.

25 MR. HEARING EXAMINER: Okay. Very

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1 good. So would you issue a prehearing order for a
2 special hearing April 23rd for a virtual hearing?

3 MS. BENNETT: Mr. Examiner, I don't
4 mean to --

5 MR. HEARING EXAMINER: Yes?

6 MS. BENNETT: -- throw a roadblock in
7 that excellent idea. I would say, though, that our
8 prior hearing notices that we sent out -- the letters
9 that we sent out -- all indicated that this case would
10 be heard in either virtual and in-person format. And
11 granted that was for January 4th. So that day has
12 come and gone. But the division's rules do not
13 require us to republish.

14 MR. HEARING EXAMINER: Okay.

15 MS. BENNETT: And so what I am hopeful
16 is that the division's docket notice for the
17 April 23rd hearing would resolve or cure any potential
18 issues with the fact that our notice letter said
19 "virtual and in-person."

20 MR. HEARING EXAMINER: Okay.

21 MS. BENNETT: Because your docket --
22 the OCD's docket would say clearly that it's a virtual
23 hearing. So I think -- I wanted to raise that issue
24 with you. I think the docket notice will cure any
25 notice issues, but did just want to daylight that

1 issue for any discussion.

2 MR. HEARING EXAMINER: Freya, is this
3 room occupied on the 24th of April?

4 MR. TSCHANTZ: It's that entire week.

5 MR. HEARING EXAMINER: Okay. Very
6 good. What do you recommend we put in the notice for
7 the special hearing that would cure the issue?

8 MS. BENNETT: Mr. Examiner, the OCD's
9 dockets from before we went back to hybrid did state
10 that the meetings would be virtual. And so just
11 making sure that the docket notice clearly said
12 virtual and did not include the hybrid language, I
13 think would be a way to cure it.

14 MR. HEARING EXAMINER: Okay. So Freya,
15 we can modify our language to make it very clear that
16 it's virtual only on that special hearing.

17 MR. TSCHANTZ: Okay. Will do.

18 MR. HEARING EXAMINER: Okay. Very
19 good. Is there anything else left on these two cases?

20 MS. BENNETT: No, thank you.

21 MR. HEARING EXAMINER: Mr. Bruce?

22 MR. BRUCE: No, sir. No.

23 MR. HEARING EXAMINER: Okay. Let's
24 move to Marathon Oil Permian, case number 24231 and
25 24232.

1 MS. BENNETT: Good morning,
2 Mr. Examiner. Deana Bennett on behalf of Marathon Oil
3 Permian. And I think these two cases should not be
4 consolidated. They were consolidated through an entry
5 of appearance by MRC. So I would ask that they be
6 unconsolidated, at least for purposes of discussion.

7 MR. HEARING EXAMINER: Okay. Then let
8 me change how I'm calling this case then. I'm just
9 going to call case 24231. We have an entry of
10 appearance from Ms. Bennett. Are there any other
11 entries of appearance for that single case?

12 MR. RANKIN: Good morning,
13 Mr. Examiner. May it please the division, Adam Rankin
14 appearing on behalf of Matador Production Company with
15 the Santa Fe Office of Holland & Hart.

16 MR. HEARING EXAMINER: Are there any
17 other parties in this single case?

18 MS. BENNETT: Not that I'm aware of.

19 MR. HEARING EXAMINER: Okay.
20 Ms. Bennett, it's your case?

21 MS. BENNETT: Yes, thank you.

22 MR. HEARING EXAMINER: How are we
23 proceeding?

24 MS. BENNETT: Marathon filed this case
25 on February 6th, and Matador filed a entry of

1 appearance and objection to the cases going -- the
2 case going by affidavit.

3 And I spoke briefly with Mr. Rankin
4 this morning. And it's my understanding that Matador
5 intends to submit competing applications, which would
6 not be right for hearing until May 2nd. And so we
7 reached a tentative agreement this morning to set this
8 case for a status conference on May 2nd.

9 MR. HEARING EXAMINER: Mr. Rankin?

10 MR. RANKIN: Good morning,
11 Mr. Examiner. Yes. Matador has submitted competing
12 well proposals for the acreage. Those proposals will
13 be ripe for hearing when we file our applications this
14 coming deadline for a May 2nd docket. Preference
15 would be to set these cases for a May 2nd status
16 conference to allow the parties time between now and
17 then to confer and perhaps reach some sort of
18 agreement.

19 If not, at the May 2nd hearing status
20 conference, we can perhaps set this for a contesting
21 hearing date.

22 MR. HEARING EXAMINER: Okay. That's
23 fine with me. So we will set this case after you file
24 your continuance. You said, Mr. Rankin, that you
25 already filed a competing application, and it will be

1 on the April docket or May docket?

2 MR. RANKIN: May docket.

3 MR. HEARING EXAMINER: Okay.

4 MR. RANKIN: So yeah, the deadline is
5 coming up. We haven't yet filed --

6 MR. HEARING EXAMINER: Oh, you haven't?

7 MR. RANKIN: -- an application, but
8 they will be filed, and they will be filed for the
9 May 2nd docket.

10 MR. HEARING EXAMINER: Let me take some
11 notes here. And that would be Matador; correct? So
12 we can then consolidate your new case with this case
13 for a status conference May 2nd, and then we can
14 discuss how much time you want for negotiation before
15 we go to contested hearing; is that fair?

16 MR. RANKIN: That's fair. That's fair.

17 MR. HEARING EXAMINER: All right. Is
18 there anything further on this case?

19 MS. BENNETT: No, thank you,
20 Mr. Hearing Examiner.

21 MR. HEARING EXAMINER: Thank you. So
22 now let me call 24232.

23 MS. BENNETT: Good morning,
24 Mr. Examiner. Deana Bennett on behalf of Marathon Oil
25 Permian LLC.

1 MR. HEARING EXAMINER: Good morning.

2 MR. RANKIN: Good morning,
3 Mr. Examiner. Adam Rankin with the Santa Fe office of
4 Holland & Hart appearing on behalf of Fasken Oil and
5 Matador Production Company.

6 MR. HEARING EXAMINER: Fasken Oil and
7 Matador. Ms. Bennett?

8 MS. BENNETT: Thank you. Marathon --
9 well, I filed this application on behalf of Marathon
10 on February 6th.

11 MR. HEARING EXAMINER: Okay.

12 MS. BENNETT: And MRC entered an
13 appearance objecting to the case proceeding by
14 affidavit, as did Fasken. And I briefly coordinated
15 with Mr. Rankin, and it's my understanding that MRC
16 will be filing a competing application in this case as
17 well.

18 And so we've agreed to a status
19 conference on May 2nd to allow the parties then to
20 work with the division to set a contested hearing
21 date.

22 MR. HEARING EXAMINER: Mr. Rankin?

23 MR. RANKIN: Thank you, Mr. Hearing
24 Examiner. Yes, I concur. May 2nd is an appropriate
25 date, and we'll be filing a competing application on

1 behalf of Matador. That application will be ripe for
2 May 2nd at which I think we would request a status
3 conference so that the parties will have some time to
4 confer. And at that status conference, we will know
5 whether we will need to proceed to a contested
6 hearing, or we may request some additional time for
7 further --

8 MR. HEARING EXAMINER: So the posture
9 of this case is almost identical to the case
10 previously?

11 MR. RANKIN: It is.

12 MR. HEARING EXAMINER: Okay, yeah. And
13 why are they not -- why is '31 and '32 not
14 consolidated?

15 MS. BENNETT: Mr. Hearing Examiner,
16 they involve different acreage and different parties.

17 MR. HEARING EXAMINER: Okay.

18 MS. BENNETT: Although, MRC is in both.
19 Fasken is not.

20 MR. HEARING EXAMINER: I see. Okay,
21 very good. Thank you. Is there anything further,
22 Mr. Rankin, on this case?

23 MR. RANKIN: No. Thank you very much.

24 MR. HEARING EXAMINER: Okay, very good.
25 We will hear this case again on May 2nd along with

1 your competing application at that time.

2 MS. BENNETT: Thank you very much.

3 MR. HEARING EXAMINER: Okay. Thank
4 you. I am calling 24254, Avant Operating.

5 MS. HARDY: Mr. Examiner, Dana Hardy
6 with Hinkle Shanor on behalf of Avant.

7 MR. HEARING EXAMINER: Good morning.

8 MS. HARDY: Good morning.

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

13 MR. HEARING EXAMINER: Are there any
14 other parties?

15 MR. JONES: Yeah. Good morning,
16 Mr. Examiner. Blake Jones with Steptoe & Johnson,
17 monitoring the cases on behalf of Northern Oil and
18 Gas.

19 MR. HEARING EXAMINER: Thank you.
20 Okay. Ms. Hardy?

21 MS. HARDY: Mr. Examiner, this case
22 competes with Apache's case number 2441.

23 MR. HEARING EXAMINER: I'm sorry. Hold
24 on. I want to take notes. Competes with Apache case
25 number. What was it?

1 MS. HARDY: I have it written down as
2 2441, but I think I'm missing a number there. Perhaps
3 Mr. Rankin can correct. There may be another 4. But
4 the cases need to be set -- Apache's case is set for a
5 contesting hearing on May 2nd under a prehearing
6 order. And so this case needs to be consolidated with
7 Apache's case under the prehearing order for hearing
8 on May 2nd that will be contested.

9 MR. HEARING EXAMINER: Okay. First let
10 me get the case number from Mr. Rankin.

11 MR. RANKIN: I'm being told I believe
12 it's case number 24141, and I will confirm that in a
13 moment.

14 MR. HEARING EXAMINER: 241 --

15 MS. HARDY: That sounds correct. I
16 think I was missing a 1.

17 MR. HEARING EXAMINER: Okay. So 24141.
18 So Ms. Hardy, when was this case filed?

19 MS. HARDY: This is, I believe, the
20 first docket setting for the Avant drilling case.

21 MR. HEARING EXAMINER: Okay. So
22 there's been no continuances for this case yet?

23 MS. HARDY: Correct.

24 MR. HEARING EXAMINER: Okay, very good.
25 And this case should be consolidated with Mr. Rankin's

1 24141?

2 MS. HARDY: That's correct.

3 MR. HEARING EXAMINER: And Mr. Rankin,
4 when was that case filed?

5 MR. RANKIN: I don't have it right in
6 front of me, Mr. Examiner. I believe it was back in
7 February perhaps.

8 MR. HEARING EXAMINER: So it's not that
9 old?

10 MR. RANKIN: No. It's not that old or
11 the Apache case does have a prehearing order entered,
12 setting it for May 2nd. So I think what we'll need to
13 do is amend that prehearing order to add this case
14 number to it.

15 MR. HEARING EXAMINER: So Ms. Hardy,
16 you're filing a competing application to the Apache
17 application. Is that right?

18 MS. HARDY: That's right. This
19 application that we're on today competes with Apache's
20 application.

21 MR. HEARING EXAMINER: Perfect. So we
22 need to amend our prehearing order which sets 24141
23 for a May 2nd contested hearing.

24 MS. HARDY: Correct.

25 MR. HEARING EXAMINER: All right. So

1 we have to add this new case. Mr. Rankin, does the
2 May 2nd -- what I'm trying to achieve here is that I
3 want to give the parties enough time to negotiate so
4 that we don't set hearings and then vacate hearings
5 and then go back to status conferences and then -- I
6 don't want to do that anymore.

7 So does the May 2nd contested hearing
8 give you and Avant and Northern time to negotiate
9 before a contested hearing?

10 MR. RANKIN: Mr. Examiner, at this
11 instant, not comfortable giving you confidence on that
12 question. I need to confer better with the client. I
13 think this case was just recently filed by Avant. I'm
14 not sure of the exact status of discussions between
15 the parties.

16 MR. HEARING EXAMINER: I see.

17 MR. RANKIN: So I will endeavor to
18 inquire to find out if that is enough time. But at
19 this point, I think setting for a potential hearing
20 for that date is appropriate, and I will work to try
21 to ascertain whether the parties can resolve this
22 before then, or whether that's going to be a date that
23 we can go forward with the hearing.

24 MR. HEARING EXAMINER: Okay.

25 MR. RANKIN: Okay.

1 MR. HEARING EXAMINER: Ms. Hardy, what
2 are the issues? If we go to hearing, what are the
3 issues that we're going to be hearing?

4 MS. HARDY: The applications compete,
5 and I think they are similar but a little bit
6 different. So I think the division would be looking
7 at the geology and engineering issues and the seven
8 factors that it considers in evaluating competing
9 pooling applications, basically to determine which
10 development plan better protects correlative rights
11 and prevents waste.

12 MR. HEARING EXAMINER: So we're not
13 dealing with good faith negotiations then?

14 MS. HARDY: That's a component of what
15 the division considers in, I think, in any competing
16 pooling case, but I don't know that the parties intend
17 to raise issues regarding that.

18 MR. HEARING EXAMINER: Okay. And
19 Mr. Jones?

20 MR. JONES: Yeah, Northern is just
21 monitoring the cases at this time but has no objection
22 to the May date. Defer to the other parties.

23 MR. HEARING EXAMINER: But you wouldn't
24 have witnesses?

25 MR. JONES: No.

1 MR. HEARING EXAMINER: Okay.

2 Ms. Hardy, you'll obviously have witnesses?

3 MS. HARDY: That's correct.

4 MR. HEARING EXAMINER: And Mr. Rankin,
5 you will have witnesses?

6 MR. RANKIN: That is correct.

7 MR. HEARING EXAMINER: Okay. So this
8 contested hearing could take at least a few hours then
9 to resolve on the May 2nd. And it's set for May 2nd.
10 The reason I'm asking these questions is if we're
11 going to issue an amended prehearing order, depending
12 on what's going on, on May 2nd, maybe we should move
13 this to a special hearing date.

14 So give me a moment. I have an email
15 here I need to look at. May 2nd isn't big, but there
16 are contested hearings -- four unconsolidated
17 contested hearings.

18 Freya, are you saying that there are
19 four separate contested hearings on May 2nd?

20 MR. TSCHANTZ: We think two may be
21 consolidated. We just need to research it further.

22 MR. HEARING EXAMINER: So you're saying
23 we have scheduled three contested hearings at this
24 time?

25 MR. TSCHANTZ: There are four. We

1 think two may go together.

2 MR. HEARING EXAMINER: Okay. I don't
3 see how that's going to work. I think we should set a
4 special date and move this off the May 2nd since we're
5 issuing a new prehearing order. Do you have a
6 suggestion, Mr. Rankin?

7 MR. RANKIN: Mr. Examiner, I don't. I
8 have not conferred with the client about dates other
9 than what is the normal docket dates for the division.
10 So I would have to confer with the division -- rather
11 the client -- about potential special hearing dates or
12 other available dates.

13 In light of that, perhaps maybe after
14 this status conference, Mr. Examiner, Ms. Hardy and I
15 can confer with our clients and then perhaps file a
16 motion to recommend a date or another setting.

17 MR. HEARING EXAMINER: Okay. Well, we
18 don't need to have a motion. We could just recess on
19 this case for a while and come back to it at the end
20 of the docket and ask you. I think you're here till
21 the end.

22 MR. RANKIN: I certainly am.

23 MR. HEARING EXAMINER: I know you are.
24 And Ms. Hardy, I don't know when your last case is
25 today, but I'd rather not leave this dangling for some

1 filing. I'd rather deal with this. So May 2nd is,
2 obviously, a Thursday. What about May 1st, since your
3 witnesses are available on the 2nd, would they not be
4 available on the 1st?

5 MR. RANKIN: I would need to confer
6 with them, yeah.

7 MR. HEARING EXAMINER: But it's a good
8 chance?

9 MR. RANKIN: I'm afraid I don't -- I'm
10 afraid to give any representations when I haven't
11 talked to them. So I don't know.

12 MR. HEARING EXAMINER: But would you be
13 available May 1st?

14 MR. RANKIN: My calendar is relatively
15 open May 1st. So I would be, at least, available that
16 date.

17 MR. HEARING EXAMINER: And Ms. Hardy,
18 are you available May 1st if we decide to set this for
19 a special hearing in early May?

20 MS. HARDY: I am, Mr. Examiner.

21 MR. HEARING EXAMINER: Okay. And
22 Mr. Jones?

23 MR. JONES: Yes. That day works for
24 Northern.

25 MR. HEARING EXAMINER: All right. So

1 Mr. Rankin, would you confer with counsel and with
2 your party and come back, let me know when you're
3 ready to hear this case? And we'll come back on the
4 record on this case.

5 So we're going to recess for now, so
6 that we can possibly amend our prehearing order to
7 May 1st. Or if that date doesn't work, then another
8 date in May that works for the parties.

9 Okay. Is there anything further on
10 this case before we recess?

11 MS. HARDY: Not from Avant.

12 MR. RANKIN: I don't have anything from
13 Apache.

14 MR. HEARING EXAMINER: No. Okay. Very
15 good. So we will -- let me make a note here.

16 All right. I am now calling Permian
17 Resources 24266 and '67, looks like '68, '69, '70, and
18 '71. Entries of appearance, please.

19 MS. HARDY: Mr. Examiner, Dana Hardy
20 with Hinkle Shanor on behalf of Permian Resources.

21 MR. HEARING EXAMINER: Good morning.
22 Mr. Savage, are you entering an appearance?

23 MR. SAVAGE: Yes. Good morning,
24 Mr. Hearing Examiner. Darin Savage with Abadie and
25 Schill on behalf of Cimarex Energy Company.

1 THE HEARING EXAMINER: Did you file an
2 objection?

3 MR. SAVAGE: No, I did not, but I
4 believe there's an objection in the record by another
5 party.

6 THE HEARING EXAMINER: By another
7 party?

8 MR. BRUCE: Mr. Examiner, Jim Bruce
9 here on behalf of Kaiser-Francis Oil Company. And I
10 did file an objection for Kaiser-Francis. The sheet
11 shows that I'm here on behalf of Mewbourne. Mewbourne
12 does own an interest in these cases, but it has not
13 entered an appearance at this time.

14 THE HEARING EXAMINER: Okay. So you
15 filed an objection. Okay. Are there any other
16 parties before we go back to Ms. Hardy? I'm not
17 hearing any. Ms. Hardy?

18 MS. HARDY: Mr. Examiner, Permian
19 Resources has these wells on its drill schedule and
20 would like to have a hearing sooner rather than later.
21 We don't have a competing development plan situation
22 here. So I expect if there is a contested hearing
23 that it would involve good faith negotiations, but
24 Mr. Bruce may be able to add to that.

25 But the bottom line is that we would

1 request a hearing be set in these cases sooner rather
2 than later.

3 THE HEARING EXAMINER: And what does
4 that mean?

5 MS. HARDY: I think the first May
6 docket is what we were thinking.

7 THE HEARING EXAMINER: And you've heard
8 that the May docket already has at least three
9 contested -- well, two or three contested hearings if
10 we move the other case off to May 1st or another date.
11 So that's not going to work, but we can find another
12 date for you in early May.

13 MS. HARDY: That would be fine.

14 THE HEARING EXAMINER: Okay, very good.
15 Mr. Savage?

16 MR. SAVAGE: Yes, Mr. Hearing Examiner.
17 We're just monitoring and reserving rights at this
18 time.

19 THE REPORTER: Mr. Savage is muted.

20 MR. SAVAGE: That doesn't seem to be
21 on.

22 THE REPORTER: Oh.

23 MR. SAVAGE: So I pushed the button,
24 but I don't --

25 THE REPORTER: Do you see the green

1 light that comes on?

2 THE HEARING EXAMINER: Sheila, is there
3 a way to turn this microphone on for Mr. Savage? Or I
4 guess he's going to move.

5 MR. SAVAGE: I'll move over here.

6 THE HEARING EXAMINER: It seems he's
7 having trouble with that mic.

8 MR. SAVAGE: Yes, Mr. Hearing Examiner,
9 we're just monitoring and reserving rights at this
10 time.

11 THE HEARING EXAMINER: Is the mic
12 picking up? I don't think so. There we go. Try it
13 again.

14 MR. SAVAGE: Mr. Hearing Examiner, yes.
15 Thank you. This is my first time here in the Pecos
16 Hall.

17 THE HEARING EXAMINER: All right.

18 MR. SAVAGE: I appreciate that.

19 THE HEARING EXAMINER: That's fine.

20 MR. SAVAGE: We're just monitoring and
21 reserving rights at this time.

22 THE HEARING EXAMINER: Okay. So
23 Mr. Bruce, Mr. Hardy would like to have a contested
24 hearing in early May. Does that give you time to
25 conclude negotiations?

1 MR. BRUCE: Mr. Examiner, first of all,
2 Kaiser-Francis does have a substantial interest --
3 working interest in these wells, and the parties are
4 meeting today in Midland together with Mewbourne and
5 perhaps some other parties to discuss the issues.

6 There is the potential -- and I won't
7 find out probably until tomorrow or maybe next week --
8 whether there will be competing applications, because
9 I think this is pretty much a 50/50 split up in
10 interests.

11 And so I -- and the issues would be not
12 only land ownership, but Kaiser-Francis wasn't happy
13 with Permian's development plan. So even if it's only
14 a couple weeks, I think we need another status
15 conference where we can get a better idea of where the
16 parties are after their meeting today and determine if
17 a May docket -- an early May docket setting is
18 appropriate.

19 THE HEARING EXAMINER: So Ms. Hardy,
20 you've heard that they may be filing competing
21 applications. Mr. Bruce doesn't know but feels as
22 though May might be too soon to go to hearing. What
23 do you have to say?

24 MS. HARDY: Mr. Examiner, I would
25 request that the cases be set for a contesting

1 hearing, and then if the parties do end up needing to
2 file competing applications, that we could raise the
3 issue and request that the matter be reset or that the
4 other cases be consolidate with these applications.

5 MR. BRUCE: I have no objection to
6 that, Mr. Examiner. I just need to find out whether
7 there's going to be competing applications.

8 THE HEARING EXAMINER: I understand.
9 Okay. Ms. Hardy, when were the series of cases filed?

10 MS. HARDY: This is, I believe, the
11 first docket setting for these cases.

12 THE HEARING EXAMINER: Okay. Okay.
13 Well, I don't think it's unreasonable to set them for
14 a status conference to find out whether or not there
15 will be competing applications and how the
16 negotiations are going. When do you feel it would be
17 appropriate to set this for another status conference?

18 MS. HARDY: I would request that it be
19 set on the next docket -- the April 4th docket.

20 THE HEARING EXAMINER: Freya, how full
21 is the April 4th docket?

22 MR. TSCHANTZ: There's currently 87 --
23 87 cases.

24 THE HEARING EXAMINER: How about the
25 second April docket?

1 MR. TSCHANTZ: There's room.

2 MS. HARDY: Mr. Examiner, I think this
3 would be a short status conference. At that point we
4 would know whether competing applications will be
5 filed. So I don't think it would take very long if we
6 could possibly have it set on April 4th.

7 THE HEARING EXAMINER: I'm going to set
8 them for April 18, but I understand your objection to
9 April 18. So we're going to set these for a status
10 conference after you file your appropriate
11 continuances for April 18, to see if Kaiser is filing
12 competing applications.

13 MR. TSCHANTZ: Mr. Hearing Examiner, if
14 new applications are filed, they will not go on until
15 the May 2nd docket.

16 THE HEARING EXAMINER: Okay.
17 Understood. I think that that being said, I think
18 that I'm trying to accommodate Ms. Hardy's -- I mean
19 at least by that point we'll know if there are
20 competing applications, and we can take that into
21 consideration in a prehearing order setting these for
22 contested hearings.

23 Is there any objection to that,
24 Ms. Hardy?

25 MS. HARDY: No. I think that makes

1 sense, Mr. Examiner.

2 THE HEARING EXAMINER: Okay.

3 Mr. Bruce?

4 MR. BRUCE: That's fine with me, sir.

5 THE HEARING EXAMINER: Mr. Savage?

6 MR. SAVAGE: No objection. Thank you.

7 THE HEARING EXAMINER: So thank you,
8 Freya. We're going to set these once they file
9 continuances to the April 18th docket for a status
10 conference.

11 Okay. I am now calling case 23984.
12 This is an affidavit hearing, Marathon Oil Permian.

13 MS. BENNETT: Good morning,
14 Mr. Examiner. Deana Bennett on behalf of Marathon Oil
15 Permian, LLC.

16 THE HEARING EXAMINER: Good morning.
17 Mr. Lowe, are you with us?

18 MR. LOWE: Good morning. Yes, I am.

19 THE HEARING EXAMINER: Excellent. Here
20 we go. Ms. Bennett?

21 MS. BENNETT: Thank you very much, and
22 good morning, Mr. Lowe. In this case, Marathon is
23 requesting an order from the division to compulsory
24 pool certain uncommitted interests in a nonstandard
25 spacing unit. And so we're seeking approval of a

1 nonstandard spacing unit as well.

2 So this case involves a request for a
3 960 acre spacing unit in the east half of Sections 6
4 and 7, Township 20 South, Range 33 East, and the east
5 half of Section 31, Township 19 South, Range 33 East.

6 Marathon via myself timely filed its
7 exhibits on Tuesday. And with our exhibit packet, we
8 included the usual suite of exhibits. Tab A is the
9 Compulsory Pooling Checklist.

10 (Case 23984 Exhibit Tab A was marked
11 for identification.)

12 Tab B is the affidavit of Farley
13 Duvall, a land professional with Marathon who has
14 previously testified before the division, and his
15 credentials have been accepted as a matter of record.

16 (Case 23984 Exhibit Tab B was marked
17 for identification.)

18 Tab C is the affidavit of Elizabeth
19 Scully, a geologist with Marathon, and she's also
20 previously testified before the division, and her
21 credentials have been accepted as a matter of record.

22 (Case 23984 Exhibit Tab C was marked
23 for identification.)

24 The final witness exhibit is from Rohit
25 Sinha. And Mr. Sinha is a reservoir engineer with

1 Marathon, and he's previously testified before the
2 division.

3 (Case 23984 Exhibit Tab D was marked
4 for identification.)

5 And the reason we've included reservoir
6 engineering exhibits in this particular case,
7 Mr. Examiner, is because of the nonstandard unit
8 application portion.

9 And finally, Tab D is my notice
10 declaration, which includes proof that we mailed out
11 timely mailed notices of the hearing and that we also
12 timely published.

13 (Case 23984 Exhibit Tab E was marked
14 for identification.)

15 And Exhibit D -- I'm sorry, Exhibit E
16 in this case, also includes the certified pro form
17 that we compile as we near the hearing to show which
18 letters have been delivered -- the status of the
19 mailings.

20 So with that I would request that the
21 exhibits behind Tab A, B, C, D, and E be admitted into
22 the record in this case, and I'm happy to answer any
23 questions the division may have.

24 THE HEARING EXAMINER: Are there any
25 objections to these exhibits? I'm not hearing any.

1 Exhibits behind Tabs, A, B, C, D, and E are admitted
2 into evidence.

3 (Case 23984 Exhibits Tab A through Tab
4 E were received into evidence.)

5 Mr. Lowe, do you have any question for
6 Ms. Bennett's witnesses?

7 MR. LOWE: Yes. I have a few
8 questions.

9 THE HEARING EXAMINER: Okay. We'll get
10 the witnesses sworn in for you, Mr. Lowe. Which
11 witness do you have a question for?

12 MR. LOWE: More than likely, it will be
13 dependent on I guess, the land -- the landman.

14 THE HEARING EXAMINER: Do we have the
15 landman?

16 MS. BENNETT: Yes, Mr. Hearing
17 Examiner. Farley Duvall is the landman, and he is
18 available.

19 THE HEARING EXAMINER: Is that him with
20 the headphones on?

21 MS. BENNETT: Yes, it is.

22 MR. DUVALL: Yes.

23 THE HEARING EXAMINER: Okay. We're
24 going to get him sworn in, Mr. Cogswell.

25 THE REPORTER: Please raise your right

1 hand.

2 WHEREUPON,

3 FARLEY DUVALL,

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 THE HEARING EXAMINER: Mr. Lowe, please
8 proceed.

9 DIRECT EXAMINATION

10 MR. LOWE:

11 Q Okay. Good morning, Mr. Duvall -- your
12 name?

13 A Good morning.

14 Q I don't know if this will be mainly for
15 the -- I guess, well, actually one of the questions
16 for sure. I just want to reassure that there's a
17 total percentage uncommitted working interest for this
18 case is about 30 percent. Is that correct?

19 A Yes. That is correct.

20 Q Okay. And of all the working interest
21 that -- of all the individuals that would not
22 participate in this case, you can verify that within
23 your evidence -- your exhibits here -- that all
24 parties were at their reach. Is that correct?

25 A Yes. And if there were undeliverables, we'd

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1 have to look at Ms. Bennett's master tracker. There
2 was a minimum of three -- most cases four to five
3 alternate addresses previously of record that -- that
4 we reached out to as well.

5 Q Okay. And let's see here. And of all --
6 for this case there's four wells involved. And all
7 these wells are basically going to be on the east half
8 of three sections, and the entire spacing unit that
9 these wells are going to be dedicated to is going to
10 be actually 961.5 acres. Is that correct?

11 A Correct.

12 Q Okay. I don't know if you can answer this,
13 sir, but according to the exhibits and what was
14 indicated there, this case was moved forward a few
15 times, continued from December 21, 2023. Were these
16 continuances up front? Do you know if they were
17 status conferences or were they set for hearing or --

18 A We were set for hearing the most recent
19 move, and it was simply moved to today, just based on
20 the short notice needed for availability to be
21 available on video for the geologist, myself, and the
22 reservoir engineer.

23 Q Okay. Okay. That's a clarification on my
24 side. I got into depth in reviewing your exhibits
25 submitted for this case. So I just kind of got moved

1 around there on my side. Where is that question,
2 because I don't know why I wrote, but -- okay.

3 You did all the landman effort stuff? You
4 didn't do anything as far as pertaining to the map
5 that Exhibit 5 -- E5, page 91 of the exhibits. Is
6 that right?

7 A Correct. Let me get to -- oh, hang on. Let
8 me get to 91 just to be certain. Correct. That
9 would've most likely been the reservoir engineer on
10 this one.

11 Q Okay. And just to -- let's see here -- this
12 case is for compulsory pooling and non-standard
13 proration unit. Is that correct?

14 A Correct.

15 Q Okay. On the notice portion of your
16 exhibit, is there a distinction between the notice
17 effort or notice working interest for the compulsory
18 pooling and the NSP portion of your case -- your
19 exhibits?

20 A We may have to defer to Ms. Bennett on how
21 she -- she broke that notice list up, or if it was
22 separate mailings that were together.

23 THE WITNESS: Deana, do you know how
24 that was broken out?

25 MS. BENNETT: Yes. Yes, I do, and I'm

1 happy to answer that question, Mr. Lowe, if now or
2 when you're done asking Mr. Duvall questions --
3 whatever is your preference.

4 MR. LOWE: Yes. I'm done with
5 Mr. Duvall, I think, at this -- I guess, that's my
6 last questions, I think.

7 MS. BENNETT: Thank you. So the map --
8 if you're referring to the map on page E5 --

9 MR. LOWE: Yes.

10 MS. BENNETT: I prepared that map. So
11 any deficiencies or color combos are on me for that
12 map. What that map was designed to show is the
13 offsetting tracts to whom notice was provided. And
14 then the next two pages show the offsetting tract
15 notice list.

16 So immediately after the map are two
17 pages, pages 92 and 93. And those two pages break
18 down by tract the offsetting notice parties. And
19 those are the parties to whom I sent notice for the
20 non-standard unit portion of this application.

21 MR. LOWE: Okay. I will be grateful if
22 you could identify all, like, preferably the -- the
23 map itself and the list of affected -- yeah, affected
24 individuals in reference to the non-standard proration
25 unit notice effort.

1 MS. BENNETT: Thank you. I did try to
2 do that in my notice declaration. It's paragraph --
3 let me just get to my notice declaration, and I'm
4 happy to do it more clearly next time by identifying
5 the exhibits with headers on the exhibits.

6 But on page 56 of the exhibit packet in
7 paragraph 5, I noted that Exhibit E5 is a map
8 identifying the Andretti East Half Unit outlined in
9 blue and offsetting tracts outlined in green, as well
10 as the list of the offsetting owners for notice
11 purposes of the non-standard unit portion of this
12 application.

13 And I realize that the division likely
14 doesn't have time to read time every paragraph of
15 every piece of material that we submit. So I totally
16 hear you, and will do a better job of identifying
17 notice parties for non-standard unit applications
18 going forward.

19 MR. LOWE: Yeah. It would just be
20 easier to review the exhibits instead of going up 90
21 pages trying to kind of figure out what's what,
22 especially when you're reading this at eight o'clock
23 at night.

24 MS. BENNETT: Yes. I totally
25 understand that and will do better. Thank you for

1 pointing that out.

2 MR. LOWE: But I did see in the
3 paragraph up front, but it was just kind of hard to
4 decipher at the moment, and I guess when you're trying
5 to review what's here.

6 I think that might be -- yeah, that
7 concludes my questioning.

8 MS. BENNETT: Thank you very much.

9 THE HEARING EXAMINER: Okay. Mr. Lowe,
10 can we take this case under advisement?

11 MR. LOWE: I believe so. I didn't see
12 anything that's questionable, what exhibits I saw. So
13 I think it can move forward. Oh, one last question.

14 Do all these wells, are they having --
15 are they still pending the API numbers? Are they
16 approved?

17 MS. BENNETT: I believe they are still
18 pending. I don't know if Mr. Duvall knows the answer
19 to that. I believe they're still pending, but of
20 course, we can confirm that after the fact if
21 Mr. Duvall also doesn't know.

22 Mr. Duvall, do you happen to know the
23 answer to that?

24 THE WITNESS: Last discussion was still
25 pending. I can -- I can definitely follow up today,

1 though.

2 MR. LOWE: I don't need any follow-up.
3 I just want to get an idea of where it was at right
4 now. And I would -- whenever, I guess, the API
5 numbers are granted and approved, I would strongly
6 suggest when you submit anything to the OCD is that
7 somehow inform the OCD that these wells have got an
8 approved API number, so therefore that we can
9 associate the non-standard proration unit to the API
10 numbers.

11 So when it comes down to the C-104
12 review time, you're not waiting on that little
13 question that might happen at that moment, because at
14 this time we cannot link this approved carrying order
15 to the APIs here granted until the API numbers are
16 approved and we have to, like, link those. So that's
17 just further this announcement to you all.

18 But that concludes my questions to you.

19 THE WITNESS: Understood. Thank you.
20 Yes. They are still pending. Thank you.

21 MR. LOWE: Okay. Yeah.

22 THE HEARING EXAMINER: Okay. Thank
23 you, Ms. Bennett. We'll take this case under
24 advisement. I wonder how you will submit API numbers
25 when you receive them.

1 MS. BENNETT: Mr. Examiner, I could
2 submit a notice of filing supplemental information and
3 then email that to Mr. Lowe if he'd like at the same
4 time that I file.

5 THE HEARING EXAMINER: Perfect.

6 MS. BENNETT: Thank you.

7 THE HEARING EXAMINER: I am now calling
8 24048 Mewbourne Oil.

9 MR. BRUCE: Mr. Examiner, Jim Bruce
10 representing Mewbourne Oil Company and --

11 THE HEARING EXAMINER: Are you prepared
12 on the -- affidavit?

13 MR. BRUCE: Yes, sir, I am. And I
14 think, although there are slight differences, I think
15 it would shorten things if you would call the next
16 three cases also.

17 THE HEARING EXAMINER: Okay. Let's
18 also call 24049, 24050, and 24051.

19 MR. BRUCE: Thank you. Mr. Examiner,
20 in two of these cases there are existing pooling
21 orders which I seek to amend to pool one additional
22 interest.

23 In the other two cases, there is no
24 existing order, and I seek to pool the same person in
25 those cases. In all four cases, the only party being

1 pooled is Boys Club of America, which owns a very
2 small unleased mineral interest. And then in all four
3 cases, there are overlapping spacing units and notice
4 has been given to the appropriate persons.

5 And so with that, let me start with
6 24048 and run through that quickly. The first Exhibit
7 is the existing order R-21986, in that this case,
8 Mewbourne force pooled the south half, south half of
9 Sections 11 and 12, 24 South, 28 East for one of its
10 Journey Bone Spring wells.

11 (Case 24048 Exhibit 1 was marked for
12 identification.)

13 Exhibit 2 is the landman's affidavit,
14 which contains the usual by Carson Cullen who has
15 previously testified before the division. And he is
16 the landman in all of these cases.

17 (Case 24048 Exhibit 2 was marked for
18 identification.)

19 It contains the usual information, the
20 land plats, the summary of communications, and the
21 AFE. There have been communications among the
22 parties.

23 What I didn't list on the summary of
24 communications is that I have also been in touch
25 personally, without the landman getting involved, with

1 the general counsel of Boys Club of America who called
2 me, and we had a couple of discussions. She wanted to
3 know more about forced pooling.

4 You know, they're located in Georgia,
5 so it's a different world out there. And I sent her a
6 memo on pooling that I've developed over the decades.
7 And she had no further questions. So I think there
8 have been good faith negotiations. Because there is
9 an existing order in a case in which geology was
10 tendered, there is no geology in this set of exhibits.

11 There is the affidavit of mailing,
12 Exhibit 3.

13 (Case 24048 Exhibit 3 was marked for
14 identification.)

15 3A is the notice letter to the working
16 interest owner of Boys Club of America. The letter
17 itself lists four additional parties, but they have --
18 other than Boys Club of America -- these additional
19 parties subsequently leased their interest in
20 Mewbourne and are not being pooled.

21 And Exhibit 3B is the notice of the
22 overlapping well unit to a couple of other -- the
23 other two working interest owners in the well units --
24 Chevron and OXY.

25 And then Boys Club of America did

1 receive actual certified notice of the hearing. As to
2 the outsets, I have not yet received the green card
3 back from OXY. But Exhibit 4 is an affidavit of
4 publication which I believe -- better check to make
5 sure -- was timely published. I believe it was.

6 (Case 24048 Exhibit 4 was marked for
7 identification.)

8 And then Exhibit 5 is the application
9 and proposed notice.

10 (Case 24048 Exhibit 5 was marked for
11 identification.)

12 And with that, I would move the
13 admission of Exhibits 1, 2 plus subparts, 3 plus
14 subparts, 4, and 5, and ask that the matter be taken
15 under advisement.

16 THE HEARING EXAMINER: Thank you,
17 Mr. Bruce. Is your landman Mr. Cullen available for
18 questions?

19 MR. BRUCE: No. I asked him, but he
20 had some out-of-town meeting somewhere. So he is not,
21 but I can probably answer any questions because I've
22 been dealing with these wells for about five years
23 now.

24 THE HEARING EXAMINER: Okay. But
25 Mr. Bruce, you're not a witness in this case for the

1 landman exhibits. These were produced by Mr. Cullen.
2 In the future, Mr. Bruce, if your witness can't be
3 present, at least virtually for an affidavit hearing,
4 we won't be able to hear the case. Is that clear?

5 MR. BRUCE: Okay.

6 THE HEARING EXAMINER: Okay.

7 MR. BRUCE: Yes, sir.

8 THE HEARING EXAMINER: Okay. So first
9 of all, are there any objections to these exhibits?
10 Not hearing any, Exhibit 1 through 5 are admitted into
11 evidence.

12 (Case 24048 Exhibits 1 through 5 were
13 received evidence.)

14 Mr. Bruce, are you sure about the
15 notice in Exhibit 4, that it was timely?

16 MR. BRUCE: Well, let me look. No.
17 It's not timely, Mr. Examiner. I apologize.

18 THE HEARING EXAMINER: Okay. So when
19 would it be timely?

20 MR. BRUCE: It should have been --
21 March 7th. And I don't know what happened because I
22 had other stuff submitted on the same date to the
23 newspaper that was timely published. So if I need to
24 continue these for two weeks and Mr. Lowe has some
25 questions, I'll make sure that the landman is

1 available for that hearing.

2 THE HEARING EXAMINER: That sounds like
3 the way we're going to handle this. So then all four
4 cases will be continued because the affidavit of
5 publication is not timely?

6 MR. BRUCE: Correct.

7 THE HEARING EXAMINER: Okay. Very
8 good. Okay. Let me take some notes here before we
9 move on. So the docket we will put these on will be
10 the very busy April 4 docket. Let's do this. Let's
11 do this. Let's admit the other -- let's admit the
12 exhibits in all four cases today, so that there's less
13 to do.

14 MR. BRUCE: Okay.

15 THE HEARING EXAMINER: So that there's
16 less to do in April, and then we'll come back on the
17 record so that you can attest to the fact that the
18 notice is timely and Mr. Lowe or whoever we have at
19 that time can ask Mr. Cullen any questions that they
20 may have.

21 MR. BRUCE: Thank you.

22 THE HEARING EXAMINER: So give me a
23 minute to make a note, and then I'm going to ask
24 you -- then we'll go over the exhibits in 24049.

25 MR. BRUCE: Sure.

1 THE HEARING EXAMINER: And you'll have
2 to file continuances to get them to the April 4
3 docket.

4 MR. BRUCE: Understood. I'll do that
5 this afternoon.

6 THE HEARING EXAMINER: Is Exhibit 4 in
7 each of the cases, is it the notice that needs to be
8 cured?

9 MR. BRUCE: Yes, sir.

10 THE HEARING EXAMINER: Okay. So let's
11 do 24049. What exhibits do you have for me?

12 MR. BRUCE: Mr. Examiner, in this case,
13 Mewbourne seeks to force pool the south half, south
14 half of Section 11, 24 South, 28 East for a Bone
15 Spring well, the Journey Bone Spring Well. There is
16 not an existing order. Again, the only party being
17 pooled is Boys Club of America, which has received the
18 actual notice.

19 (Case 24049 Exhibit 1 was marked for
20 identification.)

21 And the landman's exhibits, the plat,
22 the summary of interest, the communications, the
23 proposal letter, and then AFE.

24 (Case 24049 Exhibit 2 was marked for
25 identification.)

1 And I got to tell you this afflicts two
2 cases -- this case plus 24051. I am missing the AFE
3 in this exhibit package. I received them late
4 yesterday. And so I will file a revised exhibit --
5 complete revised exhibit package in those cases, just
6 so the AFE is in there.

7 THE HEARING EXAMINER: And that's
8 Exhibit 2D?

9 MR. BRUCE: 2D, yes, sir.

10 THE HEARING EXAMINER: So 2D is
11 currently not in your exhibit packets for this case
12 and for '51. So you're going to file an amended
13 exhibit. So that means you're going to file
14 everything again, but you're going to have --

15 MR. BRUCE: Yes, sir.

16 THE HEARING EXAMINER: -- but you're
17 going to have a 2D?

18 MR. BRUCE: Correct.

19 THE HEARING EXAMINER: Okay.

20 MR. BRUCE: And I will get those filed
21 maybe this afternoon, but certainly by tomorrow
22 morning.

23 THE HEARING EXAMINER: Okay.

24 MR. BRUCE: And then in this one since
25 there was no geology, there's a geologist's affidavit

1 from Tyler Hill, who has also been qualified
2 previously by the division as a geologist.

3 (Case 24049 Exhibit 3 was marked for
4 identification.)

5 It contains the usual structure map,
6 isopach and cross section showing that the zone is
7 continuous across the well unit. There's also a
8 production chart, Exhibit 3D, which shows other
9 section and first Bone Spring wells in this area and
10 gives all of the production data as well as the
11 horizontal drilling program.

12 The modus exhibit -- Exhibit 4 is
13 identical to in the prior case, as is the affidavit of
14 publication, Exhibit 5.

15 (Case 24049 Exhibit 4 and Case 24049
16 Exhibit 5 were marked for
17 identification.)

18 And then Exhibit 6 is the application
19 and proposed notice.

20 (Case 24049 Exhibit 6 was marked for
21 identification.)

22 And so I would move the admission of
23 Exhibit 1, the pooling checklist; Exhibit 2, the
24 landman's affidavit plus subparts which will be
25 corrected by tomorrow; Exhibit 3, the geologist's

1 affidavit; Exhibit 4, the affidavit of mailing, plus
2 subparts; and Exhibit 5, the affidavit of publication;
3 and Exhibit 6, the application and proposed notice.

4 THE HEARING EXAMINER: So Mr. Cullen
5 and Mr. Hill will both be available on April 4 for any
6 questions?

7 MR. BRUCE: That is correct.

8 THE HEARING EXAMINER: Okay.

9 MR. BRUCE: Mr. Hill is only involved
10 in 24049 and 24051, but of course, he has knowledge of
11 the geology and all the matters.

12 THE HEARING EXAMINER: Right. And both
13 of those cases are being continued because -- for
14 multiple reasons, but one of the reasons is he's not
15 present.

16 So okay. So I'm going to -- since
17 I don't hear any objections to those exhibits, I'm
18 going to admit your exhibits into evidence, knowing
19 that you are going to be filing an amended exhibit
20 packet to add Exhibit 2D. We're going to come back on
21 the record in this case and '51 that we just spoke
22 about.

23 (Case 24049 Exhibits 1 through 6 were
24 received into evidence.)

25 Let's go onto '50.

1 MR. BRUCE: Yes, Mr. Examiner. This is
2 another case where there is an existing order --
3 pooling order R-21902, which pools the south half of
4 Section 11, south half of Section 12, 24 South, 28
5 East, for the Purple Sage Wolfcamp gas well.

6 Again, only seeking to force pool the
7 Boys Club of America. And so this exhibit packet
8 pretty much identical to case 24048. Exhibit 1 is the
9 prior order.

10 (Case 24050 Exhibit 1 was marked for
11 identification.)

12 Exhibit 2 is the landman's affidavit
13 with the usual exhibits.

14 (Case 24050 Exhibit 2 was marked for
15 identification.)

16 Exhibit 3 is the affidavit of mailing,
17 identical to the other cases.

18 (Case 24050 Exhibit 3 was marked for
19 identification.)

20 Exhibit 4 is the affidavit of
21 publication, which again needs an extra day on it to
22 cure the defect of publication.

23 (Case 24050 Exhibit 4 was marked for
24 identification.)

25 And Exhibit 5 is the application and

1 proposed notice.

2 (Case 24050 Exhibit 5 was marked for
3 identification.)

4 And I would move the admission of
5 Exhibits 1 through 5 plus subparts if any.

6 THE HEARING EXAMINER: Are there any
7 objections? Exhibits 1 through 5 are admitted into
8 evidence.

9 (Case 24050 Exhibits 1 through 5 were
10 received into evidence.)

11 We will continue this case to April 4
12 for all the reasons we previously stated.

13 Let's finish with number '51.

14 MR. BRUCE: Yes, Mr. Examiner. In this
15 case, this is for compulsory pooling. There is no
16 prior order. In this case, Mewbourne seeks to force
17 pool the south half of 11, for 24 South, 28 East.
18 Again, only the Boys Club of America is being pooled.
19 And so this exhibit package is quite identical to case
20 24049.

21 (Case 24051 Exhibit 1 was marked for
22 identification.)

23 There's the landman's affidavit,
24 containing the various exhibits.

25 //

1 (Case 24051 Exhibit 2 was marked for
2 identification.)

3 In this one also I was missing the AFE.
4 So by tomorrow I will refile the entire exhibit
5 package including Exhibit 2D, the AFE for the well.

6 And our Exhibit 3 is the geologist's
7 affidavit, again by Tyler Hill, containing the usual
8 structure map, isopach showing that there's a lot of
9 production in this area showing that zone of interest,
10 the Wolfcamp is continuous across this area. There's
11 also Wolfcamp production plat showing all the wells in
12 the area and then the horizontal drilling plan.

13 (Case 24051 Exhibit 3 was marked for
14 identification.)

15 Again, the mailing exhibit and the
16 affidavit of publication are identical to in the prior
17 cases.

18 (Case 24051 Exhibit 4 and Case 24051
19 Exhibit 5 were marked for
20 identification.)

21 And then Exhibit 6 is the application
22 and proposed notice.

23 (Case 24051 Exhibit 6 was marked for
24 identification.)

25 So I would move the admission of

1 Exhibits 1 through 6 plus subparts, if any, and I will
2 have the witnesses available on April 4th if there are
3 any questions. And I will file the revised exhibit
4 package in this case by tomorrow.

5 THE HEARING EXAMINER: Okay. Thank
6 you, Mr. Bruce. Are there any objections to these
7 exhibits? Exhibits 1 through 6 are admitted into
8 evidence.

9 (Case 24051 Exhibits 1 through 6 are
10 admitted into evidence.)

11 Mr. Bruce, when you file an amended
12 exhibit packet, please include a cover letter, so that
13 whoever looks at it knows why you're filing an amended
14 exhibit packet.

15 MR. BRUCE: Okay. I will file that up
16 front in front of Exhibit 1, if that's okay.

17 THE HEARING EXAMINER: Perfect. That's
18 perfect. Okay, Mr. Bruce, anything else on these
19 cases before we continue them?

20 MR. BRUCE: No, sir.

21 THE HEARING EXAMINER: Okay. Then we
22 will move on. Thank you.

23 Let's go to 24172, Steward Energy.

24 MS. MCLEAN: Good morning,
25 Mr. Examiner, Jackie McLean from Hinkle Shanor on

1 behalf of Steward Energy.

2 THE HEARING EXAMINER: And are you
3 presenting by affidavit?

4 MS. MCLEAN: Yes, we are.

5 THE HEARING EXAMINER: And are these
6 consolidated with -- is this consolidated with '73?

7 MS. MCLEAN: That's correct.

8 THE HEARING EXAMINER: Okay. Please
9 proceed.

10 MS. MCLEAN: Thank you. In case number
11 24172, Steward --

12 MR. BRUCE: Mr. -- Mr. Examiner --

13 MS. MCLEAN: Oh, and I believe we do
14 have an entry of appearance. Sorry.

15 THE HEARING EXAMINER: Yes, sir.

16 MR. BRUCE: Mr. Examiner, Jim Bruce
17 representing Mewbourne Oil Company. I do not object
18 to presenting the case by affidavit, and I will have
19 no questions regarding the exhibits.

20 THE HEARING EXAMINER: Okay. Thank
21 you, sir. Ms. McLean.

22 MS. MCLEAN: Thank you. And thank you,
23 Mr. Bruce.

24 MR. RANKIN: Also, Mr. Examiner, Adam
25 Rankin with the office of Holland & Hart appearing on

1 behalf of Fasken Oil in these cases.

2 THE HEARING EXAMINER: And will you
3 have any objections to --

4 MR. RANKIN: No objections to the cases
5 proceeding at this time.

6 THE HEARING EXAMINER: And have you
7 reviewed the exhibits?

8 MR. RANKIN: I have not yet, but I
9 will --

10 THE HEARING EXAMINER: Okay.

11 MR. RANKIN: -- while she goes through
12 them.

13 THE HEARING EXAMINER: All right. So
14 you may have objections. We don't know. Okay.
15 Ms. McLean.

16 MS. MCLEAN: Thank you. It's a mystery
17 to us all. In case number 24172, Steward seeks an
18 order pulling all uncommitted interest within the
19 San Andres formation underlying a 320-acre more or
20 less standard overlapping horizontal spacing unit,
21 comprised of the east half, west half of Sections 10
22 and 15, Township 13 South, Range 38 East in Lea
23 County. And Steward seeks to dedicate this unit to
24 the Blue Sky Fee 4H well.

25 Then in case number 24173, Steward

1 seeks an order pulling all uncommitted interests again
2 within the San Andres formation underlying a 320-acre
3 more or less standard overlapping horizontal spacing
4 unit, comprised of the west half, west half of
5 Sections 10 and 15, Township 30, 13 South, Range 38
6 East, in Lea County. And this unit will be dedicated
7 to the Blue Sky Fee 6H well.

8 And the Blue Sky Fee 4H and 6H units
9 will partially overlap with the spacing unit for the
10 Huell Fee Number 5H well and the Lawyer Up Fee
11 Number 5H well.

12 The exhibit packets submitted to the
13 division for case numbers 24172 and 24173 include
14 Exhibit A, the land testimony of Taylor Warren and
15 accompanying land exhibit, which include a plat of
16 tract, a depiction of the overlapping spacing unit,
17 C-102s for the wells, pulled parties list, well,
18 proposal letter, AFEs and a summary of communications.

19 (Case 24172 Exhibit A and Case 24173
20 Exhibit A were marked for
21 identification.)

22 And then Exhibit B is the geology
23 testimony of Shane Seals, which include -- attached
24 exhibits include a location map, subsea structure map,
25 gun barrel diagram, and a stratigraphic cross section.

1 (Case 24172 Exhibit B and Case 24173
2 Exhibit B were marked for
3 identification.)

4 And finally, Exhibit C, the noticed
5 testimony, which includes a sample notice letter that
6 was sent to the parties to be pulled, a charting
7 setting out when the letters were sent, and when the
8 returns were received by our firm, as well as copies
9 of the certified mailed green cards and white slips,
10 and an affidavit of publication.

11 (Case 24172 Exhibit C and Case 24173
12 Exhibit C were marked for
13 identification.)

14 And I ask that Exhibits A, B, and C be
15 admitted into the record in case numbers 24172 and
16 24173. I'm happy to answer any questions you might
17 have.

18 THE HEARING EXAMINER: Thank you,
19 Ms. McLean. Is Mr. Warren and Mr. Seals available for
20 questions?

21 MS. MCLEAN: I believe that they are
22 on.

23 THE HEARING EXAMINER: Okay. Are there
24 any objections to Exhibits A, B, C?

25 UNIDENTIFIED SPEAKER: No objections --

1 although I may have a question for Ms. McLean. she
2 will be able to answer for me. Thank you.

3 THE HEARING EXAMINER: By all means.
4 Thank you. So Exhibits A, B, C, subparts to all of
5 those are admitted into evidence.

6 (Case 24172 Exhibits A, Case 24172
7 Exhibits B, and Case 24172 Exhibits C
8 were received into evidence.)

9 Mr. Lowe, are there any questions for
10 Ms. McLean's witnesses?

11 MR. LOWE: Yes. I have a few
12 questions. Well, it might be for the landman.

13 THE HEARING EXAMINER: Can you tell us
14 which witness you're directing the question to?

15 MR. LOWE: I believe it might be the
16 landman.

17 THE HEARING EXAMINER: Mr. Warren then?
18 Okay. Mr. Warren, we need to get you sworn in.

19 MR. WARREN: This is Taylor Warren.

20 THE HEARING EXAMINER: Can you turn
21 your camera on?

22 THE REPORTER: Please raise your right
23 hand.

24 //
25 //

1 WHEREUPON,

2 TAYLOR WARREN,

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

6 THE REPORTER: Please proceed,
7 Mr. Lowe.

8 DIRECT EXAMINATION

9 BY MR. LOWE:

10 Q Okay. Good morning, Mr. Warren.

11 A How are you doing?

12 Q I'm doing fine. I have a few questions
13 pertaining -- I'm not too sure -- it's in reference to
14 the statements in your exhibits, of your application,
15 number 7. It states, "The pooling interest will avoid
16 the drilling of unnecessary wells, prevent waste, and
17 protect correlative rights." How is that going to be
18 done pertaining to this case for this well?

19 A Well, instead of drilling two 1-mile wells,
20 which are currently borderline uneconomic, it would be
21 improving the economics in drilling one 2-mile well.

22 Q Okay. Okay. And the space in this case
23 here 24172, this horizontal spacing unit is the east
24 half of the west half of two sections. That would be
25 Section 10 and 15; right?

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1 A That's correct.

2 Q And a total acreage of 320 acres?

3 A That is correct.

4 Q Okay. In 8C of your application, there's --
5 well, it references this well. Is the well number 4H
6 well the initial well?

7 A No. The -- the -- yes. In this case, the
8 initial well would be the Blue Sky Fee 4H.

9 Q Okay. Okay.

10 A There -- there would be two separate
11 overlapping units. Both would be initial wells. One
12 would be the 4H, and then the other one would be the
13 Blue Sky -- the 6H.

14 Q Okay. So the 6H one that you verbalized
15 just now, is it going to be in the same horizontal
16 spacing unit?

17 A No. The -- they are different. So the --
18 the Blue Sky Fee 6H would be in the west half, west
19 half of Section 10 and the east -- yeah, and then the
20 west half, west half of Section 15. The 4H -- the
21 Blue Sky 4H is in the east half of the west half of
22 section 10 and the east half and west half of
23 section 15.

24 Q So the --

25 MS. MCLEAN: And Mr. Lowe, just to

1 clarify, the 6H is for case number 24173.

2 MR. LOWE: Yes, yes.

3 BY MR. LOWE:

4 Q But I was just referencing this particular
5 horizontal spacing unit, and that's going to be the
6 only well, the 4H, in this well for now, or you
7 mean -- I'm not saying you shouldn't have anymore. I
8 just was curious to know if there's going to be
9 additional wells in this particular horizontal spacing
10 unit.

11 A We -- at -- at this time we don't believe
12 so.

13 Q Okay. Okay. Where are you at in the
14 process of this 4H well being approved in the APD
15 level?

16 A We have not submitted the C-102, I believe.

17 Q Okay. Okay. And this area in this
18 particular spacing unit, the overlapping spacing unit,
19 where is that at? Is that the entire west half?

20 A No. It -- it's not. There's -- there are
21 two individual spacing units, the 4H being one spacing
22 unit -- overlapping spacing unit, and then the 6H
23 being the other.

24 Q Okay. I saw on your application that you
25 referenced the Huell Fee well, number 5H well.

1 A Correct.

2 Q Are those -- that's what I was trying to
3 find out. Are those wells -- and that well, in
4 referencing your application, indicates that that
5 Huell Fee well 5H well, is an entire west half of
6 Section 15.

7 MS. MCLEAN: Mr. Lowe, I think I could
8 be of some assistance here. If you look at Exhibit A3
9 that's in our exhibit packet, page 14 of the PDF, that
10 includes a depiction of where this Blue Sky Fee 4H
11 spacing unit is in relation to the Lawyer Up and Huell
12 Fee spacing unit, that it's overlapping.

13 So if you see on that Exhibit A3, the
14 blue -- which is in section 10 -- is where the Lawyer
15 Up Fee spacing unit is, and that's in the west half of
16 section 10. And then the Huell fee is in the west
17 half of Section 15.

18 So it shows there exactly where those
19 overlapping spacing units are in relation to the new
20 Blue Sky Fee 4H spacing unit.

21 BY MR. LOWE:

22 Q Okay. And the Huell Fee and the Lawyer --
23 well, yeah, the Huell Fee and the Lawyer Up wells, are
24 they going to be in the same pool and formation, right
25 as the current one for this case?

1 A That is correct.

2 Q Okay. And who owns those wells?

3 A Steward Energy is the operator. We own the
4 majority of the work interest. I'm not sure our --
5 our exact ownership, but it's -- it's the vast
6 majority.

7 MR. LOWE: Okay. Okay. Okay. Well,
8 that concludes my questioning then.

9 THE WITNESS: Okay.

10 MR. LOWE: Thank you.

11 THE HEARING EXAMINER: Okay. Thank
12 you, Mr. Lowe. Mr. Rankin?

13 MR. RANKIN: Thank you, Mr. Examiner.

14 Ms. McLean, it looks like you do not
15 have Fasken Oil as a working interest on the exhibits
16 in either of the spacing units; is that correct?

17 MS. MCLEAN: That's correct.

18 MR. RANKIN: Thank you. No further
19 questions.

20 THE HEARING EXAMINER: Well,
21 Mr. Rankin, is Fasken Oil supposed to be?

22 MR. RANKIN: No. Just confirming. We
23 had gotten notice and wanted to confirm that we were
24 not actually an interest owner in the spacing unit.
25 And that has been accomplished today. Thank you.

1 THE HEARING EXAMINER: Okay. Okay.
2 Mr. Lowe, I'm going to take this case under
3 advisement, unless I hear an objection from you.
4 Okay. Case 24172 is taken under advisement.

5 Let's look at 24173. Thank you, sir.
6 Now, I think you presented that case as well. So let
7 me just admit those exhibits into evidence.

8 Mr. Lowe, you didn't have any separate
9 questions for 24173; did you?

10 MR. LOWE: For these 24173? I think
11 that's the proper case, is it not, Ms. McLean?

12 MS. MCLEAN: That's correct.

13 THE HEARING EXAMINER: Yes, sir.
14 24173, did you ask the questions to the landman for
15 both cases or just for one case?

16 MR. LOWE: Well, my questions was for
17 the initial case, the previous case.

18 THE HEARING EXAMINER: Yes. Yes.

19 MR. LOWE: It was for that. The
20 majority was for that case only. I have a few
21 questions -- here.

22 THE HEARING EXAMINER: Okay. Let me
23 get these exhibits entered into evidence, and then you
24 can ask your questions.

25 MR. LOWE: Okay.

1 THE HEARING EXAMINER: Are you going to
2 be asking the same person who is under oath still,
3 Mr. Warren?

4 MR. LOWE: I believe so. It pertains
5 to notice.

6 THE HEARING EXAMINER: Perfect.
7 Ms. McLean, are you going to answer the questions as
8 to the notice?

9 MS. MCLEAN: I probably will unless
10 there's something unique.

11 THE HEARING EXAMINER: All right. We
12 have Exhibits A, B, and C. Mr. Rankin, any objection?

13 MR. RANKIN: No objection.

14 THE HEARING EXAMINER: Okay. Exhibits
15 A, B, C and their subparts are admitted into evidence.

16 (Case 24173 Exhibits A, Case 24173
17 Exhibits B, and Case 24173 Exhibits C
18 were received into evidence.)

19 Mr. Lowe, your questions, please.

20 MR. LOWE: Okay. My question pertains
21 to page 33 through 43 of their entire exhibit packet.

22 THE HEARING EXAMINER: Mr. Warren, do
23 you want to turn your camera back on?

24 Okay. Mr. Lowe?

25 //

1 DIRECT EXAMINATION

2 BY MR. LOWE:

3 Q Okay. Mr. Warren, reviewing those exhibits,
4 I saw that there were ten return-to-sender notices
5 indicating different -- ten individuals. Were those
6 people notified?

7 A They were notified to the -- to the best
8 known address that we've been able to locate for them.
9 We have -- in this area, we have several unlocatable
10 owners that appear through title that have been since
11 lost to history that we've tried to locate to the best
12 of our ability.

13 MS. MCLEAN: And then we also publish
14 notice in the Hobbs News-Sun on February 13th and
15 included all of the parties that are in that
16 spreadsheet in Exhibit C3 or C2, sorry. And so we
17 accomplished notice through publication as well for
18 those parties that were return to sender.

19 MR. LOWE: Okay. And that notice in
20 the paper -- in the Hobbs newspaper, you indicated
21 that, you know, if they had any objections or concerns
22 they would've indicated in the notice that this
23 hearing was going to happen today at this time.

24 MS. MCLEAN: That's correct. And
25 that's all set out, and we included a copy of the

1 publication notice as Exhibit C4. And it has all the
2 information about it being in-person and virtual
3 hearing. So they would have that information.

4 THE HEARING EXAMINER: What page number
5 is that in the PDF?

6 MS. MCLEAN: It's the last page, 181 of
7 the PDF.

8 THE HEARING EXAMINER: Thank you.

9 MR. LOWE: Okay. And in this
10 particular case, 24173, is referenced to the Blue Sky
11 Fee well number 6H; right?

12 MR. LOWE: Correct.

13 MR. LOWE: Okay. All right. I just
14 want to get clarity on that one then. Those are all
15 my questions. Thank you very much.

16 THE HEARING EXAMINER: Okay. Mr. Lowe,
17 can we take this case under advisement?

18 MR. LOWE: I believe so.

19 THE HEARING EXAMINER: Okay.
20 Ms. McLean, this case is taken under advisement.

21 MS. MCLEAN: Thank you.

22 THE HEARING EXAMINER: Thank you.

23 Let's move on to the next case. It is case
24 number 24188, Marathon Oil.

25 MS. BENNETT: Good morning,

1 Mr. Examiner. Deana Bennett on behalf of Marathon Oil
2 Permian, LLC.

3 THE HEARING EXAMINER: Thank you. Are
4 you prepared to move forward with your affidavit
5 hearing?

6 MS. BENNETT: Yes, I am.

7 THE HEARING EXAMINER: Please proceed.

8 MS. BENNETT: Thank you very much. In
9 case number 24118 [sic], Marathon seeks an order from
10 the division for compulsory pooling to pool
11 uncommitted interests in a standard 960-acre spacing
12 unit in Eddy County, New Mexico. And Marathon is also
13 seeking -- to the extent necessary -- approval of an
14 overlapping spacing unit.

15 On Tuesday, we timely filed Exhibits in
16 case 24188, and our exhibits contain a table of
17 contents, and then Tab A is the compulsory pooling
18 checklist.

19 (Case 24188 Exhibit A was marked for
20 identification.)

21 Tab B is the affidavit of Samuel Cox, a
22 land professional with Marathon who has previously
23 testified before the division, and his credentials
24 have been accepted as a matter of record.

25 //

1 (Case 24188 Exhibit B was marked for
2 identification.)

3 Tab C is the affidavit of Greg
4 Buratowski. Mr. Buratowski is a geologist for
5 Marathon, and he's previously testified before the
6 division, and his credentials have been accepted as a
7 matter of record.

8 (Case 24188 Exhibit C was marked for
9 identification.)

10 And behind his affidavit are the usual
11 suite of exhibits, and he prepared two geology studies
12 for this case because there are First Bone Spring and
13 Second Bone Spring wells.

14 And then finally, Tab C -- excuse me --
15 Tab D is my declaration showing that notice of this
16 hearing was timely mailed and timely published, and
17 includes the mailing list, the certified mailing
18 tracking, and the affidavit of publication.

19 (Case 24188 Exhibit D was marked for
20 identification.)

21 So with that, I would ask that the
22 exhibits in case 24188 be admitted into the record.

23 THE HEARING EXAMINER: Are there any
24 objections? Tabs A, B, C, D, and the exhibits behind
25 each one are admitted into evidence.

1 (Case 24188 Exhibits Tab A through Tab
2 D were received into evidence.)

3 Mr. Lowe, do you have any questions for
4 Ms. Bennett's witnesses?

5 MR. LOWE: Yes, I do.

6 THE HEARING EXAMINER: Okay. Which
7 witness are you going to question?

8 MR. LOWE: I believe it will be the
9 landman.

10 THE HEARING EXAMINER: Mr. Cox? Okay.
11 Mr. Cox, we need to get you sworn in.

12 MR. COX: I'm here. Can you guys hear
13 me?

14 THE REPORTER: Yes. Please raise your
15 right hand.

16 WHEREUPON,

17 SAMUEL COX,
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 REPORTER: Mr. Lowe?

22 DIRECT EXAMINATION

23 BY MR. LOWE:

24 Q Good morning, Mr. Samuel Cox. How are you?

25 A I'm doing well, sir.

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1 Q Okay. I have a -- my first question
2 pertains to the C-102. Of these wells -- you have
3 three wells for this case; is that correct?

4 A I believe we have four, sir.

5 Q Okay. Four, yeah. Okay. And these wells,
6 are the Trojan Shield Federal Com wells?

7 A Yes, they are.

8 Q Okay. And they are -- the horizontal
9 spacing for these wells are basically located in the
10 west half of three sections; right?

11 A That's correct.

12 Q And these sections are composed as lots as
13 well, too, it appears --

14 A Yes, sir.

15 Q -- for a total acreage of 959.17 acres?

16 A That is correct, sir.

17 Q Okay. Looking at your C-102s for each of
18 these wells, it appears that the well number 301H
19 looks like is your defining well that will create the
20 larger spacing unit? I don't know if you indicated
21 that in your application.

22 A I'm not aware, sir, but we intend to drill
23 all four of these wells at once, basically, or not at
24 once but pad drill all four of them. I believe the
25 301 will be the first one that we spud, yes.

1 Q Okay. And all these wells are seeking to
2 pool -- Bone Springs pool; right?

3 A That's correct.

4 Q The building blocks for those pools are,
5 what?

6 A I believe that they are -- they should be
7 160 per each -- or 160, I believe, sir, but because
8 we're having four wells, we would ask for them to be
9 320. I believe that's correct.

10 Q Okay. Well, I think the building block for
11 this pool are on 40-acre building blocks. So you can
12 indicate 160 or 320 or a spacing unit, depending how
13 it's laid out. The reason why I'm asking for this is
14 the fact that -- I can open up here exhibit share. I
15 think I'm on the right page.

16 The spacing unit are lots. So it's not
17 particularly straight. Yeah. And I don't know if
18 your application indicates how the operator is
19 obtaining a larger spacing unit than required by
20 pooling formation as indicated on your application.

21 MS. BENNETT: Mr. Examiner, I might be
22 able to answer that question -- since I prepared the
23 application -- better than Mr. Cox.

24 MR. LOWE: Okay.

25 THE HEARING EXAMINER: Mr. Lowe, would

1 you let Ms. Bennett answer that question?

2 MR. LOWE: Yes.

3 MS. BENNETT: Thank you. Our
4 application is on page 12, 13, 14, and 15 of the
5 exhibit packet. And in paragraph 3 of our
6 application, we did note that the completed interval
7 for the Trojan Shield Fed Com 301H is expected to be
8 less than 330 feet from the adjoining tracts, allowing
9 for the creation of a larger spacing unit under the
10 proximity tract rule.

11 And I'm paraphrasing there, but that's
12 what paragraph 3 indicates. I hope that's helpful,
13 Mr. Lowe.

14 MR. LOWE: Verbally, yes. I'm trying
15 to find it here. I think I did see it here. And I
16 wanted to get to that point to find out, you know,
17 hear from you all to present that here that that's
18 what's going on.

19 And if that's the case is what I deduce
20 from when I'm looking at your exhibits, as mentioned,
21 this section are composed of lots. So it appears that
22 there's certain areas on your spacing unit.

23 You might want to ensure that as far as
24 it being the perforation zone being external to the
25 horizontal spacing unit is still orthodox, I guess.

1 Just to be aware of that. I'm not too sure which one
2 well that would pertain to. But basically, the outer
3 boundary located wells, you might want to keep an eye
4 out for that.

5 THE WITNESS: Yes.

6 MR. LOWE: They are encroaching then --
7 I want to know what you need to move forward with that
8 well. And also, if you could, on the C-102 for this
9 defining well, it will create the larger spacing unit,
10 it will be good to annotate the C-102 that this is a
11 defining well, so that upon the C-104 review process,
12 the reviewer will automatically know, as noted in your
13 packet, that that's what -- that creates a larger
14 spacing unit. So that's just a overall note for you
15 all in that sense.

16 BY MR. LOWE:

17 Q And were all the working interest owners
18 notified?

19 A Yes, they were, of those that we -- of those
20 that we could get a hold of, yes, sir. There were --
21 we did -- you notice -- you'll note that there were --
22 there were some that we had undeliverable, I believe.

23 Q So the ones you couldn't notify, how did you
24 notify them after that?

25 A We made several attempts to locate new

1 addresses for them. I believe it was just one party,
2 Mr. James Spiegelman, but we made several attempts to
3 notify them, of finding new addresses for them, but
4 were unable to locate an address for them.

5 MS. BENNETT: And Mr. Examiner, if I
6 could elaborate on that. We did publish due to the
7 fact that there were -- well, we always publish out of
8 an abundance of caution -- but that would address
9 Mr. Lowe's question about how we concluded notice with
10 respect to an unlocatable party.

11 THE HEARING EXAMINER: Mr. Lowe, did
12 you hear that?

13 MR. LOWE: Yes, sir. That's what I was
14 trying to get to my side of here.

15 THE HEARING EXAMINER: Okay.

16 MR. LOWE: Well, I just needed to know,
17 like, you did all you needed to do try to get
18 notification of all working interests pertaining to
19 this case then. And I think, yeah, that concludes my
20 questions. Thank you, Mr. Cox.

21 THE WITNESS: Thank you, sir.

22 MS. BENNETT: Mr. --

23 THE HEARING EXAMINER: Ms. Bennett,
24 we'll take this case under advisement.

25 MS. BENNETT: Thank you. May I just

1 make one clarification for the record? Mr. Cox
2 mentioned that the building blocks in this may be 160
3 or 320, and Mr. Lowe said they're 40, and either way
4 it doesn't really matter because we are stringing
5 together a series of standard blocks, except for the
6 locks [ph].

7 But I did just want to clarify that
8 this is a 40-acre -- it's an oil pool with 40-acre
9 building blocks which is what is noted in our
10 compulsory pooling checklist.

11 THE HEARING EXAMINER: Okay.

12 MS. BENNETT: Thank you.

13 THE HEARING EXAMINER: Thank you,
14 Ms. Bennett. Let's take a five-minute recess. It is
15 10:05 a.m. We'll come back on the record at 10:10
16 with case number 24208. It is number 26 on our
17 docket.

18 We have approximately 30 more cases to
19 hear by affidavit. I'm hoping that we can start
20 speeding this up a little bit, especially when we have
21 consolidated cases. Maybe they can be presented
22 together. Okay, thank you.

23 (Off the record.)

24 THE HEARING EXAMINER: Okay.

25 Ms. McLean, we're going back on the record.

1 It is 10:11 a.m. on March 21st. We're
2 back on the record. I am calling 24208, E.G.L.
3 Resources. It is consolidated, it looks like with
4 '09, '10, and '12.

5 MS. HARDY: Good morning, Mr. Examiner.
6 Dana Hardy with Hinkle Shanor on behalf of E.G.L.
7 Resources.

8 THE HEARING EXAMINER: Thank you. Are
9 there any other parties, Ms. Hardy, that you know of?

10 MS. HARDY: There are not,
11 Mr. Examiner.

12 THE HEARING EXAMINER: Okay. Can you
13 try to present these cases as a group, and then we can
14 deal with the exhibits and questions separately?

15 MS. HARDY: Absolutely.

16 THE HEARING EXAMINER: Okay, perfect.
17 Go right ahead.

18 MS. HARDY: These cases are
19 applications for a one-year extension of the drilling
20 deadline under the original pooling orders due to
21 federal permitting delays. The original orders pulled
22 two Bone Spring and two Wolfcamp standard horizontal
23 spacing units underlying the west half of Sections 22
24 and 27, Township 19 South, Range 33 East.

25 We provided in support of the

1 applications the sworn statement of affidavit -- the
2 sworn statement of landman Matthew Langhoff, who
3 supports the requested extension. We did provide
4 notice of the application and hearings to the parties
5 who were notified of the original cases. And we also
6 timely published notice.

7 Mr. Langhoff's affidavit and
8 attachments are Exhibit A.

9 (Case 24208 Exhibit A was marked for
10 identification.)

11 And my notice affidavit is Exhibit B.

12 (Case 24208 Exhibit B was marked for
13 identification.)

14 So with that, unless there are
15 questions, I would ask that the exhibits be admitted
16 and that these cases be taken under advisement. Thank
17 you.

18 THE HEARING EXAMINER: Okay. Let's
19 start with 24208. Let me take a look at the exhibit
20 packet we have. I have A and B. Are there any
21 objections to these exhibits? Not hearing any.
22 Exhibits A, B and their subparts are admitted into
23 evidence.

24 (Case 24208 Exhibit A and Case 24208
25 Exhibit B were received into evidence.)

1 Mr. Lowe, do you have any questions on
2 this case in particular?

3 MR. LOWE: I just have one question.

4 THE HEARING EXAMINER: And who --

5 MR. LOWE: Ms. Hardy, good morning.

6 THE HEARING EXAMINER: Who is the
7 question directed to.

8 MS. HARDY: Good morning.

9 MR. LOWE: It would be to probably
10 Ms. Hardy.

11 THE HEARING EXAMINER: Ms. Hardy. Go
12 right ahead.

13 MR. LOWE: Is this the first request
14 for extension?

15 MS. HARDY: It is, Mr. Examiner.

16 MR. LOWE: Okay. And once again, what
17 was the reason for the extension request?

18 MS. HARDY: Delays in the issuance of
19 federal drilling permits. The BLM just takes a long
20 time to issue permits these days.

21 MR. LOWE: And each case has one well
22 only; is that correct?

23 MS. HARDY: I believe that's correct.

24 MR. LOWE: So there's four wells here
25 that are pending BLM approval?

1 MS. HARDY: Correct.

2 MR. LOWE: Okay, thank you. Those are
3 all my questions.

4 MS. HARDY: Thank you.

5 THE HEARING EXAMINER: Okay. Mr. Lowe,
6 will you have -- does that answer your questions for
7 the other three cases as well, or do you have
8 questions for those cases?

9 MR. LOWE: I believe it's the same
10 question, and that covers it all.

11 THE HEARING EXAMINER: Okay. And you
12 feel you got a meaningful answer as to the good cause
13 question?

14 MR. LOWE: I believe so. It's
15 pretty -- yes.

16 THE HEARING EXAMINER: Okay. Okay.
17 Let me go to the next case then. We'll take this case
18 under advisement, Ms. Hardy. So 24209 is the next
19 case. Is that correct?

20 MS. HARDY: That's correct.

21 THE HEARING EXAMINER: Okay. I have
22 very similar exhibits here. I have Exhibits A and B.
23 Are there any objections? Not hearing any. Exhibits
24 A, B, and subparts are admitted into evidence.

25 //

1 (Case 24209 Exhibit A and Case 24209
2 Exhibit B were marked for
3 identification and received into
4 evidence.)

5 Mr. Lowe has already said he doesn't
6 have any additional questions in this case. This case
7 is taken under advisement.

8 Let's take a look at the next case, and
9 is that case 24210, Ms. Hardy?

10 MS. HARDY: It is, yes.

11 THE HEARING EXAMINER: Okay, thank you.
12 And I have Exhibits A and B and subparts. Are there
13 any objections? Not hearing any. Exhibits A and B
14 are admitted into evidence.

15 (Case 24210 Exhibit A and Case 24210
16 Exhibit B were marked for
17 identification and received into
18 evidence.)

19 And this case is taken under
20 advisement. I think we skip over '11, and we go to
21 '12; is that right?

22 MS. HARDY: That's correct. Someone
23 must've snuck an application in there before our final
24 application was filed.

25 THE HEARING EXAMINER: Very good. Let

1 me look at number '12. We have Exhibits A and B. Are
2 there any objections? Not hearing any. I know
3 Mr. Lowe doesn't have any specific questions that have
4 not been answered here. So Exhibits A, B, and
5 subparts are admitted into evidence.

6 (Case 24212 Exhibit A and Case 24212
7 Exhibit B were marked for
8 identification and received into
9 evidence.)

10 This case is taken under advisement.
11 Does that conclude these cases, Ms. Hardy?

12 MS. HARDY: It does. Thank you,
13 Mr. Examiner.

14 THE HEARING EXAMINER: Thank you.
15 Let's go on to the next cases, and that would be, it
16 looks like, 24211. Franklin Mountain Energy is
17 consolidated with '13. Entries of appearance?

18 MS. PENA: Good morning, Mr. Hearing
19 Examiner. Yarithza Pena with Modrall Sperling on
20 behalf of Franklin Mountain Energy.

21 THE HEARING EXAMINER: Good morning.
22 Are there any other parties that you know of?

23 MS. PENA: Not that I'm aware of.

24 THE HEARING EXAMINER: Okay. Can you
25 present these in a consolidated manner?

1 MS. PENA: I can, yes.

2 THE HEARING EXAMINER: Please.

3 MS. PENA: In case 24211, Franklin
4 seeks an order pooling all interests within a Wolfcamp
5 standard spacing unit comprised of 641.27 acres in
6 lots 1 and 2, south half, northeast quarter, and the
7 southeast quarter of irregular section 2, which is the
8 east half equivalent, and the east half of Section 11
9 in Township 20 South, Range 35 East in Lea County.

10 The spacing unit will be dedicated to
11 four Wolfcamp Tag State wells with the Tag State Com
12 803H well as the proximity tract well, which is
13 expected to be less than 330 feet from the adjoining
14 tracts to allow for a larger proposed spacing unit.

15 In case 24213, Franklin seeks a similar
16 pooling order, but in a Bone Springs standard spacing
17 unit, also comprised of 241.27 acres in the east half
18 equivalent of irregular Section 2 and Section 11 in
19 Township 20 South, Range 35 East in Lea County. This
20 one will be dedicated to seven Bone Spring Wells with
21 the Tag State 303H and 603H wells as proximity tracts.

22 We timely filed both exhibit packets on
23 Tuesday for both cases, with the standard set of
24 exhibits. Exhibits A contain the compulsory pooling
25 checklist.

1 (Case 24211 Exhibit Tab A was marked
2 for identification.)

3 Exhibits in Tab B contain the affidavit
4 of Don Johnson, the landman for Franklin who has
5 previously testified before the division, and his
6 credentials have been accepted as a matter of record.
7 Following his affidavit are the standard land exhibits
8 including the C-102 lease track map summary of
9 interest, a list of parties seeking to be pooled,
10 summary of contacts, and well proposal letters and
11 AFEs.

12 (Case 24211 Exhibit Tab B was marked
13 for identification.)

14 Exhibits in Tab C contain the affidavit
15 of Ben Kessel, the geologist for Franklin, who has
16 also previously testified before the division, and his
17 credentials have been accepted as a matter of record.
18 Following his affidavit, there is a locator map, well
19 bore schematics, and then separate structure maps,
20 cross section reference maps, stratigraphic, and
21 isopachs for each formation as well as the regional
22 stress orientation overview for each case.

23 (Case 24211 Exhibit Tab C was marked
24 for identification.)

25 And Tab D, that contains a declaration

1 of Ms. Deana Bennett with a sample notice letter, a
2 mailing list, certified mailing tracking list, and out
3 of an abundance of caution, the affidavit of
4 publication from the Hobbs News-Sun which shows that
5 we timely published on March 5th.

6 (Case 24211 Exhibit Tab D was marked
7 for identification.)

8 I also wanted to note that yesterday
9 when we were preparing for this hearing, in case
10 24211, which is the Wolfcamp cases, we realized that
11 there are two pools, and so we would need to submit
12 two separate C-102s and a revised checklist. So we
13 ask that the record be held open so we can supplement
14 with those exhibits.

15 THE HEARING EXAMINER: So you said two
16 C-102s and what else?

17 MS. PENA: A revised checklist and
18 amended affidavit of our landman.

19 THE HEARING EXAMINER: And your
20 landman, Don Johnson, and your geologist, Ben Kessel
21 are available for questions?

22 MS. PENA: They should be, yes.

23 THE HEARING EXAMINER: Okay. Very
24 good. So you're going to -- and that's just for this
25 case, the '11 case?

1 MS. PENA: Yes.

2 THE HEARING EXAMINER: Not for the '13
3 case?

4 MS. PENA: No. That is correct.

5 THE HEARING EXAMINER: And it's because
6 there's two pools?

7 MS. PENA: Yes.

8 THE HEARING EXAMINER: So we have two
9 C-102s. We're going to have a revised checklist and
10 an amended what?

11 MS. PENA: Affidavit of our landman.

12 THE HEARING EXAMINER: Okay. And how
13 will that be amended?

14 MS. PENA: Just to specify that there
15 are two pools. So right now, there's just one listed
16 on there.

17 THE HEARING EXAMINER: Okay. When you
18 submit -- and I don't know that you know this because
19 I haven't said this to you directly -- but when you
20 submit an amended exhibit packet, please include a
21 cover letter and include all of the exhibits and amend
22 the ones you need to but make it one full packet with
23 a cover letter.

24 MS. PENA: Yes.

25 THE HEARING EXAMINER: Okay. Let's get

1 these admitted into evidence. Are there any
2 objections? Okay. The Exhibits in Tab A, B, C, and
3 D, are admitted into evidence.

4 (Case 24211 Exhibits Tab A through
5 Tab D were received into evidence.)

6 Mr. Lowe, do you have any questions on
7 this case?

8 MR. LOWE: So I have a few questions.

9 THE HEARING EXAMINER: Okay. Who are
10 your questions directed to?

11 MR. LOWE: They will probably be for
12 the landman.

13 THE HEARING EXAMINER: The landman.
14 Okay. Mr. Johnson, let's get you sworn in.

15 MR. JOHNSON: Can you hear me?

16 THE HEARING EXAMINER: Yes, sir.

17 THE REPORTER: Please raise your right
18 hand.

19 WHEREUPON,

20 DON JOHNSON,

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 THE HEARING EXAMINER: Mr. Lowe.

25 //

1 DIRECT EXAMINATION

2 BY MR. LOWE:

3 Q Good morning, Mr. Don Johnson.

4 A Good morning.

5 Q As presented in the case so far, it was
6 verbalized that one of these wells is a proximity well
7 or the defining well for this to create the larger
8 spacing unit. Which one was that well?

9 A It was -- I believe it was in the -- are you
10 asking about the Bone Spring or the Wolfcamp?

11 Q Okay. That was it. Okay.

12 A Okay.

13 Q That was a, I guess, misunderstanding. I
14 saw and then it was verbalized as well, too, that
15 there needs to be some corrections done.

16 A Yeah. So we have -- we have the -- the Tag
17 State Com 303. That is a proximity well, and then the
18 603 as well. I believe the 603 will be drilled before
19 the 303, but they'll all be drilled at the same time,
20 or in -- in order of each other. So ...

21 Q Okay. And which of the wells -- you said
22 there's two pools here; right for the same spacing
23 unit?

24 A Yes. So in the Wolfcamp it's -- there's two
25 different pools.

1 Q And the spacing unit for all these wells is
2 the east half of Section 2 and 11; right?

3 A Yes.

4 Q And where is the -- let's see here -- okay.
5 Yeah, it would be best to -- it will probably be
6 clarified once the exhibits are up and are corrected.

7 THE HEARING EXAMINER: All right,
8 Mr. Lowe, do you want to -- why don't we then continue
9 this hearing so that the party can submit amended
10 exhibit packets that can be then reviewed, so you can
11 ask meaningful questions to it.

12 MR. LOWE: I believe so because right
13 now it's kind of --

14 THE HEARING EXAMINER: Okay. I
15 understand. Now, we don't have that problem with the
16 next case, do we?

17 MS. PENA: No.

18 THE HEARING EXAMINER: No, we don't.
19 Okay. So Mr. Lowe, let me take some notes here on
20 this case that we're going to continue 24211. When
21 will you have these exhibits submitted?

22 MS. PENA: We can have them on Tuesday.

23 THE HEARING EXAMINER: Got it. Okay.
24 So then I would add it to -- April 4 is busy, but I'll
25 add it to April 4 against my better judgment as long

1 as we can keep it brief.

2 MS. PENA: Can I confer with
3 Ms. Bennett?

4 THE HEARING EXAMINER: Yes.

5 MS. PENA: Would it be possible to ask
6 for a special hearing just on this brief issue, so
7 we're not bombarding the April 4th docket? And maybe
8 this can be --

9 THE HEARING EXAMINER: Mr. Lowe?

10 MS. PENA: -- something that can be
11 addressed --

12 THE HEARING EXAMINER: Mr. Lowe, are
13 you available for a virtual special hearing just to
14 conclude this one case?

15 MR. LOWE: I am fine with that.

16 THE HEARING EXAMINER: Okay. I'm fine
17 with that, too. What date are you recommending?

18 MS. PENA: Next Thursday would be
19 possible.

20 THE HEARING EXAMINER: Next Thursday is
21 the 28th of March. Freya?

22 MR. TSCHANTZ: One moment. That date
23 is fine.

24 THE HEARING EXAMINER: Okay. At
25 9 a.m.?

1 MS. PENA: Yes, thank you.

2 THE HEARING EXAMINER: Okay. We will
3 set this -- so does that mean that we need to issue a
4 prehearing order for that, or do we not, Ms. Bennett?

5 MS. BENNETT: Mr. Examiner, thank you.
6 I believe the division would not need to issue a
7 prehearing order but would need to issue a docket
8 notice.

9 THE HEARING EXAMINER: Okay, Freya, did
10 you hear that?

11 MR. TSCHANTZ: I did.

12 THE HEARING EXAMINER: Okay, very good.
13 So we have March 28, special at 9 a.m., and we need to
14 issue a docket notice, but not a prehearing order for
15 that case. And this is -- okay. And I think everyone
16 knows why we're doing this. Okay.

17 Mr. Lowe, we're going to move to 24213.
18 Do you have any questions in that case?

19 MR. LOWE: No.

20 THE HEARING EXAMINER: Okay, very good.
21 Let's get the evidence admitted 24213 so we can take
22 that case under advisement.

23 MR. LOWE: Just to reassure I'm on the
24 same page.

25 THE HEARING EXAMINER: Yes.

1 MR. LOWE: For case 24211 that's being
2 continued to March 28, after the revisions that are
3 going to be submitted by tomorrow, is that what I
4 caught? I'm --

5 THE HEARING EXAMINER: Yes. That is
6 what you caught, yes.

7 MS. PENA: I believe I said Tuesday.

8 MR. LOWE: Okay.

9 THE HEARING EXAMINER: Mr. Lowe, she
10 said Tuesday --

11 MR. LOWE: Yeah, yeah.

12 THE HEARING EXAMINER: -- and I --
13 okay.

14 MR. LOWE: And those exhibits are going
15 to be two -- that are going to be updated are two
16 C-102s, a revised checklist, and what was the other
17 one?

18 THE HEARING EXAMINER: An amended
19 affidavit of the landman.

20 MR. LOWE: Okay. All right. Thank
21 you.

22 THE HEARING EXAMINER: Okay. So now
23 I'm in case number 24213. I have here an exhibit
24 packet that incorporates tabs A, B, C, and D. Are
25 there any objections to these exhibits? Not hearing

1 any, the exhibits in tabs A, B, C, and D are admitted
2 into evidence.

3 (Case 24213 Exhibits Tab A through
4 Tab D were marked for identification
5 and received into evidence.)

6 Mr. Lowe doesn't have any questions. I
7 have no questions. This case can be taken under
8 advisement.

9 MS. PENA: Thank you.

10 THE HEARING EXAMINER: Okay, thank you.
11 Okay. We are off the record in that case. Let's move
12 on to Mack Energy 24214.

13 MS. VANCE: Good morning, Mr. Hearing
14 Examiner. Paula Vance with the Santa Fe office of
15 Holland & Hart on behalf of Chase Oil Corporation.

16 THE HEARING EXAMINER: And you're
17 presenting by affidavit?

18 MS. VANCE: Correct.

19 THE HEARING EXAMINER: Please proceed.

20 MS. VANCE: Okay. In case number
21 24212, Chase seeks to pool the uncommitted mineral --

22 THE HEARING EXAMINER: I'm sorry. I
23 have 24214. I don't have 24212.

24 MS. VANCE: Oh, did I -- I apologize.
25 That's my fault. That's a typo.

1 THE HEARING EXAMINER: '14?

2 MS. VANCE: Correct. So in case
3 24214 --

4 THE HEARING EXAMINER: Yes.

5 MS. VANCE: -- Chase seeks to pool the
6 uncommitted mineral owners in the San Andres
7 formation. The pool is WC16S27E32 and the pool code
8 is 93871. And that's underlying a standard 160-acre
9 more or less horizontal well spacing unit, comprised
10 of the west half, west half of Section 29, Township 16
11 South, Range 27 east. And that's Eddy County, New
12 Mexico.

13 And Chase seeks to dedicate this
14 spacing unit to the proposed initial Anchorage Federal
15 Com 1H well. In this case in the hearing packet, we
16 have included a copy of the application, the
17 compulsory pooling checklist, as well as the
18 self-affirmed statements of landman Derik Smith and
19 geologist Charles Sadler, both of whom have previously
20 appeared before the division, and their credentials
21 have been accepted as a matter of record, both of whom
22 are available for questions.

23 (Case 24214 Exhibit A and Case 24214
24 Exhibit B were marked for
25 identification.)

1 Mr. Smith's statement is Exhibit C and
2 includes all the standard sub-exhibits for the
3 landman, which are the C-102, a land tract map, and
4 uncommitted interest ownership breakdown, a sample
5 copy of the proposal and AFE, as well as the
6 chronology of contacts.

7 (Case 24214 Exhibit C was marked for
8 identification.)

9 This is followed by Mr. Sadler's
10 statement, which includes the geology sub-exhibits
11 including a locator map, acreage position, a project
12 area and type log, as well as subsea structure map,
13 and a cross section map and stratigraphic cross
14 section. Mr. Sadler did not observe any fault in
15 pinch-outs or other geologic impediments to the
16 horizontal drilling of this well.

17 (Case 24214 Exhibit D was marked for
18 identification.)

19 And then lastly, our Exhibit E, which
20 includes a self-affirmed statement of notice from
21 myself and a sample copy of the notice that was
22 sent -- timely sent out on March 1, 2024. And then
23 Exhibit E which is an affidavit of notice of
24 publication which was timely published on February 25,
25 2024.

1 (Case 24214 Exhibit E was marked for
2 identification.)

3 And unless there are any questions, I
4 would ask that the exhibits and sub-exhibits be
5 admitted into the record.

6 THE HEARING EXAMINER: Are there any
7 objections? Not hearing any, Exhibits, A, B, C, D,
8 and F [sic] are admitted into evidence.

9 (Case 24214 Exhibits A through E were
10 received into evidence.)

11 Mr. Lowe?

12 MR. LOWE: I have no questions.

13 THE HEARING EXAMINER: Excellent. This
14 case will be taken under advisement. Thank you,
15 Ms. Vance.

16 MS. VANCE: Thank you.

17 THE HEARING EXAMINER: Okay. Let's
18 move on to 24215, Matador. We have an objection that
19 was filed yesterday. That case was consolidated with
20 '16, '17, and '18. I don't know if the objection is
21 to all four cases or just two.

22 MS. VANCE: No.

23 THE HEARING EXAMINER: Entrance of
24 appearance, please.

25 MS. VANCE: Yes. Paula Vance with the

1 Santa Fe Office of Holland & Hart on behalf of MRC
2 Permian Company.

3 THE HEARING EXAMINER: Okay. And who
4 else do we have?

5 MS. HARDY: Mr. Examiner, Dana Hardy
6 with Hinkle Shanor on behalf of KCK Energy, LLC.

7 THE HEARING EXAMINER: Okay. Any other
8 entries?

9 MR. BRUCE: Mr. Examiner, Jim Bruce
10 representing Mewbourne Oil Company.

11 THE HEARING EXAMINER: And did you file
12 the objection?

13 MR. BRUCE: No, sir.

14 THE HEARING EXAMINER: Ms. Hardy?

15 MS. HARDY: Mr. Examiner, I filed the
16 objection, but since we filed, KCK and MRC have
17 reached an agreement whereby KCK will not be pooled.
18 So I am now withdrawing our objection so that
19 Ms. Vance can proceed to present these cases by
20 affidavit.

21 THE HEARING EXAMINER: Okay.
22 Ms. Vance, can you present these four cases in a
23 consolidated manner?

24 MS. HARDY: Yes, I can. And just to
25 Ms. Hardy's point, we will -- for the two cases that

1 KCK did originally object to, we will submit revised
2 hearing packets with a revised pooling exhibit,
3 dropping them from the pooling.

4 THE HEARING EXAMINER: Dropping KCK?

5 MS. HARDY: KCK.

6 THE HEARING EXAMINER: KCK. So what
7 exhibits -- when you go through your overview, will
8 you explain which exhibits need to be amended so I can
9 take notes?

10 MS. HARDY: Absolutely.

11 THE HEARING EXAMINER: Okay. Go right
12 ahead.

13 MS. HARDY: Thank you, Mr. Hearing
14 Examiner. And I believe that there was actually one
15 other entry of appearance in cases 24217 and '18.
16 Ms. Kessler.

17 THE HEARING EXAMINER: Kessler.
18 Ms. Kessler, are you around? Why don't you present
19 your cases.

20 MS. VANCE: Thank you, Mr. Hearing
21 Examiner. So in cases 24215 through 24218, MRC seeks
22 to pool the uncommitted interest in the Bone Spring
23 formation. And the pool is the Malaga Bone Spring
24 North, and the pool code is 42800. And all of the
25 facing units are in Township 24 South, Range 28 East,

1 and that's in Eddy County, New Mexico.

2 So in case 24215, MRC seeks to pool a
3 320-acre more or less horizontal well spacing unit
4 comprised of the north half, north half of Sections 9
5 and 10 and initially dedicate the spacing unit to the
6 Emmett Fed Com 11H and 121H.

7 And then in case 24216, MRC seeks to
8 pool a 320-acre more or less horizontal well spacing
9 unit, and that's comprised of the south half of the
10 north half of Sections 9 and 10, and initially
11 dedicate this spacing unit to the Emmett 10&9-24S-28E
12 RB number 112 and 122H.

13 And then in case 24217, MRC seeks to
14 pool a 320-acre more or less horizontal well spacing
15 unit comprised of the north half of the south half of
16 Sections 9 and 10, and initially dedicate this spacing
17 unit to the Prater 10&9-24S-28E RB 113H and 123H.

18 And then lastly in case 24218, MRC
19 seeks to pool a 320-acre more or less horizontal well
20 spacing unit comprised of the south half, south half
21 of Sections 9 and 10 and initially dedicate this
22 spacing unit to the Prater 10&9-24S-28E RB 114H and
23 124H.

24 So in each of the hearing packets,
25 we've included a copy of the application as well as

1 provided the compulsory pooling checklist and
2 self-affirmed statements of landman, Hanna Bollenbach
3 and geologist, Daniel Brugioni, both of whom have
4 previously testified before the division, and their
5 credentials have been accepted as a matter of record.

6 (Case 24215 Exhibit A and Case 24215
7 Exhibit B were marked for
8 identification.)

9 Ms. Bollenbach's statement is Exhibit C
10 and includes all of the standard land exhibits,
11 C-102s, land tract map, list of the uncommitted
12 interest donors, and overrides that Matador seeks to
13 pool, a sample well proposal letter and AFEs, and
14 chronology of contacts.

15 (Case 24215 Exhibit C was marked for
16 identification.)

17 And then that's followed by
18 Mr. Brugioni's statement which is Exhibit D and
19 includes the locator map, subsea structure map, and
20 cross section map, and stratigraphic cross section.
21 In these cases, Mr. Brugioni did not observe any
22 faulting pinch-outs or other geologic impediments to
23 the horizontal drilling of these wells.

24 (Case 24215 Exhibit D was marked for
25 identification.)

1 And then lastly are the two notice
2 exhibits, which is Exhibit E, a self-affirmed
3 statement of notice with sample letters that were
4 timely mailed on March 1, 2024, and then the affidavit
5 of notice of publication, which is Exhibit F, and was
6 timely published on February 25, 2024.

7 (Case 24215 Exhibit E and Case 24215
8 Exhibit F were marked for
9 identification.)

10 And unless there are any questions, I
11 would ask that the exhibits and sub-exhibits be
12 admitted into the record and that the cases be taken
13 under advisement at this time.

14 THE HEARING EXAMINER: Okay.
15 Ms. Vance, which exhibits will be affected by the
16 revision?

17 MS. VANCE: Sorry. I blew right past
18 that. I apologize for that. So on cases -- in case
19 24215, if you go to page 20 of the PDF, it's
20 Exhibit C3.

21 THE HEARING EXAMINER: Okay.

22 MS. VANCE: And you'll see --

23 THE HEARING EXAMINER: That's okay.

24 MS. VANCE: Oh, okay.

25 THE HEARING EXAMINER: So that single

1 exhibit is all that will be amended?

2 MS. VANCE: For both this case, 24215,
3 and then 24216, Exhibit C3.

4 THE HEARING EXAMINER: Okay. And what
5 about --

6 MS. VANCE: Or I'm sorry, yeah. Let me
7 just make sure -- C3, yeah.

8 THE HEARING EXAMINER: And what about
9 '17 and '18?

10 MS. VANCE: We don't need to update
11 those.

12 THE HEARING EXAMINER: Okay, perfect.
13 So please provide a cover letter --

14 MS. VANCE: Mm-hmm.

15 THE HEARING EXAMINER: -- okay, so that
16 we understand what's being revised.

17 Okay. Let's deal with the exhibits
18 before we go to Mr. Lowe. In this case, 24215, I have
19 Exhibits A, B, C, D, and F. Are there any objections?
20 These exhibits are admitted into evidence.

21 (Case 24215 Exhibits A through F were
22 received into evidence.)

23 Mr. Lowe?

24 MR. LOWE: Hello, Ms. Vance.

25 MS. VANCE: Good morning, Mr. Lowe.

1 MR. LOWE: Can you clarify again to
2 what is the reason why you're replacing or updating
3 Exhibit C3?

4 MS. VANCE: So we are going to drop KCK
5 as a pooled party. So Matador is no longer seeking to
6 pool KCK. So we'll just be updating the exhibit
7 without showing that party listed as a party to be
8 pooled.

9 MR. LOWE: And they are -- okay. I had
10 a question for you on the page just before Exhibit C3.
11 It shows a map.

12 THE HEARING EXAMINER: Mr. Lowe, does
13 that mean you have a question for the landman?

14 MR. LOWE: The attorney will answer
15 this maybe.

16 THE HEARING EXAMINER: Let's try.

17 MR. LOWE: What's that map showing?

18 THE HEARING EXAMINER: It's not --

19 MS. VANCE: So that -- I'm sorry? Can
20 you please repeat the question?

21 MR. LOWE: The map, what is it telling?
22 It's 18 -- page 18.

23 MS. VANCE: So that is depicting the
24 acreage to be developed. And you can see that the
25 white acreage is federal acreage, and then I believe

1 the blue that's all fee land. But Ms. Bollenbach
2 should be on the line and may be able to confirm that.

3 MR. LOWE: Yeah, I was just curious to
4 know because I think these cases are basically talking
5 about the north half of the north half of two
6 sections, and I was just wondering why it appears
7 there's awareness of the southern portion of the north
8 half. And I just wanted to know what that was there
9 for. But I guess it's just showing all the --

10 THE HEARING EXAMINER: Mr. Lowe, do you
11 need to ask the landman this question?

12 MS. VANCE: I can answer this.

13 THE HEARING EXAMINER: You can?

14 MS. VANCE: Mm-hmm.

15 THE HEARING EXAMINER: Go ahead.

16 MS. VANCE: So both the north half,
17 north half, and the south half of the north half,
18 those are all Emmett wells, and I believe that Matador
19 was just trying to demonstrate in showing -- you can
20 see the outline of the north half, north half --

21 MR. LOWE: Yeah.

22 MS. VANCE: -- on Exhibit C2, and
23 that's corresponding to this particular case. And if
24 you went to the same exhibit, Exhibit C2 in case
25 24216, you would see that the south half of the north

1 half, that acreage is outlined.

2 So it's really just to demonstrate that
3 this is all acreage to be developed together.

4 MR. LOWE: Okay.

5 MS. VANCE: And that they're both
6 Emmett development.

7 MR. LOWE: Okay. All right. Well,
8 thank you for that clarification. That concludes my
9 questioning. Thank you.

10 THE HEARING EXAMINER: Okay. Thank
11 you, Mr. Lowe. So case number 24215 will be taken
12 under advisement after we receive the revised
13 Exhibit C3, dropping KCK as a party to be pooled.

14 Let me move on to 24216 and take a look
15 at those exhibits -- 24216. This case also needs to
16 have C3 amended as well.

17 MS. VANCE: That's correct.

18 THE HEARING EXAMINER: Okay. We have
19 Exhibits A, B, C, D, E, and F. Are there any
20 objections? Not hearing any, these exhibits are
21 admitted into evidence.

22 (Case 24216 Exhibits A through F were
23 marked for identification and received
24 into evidence.)

25 Mr. Lowe, do you have any specific

1 questions to this case?

2 MR. LOWE: No, I do not.

3 THE HEARING EXAMINER: Okay. This case
4 is taken under advisement with the same caveat that I
5 just spoke about in 24215.

6 Let's go to 24217 -- 24217. Here we
7 have an exhibit packet that does not need to be
8 amended. Ms. Vance, is that right?

9 MS. VANCE: Correct.

10 THE HEARING EXAMINER: All right. We
11 have Exhibits A, B, C, D, E, and F. Are there any
12 objections? Not hearing any, Exhibits A, B, C, D, E,
13 and F are admitted into evidence.

14 (Case 24217 Exhibits A through F were
15 marked for identification and received
16 into evidence.)

17 Mr. Lowe, are there any questions to
18 this case?

19 MR. LOWE: I do not believe so yes.

20 THE HEARING EXAMINER: Okay. This case
21 will be taken under advisement.

22 And finally, Ms. Vance, we go to 24218.
23 And I have an exhibit packet with Exhibits A, B, C, D,
24 E, F. Are there any objections? These exhibits are
25 admitted into evidence.

1 (Case 24218 Exhibits A through F were
2 marked for identification and received
3 into evidence.)

4 Mr. Lowe, do you have any questions for
5 this case? I'm not hearing --

6 MR. LOWE: I am in the midst of trying
7 to get to the C-102s right now. My computer is kind
8 of slow.

9 THE HEARING EXAMINER: Okay.

10 MR. LOWE: Give me a few seconds.

11 THE HEARING EXAMINER: While you're
12 doing that, Ms. Vance, when will you be submitting a
13 revised hearing Exhibit packet for '15 and '16?

14 MS. VANCE: Either later this afternoon
15 or tomorrow.

16 THE HEARING EXAMINER: Sounds good.
17 We'll put a deadline of Friday close of business.
18 I'll leave the record open until that time. If you
19 need more time, let me know.

20 Mr. Lowe?

21 MR. LOWE: No. I don't have any
22 questions. Thank you.

23 THE HEARING EXAMINER: Okay. We'll
24 take this case under advisement. Thank you,
25 Ms. Vance.

1 MS. VANCE: Thank you.

2 THE HEARING EXAMINER: Thank you.

3 Okay. Let's go to 24219, BTA Oil Producers. It looks
4 like it's consolidated with '20.

5 MS. MCLEAN: Yes.

6 THE HEARING EXAMINER: Ms. McLean?

7 MS. MCLEAN: Yes. Jackie McLean on
8 behalf of BTA.

9 THE HEARING EXAMINER: Please proceed.

10 MS. MCLEAN: Thank you. And I don't
11 believe there are any other parties. Oh, there are,
12 actually, yes.

13 MS. VANCE: Yeah.

14 MS. MCLEAN: There is another party.

15 MS. VANCE: Yes. Paula Vance with the
16 Santa Fe office of Holland & Hart on behalf of Matador
17 Production Company.

18 THE HEARING EXAMINER: Thank you. Any
19 objections?

20 MS. VANCE: No.

21 THE HEARING EXAMINER: Okay.
22 Ms. McLean?

23 MS. MCLEAN: Thank you. In case
24 numbers 24219 and 24220, BTA is seeking an order
25 pooling all uncommitted interest from the top of the

1 first Bone Spring formation to the base of the second
2 Bone Spring formation in the east half of Sections 11
3 and 14, Township 22 South, Range 34 East, in Lea
4 County.

5 And in case number 24129 [sic], BTA is
6 seeking to pool 320 acres comprised of the west half,
7 east half of Sections 11 and 14 and will dedicate that
8 unit to the Crazy Goat 8711 14-11 State Com number 3H
9 and 5H wells.

10 And in case number 24220, BTA is
11 seeking to pool 320 acres comprised of the east half,
12 east half of Sections 11 and 14, and seeks to dedicate
13 that unit to the Crazy Goat 8711 14-11 State Com
14 number 4H and number 6H wells.

15 The exhibit packets that were submitted
16 to the division for these cases include Exhibit A, the
17 land testimony of Regarding Barker. And the exhibits
18 attached to his testimony include the application and
19 proposed notice, C-102s for the wells, a plat of
20 tracts, ownership interest, pooled parties list, well
21 proposal letter, AFEs, and a summary of
22 communications.

23 (Case 24219 Exhibit A and Case 24220
24 Exhibit A were marked for
25 identification.)

1 Then we have Exhibit B, the geology
2 testimony of Darin Dolezal. And the exhibits attached
3 to his testimony include a project location map,
4 subsea structure map, stratigraphic cross section, and
5 gross isopach maps.

6 (Case 24219 Exhibit B and Case 24220
7 Exhibit B were marked for
8 identification.)

9 And then Exhibit C, noticed testimony
10 and it includes the notice letter sent to the one
11 party to be pooled in this case, and copies of the
12 certified mailed green card and while slip returns.

13 (Case 24219 Exhibit C and Case 24220
14 Exhibit C were marked for
15 identification.)

16 And I ask that Exhibits A, B, and C be
17 admitted into the record in case numbers 24219 and
18 24220. And I can answer any questions you might have.

19 THE HEARING EXAMINER: And your
20 witnesses are available?

21 MS. MCLEAN: Yes, sir.

22 THE HEARING EXAMINER: Okay, wonderful.
23 I see both experts have been accepted as experts in
24 their field. So we don't have to worry about that.

25 Let's see. We have in 24219 Exhibits

1 A, B, and C. Are there any objections, Ms. Vance?

2 MS. VANCE: No.

3 THE HEARING EXAMINER: Okay. These are
4 admitted into evidence.

5 (Case 24219 Exhibit A, Case 24219
6 Exhibit B, and Case 24219 Exhibit C
7 were received into evidence.)

8 Mr. Lowe, any questions for
9 Ms. McLean's witnesses on 24219?

10 MR. LOWE: I'm just trying to get a
11 clarification of the C-102s, where it's kind of small
12 on my side to verify on the, I guess, the footages
13 from the last tape point and the first tape points are
14 all 100 feet to the north and to the south. Is that
15 correct?

16 MS. MCLEAN: That's correct.

17 MR. LOWE: I just see an indication of
18 50 feet and I'm not too sure what that pertains to.

19 MS. MCLEAN: I think that's the bottom
20 hole location.

21 MR. LOWE: I think that's the bottom
22 hole. Okay. And the other one is a 20 feet, and
23 that's the kick-off point?

24 MS. MCLEAN: Yes. And then if you
25 see -- and it's small, but it says, "100 feet" kind of

1 along that line in between the east half and the west
2 half is where it has the hundred.

3 MR. LOWE: Yeah, the hundred -- hundred
4 feet. Usually, I see at times the first tape to last
5 tape point, footages annotated on within a map
6 adjacent to, you know, the -- in this case it has lat,
7 long on there. And usually I see footages as well,
8 too. Just to clarify what I'm seeing on the map
9 pertaining to that. But that clears that up, though.

10 Then both of these Crazy Goat wells,
11 they're both -- okay, yeah. Same pool, okay. And
12 they all have approved APDs already. Is that correct?

13 MS. MCLEAN: I am not 100 percent sure.
14 I think Mr. Barker is on. He could probably answer
15 that question.

16 THE HEARING EXAMINER: Mr. Barker,
17 let's get you sworn in.

18 THE REPORTER: Please raise your right
19 hand. I can't hear you there, sir.

20 MR. LOWE: Well, just to repeat, do
21 these wells have a --

22 THE HEARING EXAMINER: Mr. Lowe, he
23 hasn't been sworn in yet. He hasn't turned on his
24 microphone yet.

25 Let's take a five-minute break. It's

1 10:50. We'll come back on the record at 10:55 while
2 they work out the audio.

3 (Off the record.)

4 THE HEARING EXAMINER: Okay. It is
5 10:54. We're back on the record. We're going to
6 swear you in again, sir.

7 THE REPORTER: Please raise your right
8 hand.

9 WHEREUPON,

10 REX D. BARKER,
11 called as a witness and having been first duly sworn
12 to tell the truth, the whole truth, and nothing but
13 the truth, was examined and testified as follows:

14 THE REPORTER: Thank you.

15 THE HEARING EXAMINER: Will you state
16 your name for the record, please?

17 THE WITNESS: Rex Barker.

18 THE HEARING EXAMINER: Thank you.

19 Mr. Lowe?

20 DIRECT EXAMINATION

21 BY MR. LOWE:

22 Q Good morning, Mr. Barker.

23 A Good morning.

24 Q I've just got a quick question. Are wells
25 pertaining to this case, do they both have an approved

1 APD?

2 A Would you restate that, please?

3 Q For the two wells pertaining to this case,
4 do they have an approved APD?

5 A I'm -- I'm still not catching the -- the
6 question.

7 Q Is there an API number to associate to these
8 wells?

9 A API numbers?

10 Q Yes, sir.

11 A I --

12 Q I don't need the numbers, per se, now. I
13 just want to find out if they've got an approved API
14 number.

15 A We do.

16 Q Okay. For both wells?

17 A Yes, sir.

18 Q Okay. And the reason why I'm asking is
19 because in one of the exhibits, it only -- it shows --
20 I'm assuming when the application was noticed that one
21 of them didn't have an API number, because it only
22 shows one API number in that notice here. I mean,
23 that's a small thing, but I was just curious to know.

24 They're state wells; right?

25 A Correct.

1 MR. LOWE: Okay. Okay. Yes. That
2 concludes my questions then. Thank you.

3 THE HEARING EXAMINER: Okay. So we
4 will take case 24219 under advisement, and case 24220
5 we have Exhibits A, B, and C. Are there any
6 objections, Ms. Vance?

7 MS. VANCE: No.

8 THE HEARING EXAMINER: These Exhibits
9 are admitted into evidence.

10 (Case 24220 Exhibit A, Case 24220
11 Exhibit B, and Case 24220 Exhibit C
12 were received into evidence.)

13 Mr. Lowe, do you have any questions on
14 case number 24220?

15 MR. LOWE: I so not.

16 THE HEARING EXAMINER: Okay. This case
17 is taken under advisement. Thank you, Ms. McLean.

18 MS. MCLEAN: Thank you.

19 THE HEARING EXAMINER: Okay. Let's
20 move on to 24224. I don't think that's consolidated
21 with any case; is it?

22 MS. VANCE: No, it's not, Mr. Hearing
23 Examiner.

24 THE HEARING EXAMINER: Okay. Entries
25 of appearance, please?

1 MS. VANCE: Yes. Paula Vance with the
2 Santa Fe office of Holland & Hart on behalf of COG
3 Operating, LLC.

4 THE HEARING EXAMINER: Okay. Please
5 proceed.

6 MS. VANCE: Thank you, Mr. Hearing
7 Examiner. So in case 24224 COG seeks approval of a
8 standard 259.23 acre more or less overlapping
9 horizontal well spacing unit, pooling the third Bone
10 Spring interval. And there are two Bone Spring pools
11 involved with this, which are the Red Tank Bone Spring
12 and the pool code is 51683. And then the Diamondtail
13 Bone Spring, and the pool code for that is 17644.

14 And this spacing unit is comprised of
15 lots 1 and 2, the south half of the northeast quarter
16 in the southeast quarter of irregular Section 2.
17 That's all in basically the equivalent of the east
18 half of Section 2, and then the east half of Sections
19 11 and 14, Township 23 South, Range 32 East, and
20 that's all in Lea County, New Mexico.

21 And COG seeks to dedicate this spacing
22 unit to its initial Redtail Federal Com 602H. And in
23 this case, we have included a copy of the application,
24 the compulsory pooling checklist, which we did note
25 both of the two -- both pools. And I would also note

1 that the Redtail Federal Com 602 is a proximity well,
2 allowing for the enlarged spacing unit, and that's
3 also noted in the compulsory pooling checklist.

4 (Case 24224 Exhibit A and Case 24224
5 Exhibit B were marked for
6 identification.)

7 Then we've also included the
8 self-affirmed statements of landman Michael Monju. He
9 has not previously testified before the division, and
10 I'll just note that his resume is Exhibit C1.

11 (Case 24224 Exhibit C was marked for
12 identification.)

13 THE HEARING EXAMINER: I have it,
14 Ms. Vance. I've reviewed it. So he is hereby
15 admitted as an expert as a landman.

16 MS. VANCE: Thank you, Mr. Hearing
17 Examiner.

18 And then also the statement of
19 geologist, Ben Breyman, who has previously testified
20 before the division, and his credentials have been
21 accepted as a matter of record.

22 (Case 24224 Exhibit D was marked for
23 identification.)

24 So Mr. Monju's statement is Exhibit C,
25 and then his sub-exhibits include all the standard

1 landman exhibits.

2 THE HEARING EXAMINER: Ms. Vance?

3 MS. VANCE: Yes.

4 THE HEARING EXAMINER: I think just
5 saying that they include the standard then is fine.
6 You don't have to list each one.

7 MS. VANCE: Okay.

8 THE HEARING EXAMINER: They're right
9 here.

10 MS. VANCE: That is fine with me.

11 THE HEARING EXAMINER: Thank you.

12 MS. VANCE: So I will just note a
13 couple of things within them. So the C-102, like I
14 said, we've got two in there because we have two
15 pools. And also, this is proximity well, and you can
16 see that from the land plat -- from C-102 plats.

17 And then in Exhibit C4, the land tract
18 map and breakdown of ownership, because we're only
19 pooling the third Bone Spring, we have shown the depth
20 severance, the difference in ownership, and you can
21 see that specifically in the second Bone Spring.

22 And then moving on to Mr. Breyman's
23 statement, also includes the standard geology
24 exhibits. Mr. Breyman did not observe any faulting
25 pinch-outs or other geologic impediments to the

1 horizontal drilling of these wells.

2 And then lastly, are the notice
3 exhibits, including Exhibit E, which is the
4 self-affirmed statement from myself with a sample
5 notice letter that was timely mailed on March 1, 2024,
6 and then the affidavit of notice of publication, which
7 was timely published on February 25, 2024.

8 (Case 24224 Exhibit E and Case 24224
9 Exhibit F were marked for
10 identification.)

11 And unless there are any questions, I
12 would ask that the exhibits and sub-exhibits be
13 admitted into the record and this case taken under
14 advisement at this time.

15 THE HEARING EXAMINER: Are there any
16 objections? Not hearing any, Exhibits A, B, D, E, and
17 F are admitted into evidence.

18 (Case 24224 Exhibits A through F were
19 received into evidence.)

20 Mr. Lowe, any questions?

21 MR. LOWE: I have a few questions for
22 the attorney.

23 THE HEARING EXAMINER: For which
24 witness, Mr. Lowe?

25 MR. LOWE: For Paula Vance, maybe.

1 THE HEARING EXAMINER: Okay.

2 MR. LOWE: Or a landman.

3 THE HEARING EXAMINER: Well, which is
4 it? Is it Ms. Vance, or is it the landman?

5 MR. LOWE: Probably Paula Vance.

6 THE HEARING EXAMINER: Okay. Go ahead.

7 MR. LOWE: I just have a general
8 overall wonder of how this is going to pan out. As I
9 see the exhibits here, and you indicated that the
10 spacing unit is going to be comprised of the east half
11 of three sections; right?

12 MS. VANCE: Correct.

13 MR. LOWE: And that's going to be for
14 one well or wells, if it pans out that way. And this
15 entire spacing unit is comprised of two pools; right?

16 MS. VANCE: Correct. You can see that
17 from the C-102s which is Exhibit C2.

18 MR. LOWE: Yes. And that was
19 promptly --

20 MS. VANCE: C3. I apologize.

21 MR. LOWE: Yes. I'm just wondering how
22 this is going to pan out overall because if it wasn't
23 for that defining well, which was posted nicely in
24 your exhibits here -- thank you for that -- usually if
25 it wasn't for that defining well, this would be an NSP

1 subject matter, not pertaining to the compulsory
2 pooling, but for the larger spacing unit.

3 Usually, an NSP would cover per pool.
4 In this case, I don't know how that's going to play
5 out as far as when, I guess, Hobbs reviews the APD
6 wherever it's at in the process of these wells.

7 So that's just a concern. I was
8 wondering how that can play out. So I just want to
9 make you aware of that, how that's going to happen in
10 the future.

11 MS. VANCE: First, I would have to, you
12 know, look at the rules. But as far as I understand,
13 because this is a proximity tract, that we can use the
14 adjacent tracts to pull in and create the enlarged
15 spacing unit. And there's nothing that would require
16 an NSP. It's just we're using the proximity tracts
17 according to the statewide rules.

18 So you know, beyond that, I'm not sure
19 what the question would be or how it would play out.

20 MR. LOWE: Well, I mean what you stated
21 is correct. That's kind of how that would happen if
22 it wasn't for this defining well -- proximity tract
23 well. I just wanted to -- I'd just never seen this
24 before how it's going to move forward when it goes
25 to -- when the APD gets approved, how that's going to

1 get approved. So it's going to be -- I wonder what's
2 going to happen. That's all. That's all I'm saying.

3 Well, what you did here and what was
4 presented is correct, that that can be done. Being
5 that it covers two pools is just my wonder how that's
6 going to happen. What's going to happen with that?
7 So --

8 MS. VANCE: I'm not -- I'm sorry,
9 Mr. Lowe. Please go ahead.

10 MR. LOWE: Oh, no. I completed my
11 statement for that.

12 THE HEARING EXAMINER: Okay, great. So
13 Mr. Lowe, do you have any other questions for
14 Ms. Vance, or does that conclude your questions?

15 MR. LOWE: I'm still going through the
16 exhibits. On all the -- and pertaining to the
17 compulsory pooling effort, all the interest owners
18 were notified; correct?

19 MS. VANCE: Correct. And I will note
20 two things. One, this was an overlap, and I did
21 mention that in the beginning. We provided notice to
22 all the affected parties of the overlap. Did not
23 receive any objections, and that's covered in the
24 landman statement. So I don't think we need to ask
25 for approval on that.

1 The other thing to note -- and I
2 apologize -- I know we're trying to move a little
3 bit -- move the hearings a little bit quicker -- but
4 we have voluntary agreement from all the working
5 interest owners. And this is simply pooling the
6 overrides in this case.

7 So you'll just note that the pooling
8 exhibit, although we do provide the full breakdown of
9 the ownership for the spacing unit, you'll note that
10 the last page of the pooling exhibit, Exhibit C3, is
11 where we list the overrides that we're seeking to
12 pull. So there is no proposal -- example proposal
13 included or AFE in this.

14 MR. LOWE: Okay. From what I
15 understand I think all the concerns I have are
16 answered or brought forth. So that concludes my input
17 for this case. Thank you, Ms. Vance.

18 THE HEARING EXAMINER: Thank you,
19 Mr. Lowe. So Ms. Vance, we will take 24224 under
20 advisement. Are you presenting for 24225 as well?

21 MS. VANCE: Yes. And the next case,
22 24265 which I can present both as consolidated cases.

23 THE HEARING EXAMINER: Okay. That
24 sounds great. Do you mean 24226?

25 MS. VANCE: Yes. I --

1 THE HEARING EXAMINER: Okay. Please
2 proceed.

3 MS. VANCE: Yes. Okay. So in both of
4 these cases, the pool indicated for these is going to
5 be Wolfcamp pooling, and the pool name is Diamondtail
6 Wolfcamp, and the pool code is 17645.

7 So in case 24225 COG seeks an order
8 pooling all the uncommitted interests in the Wolfcamp
9 formation underlying a standard 479.61-acre more or
10 less horizontal well spacing unit, comprised of lot 1,
11 the southeast quarter of the northeast quarter, and
12 the east half of the southeast quarter of irregular
13 Section 2.

14 And that would be the east half, east
15 half equivalent of Section 2, and the east half, east
16 half of Sections 11 and 14, Township 23 South, Range
17 32 East, Lea County, New Mexico. And COG seeks to
18 initially dedicate this spacing unit to the Redtail
19 Federal Com 701H.

20 And then in case 24226 COG seeks an
21 order pooling all uncommitted interests in the
22 Wolfcamp formation underlying a standard 479.62-acre
23 more or less horizontal well spacing unit. And that's
24 comprised of lot 2, the southwest quarter of the
25 northeast quarter, the west half of the southeast

1 quarter of irregular Section 2. And that is the west
2 half, east half equivalent, and the west half, the
3 east half of Sections 11 and 14. And again, that's
4 all in Township 23 South, Range 32 East, Lea County,
5 New Mexico.

6 And COG seeks to initially dedicate
7 this spacing unit to the Redtail Federal Com 703H.

8 And in this case, we have provided a
9 copy of the application, the compulsory pooling
10 checklist, as well as the statements of landman
11 Michael Monju and geologist Ben Breyman, both of whom
12 have previously testified before the division. And
13 their credentials have been accepted as a matter of
14 record.

15 (Case 24225 Exhibits A through D were
16 marked for identification.)

17 So Mr. Manju's exhibit statement is
18 Exhibit C, and includes the C-102, the land tract map
19 with a list of the uncommitted interest owners that
20 COG seeks to pool, which again, is just the overrides
21 I this case. So we have not included a copy of the
22 proposal or AFE.

23 And then this is followed by the
24 chronology of contacts. And then we have
25 Mr. Breyman's statement, which is Exhibit D, and

1 includes all the standard geology exhibits. And in
2 both cases, Mr. Breyman did not observe any faulting
3 pinch-outs or other geologic impediments to the
4 horizontal drilling of these wells.

5 And then lastly are the notice
6 exhibits, which include Exhibit E, a self-affirmed
7 statement from myself with a sample letter that was
8 timely mailed on March 1, 2024.

9 (Case 24225 Exhibit E was marked for
10 identification.)

11 And then the exhibit which is the
12 affidavit of notice of publication which was timely
13 published on February 25, 2024.

14 (Case 24225 Exhibit F was marked for
15 identification.)

16 And unless there are any questions, I
17 would ask that all exhibits be accepted into the
18 record, and that these two cases be taken under
19 advisement at this time.

20 THE HEARING EXAMINER: Case 24225, are
21 there any objections. Not hearing any, these exhibits
22 are admitted into evidence.

23 (Case 24225 Exhibits A through F were
24 received into evidence.)

25 Mr. Lowe, any questions in this

1 specific case?

2 MR. LOWE: I have no questions.

3 THE HEARING EXAMINER: Okay, great.

4 This case is taken under advisement.

5 In case number 24226, we have Exhibits
6 A, B, C, D, E, and F. Are there any objections? Not
7 hearing any, these are admitted into evidence.

8 (Case 24226 Exhibits A through F were
9 marked for identification and received
10 into evidence.)

11 Mr. Lowe, are there any questions in
12 this case?

13 MR. LOWE: I have no questions. Thank
14 you.

15 THE HEARING EXAMINER: Okay. This case
16 is also taken under advisement. Thank you, Ms. Vance.

17 MS. VANCE: Thank you.

18 THE HEARING EXAMINER: We have 24227,
19 Mewbourne Oil. Mr. Bruce?

20 MR. BRUCE: Yes, sir. I'm here on
21 behalf of Mewbourne.

22 THE HEARING EXAMINER: Okay. Is this
23 consolidated, or is this just standing on its own?

24 MR. BRUCE: It's a one-off case only.

25 THE HEARING EXAMINER: Okay. Let's

1 present it.

2 MR. BRUCE: Okay. I've submitted the
3 exhibits. I would go first to Exhibit 2 [sic], which
4 is statement of Josh Anderson the landman, who has
5 previously testified before the division.

6 (Case 24227 Exhibit B was marked for
7 identification.)

8 What I am seeking is an amendment of
9 order number R-21610, which was issued in the case
10 23300. In that case Mewbourne sought to force pool
11 the west half, east half of Section 1 and also of
12 Section 12, 19 South, 32 East in Lea County for
13 purposes of drilling the Bondurant 1/12 B2B0 Fed Com
14 well number 1H.

15 Exhibit B1 is a copy of the application
16 showing that that was what was requested in the
17 application. Attached Exhibit B2 is order R-22610.
18 And if you look at that, pooling was granted, but if
19 you go back to the pooling checklist, page 2 of the
20 pooling checklist contained the wrong well number and
21 locations. That was related to a sister application
22 filed for the east half, east half of those sections.
23 And that was totally my fault.

24 In collating the exhibits, I included
25 the wrong page 2. And therefore, Mewbourne seeks to

1 amend the order so that it contains a corrected
2 pooling checklist, which is submitted as Exhibit A.

3 (Case 24227 Exhibit A was marked for
4 identification.)

5 In addition, as noted by Mr. Anderson,
6 the order expires in a little more than a week on
7 March 30, 2024. Mewbourne cannot commence the well by
8 then because there is no approved APD from the BLM,
9 and therefore no API number. And I went online just
10 about 30 minutes ago and double checked that.

11 So Mewbourne is requested a one-year
12 extension of the order to March 30, 2025, so that it
13 can get an approved APD and API number and commence --
14 timely commence the well -- properly commence the
15 well.

16 Exhibit C is the affidavit of mailing,
17 and C1 is the notice letter.

18 (Case 24227 Exhibit C was marked for
19 identification.)

20 The parties who were originally pooled
21 by the application were notified of this case. I only
22 have one green card back from WPX Energy. The other
23 two persons have not yet returned their green cards.

24 //

25 //

1 (Case 24227 Exhibit D was marked for
2 identification.)

3 I would note that in the original case
4 file, it was shown that we did receive green cards
5 from these entities or persons, so that these are
6 valid addresses. But nonetheless, Exhibit E is the
7 affidavit of publication, which shows that notice was
8 kindly published as to the interest owners. And so
9 all of the interest owners have noticed either by
10 certified mailing or by a constructive notice.

11 (Case 24227 Exhibit E was marked for
12 identification.)

13 And then Exhibit F is simply the
14 application in this case and the proposed notice.

15 (Case 24227 Exhibit F was marked for
16 identification.)

17 So I would move the admissions of
18 Exhibits A, B, C, D, E, and F and subparts, and ask
19 that the matter be taken under advisement. I did
20 contact the landman, Mr. Anderson, and I think he's
21 online if you or Mr. Lowe have any questions.

22 THE HEARING EXAMINER: Okay, thank you.
23 Let's take a look at Mr. Anderson and see -- yes, he
24 has been qualified as an expert previously.

25 Okay. Are there any objections to

1 these exhibits? No? Exhibits A, B, C, D, E, and F
2 are admitted into evidence.

3 (Case 24227 Exhibits A through F were
4 received into evidence.)

5 Mr. Lowe, do you have any questions for
6 Mr. Bruce or the landman?

7 MR. LOWE: No. No. I completed
8 exhibit reviewing. Everything seems to be in order.
9 This is just the first year -- this is the first
10 extension request. Isn't that right, Mr. Bruce?

11 MR. BRUCE: That is correct, Mr. Lowe.

12 MR. LOWE: Okay. And yeah, I have no
13 questions anymore.

14 THE HEARING EXAMINER: Thank you.
15 Mr. Bruce, this case will be taken under advisement.

16 MR. BRUCE: Thank you, sir.

17 THE HEARING EXAMINER: Let's go on to
18 Avant Operating 24228, 24229. Entries of appearance?

19 MS. BENNETT: Good morning,
20 Mr. Examiner. Deana Bennett on behalf of Avant
21 Operating, LLC.

22 THE HEARING EXAMINER: Good morning.

23 MS. BENNETT: There are no other
24 parties that I know of that have entered an appearance
25 in these cases.

1 THE HEARING EXAMINER: Please proceed.

2 MS. BENNETT: Thank you. In these two
3 cases, Avant Operating seeks an extension of time to
4 commence drilling the wells under the order. And this
5 is the first extension request from Avant. The
6 materials -- we've timely submitted exhibits, and Tab
7 A contains the affidavit of Sophia Guerra.

8 (Case 24228 Exhibit Tab A was marked
9 for identification.)

10 And she has not previously testified
11 before the division, but I did include a copy of her
12 resume for the division's convenience. Has the
13 division had the opportunity to review? No?

14 THE HEARING EXAMINER: Not yet. I
15 will.

16 MS. BENNETT: Okay. It's marked as
17 Exhibit A3 on page 19 of the PDF.

18 THE HEARING EXAMINER: Thank you. You
19 go right ahead and present your cases.

20 MS. BENNETT: Okay.

21 THE HEARING EXAMINER: And I'll do this
22 in the meantime.

23 MS. BENNETT: Thank you. So behind her
24 application, we've listed the exhibits that are
25 traditionally included in an extension application, as

1 well as the declaration of myself showing that notice
2 was sent out timely, the mailing list, the tracking
3 list, as well as an affidavit of publication.

4 (Case 24228 Exhibit Tab B was marked
5 for identification.)

6 And I will say just briefly that
7 paragraph 9 of Ms. Guerra's declaration or affidavit
8 gives a brief description of the units. And
9 paragraphs 15 through 19 describe the good cause for
10 needing the extension which, briefly stated, is that
11 Avant recently acquired this interest from Legacy and
12 is now working through the process of figuring out how
13 these wells fit into their development schedule as
14 well as the surface infrastructure necessary to
15 support these wells, and so is requesting an extension
16 of time through May 7, 2025.

17 And again, this is the first extension
18 request. With that, I would ask that the exhibit --
19 well, first I'd ask that Ms. Guerra be admitted as a
20 professional -- land professional in this matter, and
21 that her credentials be accepted as a matter of
22 record.

23 THE HEARING EXAMINER: After review of
24 the CV of Sophia Guerra, she is so admitted as a
25 landman expert.

1 MS. BENNETT: Thank you. At this time
2 then I would ask that the exhibits in cases 24228 and
3 24229 be admitted into the record. And I'm happy to
4 answer any questions.

5 THE HEARING EXAMINER: Are there any
6 objections? No? Case number 24228 I am admitting
7 Tab A and Tab B, the exhibits behind each one.

8 (Case 24228 Exhibit A and Case 24228
9 Exhibit B were received into evidence.)
10 Mr. Lowe, do you have any questions on
11 this case?

12 MR. LOWE: I have no questions. Thank
13 you.

14 THE HEARING EXAMINER: Okay, very good.
15 So this case is taken under advisement.

16 Let's look at the next one, '229.
17 Okay. I see the same expert here. We have Tab A and
18 Tab B. Are there any objections to these exhibits?
19 Not hearing any, they are admitted into evidence.

20 (Case 24229 Exhibit A and Case 24229
21 Exhibit B were marked for
22 identification and received into
23 evidence.)

24 And Mr. Lowe, do you have any questions
25 in case number 24229?

1 MR. LOWE: I have no questions.

2 THE HEARING EXAMINER: Okay. Thank
3 you, sir. Okay. Thank you, Ms. Bennett.

4 MS. BENNETT: Thank you. And just to
5 confirm, these cases will be taken under advisement?

6 THE HEARING EXAMINER: They are.

7 MS. BENNETT: Thank you so much.

8 THE HEARING EXAMINER: We have 24230
9 Ameredev Operating. Entries of appearance?

10 MS. VANCE: Yes. Hello. Good morning
11 again, Mr. Hearing Examiner. Paula Vance with the
12 Santa Fe office of Holland & Hart on behalf of
13 Ameredev Operating, LLC.

14 THE HEARING EXAMINER: Okay. Is this
15 consolidated with any other?

16 MS. VANCE: No. It's just one case.

17 THE HEARING EXAMINER: Please go right
18 ahead.

19 MS. VANCE: Thank you, Mr. Hearing
20 Examiner. So in case 24230, Ameredev is seeking an
21 extension to complete the wells under order number
22 R-22864. And with this we have included a copy of the
23 application, a copy of the original order, and then a
24 statement from landman, Lizzy Laufer, who has
25 previously testified before the division.

1 (Case 24230 Exhibit A, Case 24230
2 Exhibit B, and Case 24230 Exhibit C
3 were marked for identification.)

4 In her statement, she provides in
5 paragraph 7 an outline as to why there is good cause
6 to grant this extension for Ameredev to complete the
7 wells under the order.

8 We've also included one sub-exhibit
9 because Ameredev was able to reach voluntary agreement
10 with two of the parties it previously pooled. So
11 we've just provided a updated pooling exhibit.

12 And then we have also included the
13 notice, which is Exhibit D and includes a
14 self-affirmed statement from myself, a sample copy of
15 the notice letter that went out on March 1, 2024.

16 (Case 24230 Exhibit D was marked for
17 identification.)

18 And then lastly, a affidavit of notice
19 of publication that was timely published on
20 February 27, 2024.

21 (Case 24230 Exhibit E was marked for
22 identification.)

23 And just in brief, the good case and
24 request for the extension is related to a force
25 majeure event that took place. But they are hoping to

1 be able to move forward in the next couple of months
2 with completion of those wells.

3 And Ms. Laufer is available for any
4 questions. She's on the line. Thank you.

5 THE HEARING EXAMINER: Ms. Vance, how
6 do you define force majeure?

7 MS. VANCE: Well, however it's defined
8 under the contract between the parties. So I don't
9 have that right in front of me, but an event -- oh,
10 yeah, no, I know. Oh, yeah, yeah, yeah. No, I know
11 what took place. I'm just not going to make up my own
12 interpretation. I'm going to just say it's based on,
13 you know, how it's defined between the parties.

14 THE HEARING EXAMINER: What
15 triggered -- what I'm asking you, is you said good
16 cause was based on that --

17 MS. VANCE: Oh, okay. Sure. And
18 it's --

19 THE HEARING EXAMINER: What happened?

20 MS. VANCE: What happened?

21 THE HEARING EXAMINER: Yes.

22 MS. VANCE: Okay. I thought you were
23 asking for a general definition. Yeah, so there was a
24 fire at the facility -- the takeaway facility. Yeah,
25 there was a fire at the primary gas treating facility.

1 And so that facility is, you know, they're undergoing
2 any kind of reconstruction to get it back up and
3 running. And once it is, then Ameredev will have
4 takeaway at that point.

5 THE HEARING EXAMINER: Do we have any
6 objections to Ameredev's Exhibits A through E? Not
7 hearing any, they're admitted into evidence.

8 (Case 24230 Exhibits A through E were
9 received into evidence.)

10 Mr. Lowe?

11 MR. LOWE: I have no questions. Thank
12 you.

13 THE HEARING EXAMINER: And this case is
14 taken under advisement, Ms. Vance. Thank you.

15 MS. VANCE: Thank you, Mr. Hearing
16 Examiner.

17 THE HEARING EXAMINER: Okay. Now, we
18 have 24250 Devon Energy.

19 MR. SAVAGE: Darin Savage with Abadie
20 and Schill, appearing on behalf of Devon Energy
21 Production Company.

22 THE HEARING EXAMINER: Thank you.

23 MS. BENNETT: Good morning,
24 Mr. Examiner. Deana Bennett appearing on behalf of
25 Magnum Hunter.

1 THE HEARING EXAMINER: Have you
2 reviewed the exhibits?

3 MS. BENNETT: I have, yes. Thank you.

4 THE HEARING EXAMINER: Okay. Any
5 objections?

6 MS. BENNETT: No objections.

7 THE HEARING EXAMINER: Very good.

8 MR. RANKIN: Mr. Examiner, Adam Rankin
9 appearing on behalf of Matador Production Company, the
10 Santa Fe office of Holland & Hart. No objections at
11 this time.

12 THE HEARING EXAMINER: Thank you, sir.
13 Mr. Savage?

14 MR. SAVAGE: Thank you. Case 24250
15 covers lands in Sections 1, 2, and 3, Township 21
16 South, Range 27 East, Eddy County, New Mexico. The
17 landman Andy Bennett and the geologist, Joe Dixon.
18 Both have testified before the division as expert
19 witnesses, and the credentials have been accepted as a
20 matter of record.

21 In this case, Devon seeks an order to
22 pooling all uncommitted interest in the Bone Spring
23 formation, designated as an oil pool underlying a
24 non-standard 1,440-acre more or less spacing unit,
25 covering lots 13 through 16 and the south half of

1 Sections 1, 2, and 3.

2 The proposed unit is dedicated to three
3 initial wells, and these are the Burton Flat 3-1 Fed
4 State Com wells, and that's 335, 337, and 339. The
5 wells are orthodox. The proposed unit is
6 non-standard. And Devon has submitted previously
7 administrative application separately for approval of
8 the non-standard unit.

9 Mr. Bennett's Exhibit A for this case
10 includes his landman's self-affirmed statement, the
11 C-102s, the ownership breakdown, the well proposal
12 with AFEs, and the chronology of context.

13 (Case 24250 Tab 2 Exhibit A was marked
14 for identification.)

15 And I'd like to point out to the
16 division the background and procedural history of the
17 pooling application is somewhat unique and is
18 described in paragraph 5 of the landman's statement.

19 Mr. Dixon's Exhibit B for the case
20 includes his statement along with the five standard
21 geology exhibits showing potential for development as
22 described in his statement.

23 (Case 24250 Tab 3 Exhibit B was marked
24 for identification.)

25 And then Exhibit C is the notice

1 exhibits. Notice for mailings and publication were
2 timely. All working interest owners were locatable
3 and provided notice.

4 (Case 24250 Tab 4 Exhibit C was marked
5 for identification.)

6 And at this time, Mr. Hearing Examiner,
7 I would move that Exhibits A, B, and C and all
8 sub-exhibits be admitted into the record, and that
9 this case be taken under advisement.

10 I'm available for any questions, and
11 also Mr. Bennett and Mr. Dixon are available as well
12 online. Thank you.

13 THE HEARING EXAMINER: Perfect. Thank
14 you, sir. Tabs 1, 2, 3, and 4, and the exhibits
15 behind them. Are there any objections to receiving
16 them into evidence?

17 MS. BENNETT: No objections.

18 MR. RANKIN: No objections.

19 THE HEARING EXAMINER: Thank you.
20 These Tabs and their exhibits are admitted into
21 evidence.

22 (Case 24250 Exhibits Tab 1 through
23 Tab 4 were received into evidence.)

24 Mr. Lowe, do you have any questions for
25 Mr. Savage or his two witnesses?

1 MR. LOWE: No questions right now. I
2 just want to make you aware, Mr. Savage, that your NSP
3 applications are still pending final approval, but
4 they have moved forward post my review. I just want
5 to make you aware of that. And I think all interests
6 were probably notified. I think I can see in your
7 applications.

8 So I have no other additional questions
9 to that.

10 MR. SAVAGE: Thank you, Mr. Lowe. We
11 look forward to those NSP applications.

12 THE HEARING EXAMINER: Thank you,
13 Mr. Lowe. This case will be taken under advisement,
14 Mr. Savage.

15 I see another case on the docket. It
16 looks like there's a motion to dismiss that was filed
17 in 24251.

18 MR. SAVAGE: That is correct. The
19 motion to dismiss was filed yesterday after Devon
20 received final joinder of the working -- parties.
21 Jordan Kessler informed me that she was not going to
22 be able to make it here today, and she had no
23 objection to the case itself. And she received the
24 motion -- a copy of the motion. So I didn't hear any
25 objections on that.

1 THE HEARING EXAMINER: Just to clarify,
2 these motions to dismiss, there was a question
3 recently about who should sign these motions to
4 dismiss. I asked the law clerk to forward them on to
5 the acting division director. Is that who has signed
6 them in the past?

7 MR. SAVAGE: You know, it's
8 interesting. Some of the parties do a notice of
9 dismissal.

10 THE HEARING EXAMINER: Right.

11 MR. SAVAGE: And that gets -- we do a
12 motion to dismiss because we feel like we're asking
13 the --

14 THE HEARING EXAMINER: Right.

15 MR. SAVAGE: -- OCD to do something.
16 And if I remember right, and some of the other folks
17 may want to chime in, but I believe the hearing
18 examiner signs those.

19 THE HEARING EXAMINER: Okay. Since I
20 have been here, I have not received any. Maybe one
21 recently, but at that point, I thought, well, these
22 motions were being signed by the acting director of
23 the OCD. So does anyone else have anything to say
24 about who should sign a motion to dismiss?

25 MR. SAVAGE: I guess I would say,

1 Mr. Examiner, it may depend on whether or not it's
2 contested or not. But since it's not contested, our
3 practice generally has been -- especially when it's
4 the applicant seeking to dismiss its own case -- just
5 to give notice. But I think I'd defer to the
6 division's position on, you know, the appropriate
7 nature of who should be signing those things -- the
8 orders.

9 THE HEARING EXAMINER: What would be a
10 scenario that a motion to dismiss would be contested?

11 MR. SAVAGE: If there's a legal
12 issue -- if there's a threshold legal issue, parties
13 have filed numerous, you know, motions to dismiss
14 based on legal threshold issues.

15 Practice of the division has been to
16 often defer ruling on legal issues until after the
17 merits hearing is held, unless the division director
18 determines that it's appropriate. But most often that
19 I can think of, it's deferred until after a merits
20 hearing.

21 But here, there's no merits hearing.
22 The applicant is seeking to dismiss. I think it's
23 probably really up to the division, how they want to
24 handle that.

25 THE HEARING EXAMINER: Okay.

1 Ms. Bennet, did you have anything you wanted to say
2 about that?

3 MS. BENNETT: Thank you. I do think
4 that in the past it's typically been the director or
5 acting director who signs orders of dismissal, even if
6 they are uncontested. I was just trying to look
7 through some division dockets to see if I could find
8 that, and I wasn't able to. But that has been my
9 recollection, that it's been a division director or
10 acting director.

11 THE HEARING EXAMINER: We'll keep that
12 practice going then. Unless the division director
13 wants to give me that authority, I'll just leave it
14 alone for now.

15 Okay. So that motion to dismiss was
16 filed yesterday and there's nothing more on that case;
17 correct?

18 MR. SAVAGE: That is correct. We would
19 like it without prejudice. If we have to come back,
20 obviously, but we --

21 THE HEARING EXAMINER: That's another
22 thing that I was thinking about a week or two ago is
23 dismissals with prejudice, dismissals without
24 prejudice. And it seems to me that -- it seems to me
25 just unless parties want to brief this, that under due

1 process it would seem that they should be without
2 prejudice in the great majority of the cases.

3 MR. SAVAGE: Yeah, I have never seen
4 one with prejudice.

5 THE HEARING EXAMINER: You've never
6 seen one?

7 MR. SAVAGE: But we put the request in
8 there just to be sure.

9 THE HEARING EXAMINER: Okay.
10 Mr. Rankin?

11 MR. RANKIN: I agree.

12 THE HEARING EXAMINER: Okay.

13 MR. RANKIN: Without prejudice, yeah.

14 THE HEARING EXAMINER: Okay. And
15 Ms. Bennett?

16 MS. BENNETT: Mr. Hearing Examiner, I
17 agree that in the vast majority of cases it should be
18 without prejudice. And I apologize for my voice.

19 THE HEARING EXAMINER: Right, right.

20 MS. BENNETT: But in certain
21 circumstances, which we recently briefed, we believe
22 there are likely indications of the need to dismiss
23 with prejudice.

24 THE HEARING EXAMINER: Okay.

25 MS. BENNETT: But that would be on a

1 case-by-case basis, not contested -- uncontested,
2 excuse me.

3 THE HEARING EXAMINER: And that's what
4 I thought myself. And you said you recently briefed.
5 You don't mean that for the division. You mean for
6 the commission then?

7 MS. BENNETT: No. That's in a brief
8 that we filed that's pending before the division,
9 which I am loath to discuss today because it's not on
10 the docket.

11 THE HEARING EXAMINER: When you say
12 it's before the division, though, do you mean it's
13 before the hearing --

14 MS. BENNETT: Yes.

15 THE HEARING EXAMINER: It is?

16 MS. BENNETT: Yes.

17 THE HEARING EXAMINER: Have I received
18 it?

19 MS. BENNETT: Yes. Well, we -- just to
20 be clear, it's in the cross -- Franklin Mountain
21 Energy cross cases and you asked the parties to submit
22 post hearing briefing. And that is included in our
23 post hearing briefing in that case -- in those cases,
24 I should say.

25 THE HEARING EXAMINER: That was the

1 hearing we had a few weeks ago with Mr. Feldower [ph]?

2 MS. BENNETT: Yes, sir.

3 THE HEARING EXAMINER: I remember that.
4 Okay. Okay. Very good. Thank you for reminding me
5 of that.

6 MS. BENNETT: You're welcome.

7 THE HEARING EXAMINER: Okay. We now
8 are moving to 24261 Hilcorp Energy.

9 MR. RANKIN: Mr. Examiner, good
10 morning. I do have, actually two witnesses here in
11 person. However, they have -- I excused them for a
12 moment while I wasn't sure how fast things were moving
13 along. So I gave them the opportunity to --

14 THE HEARING EXAMINER: Mm-hmm, come
15 back to this case, if you'd like.

16 MR. RANKIN: If that's okay.

17 THE HEARING EXAMINER: It is.

18 MR. RANKIN: I think that we should be
19 able to get it done before lunch. I asked them to
20 come back. So if we can just recess these cases for a
21 moment.

22 THE HEARING EXAMINER: Let's recess on
23 24261 until the witnesses return. Have you had a
24 chance to confer with Ms. Hardy on the dates?

25 MR. RANKIN: We are still in process.

1 She's given me a couple dates, and I'm checking with
2 Apache to confirm whether those will work for them.

3 THE HEARING EXAMINER: She's there on
4 the screen. Ms. Hardy, have you had a chance to
5 discuss or to finalize a date for the contested
6 hearing?

7 MS. HARDY: We are still working on
8 that, I think.

9 THE HEARING EXAMINER: Okay. All
10 right. Okay. As long as we get it done today, that's
11 all I care about.

12 MR. RANKIN: Ms. Hardy, since you're
13 on, I just sent you a note. One question I have is
14 maybe May 3rd. I don't know from our perspective if
15 May 3rd would work. That'd be the Friday. There are
16 contested cases already set for May 2nd, and generally
17 May 3rd, the Friday, is reserved for spillover day.
18 We hadn't discussed that, but I wonder if that may be
19 something that the division may consider in this
20 situation for this particular case.

21 THE HEARING EXAMINER: If we do
22 May 3rd, then it would be a virtual hearing for me.

23 MR. RANKIN: Okay.

24 THE HEARING EXAMINER: I wouldn't be
25 here in person. So if the parties want their

1 witnesses to be here in person and prefer in person,
2 then it wouldn't be May 3rd.

3 MR. RANKIN: Okay. Let me take that
4 under advisement.

5 THE HEARING EXAMINER: Sure.

6 MR. RANKIN: And I'll get back with
7 Ms. Hardy and the client. Thank you.

8 THE HEARING EXAMINER: And which case
9 number, Mr. Rankin, are we talking about right now?

10 MR. RANKIN: For the May hearings?

11 THE HEARING EXAMINER: Yes.

12 MR. RANKIN: This is the contested case
13 between Apache and Avant. So it's case number 24141
14 for Apache, and case number 24254 for Avant.

15 THE HEARING EXAMINER: 24141 and 24254,
16 those are the cases that are in recess for now?

17 MR. RANKIN: Correct.

18 THE HEARING EXAMINER: Okay, very good.
19 Just wanted to make sure. And then we're in recess on
20 24261. Okay. All right.

21 Let's go to 24264. Oh, is this the
22 same problem?

23 MR. RANKIN: Yep.

24 THE HEARING EXAMINER: Okay. Well, we
25 won't call that case then. Let's go to 24265,

1 Crockett Operating.

2 MS. VANCE: Good morning, Mr. Hearing
3 Examiner. Paula Vance with the Santa Fe office of
4 Holland & Hart on behalf of Crockett Operating Oil
5 Company.

6 THE HEARING EXAMINER: Good morning.
7 Are there any other parties with that?

8 MS. VANCE: Not that I'm aware of.

9 THE HEARING EXAMINER: Okay. Please
10 proceed.

11 MS. VANCE: Thank you, Mr. Hearing
12 Examiner. So in this case, Crockett is seeking to
13 reopen case number 23307 to add additional mineral
14 owners under the order and also to extend the time to
15 drill under order.

16 So we have included as part of the
17 exhibit packet a copy of the application, a copy of
18 the order, which I may have already mentioned it, but
19 order R-22613.

20 (Case 24265 Exhibit A and Case 24265
21 Exhibit B were marked for
22 identification.)

23 And then we've included a statement
24 from landman Percy Engineer, who is on the line and
25 available for any questions.

1 (Case 24265 Exhibit C was marked for
2 identification.)

3 In his statement, we have -- well,
4 first, Mr. Engineer has previously testified before
5 the division, and his credentials have been accepted
6 as a matter of record. Paragraph 6 outlines the good
7 cause to request the extension which essentially
8 they've developed the offsetting acreage, and they are
9 evaluating that, as to whether or not to move forward
10 with development of this acreage.

11 We've also included some sub-exhibits
12 which include a land tract map and ownership breakdown
13 highlighting the additional parties to be pooled under
14 the order. And then we've also included a copy -- a
15 sample copy of the proposal and lease offer as well as
16 the AFE, and then a chronology of contacts.

17 And then also included is a sample copy
18 of the notice that went out for the hearing, a
19 self-affirmed statement from myself in that sample
20 notice letter which was timely mailed on March 1,
21 2024.

22 (Case 24265 Exhibit D was marked for
23 identification.)

24 And also an affidavit of notice of
25 publication which was timely published on

1 February 28, 2024.

2 (Case 24265 Exhibit E was marked for
3 identification.)

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

8 THE HEARING EXAMINER: Okay, thank you.
9 I was looking at the self-affirming statement of Percy
10 Engineer, and there we go. Okay. Okay. We're back
11 on track there. I saw what I needed to see.

12 So are there any objections to
13 Exhibits A, B, C, D, and E? Not hearing any, they're
14 admitted into evidence.

15 (Case 24265 Exhibits A through E were
16 received into evidence.)

17 Mr. Lowe, do you have any questions for
18 Ms. Vance or her witness, Percy Engineer?

19 MR. LOWE: I am trying to look for
20 questions, but my internet is kind of slow today. I
21 don't know why. But I'm finally opening up the
22 exhibits. You're basically requesting an extension
23 again; right?

24 MS. VANCE: We are requesting to add
25 additional parties under the order and extend the time

1 to drill under the order.

2 MR. LOWE: Okay. And there are
3 individuals that you're adding to pool -- is in the
4 exhibits as well as, too?

5 MS. VANCE: Correct. If you go to
6 Exhibit C1, and that's page 16 of the PDF, you can see
7 highlighted in yellow are the parties that were
8 originally pooled and remain pooled under the order,
9 and then the three green highlights are the parties to
10 be added under the order.

11 MR. LOWE: Okay. And they were
12 noticed. Okay. There we go. Okay. I have no
13 additional questions. Thank you.

14 THE HEARING EXAMINER: Okay. Thank
15 you, Mr. Lowe. Ms. Vance, this case will be taken
16 under advisement. Thank you.

17 MS. VANCE: Thank you.

18 THE HEARING EXAMINER: Thank you.
19 Okay. So now we are moving on -- and I don't think --
20 Mr. Rankin, your witnesses aren't ready yet, are they?
21 Okay, thank you. Okay.

22 Let's go on to 24272, Earthstone
23 Operating.

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

1 THE HEARING EXAMINER: Please proceed.

2 MS. HARDY: Thank you. In this case,
3 Earthstone seeks to pool record title owners for the
4 purpose of obtaining a communitization agreement from
5 the Bureau of Land Management. This unit involves the
6 Bone Spring formation underlying east half, east half
7 of Section 25, Township 20 South, Range 34 East in Lea
8 County.

9 In support of the application, we have
10 provided the self-affirmed statement of landman, Mark
11 Hajdik and geologist, Chris Reudelhuber. I might be
12 butchering his last name.

13 (Case 24272 Exhibit A and Case 24272
14 Exhibit B were marked for
15 identification.)

16 Mr. Hajdik provides the standard land
17 exhibits. The parties being pooled are identified on
18 Exhibit A3, and against those are all record title
19 owners.

20 Mr. Reudelhuber has not previously
21 testified and has provided his CV. He has a Master's
22 of Science in Geoscience from Texas Tech and has
23 worked in the petroleum industry for five years. I
24 would request that he be recognized as an expert in
25 geology.

1 THE HEARING EXAMINER: I'll review his
2 CV while you're summing up the case for us.

3 MS. HARDY: Okay. The geology exhibits
4 include a location map, cross section map, structure
5 map, cross section and gun barrel diagram. The notice
6 information is included in Exhibit C and its
7 attachments C1 through C3.

8 (Case 24272 Exhibit C was marked for
9 identification.)

10 Notice was provided to all affected
11 parties, and we also did timely published notice and
12 provided the affidavit of publication from the
13 newspaper.

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

17 THE HEARING EXAMINER: Do you have a
18 page number for the CV?

19 MS. HARDY: Let me look really quick
20 here. It's Exhibit B1. Let me get there. It looks
21 like it's PDF page 32.

22 THE HEARING EXAMINER: Thank you. I
23 would suggest in the future that the CV has some more
24 words on it. This is a very bare bones CV. It
25 requires me to fill in blanks, which I prefer not to

1 do.

2 It gives me titles: Development
3 Geologist for about a year, maybe less, Operations SWD
4 Geologist, and I don't have a timeframe here. It just
5 says 2020, so I don't know if that's part of the year
6 or not. And then I have Asset Midstream
7 Geologist III, 2019 to '23, which is, of course, the
8 majority of his experience, besides his education as a
9 Master's of Science at Texas Tech.

10 So do you understand the difficulty I'm
11 having, Ms. Hardy?

12 MS. HARDY: Mr. Examiner, I do. We
13 could provide an additional CV for Mr. Reudelhuber.
14 He also -- I see him on the hearing if you'd like to
15 ask him any questions.

16 THE HEARING EXAMINER: Let's just do
17 that.

18 MS. HARDY: It might be more expedient.

19 THE HEARING EXAMINER: That's what I'll
20 do. Yes, that's what I'll do. So let's get you sworn
21 in, sir. That means turn on your camera and unmute
22 yourself, please.

23 MR. REUDELHUBER: Mr. Examiner, I am
24 working -- and don't have access to a camera. It's
25 audio only.

1 THE HEARING EXAMINER: Sorry. I didn't
2 hear what you said. Could you speak louder, please?

3 MR. REUDELHUBER: Sorry about that. I
4 am working remote today, and I do not have access to
5 the camera.

6 THE HEARING EXAMINER: I see. How do
7 you feel about that?

8 MR. REUDELHUBER: I'm okay with it.

9 THE HEARING EXAMINER: No, I don't mean
10 you, sir. I'm talking about the court reporter.
11 You're okay with swearing someone in if you can't see
12 them raising their right hand? Okay.

13 THE REPORTER: Please raise your right
14 hand.

15 WHEREUPON,

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

20 THE HEARING EXAMINER: Mr. -- do you
21 say Reudelhuber?

22 THE WITNESS: Yes, Mr. Examiner.

23 THE HEARING EXAMINER: Can you talk
24 about -- I just see Master's of Science in Geoscience
25 is at Texas Tech. I don't have any dates of

1 admission. What years were you there?

2 THE WITNESS: Yes, sir. That was from
3 2017 to 2019.

4 THE HEARING EXAMINER: Okay. And what
5 subjects did you study for a geosciences degree?

6 THE WITNESS: Geochemistry, but
7 sedimentology, geochemistry, that was the main
8 background.

9 THE HEARING EXAMINER: Okay. What did
10 you say again?

11 THE WITNESS: Sedimentology and
12 geochemistry was the focus of study.

13 THE HEARING EXAMINER: And Ms. Hardy,
14 you're asking for me to qualify him as an expert in
15 which field?

16 MS. HARDY: In petroleum geology,
17 Mr. Examiner. He has --

18 THE HEARING EXAMINER: Petroleum
19 geology.

20 MS. HARDY: Yes.

21 THE HEARING EXAMINER: Okay. All
22 right. Okay. So Mr. Reudelhuber, what part of your
23 education speaks to petroleum geology?

24 THE WITNESS: So my undergraduate
25 degree was focused in petroleum geoscience as well,

1 and my master's, I dealt with petroleum geoscience as
2 well.

3 THE HEARING EXAMINER: In which
4 subjects?

5 THE WITNESS: Sedimentology,
6 exploration. I did short courses with Exxon.

7 THE HEARING EXAMINER: Okay. As an
8 Asset Midstream Geologist III for CrownQuest, describe
9 your duties.

10 THE WITNESS: So CrownQuest Operating
11 is a Midland Basin operator. And duties there were to
12 supervise the assets and develop horizontal well
13 developments, like, across the assets, specifically in
14 the Midland Basin.

15 THE HEARING EXAMINER: And how did
16 you -- you know, Mr. Reudelhuber, try to help me out
17 here and connect your education and your experience
18 with the field you are trying to be qualified in. I
19 realize it's a low bar.

20 THE WITNESS: Yes, sir.

21 THE HEARING EXAMINER: But still, I
22 need more from you. So can you explain how your job
23 trained you as a petroleum geologist?

24 THE WITNESS: Specifically, at
25 CrownQuest Operating or --

1 THE HEARING EXAMINER: Yes, sir.
2 That's what we're talking about.

3 THE WITNESS: Yes, sir. So that job
4 was not much different from what I'm doing now at
5 Permian Resources -- geologic mapping, exploration,
6 basic petrophysics, basically everything that you do
7 to go develop a horizontal development and plan wells,
8 and exploit those wells.

9 THE HEARING EXAMINER: And at
10 Earthstone Energy, what are the dates that you were a
11 geologist there?

12 THE WITNESS: Yes, sir. So September
13 of '23 to, I think, mid-October is when we were
14 acquired by Permian Resources, and that is my current
15 place of employment now.

16 THE HEARING EXAMINER: Okay. And "SWD"
17 means --

18 THE WITNESS: Salt water disposal
19 wells, sir.

20 THE HEARING EXAMINER: Okay.
21 Ms. Hardy, do you want to make a legal argument on why
22 I should accept this gentleman as an expert in
23 petroleum geology?

24 MS. HARDY: Sure. I think his
25 education and training demonstrate that he has

1 experience in evaluating prospects for oil and gas
2 development. That's what you study as a geologist.
3 And he has a master's degree in that.

4 Many of the witnesses who appear before
5 the division and provide opinions on geology do not
6 have a master's degree. So I think his qualifications
7 are more than sufficient to demonstrate that he is
8 qualified to provide opinions that are expert opinions
9 rather than lay opinions in the area of geology.

10 THE HEARING EXAMINER: Okay. Are there
11 any objections? Okay, Ms. Hardy, I'll admit him as an
12 expert in petroleum geosciences, or is it petroleum
13 geology?

14 MS. HARDY: I think it could be either
15 one. I think petroleum geology is how people
16 typically refer to it.

17 THE HEARING EXAMINER: Okay. But I
18 will caution you that it wasn't -- it should've been a
19 lot easier to do this.

20 MS. HARDY: Noted, Mr. Examiner. And I
21 will say that in the past we really, I think, experts
22 have been qualified based on their education, and we
23 haven't provided extensive information on that, but we
24 can go ahead and do that in the future.

25 THE HEARING EXAMINER: I think so --

1 more than this. It doesn't have to be extensive, but
2 more than what I have here that is outlined in about
3 these 35 words on this CV. Okay.

4 MS. HARDY: Understood. Thank you.

5 THE HEARING EXAMINER: Okay. So let's
6 get your exhibits admitted into evidence. We have
7 Exhibit A and B and C and subparts. Are there any
8 objections to any of these exhibits? Not hearing any,
9 they are admitted into evidence.

10 (Case 24272 Exhibit A, Case 24272
11 Exhibit B, and Case 24272 Exhibit C
12 were received into evidence.)

13 Mr. Lowe, do you have any questions for
14 Ms. Hardy or her two witnesses?

15 MR. LOWE: I just want to reassure that
16 the work of -- the interest that you're pooling here
17 is very limited; right? Not very much.

18 THE HEARING EXAMINER: Mr. Lowe, who is
19 the question directed to?

20 MR. LOWE: Dana Hardy.

21 THE HEARING EXAMINER: Okay.

22 MS. HARDY: Yes. That's correct,
23 Mr. Lowe. The working -- we are not pooling any
24 working interest or overriding royalty interest.

25 MR. LOWE: Yeah.

1 MS. HARDY: We're only pooling BLM
2 record title owners to obtain a communitization
3 agreement from the BLM.

4 MR. LOWE: Oh, okay. Okay. All right.
5 Well, thank you for that clarification. That
6 concludes my questions. Thank you.

7 THE HEARING EXAMINER: Thank you,
8 Mr. Lowe. Okay. Thank you, Ms. Hardy. This case
9 will be taken under advisement. We only have one case
10 left in order that we're going, but we need to come
11 back. Do you have your witnesses?

12 MR. RANKIN: Mr. Examiner, I think if
13 we took a short, five-minute break, we could conclude
14 these two cases before lunch.

15 THE HEARING EXAMINER: Okay.

16 MR. RANKIN: And then I can bring my
17 XTO witnesses back for the afternoon, for the -- gas
18 case.

19 THE HEARING EXAMINER: Okay.

20 MR. RANKIN: So if we take a short
21 break, they should be here. They're on route from the
22 hotel right now.

23 THE HEARING EXAMINER: Oh, I see.

24 MR. RANKIN: Yeah.

25 THE HEARING EXAMINER: And do we have

1 any resolution on the May contested hearing date?

2 MR. RANKIN: I do not. I'm waiting
3 still for them to confirm that the dates that are
4 provided or the Friday right -- or the Thursday,
5 Friday right before a holiday weekend. So I'm waiting
6 to see if they're available.

7 MS. HARDY: And Mr. Examiner, I also am
8 trying to determine whether my witnesses are available
9 possibly on May 3rd.

10 THE HEARING EXAMINER: Okay.

11 MS. HARDY: So I'm working on that.
12 They have to corral everyone and find out who is
13 available and when. So apologies for the delay, but
14 we're working on it.

15 THE HEARING EXAMINER: So I don't
16 know -- we're not really just -- we're not just
17 relegated to May 3rd, though. We could have the
18 hearing May 7, May 8, I believe May 9. I don't know
19 if I've already set one for May 9, but seems familiar.
20 But there are other days that we can look at.

21 MR. RANKIN: Yeah, we have informed our
22 clients that all dates are on the table.

23 THE HEARING EXAMINER: Okay, fine.

24 MR. RANKIN: And so it's a matter of
25 trying to get, you know, on each client's end numerous

1 potential, you know, witnesses and their schedules
2 aligned.

3 THE HEARING EXAMINER: And are those
4 your witnesses for the last case?

5 MR. RANKIN: No. This is the -- these
6 are our witnesses for the Hilcorp case.

7 THE HEARING EXAMINER: Okay.

8 MR. RANKIN: So we can proceed on those
9 two and get those wrapped up before lunch.

10 THE HEARING EXAMINER: So if I'm -- so
11 let's call the case numbers. Is that 24261?

12 MR. RANKIN: That is correct, and
13 24264.

14 THE HEARING EXAMINER: Through '64 or
15 and '64?

16 MR. RANKIN: And.

17 THE HEARING EXAMINER: And '64, okay.
18 all right. I'm calling 24261 and 24264. Entries of
19 appearance, please.

20 MR. RANKIN: Good morning,
21 Mr. Examiner. May it please the division, Adam Rankin
22 appearing in these cases with the Santa Fe office of
23 Holland & Hart on behalf of the applicant Hilcorp
24 Energy Company.

25 THE HEARING EXAMINER: Are there any

1 other parties?

2 MR. RANKIN: Not to my knowledge,
3 Mr. Examiner.

4 THE HEARING EXAMINER: Okay. Very
5 good. Please proceed.

6 MR. RANKIN: Mr. Examiner, we have two
7 witnesses who have come all this way from Houston to
8 appear in front of the division in live question -- so
9 I would ask that they each be sworn in, and I will ask
10 them to adopt their testimony. And if the division
11 has any questions, then we can proceed that way.

12 THE HEARING EXAMINER: Now, let me pull
13 up the case file. In the meantime, would you swear --
14 gentlemen, would you come down and sit at the counsel
15 table, because we don't have room in the witness box
16 for both of you or all three of you? Is it three
17 witnesses?

18 MR. RANKIN: Two.

19 THE HEARING EXAMINER: Two witnesses.
20 Okay. Yes, please. And then would you state your
21 name for the record before he swears you in?

22 MR. CREEKMORE: Charles E. Creekmore,
23 C-R-E-E-K-M-O-R-E, and I'm a landman.

24 THE HEARING EXAMINER: And if you want
25 to turn your microphone on, then we could probably

1 hear you. But I heard what you said.

2 MR. CREEKMORE: Okay.

3 MR. BRANDHURST: Ray Brandhurst,
4 Reservoir Engineer, B-R-A-N-D-H-U-R-S-T.

5 MR. RANKIN: Thank you. With that,
6 Mr. Examiner --

7 THE HEARING EXAMINER: We still have to
8 swear them in.

9 MR. RANKIN: Oh, you're right. Sorry.

10 THE REPORTER: I'll stop you, sir.
11 Please raise your right hand.

12 WHEREUPON,

13 CHARLES CREEKMORE,
14 called as a witness and having been first duly sworn
15 to tell the truth, the whole truth, and nothing but
16 the truth, was examined and testified as follows:

17 THE REPORTER: Thank you.

18 And you, sir.

19 WHEREUPON,

20 RAY BRANDHURST,
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 THE REPORTER: Thank you.

25 MR. RANKIN: Thank you, Mr. Examiner.

1 Filed on Tuesday in both these cases was an exhibit
2 packet reflecting the request here from Hilcorp to
3 allow an increase in well density in two spacing units
4 that are adjacent.

5 The application is included in the
6 exhibit packet for each of these cases. Attached as
7 Exhibit A is the self-affirmed statement of Hilcorp's
8 landman, Mr. Charles Creekmore.

9 (Case 24261 Exhibit A and Case 24264
10 Exhibit A were marked for
11 identification.)

12 Attached to is self-affirmed statement,
13 he has previously testified before the division
14 numerous times and has previously been qualified in an
15 expert in petroleum land matters. Attached to his
16 self-affirmed statement is a notice area map, which
17 identifies the area around the proposed spacing unit
18 where affected parties are required to receive notice,
19 as well as a list of those affected parties who did
20 receive notice.

21 Mr. Creekmore's affidavit lays out the
22 request for an increase in well density, the basis for
23 it and the applicable rules that govern, and the
24 reason why we're having to come to a hearing on that
25 request.

1 Attached is Exhibit B. It is the
2 affirmed statement of Mr. Ray Brandhurst, petroleum
3 engineer.

4 (Case 24261 Exhibit B and Case 24264
5 Exhibit B were marked for
6 identification.)

7 Mr. Brandhurst has not previously
8 testified before the division, and he has not been
9 previously qualified as a petroleum engineer. We
10 attached to his self-affirmed statement Exhibit B1
11 which is a copy of his resume. It lays out his
12 educational background and work experience that
13 qualifies him to testify as an expert in petroleum
14 engineering.

15 We ask at this time, Mr. Examiner,
16 based on his qualifications and his resume, that he be
17 accepted as an expert in petroleum engineering.

18 THE HEARING EXAMINER: What page in the
19 PDF is the CV?

20 MR. RANKIN: I will let you know in a
21 moment. Oh, my page number is missing here. I'm
22 sorry, Mr. Examiner. At least if I can pull it up
23 electronically -- one moment. That would be page 18
24 out of 32.

25 THE HEARING EXAMINER: Okay.

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1 MR. RANKIN: It should be the same page
2 in both case numbers.

3 THE HEARING EXAMINER: Okay. And you
4 are seeking to qualify him as an expert in what?

5 MR. RANKIN: Petroleum engineering.

6 THE HEARING EXAMINER: How is that
7 different from petroleum geologist?

8 MR. RANKIN: Geologists, Mr. Examiner,
9 tend to focus more on the structure, the rocks, the
10 pour space, the content of the rocks, minerology.
11 Engineers are more focused on -- and you can ask him
12 to describe this better -- more focused on the forces,
13 the engineering, the pressure gradients, how to drain,
14 how to develop the acreage, as opposed to, you know,
15 where the oil is located and what the rock contains.
16 The engineers focus on how to get it out.

17 THE HEARING EXAMINER: Thank you.

18 MR. RANKIN: That's a plain-Jane
19 statement on the difference.

20 THE HEARING EXAMINER: Okay. Based on
21 the CV of Mr. Ray Brandhurst, he is so qualified as a
22 petroleum engineer. Please proceed.

23 MR. RANKIN: Thank you, Mr. Examiner.
24 Mr. Brandhurst reviews the basis for the request to
25 increase the well density in this case. He gives an

1 overview of the spacing unit, the proposed location of
2 two new wells that will be drilled that will target
3 reserves that will remain unrecovered under the
4 existing well density.

5 Attached to his exhibit is an
6 affidavit; also, is the analysis that Hilcorp has done
7 to evaluate the original gas in place, which is B2 --
8 I'm sorry -- rather, it's B3. B4 is a cumulative gas
9 produced exhibit that shows how much gas has been
10 produced generally within the area. B5 is an exhibit
11 showing the remaining recoverable gas, which is
12 essentially a subtraction of the cumulative gas
13 produced from the original gas in place.

14 And then B6 is a volumetric analysis on
15 the specific spacing unit, showing their assessment of
16 what the remaining recoverable reserves are in place
17 that will remain unrecovered under the existing
18 spacing density, and how much they expect to recover
19 within the spacing unit if these additional wells are
20 permitted and approved.

21 THE HEARING EXAMINER: Mr. Rankin, how
22 is this case related to '64?

23 MR. RANKIN: So these cases are side by
24 side. They're west half -- they're 320-acre spacing
25 units, and they're in the same section. So case 24261

1 is the west half, and case 24264 is the east half.

2 And so essentially, they're very
3 similar. The analysis is the same. Two additional
4 well locations are proposed for each spacing unit to
5 enable Hilcorp to recover the unrecovered reserves in
6 the section overall.

7 Now, in addition, Mr. Examiner, we have
8 provided notice to the affected parties who are in the
9 offsetting spacing units surrounding the section,
10 around each of the spacing units.

11 (Case 24261 Exhibit C and Case 24264
12 Exhibit C were marked for
13 identification.)

14 Those parties are identified in
15 Mr. Creekmore's affidavit. And the same parties are
16 affected because it's a producing area within a unit.

17 So we've provided confirmation that
18 each of those parties have been given notice of the
19 application and of the hearing by certified mail, as
20 well as the status of those deliveries.

21 And then out of an abundance of
22 caution, we have provided an affidavit of publication,
23 reflecting that each of those parties also received
24 notification -- instructive notice through
25 publication.

1 (Case 24261 Exhibit D and Case 24264
2 Exhibit D were marked for
3 identification.)

4 Mr. Examiner, just as a little bit of
5 background, because you haven't seen these cases, but
6 there was a time when we would present approximately
7 ten of these cases every two weeks for about two or
8 three years. So it was a process that we went through
9 almost on a -- multiple times a month.

10 And it was a little bit of a process,
11 and so we went to the division and then the commission
12 ultimately to request an increase in well density by
13 rule.

14 And out of an agreement between the
15 parties, we came to an accommodation where Hilcorp's
16 focus had been at the time to identify existing
17 wellbores that they could recomplete into the
18 Mesaverde allowing them to target those unrecovered
19 reserves.

20 In some instances, however, there is no
21 existing wellbore that they could utilize to
22 recomplete into the zone in the Mesaverde. And that's
23 the situation here.

24 So there are no existing wellbores that
25 are available for them to target those unrecovered

1 reserves. And so in this instance, they are required
2 to drill new wellbores to access those reserves.

3 The rulemaking that we went to -- it
4 was not really a rulemaking. It was a pool rule
5 hearing authorized Hilcorp to recomplete those
6 existing wellbores without having to go to hearing.
7 But if there are new wells required, then those wells
8 would have to go to hearing.

9 So for the most part, they've been able
10 to proceed to recomplete their wells without having to
11 go to hearing anymore. So you haven't seen them for
12 quite some time. But in this instance, because two
13 new drills are required in each of the spacing units,
14 we're having to appear for hearing.

15 So unless there are any additional
16 questions, Mr. Examiner, Mr. Creekmore and
17 Mr. Brandhurst did travel all the way from Houston to
18 be here in person, since it's been so long for them to
19 appear before the division. But if there are no
20 further questions, Mr. Examiner, I would move the
21 admission of Exhibits A through D in each of the cases
22 and ask that they be taken under advisement.

23 THE HEARING EXAMINER: Thank you. Are
24 there any objections to these exhibits? Not hearing
25 any, Exhibits A, B, C, D, and the exhibits behind are

1 all admitted into evidence in case numbers 24261,
2 24264.

3 (Case 24261 Exhibits A through D and
4 Case 24264 Exhibits A through D were
5 received into evidence.)

6 Mr. Lowe, let's start with any
7 questions you have.

8 MR. LOWE: Good afternoon, Mr. Rankin,
9 again.

10 MR. RANKIN: Good morning.

11 MR. LOWE: Okay. Good afternoon. Just
12 to get an understanding of what's going on here, these
13 -- pertains to -- the first case pertains to the west
14 half of Section 32; right?

15 MR. RANKIN: That's correct.

16 MR. LOWE: And then the other case is
17 the east half of Section 32?

18 MR. RANKIN: Correct.

19 MR. LOWE: Okay. For the first case,
20 the one in the west half, currently right now, there
21 is how many wells there right now?

22 MR. RANKIN: There are four wells
23 existing in that west half spacing unit, and there are
24 four wells existing in the east half spacing unit.

25 MR. LOWE: Okay. And on the western

1 one -- let's stay with that one case for right now --
2 on the west half there's four right now, and you could
3 add how many more now?

4 MR. RANKIN: Hilcorp proposes to add
5 two additional wells to target the unrecovered
6 reserves in that spacing unit.

7 MR. LOWE: Okay. So there's four now
8 existing, and then those two that are still pending
9 the API numbers; correct?

10 MR. RANKIN: That's correct.
11 Mr. Brandhurst may be able to advise you on the
12 status, but I believe that they've been filed, but
13 they're still pending.

14 MR. LOWE: And that is the unit well
15 number 109N and the 109P; right?

16 MR. RANKIN: Yeah, that's correct.

17 MR. LOWE: Okay. And thanks for that
18 clarification. And the page 12 of your exhibits shows
19 a map. And that map, according to the legend, I am
20 unclear to understand which one on the lower left-hand
21 corner indicates Mesaverde Proration Unit as far as
22 the lining goes.

23 MR. RANKIN: So Mr. Examiner --

24 MR. LOWE: Where is that?

25 MR. RANKIN: So yeah, I think to

1 address your question, you'll see in the center of
2 your exhibit there's an area within Section 32 that's
3 outlined as the spacing unit, and it's defined as
4 the -- with the hash mark. And then the offsetting
5 spacing units are the area that is subject to the
6 affected party notice requirements.

7 MR. LOWE: Okay. It's kind of hard for
8 me to decipher what is what, because I -- well, in
9 this case down here, the west half is pertaining to
10 the subject matter of this case. The area of notice
11 that you all provided, is that indicated here as well,
12 too, on the map?

13 MR. RANKIN: Yes. Yes, it is. It's a
14 little bit -- yeah, I agree, it's a little bit hard to
15 discern, but nevertheless, the boundaries that
16 surround essentially each of the spacing unit.
17 There's a 320-acre spacing unit surrounding the
18 proposed -- the subject spacing unit in the west half
19 of 32. And those 320-acre spacing units are defined
20 by the broken boundary line, and that's the subject
21 area.

22 So looking at it, it's the north half
23 of 7, north half of 8, the north half of 9. It would
24 be the east half of 31, the east half of 32, and then
25 the east half of 30, the west half of 29, and the east

1 half of 29.

2 MR. LOWE: What you verbalized just
3 now, is that indicated or written anywhere in your
4 exhibits?

5 MR. RANKIN: Yes. It's on the
6 Exhibit B2 or A2.

7 MR. LOWE: Okay.

8 MR. RANKIN: Or A1, rather. Sorry --
9 A1.

10 MR. LOWE: Okay. This is all -- and
11 then in reference to that, the page after this one,
12 page 13, I guess, those are the people who were
13 provided notice -- entities?

14 MR. RANKIN: Yeah. Those are the
15 owners or interest owners, affected parties under the
16 division's rule that had an interest in all those
17 offsetting tracts.

18 MR. LOWE: Okay. It would be nice if
19 you would label that to indicate, you know, for future
20 so when the writeup is being done on our side for the
21 order, it can be verified there, other than assumption
22 then that -- of what is here, but --

23 MR. RANKIN: Well, Mr. Creekmore
24 testifies that Exhibit A2 identifies the affected
25 parties in the offsetting spacing units --

1 MR. LOWE: Okay.

2 MR. RANKIN: -- that are required to be
3 noticed.

4 MR. LOWE: Okay.

5 MR. RANKIN: I think it's laid out and
6 his affidavit explains who they -- what that is, yeah.

7 MR. LOWE: Okay. Okay. Thank you for
8 that. So okay. In reference to the -- well, let's
9 continue with this case. So all the people of
10 interest pertaining to this request were all notified
11 and they were all -- and you all have received
12 verification that they were notified; right?

13 MR. RANKIN: Correct.

14 MR. LOWE: Okay. And then on the last
15 page of your exhibits, page 32, I'm assuming that was
16 just a newspaper publication. I don't --

17 MR. RANKIN: That's the affidavit of
18 publication we received from the newspaper giving a
19 sworn statement that the application -- rather, the
20 notice actually ran in the newspaper on the date
21 provided.

22 MR. LOWE: And that was just done in
23 cautionary mode?

24 MR. RANKIN: Yeah. I mean all these
25 folks are on Hilcorp's pay deck. And so they -- I

1 believe they all are folks that are well known.
2 They're part of the producing area.

3 MR. LOWE: Okay. I don't know exactly
4 what's being presented here in the exhibits because
5 the cu-out portion of the newspaper appears to be
6 overlapping each other. I don't know. And the
7 information provided here, it's covering up other
8 additional text on the exhibit.

9 So to verify this portion of the
10 exhibit being justified and valid, I would not say
11 that is so in this case here, just for that page only.

12 MR. RANKIN: I can ask the newspaper
13 can give us a clearer copy. I think you're saying
14 because some of the text is a little folded over, it's
15 a little hard to read, is that your question?

16 MR. LOWE: Yeah. Basically, what's
17 presented here is not -- I mean yeah, it's not -- it's
18 not clear. It's not clear and concise, and if it came
19 down to it, you know, if the OCD moves forward to
20 approve this order, and then somebody objects saying
21 that we didn't do so then we as an organization tries
22 to provide evidence to or objects to this stuff that's
23 presented here doesn't -- it's not too clear and
24 concise in that sense. And so I would --

25 THE HEARING EXAMINER: Mr. Lowe?

1 Mr. Lowe? Let's just ask for a revised exhibit. Is
2 that possible, Mr. Rankin?

3 MR. RANKIN: I hope so. This was
4 scanned to us by the newspaper. So I'm hoping that
5 they still have a copy --

6 THE HEARING EXAMINER: Okay.

7 MR. RANKIN: -- that they can get us a
8 clean --

9 THE HEARING EXAMINER: Mr. Lowe, I
10 think this can be fixed by requesting and giving some
11 time to the applicant just to submit a revised exhibit
12 packet with a cover letter, and hopefully they'll be
13 able to get a better copy. If not, they'll explain
14 that they can't.

15 MR. LOWE: Well, and that's the route I
16 was going to go to, Mr. Examiner.

17 THE HEARING EXAMINER: Okay.

18 MR. LOWE: But that's going to be the
19 case. I hope this is not the same -- if this is the
20 same scenario for the other case, I would advise that
21 happen there as well, too. But I think that concludes
22 my questions for how.

23 THE HEARING EXAMINER: For this case.
24 Okay. So Mr. Rankin --

25 MR. RANKIN: Yeah, it's hard to tell,

1 Mr. Examiner. I can't quite tell if they folded over
2 a page. Sometimes newspapers do that. They don't
3 really understand the significance of what they're
4 doing.

5 THE HEARING EXAMINER: Okay.

6 MR. RANKIN: Or why they're sending us
7 these things.

8 THE HEARING EXAMINER: Okay.

9 MR. RANKIN: So I will follow up with
10 them. I can't quite tell, myself, if it's been folded
11 over or not. It appears that may have been the case
12 in order for them to scan the image on an 8-1/2 by 11
13 page.

14 THE HEARING EXAMINER: Okay.

15 MR. RANKIN: So I'll follow up with it
16 and see if I can get a clean copy of the actual
17 publication and notice that ran.

18 THE HEARING EXAMINER: Let's keep the
19 hearing record open for a number of days. How many
20 days would you like?

21 MR. RANKIN: Given that this is the Rio
22 Arriba newspaper, and they take a little bit of time.
23 So if you would give me at least a week, yeah.

24 THE HEARING EXAMINER: A week? A week?

25 MR. RANKIN: A week, yeah.

1 THE HEARING EXAMINER: All right. How
2 about -- okay. Let's get a date here so there's no
3 confusion here. So today is the 21st; 29th -- Friday
4 the 29th by close of business?

5 MR. RANKIN: Of March?

6 THE HEARING EXAMINER: Yes.

7 MR. RANKIN: That may be Good Friday.
8 I should be able to get it by then, though,
9 Mr. Examiner. I think if I have any problems not
10 being able to get it, I'll drive up to Rio Arriba
11 myself and see if we can get it figured out.

12 THE HEARING EXAMINER: Sounds good.
13 Okay. Now, 24264, did I admit the exhibits in that
14 case?

15 MR. RANKIN: I believe you did,
16 Mr. Examiner for both cases.

17 THE HEARING EXAMINER: Okay.

18 MR. RANKIN: So I think, yeah, unless
19 there's any questions from Mr. Lowe or any of the
20 other examiners, yeah, we ask the case to be taken
21 under advisement.

22 THE HEARING EXAMINER: Right.
23 Mr. Lowe, any questions in 24264 before we break for
24 lunch?

25 MR. LOWE: Not at this time.

1 THE HEARING EXAMINER: Okay. And did
2 you look at that newspaper publishing to see whether
3 or not it was legible?

4 MR. LOWE: I am trying to get to that
5 right now.

6 MR. RANKIN: It looks like it has -- it
7 possibly has a portion of it folded over,
8 Mr. Examiner. And we'll address both those in our
9 supplemental submissions.

10 THE HEARING EXAMINER: Okay. Okay.
11 Very good. Then we have notes as to what we have.
12 All right.

13 MR. RANKIN: Yeah.

14 THE HEARING EXAMINER: So Mr. Lowe, we
15 will take these two cases under advisement, and we
16 will wait for Mr. Rankin to file an amended exhibit
17 packet to cure the illegible notice --

18 MR. LOWE: That, and the map on page --
19 on the -- I'm looking at the map as well, too, to
20 distinguish the area of proper notification in
21 reference to the spacing unit.

22 THE HEARING EXAMINER: What page number
23 is that, Mr. Lowe?

24 MR. LOWE: In the latter case, it would
25 be page 12. In the previous case, I think it was

1 page 13 or 12 as well, too. I don't recall.

2 THE HEARING EXAMINER: Okay. Let's
3 wait for Mr. Rankin.

4 MR. RANKIN: They're both page 12.

5 THE HEARING EXAMINER: Okay.

6 MR. LOWE: Okay. Yeah, just to
7 distinguish what's the area of concern for the unit
8 and then the area of where it's been noticed to.

9 MR. RANKIN: Okay. We will make some
10 color-coding changes to make it very clear.

11 MR. LOWE: Okay.

12 THE HEARING EXAMINER: Okay. Mr. Lowe,
13 does that handle all of your questions for this case?

14 MR. LOWE: I believe so.

15 THE HEARING EXAMINER: Okay, very good.
16 All right. Mr. Rankin, we will take 24261 and '64
17 under advisement, keeping the record open for those
18 two modifications to your exhibit packet. We will
19 thank your witnesses for traveling from Houston.
20 Sorry that you didn't have any questions, but your
21 counsel did a good job on your behalf.

22 We are going to break for lunch. It is
23 12:20 now. Let's come back at 1:30.

24 MR. RANKIN: Okay.

25 MS. HARDY: Your Honor?

1 THE HEARING EXAMINER: Oh, yes,
2 Ms. Hardy?

3 MS. HARDY: Thank you. I was not
4 planning to come back. I'm not involved in the last
5 case. And I don't know when Mr. Rankin and I are
6 going to hear from our respective clients on the Avant
7 Apache cases. I'm wondering if we could advise the
8 division by email regarding availability and work
9 to --

10 THE HEARING EXAMINER: By all means.

11 MS. HARDY: -- provide a hearing date.

12 THE HEARING EXAMINER: By all means,
13 you can also communicate with Mr. Rankin since I'll be
14 with him this afternoon. If you guys work something
15 out, he can make representations on your behalf if you
16 will allow it.

17 MS. HARDY: That's fine.

18 THE HEARING EXAMINER: Okay. Then we
19 will come back on the record at 1:30 for the last
20 case, XTO. I don't have the case number in front of
21 me because my computer is dead. And we will also come
22 back for a hearing date for 24141 and 24254. I hope
23 everyone has a good lunch. Thank you.

24 MR. RANKIN: Thank you.

25 (Off the record.)

1 THE HEARING EXAMINER: All right,
2 Mr. Cogswell, we are going to go on the record. It is
3 1:37 p.m., March 21, 2024. And we are here to hear
4 case number -- let's see -- it is case number 24273,
5 XTO Permian Operating. Entries of appearance, please.

6 MR. RANKIN: Good afternoon,
7 Mr. Hearing Examiner. Adam Rankin with the Santa Fe
8 office of Holland & Hart appearing on behalf of the
9 applicant in this case, XTO Permian Operating, LLC.
10 And -- I'm sorry.

11 MS. VANCE: And Paula Vance with the
12 Santa Fe office of Holland & Hart on behalf of XTO.

13 THE HEARING EXAMINER: Okay, good. We
14 have four witnesses that we're going to get sworn in
15 by the court reporter as a group. So would you all --
16 actually, one at a time, would you state and spell
17 your name? You're going to have to come up to a
18 microphone to do this.

19 So come up all of you, please, and one
20 at a time state and spell your name for the record,
21 and then we'll get you all sworn in at the same time.

22 MR. OLIVAS: Rey Isaac Olivas, R-E-Y
23 I-S-A-A-C O-L-I-V-A-S.

24 THE HEARING EXAMINER: Thank you, sir.

25 MR. HEHMEYER: Owen Hehmeyer, O-W-E-N

1 H-E-H-M-E-Y-E-R.

2 MR. LOPEZ: Carlos Lopez, C-A-R-L-O-S
3 L-O-P-E-Z.

4 THE HEARING EXAMINER: Okay. And then
5 we have a virtual witness.

6 MR. TURNER: Can you hear me?

7 THE HEARING EXAMINER: Yes, we can.

8 MR. TURNER: Okay. It's Weston Turner,
9 W-E-S-T-O-N T-U-R-N-E-R.

10 THE HEARING EXAMINER: Okay. Would you
11 all raise your right hands.

12 WHEREUPON,

13 ISAAC OLIVAS, OWEN HEHMEYER, CARLOS LOPEZ

14 AND WESTON TURNER,

15 called as witnesses and having been first duly sworn
16 to tell the truth, the whole truth, and nothing but
17 the truth, were examined and testified as follows:

18 THE HEARING EXAMINER: Mr. Turner, did
19 you say, "I do"?

20 THE WITNESS TURNER: I do.

21 THE HEARING EXAMINER: Good. Thank
22 you. I didn't hear you.

23 Let's deal with the exhibits at this
24 time. Mr. Rankin?

25 MR. RANKIN: Thank you, Mr. Examiner.

1 On Tuesday we filed, in advance of today's hearing, an
2 exhibit packet in the case 42473. The exhibit packet
3 is comprised of Exhibits A through F.

4 Exhibit A is a copy of the application
5 that was filed with the division.

6 (Case 24273 Exhibit A was marked for
7 identification.)

8 B is a self-affirmed statement of Isaac
9 Olivas, who is a facilities engineer and XTO's first
10 witness.

11 (Case 24273 Exhibit B was marked for
12 identification.)

13 Attached to his Exhibit B is
14 sub-exhibits B1 through B5, which are supplemental
15 exhibits, and I'll review those in a little more
16 detail. Exhibit B1 is his curriculum vitae.

17 Mr. Olivas has not previously testified before the
18 division.

19 His CV reflects his education and work
20 experience as a facilities engineer. And we would ask
21 that the division, based on his credentials, his
22 education, and work experience tender Mr. Olivas as an
23 expert in facilities engineering.

24 THE HEARING EXAMINER: And what page is
25 his CV on?

1 MR. RANKIN: I -- we'll get that. One
2 moment. Sorry. I seem to have lost my bookmarks on
3 this copy. One moment. I had a nice bookmarked
4 version of this, Mr. Examiner, and I think when it
5 goes through the division's filing system, we lose all
6 those nice bookmarks, which is detrimental.

7 THE HEARING EXAMINER: Mm-hmm. Mm-hmm.

8 MR. RANKIN: I apologize. I thought I
9 had it up. One moment. I apologize, Mr. Examiner. I
10 thought I had the exhibit packet electronically open
11 in my folder, but I do not. One moment, please.

12 MR. MCCLURE: It may be page 75 of 228.

13 THE HEARING EXAMINER: Thank you.

14 MR. MCCLURE: I don't know what it is
15 on yours, Mr. Rankin, though.

16 THE HEARING EXAMINER: It is. I have
17 it. That's perfect, thank you, Mr. McClure.

18 Okay. So we're trying to admit him as
19 an expert in what field?

20 MR. RANKIN: Facilities engineering,
21 Mr. Examiner.

22 THE HEARING EXAMINER: What is a
23 facilities engineer?

24 MR. RANKIN: Facilities engineer is one
25 who is in charge of basically surface operations,

1 making sure they're operating correctly and making
2 sure they're operating efficiently, and otherwise
3 meeting the requirements of their operations and
4 safety and operational parameters.

5 THE HEARING EXAMINER: Thanks. I've
6 never heard that before. Thank you.

7 MR. RANKIN: So yeah, we would ask,
8 based on his credentials outlined in his CV, that he
9 be accepted and tendered by the division as an expert
10 in facilities engineering.

11 THE HEARING EXAMINER: Okay, thank you.

12 MR. RANKIN: Let me just see if I can
13 do this so I can address your questions on the case
14 numbers.

15 THE HEARING EXAMINER: I don't have any
16 questions yet. I'm looking at it.

17 MR. RANKIN: Okay.

18 THE HEARING EXAMINER: Okay,
19 Mr. Olivas, you are hereby admitted as an expert in
20 this field of facilities and surface facility
21 engineer. Mr. Rankin, surface facility engineer?

22 MR. RANKIN: That's suitable.

23 THE HEARING EXAMINER: Okay, fine.
24 Surface facility engineer for the purposes of your
25 testimony. Okay, Mr. Rankin.

1 MR. RANKIN: Thank you. His Exhibit B2
2 is a table reflecting the various packer depth
3 settings for each of the proposed CLGC injection
4 wells, along with the approximate depths of the
5 combing intervals within the Bone Spring. The
6 division and Mr. McClure often ask for that, so he
7 understands exactly where the packers are set relative
8 to the various confining layers in the geologic
9 formation.

10 Exhibit B3 is a copy of the corrosion
11 prevention plan that XTO has in place. It's adopted
12 from its gas lift operations, and so we've included
13 that as well. Mr. McClure has asked for copies of the
14 prevention plan for his reference, so we included that
15 as well.

16 Exhibit B4 is a complete well file of
17 the Poker Lake unit number 3 well. It is a plugged
18 and abandon well that penetrates the confining layer
19 within the injection zone. And so at the time we
20 filed the application, we did not have that complete
21 well file, so we submitted it as a supplemental
22 exhibit with the hearing packet.

23 Exhibit B5 is an allocation schematic.
24 In discussions with Mr. McClure, we understand that
25 the division's preference at this point is to require

1 allocation of production between produced gas that has
2 been injected during an injection event and the native
3 gas that is produced subsequent to an injection event.

4 The division's preference here is to
5 require the allocation to be on a measured basis or an
6 estimated basis. So we had originally proposed that
7 the allocation be done on a simple mass balance;
8 essentially first gas in, first gas out.

9 This allocation schematic explains
10 essentially how the system is going to be set up.
11 Mr. Olivas will testify further when he gets up there
12 and Mr. McClure asks, I'm sure, how XTO will propose
13 to allocate gas going forward following an injection
14 event.

15 Exhibit C is a self-affirmed statement
16 that was prepared by Dr. Carlos Lopez.

17 (Case 24273 Exhibit C was marked for
18 identification.)

19 THE HEARING EXAMINER: Mr. Rankin?

20 MR. RANKIN: Yeah.

21 THE HEARING EXAMINER: Why don't we do
22 this by witness.

23 MR. RANKIN: Sure.

24 THE HEARING EXAMINER: So we have your
25 application as Exhibit A. Let's get that admitted.

1 Are there any objections to admitting Exhibit A? It
2 is so admitted.

3 (Case 24273 Exhibit A was received into
4 evidence.)

5 Now, Exhibit, B, why don't we have
6 Mr. Olivas take the witness stand, and Mr. Rankin, why
7 don't you ask him whatever foundational questions you
8 want to. The witness stand is over there.

9 MR. RANKIN: So yes, he's asking me for
10 a printout that I made for him.

11 THE HEARING EXAMINER: Why don't you
12 ask any -- I don't know if you want to call them
13 foundational or authentication questions? Whatever
14 you want to get these exhibits admitted into evidence,
15 and then we'll have him stand -- and make any
16 corrections. And then we'll have him stand for cross
17 examination from Mr. McClure.

18 DIRECT EXAMINATION

19 BY MR. RANKIN:

20 Q Mr. Olivas, do you have a copy of the
21 hearing exhibit packet that we filed on your behalf on
22 Tuesday?

23 A Yes, I do.

24 Q And did you prepare the self-affirmed
25 statement as marked as Exhibit B in that packet?

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1 A Yes, I did.

2 Q And did you also prepare Exhibits B1 through
3 B5 that were attached to your self-affirmed statement,
4 or did you oversee their preparation?

5 A Yes.

6 MR. RANKIN: At this time,
7 Mr. Examiner, I would move the admission of
8 Exhibits A, the application that was filed in this
9 case and Exhibit B with the attachments into the
10 record.

11 THE HEARING EXAMINER: Okay. Are there
12 any objections? They are so admitted.

13 (Case 24273 Exhibit B was received into
14 evidence.)

15 MR. RANKIN: Mr. Examiner, do you want
16 at this time to make Ms. Olivas available for
17 questions by the division?

18 THE HEARING EXAMINER: What I'd like
19 him to do is adopt them under oath, and then I'd like
20 for you to ask if there are any questions -- sorry --
21 any corrections he wants to make to any of the
22 exhibits that he prepared. And if there are not, then
23 we can move on to questions.

24 MR. RANKIN: Sure.

25 //

1 BY MR. RANKIN:

2 Q Mr. Olivas, looking at your Exhibit B, your
3 self-affirmed statement, do you have any corrections
4 or adjustments at this point in time, based on the
5 statement that was submitted to the division?

6 A No. I do not.

7 MR. RANKIN: At this time,
8 Mr. Examiner, I would make Mr. Olivas available for
9 cross-examination by the examiners.

10 THE HEARING EXAMINER: Okay.
11 Mr. McClure.

12 MR. MCCLURE: Thank you, Mr. Hearing
13 Examiner.

14 CROSS-EXAMINATION

15 BY MR. MCCLURE:

16 Q Mr. Olivas, I'm saying your name correctly;
17 right?

18 A That's correct.

19 Q My first question is relatively poor, and
20 it's not going to make a substantial difference, I
21 guess, here. Your project area that you have -- your
22 legal description -- your project area that was abided
23 in the original application packet, for Section 24 of
24 Township 25 South, Range 30 East, it seems that only
25 the west half of the northwest corner was included

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1 here.

2 However, the spacing unit for the Poker Lake
3 CVX JV BS number 22H includes the entirety of the west
4 half of the west half of that section. So you're
5 essentially missing the west half of the southwest
6 corner on your proposed project area. Does that seem
7 right to you?

8 MR. RANKIN: Mr. McClure, I may
9 interject and suggest that if that's the case, it was
10 a scrivener's error. It was intended to be the entire
11 spacing unit for that well.

12 THE HEARING EXAMINER: So Mr. Rankin,
13 you're not a witness.

14 MR. RANKIN: That's true.

15 THE HEARING EXAMINER: So let's let the
16 witness answer the question, and then we'll see. You
17 could make a legal argument on how you want to address
18 it. Please.

19 THE WITNESS: Yes. That's a -- that's
20 a mistake.

21 BY MR. MCCLURE:

22 Q Okay. So you agree that your intent was
23 to -- or XTO's intent was to include the west half of
24 the west half of Section 24 in its entirety then?

25 A That's correct.

1 MR. MCCLURE: Okay. I'll confirm with
2 Mr. Hearing Examiner on for sure what he wants to do,
3 but I guess my intent would be for us to continue --
4 well, my thought process would be for us to continue
5 hearing out the case, but to require them to provide
6 new notice and then continuing it for not the next
7 docket, but the docket afterwards or at their
8 discretion when they think notice would be complete or
9 a new project area would be notified of.

10 THE HEARING EXAMINER: Okay. Okay.
11 Let's go to Mr. Rankin and see how he wants to cure
12 this.

13 MR. RANKIN: Thank you, Mr. Examiner.
14 I mean I think we would happily do that. The notice
15 doesn't change. The only thing that changes is the
16 description of the spacing unit. However, we did
17 provide the API numbers for all the wells.

18 This is all within a federal unit, so
19 everybody who is being noticed anyway is within the
20 unit. So I don't think it has any substantial impact
21 on the outcome of the case, number one. Number two,
22 actually, we're proposing that as a project area the
23 division has discretion under the -- rules to define
24 the project area based on what's appropriate by the
25 division.

1 So I mean, I'm happy to provide notice
2 again and make sure that the description of the
3 project area is correct. However, I will say it's
4 just with the intent here is that it's within the
5 federal unit, and I don't see it causing any issues
6 one way or the other because it's all within the
7 federal unit.

8 So I guess on that point, my preference
9 would be, of course, to continue to present the case
10 and then at the end of the hearing, if the division
11 would like us to issue a revised notice with the
12 corrected spacing unit, we would happily do that.

13 THE HEARING EXAMINER: Mr. McClure,
14 were you able to hear Mr. Rankin?

15 MR. MCCLURE: Yes, I was, Mr. Hearing
16 Examiner.

17 THE HEARING EXAMINER: And how do you
18 feel about what he suggests as a cure?

19 MR. MCCLURE: I think we go with his --
20 well, my suggestion would be, go with his later
21 proposal if they do cure notice. Myself and/or UIC
22 coordinator, Mr. Goetze, had a conversation this
23 morning about this exact same topic.

24 THE HEARING EXAMINER: Okay.

25 MR. MCCLURE: And I stated that

1 preference in the matter.

2 THE HEARING EXAMINER: Okay. So
3 Mr. McClure, did you hear the proposed cure?

4 MR. MCCLURE: Yes. To correct notice
5 including the entirety of the project area; correct?

6 THE HEARING EXAMINER: The description.

7 MR. MCCLURE: Yes. The legal
8 description. I apologize.

9 THE HEARING EXAMINER: No, it's fine.
10 That's the notes I have, and so I wanted to make sure
11 that we're all on the same page. And you feel that
12 that would be enough for you?

13 MR. MCCLURE: Yes. I do feel that
14 sufficient. If they wanted -- I propose that they
15 provide written to all their current persons and then
16 additionally republish the public notice also with the
17 same corrections, because it's also deficient.

18 THE HEARING EXAMINER: Okay. So
19 Mr. Rankin, can you tell me exactly your cure for
20 this? And I'm going to write it down.

21 MR. RANKIN: Based on Mr. McClure's
22 direction, we will republish the notification of the
23 hearing with the corrected land description, and we
24 will send certified letters to all the affected
25 parties that have received a notice of the application

1 and hearing with the corrected application,
2 identifying the correct spacing unit for that one
3 well.

4 And then we will also -- I believe
5 Dean, you want us to -- the division to also issue a
6 corrected hearing notice for the next hearing date, or
7 will the actual notice to the parties be sufficient?

8 MR. MCCLURE: Subject to Mr. -- that's
9 sounds not a question for me.

10 MR. RANKIN: I believe in the past,
11 Mr. Examiner, that providing notice to the parties of
12 the corrected application and description is generally
13 sufficient to cure that issue.

14 THE HEARING EXAMINER: My understanding
15 was that the parties are going to be the same parties
16 that you've already noticed. That's what I heard.

17 MR. RANKIN: Correct, yeah.

18 THE HEARING EXAMINER: Okay. And so
19 basically, you're just going to be putting them on
20 notice of a slightly different legal description.

21 Now, let's just play devil's advocate.
22 Let's just say a party on your one conception sees
23 this description and says, "Oh, I have a problem with
24 this." How would that proceed?

25 MR. RANKIN: Well, assuming that to be

1 the case, I guess, if they did have a problem, they
2 would file an entry of appearance and let us -- and
3 then at that point we would be alerted that they have
4 a problem.

5 THE HEARING EXAMINER: I see. Okay.
6 So then do we need to -- once today's hearing is
7 over -- are we able to take the case under advisement
8 while we cure this notice issue and wait for a
9 submission indicating that you've done everything, or
10 do we need to keep -- or do we need to basically
11 recess and pick this up at another time?

12 MR. RANKIN: I think technically,
13 Mr. Examiner what would be required is that we would
14 continue the case --

15 THE HEARING EXAMINER: Okay.

16 MR. RANKIN: -- to the -- probably I
17 guess would the second docket in April.

18 THE HEARING EXAMINER: April 18th?

19 MR. RANKIN: And we would at that time
20 provide you with an updated affidavit reflecting that
21 we had made the cure and admit that into the record.
22 So I don't believe, technically speaking, we would be
23 able to take it under advisement.

24 THE HEARING EXAMINER: Right.

25 MR. RANKIN: That's not to say that

1 Dean couldn't start reviewing it and getting work done
2 toward issuing an order.

3 THE HEARING EXAMINER: Okay. I
4 understand. Thank you for that -- that extra bit of
5 advice.

6 All right. So Mr. McClure, thank you
7 for bringing that up. Let's move on to your next
8 question.

9 MR. MCCLURE: Okay, thank you.

10 BY MR. MCCLURE:

11 Q Mr. Olivas, I know you have provided a list
12 of numerous source wells from which the gas will be
13 obtained. In addition to that, it looked -- page 16
14 of 228 there's a map included here. I don't know if
15 you're looking at the same thing I'm looking at or
16 not.

17 MR. RANKIN: Mr. McClure, to assist, I
18 may go ahead and share the screen so I can help
19 Mr. Olivas get to the right page.

20 THE HEARING EXAMINER: Okay. Can you
21 tell us what page number you are showing?

22 MR. RANKIN: In one moment.

23 THE HEARING EXAMINER: Sure. I can see
24 the page number.

25 MR. RANKIN: So this is page 16 of 228.

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1 THE HEARING EXAMINER: Thank you.
2 Mr. McClure, is this page -- is this what you're
3 asking about?

4 MR. MCCLURE: Yes. That is correct,
5 Mr. Hearing Examiner.

6 THE HEARING EXAMINER: Mr. Olivas, did
7 you hear the question?

8 THE WITNESS: Yes. There hasn't really
9 been a question yet. It was more of a clarification.

10 THE HEARING EXAMINER: Oh.
11 Mr. McClure?

12 MR. MCCLURE: Yes, sir.

13 BY MR. MCCLURE:

14 Q On this map it looks like there's two
15 compressor stations shown, the Tiger compressor
16 station and the Eagle compressor station. Are those
17 the only compressor stations that are -- gas gathering
18 system?

19 A No, sir. Those are the only two within this
20 snapshot.

21 Q Okay. So these two are -- okay, I guess,
22 would it be accurate then to say these two, I guess,
23 are the ones that's feeding the pressure to the
24 injection wells or proposed injection wells?

25 A No. There are multiple compressor stations

1 that feed the pressure. These are -- these are the
2 two that are localized to the -- to the injection
3 wells.

4 Q Okay. Now, I see on page -- I apologize,
5 Mr. Rankin, having you jump around. Oh, actually,
6 this wasn't very far down. Just page 18, so two down.
7 Now, there's a number of central tank batteries that
8 are depicted here. Is this the sum of it, or is this
9 just like just a snapshot of the overall project then?

10 A Yes. This is similar to the -- the prior
11 example where this is a subset of -- of the entire
12 flow stream.

13 Q Okay. Now, I know in one of the later pages
14 in your exhibits, there's reference made to a
15 low-pressure gas pipeline, which all the wells are
16 directly going into. And then they're either sold at
17 an XTO takeaway or they go to your gas lift stations,
18 they're repressurized and put back down wells.

19 Of that list of source wells -- they're on
20 page 106; I don't know if we need to look at them,
21 though -- but I didn't count them, but I'm just
22 assuming in the range of 100 or 200 of them there.
23 Are all those -- low-pressure gas pipeline?

24 A That's correct. All these wells have the
25 ability to -- to be brought into that -- that -- the

1 same low-pressure gas pipeline and therefore injected
2 into the closed loop gas capture wells.

3 Q Now, there's numerous ones on here that have
4 the -- that seem to be for the Poker Lake unit. But
5 there's a number of them on there that's not.
6 Approximately how wide of an area are we gathering gas
7 from in terms of Townships -- as in approximate?

8 A I'd have to provide that separately. I
9 really wouldn't want to give you an approximate that
10 isn't precise enough.

11 Q I'll withdraw that question because one of
12 my follow-ups will give me more precisely, I guess,
13 what I'd be looking for in a follow-up from you.
14 There's a --

15 THE HEARING EXAMINER: Mr. McClure,
16 hold on a second.

17 MR. MCCLURE: Go ahead.

18 THE HEARING EXAMINER: So that I can
19 make a clean evidentiary record, are you saying that
20 you are withdrawing that question and therefore the
21 answer as well?

22 MR. MCCLURE: Okay. I guess maybe my
23 thought process would be not necessarily to withdraw
24 the question --

25 THE HEARING EXAMINER: Okay.

1 MR. MCCLURE: -- but to be fine with
2 not having a follow-up, I guess. I'm not quite sure
3 what the terminology would be for that.

4 THE HEARING EXAMINER: That's okay.
5 You just keep asking your questions then, since you're
6 not withdrawing it. It's fine. Thank you.

7 MR. MCCLURE: Okay. Okay. Thank you.

8 BY MR. MCCLURE:

9 Q Mr. Olivas, it looks like there are several
10 service comingling orders. I didn't go through and
11 count them all. But I know, at just like quick glance
12 I got up to at least four of them over these number
13 source wells.

14 Now, essentially what you're laying out to
15 me is that all of these wells are capable of being
16 essentially combined -- essentially comingled, and yet
17 we have them in multiple comingling permits. I
18 guess -- comingling permits incorrect or not as
19 extensive as they should be, or are these wells
20 separated in some manner, I guess?

21 A You're -- you're correct. There are
22 multiple comingling orders. Currently, we have line
23 of sight to ultimately provide additional clarity
24 and -- and what that looks like post project
25 execution.

1 But in summary, the -- the comingling is
2 happening prior to custody transfer. So these wells
3 will have gone through custody transfer prior to -- to
4 reaching the closed loop gas capture wells.

5 Q Okay. So if the gas is transferring
6 custody, how about title? Does the title transfer
7 occur as well?

8 A That's part of the -- the additional
9 comingling orders that -- that we -- we intend to
10 provide to the division as -- as prior to the -- the
11 execution.

12 Q Okay. I guess, so that I understand, is
13 your intent will be to design this project as in they
14 are all going to be interconnected, and you're going
15 to be submitting comingling applications as such, or
16 am I misunderstanding you?

17 A Revising.

18 Q Okay. Now, you reference that title
19 transfer is going to be a part of this revision. I
20 guess, can you clarify that a little bit more as to
21 what you mean? What are you going to change about the
22 permits, I guess? That might be a better question.

23 A The -- the intent is not to change anything.
24 It's -- it's really to continue to ensure that -- that
25 our understanding and validation of -- of how it's

1 written today continues to allow for -- for the -- the
2 gas, both title and custody to have taken place prior
3 to -- to the -- the injection wells. It's -- it's
4 more of a validation.

5 Q Okay. Now, I know there's reference to an
6 XTO takeaway, I think is the terminology used. And I
7 almost -- is what you mean by that, that there's a
8 subsidiary of XTO that's due in midstream, or am I
9 misunderstanding what you mean by that?

10 A That -- that's correct.

11 Q It's correct that there's a subsidiary of --
12 is that correct?

13 A It's -- it's XTO specifically. So it's not
14 necessarily a subsidiary of XTO as a whole. It's --
15 it's XTO.

16 Q But if you have title transfer occurring,
17 then it's a different entity than what is producing
18 the gas; is that correct?

19 A You are correct.

20 Q Okay. And currently, is this title --
21 currently it is, and you just want to confirm that
22 everything is understood correctly. Is that what you
23 were getting at before?

24 A That's correct. Really to ensure that the
25 title as we currently see it today with -- as it

1 transfers within the XTO title and custody from the
2 source wells in terms of the -- the royalty and the --
3 the interest owners that -- that that is -- is -- it
4 flows through -- flows through the system as -- as we
5 currently understand it today.

6 Q Okay. So then all your interest owners are
7 going to be paid when it enters this XTO takeaway
8 including working interest, overriding royalty
9 interest owners, and royalty interest owners. Is that
10 correct?

11 A That's correct. They -- they would've
12 taken -- they would've been paid prior to -- to the
13 injection, as they currently are being paid today.

14 Q So then when you start injection operations,
15 you are essentially -- who owns the gas when it's
16 getting injected into the injection wells?

17 A XTO.

18 Q But not the working interest owners. It's
19 XTO 100 percent essentially. Is that correct?

20 A That's correct.

21 Q Okay. Now, as far as the -- of the
22 injection wells and the designated operator of this
23 pilot project, this is a different entity of XTO than
24 has the midstream. Is that correct?

25 A In -- in legal terms, you can say that, yes.

1 And then in terms of the way operationally it's --
2 it's one company.

3 Q Okay. So then I guess conceptionally then,
4 just assume that there's 90 percent recovery of gas.
5 Then XTO, the operator, is purchasing 100 percent of
6 the gas from XTO, the midstream operator, but then
7 only selling back the 90 percent that's been covered.
8 Would that be accurate then?

9 A That -- that's correct. Assuming that
10 90 percent hasn't been recovered.

11 Q Okay. I'm going to have to think about this
12 a little bit more post hearing, because I know
13 currently all our other pilot projects is essentially
14 structured prior to a midstream operator. Other isn't
15 really a purchasing back and forth of the injectant,
16 and it's all essentially sold after it's been
17 recovered.

18 Regardless, I don't know if there's anything
19 more for us to cover in regards to that here in terms
20 of this hearing here.

21 I do have one other question in regards to
22 it. So the only title transfer from -- midstream
23 operator is at -- point; is that correct?

24 A Can you repeat that last part? You cut off
25 briefly.

1 Q Yes. I just said as reference to the XTO
2 Cowboy central delivery point, is that the sales point
3 from XTO, the midstream, to presumably a larger
4 midstream, or what occurs at that facility?

5 A That's exactly right.

6 Q Okay. Is that the only title transfer to
7 the larger midstream that's tied into the system?

8 A There's one upstream of -- of the Cowboy
9 CDP, and there's one downstream. But -- but
10 ultimately, they are -- they are tied into the same
11 system. So in terms of the custody piece, it's --
12 it's one in the same prior to those points.

13 Q And you're saying one upstream and one
14 downstream. Is that what you mean? Or you mean in
15 different parts of the gas gathering facility there's
16 two other title transfers? The current --

17 A Just in terms of -- of the facility itself,
18 you know, one where it doesn't have to go through our
19 CDP to be sold, and the other where it has to go to
20 the CDP to be -- to be sold. But all the same -- all
21 the same source gas with the same custody and title
22 language.

23 Q Okay. Are they both located at that same
24 site, or is your -- I don't know -- I guess, lower
25 pressure title transfer, is that occurring at

1 different site than the Cowboy?

2 A No. No. They're all at the same site.

3 Q Okay. Just one runs through a booster or a
4 compressor or something and one doesn't. Is that
5 correct?

6 A NGO recovery. That's correct.

7 MR. MCCLURE: Okay. Mr. Hearing
8 Examiner, do you want me to, as we go through them, do
9 you want me to provide them with supplemental
10 documents that I would like to be submitted, or just
11 wait until the end and --

12 THE HEARING EXAMINER: You can wait
13 until the end.

14 MR. MCCLURE: Okay, thank you. Okay.
15 I'm going to switch focus.

16 BY MR. MCCLURE:

17 Q Mr. Olivas, as far as the gas analysis that
18 was provided, on page -- virtual connectivity
19 interruption --

20 MR. RANKIN: Hey, Dean, can you repeat
21 that? You cut off the last seven seconds.

22 MR. MCCLURE: Hopefully my internet
23 isn't acting up or isn't my Bluetooth.

24 BY MR. MCCLURE:

25 Q That's page 116 of 228. That's the first

1 gas analysis. It's referenced as -- I guess -- where
2 it actually comes from, just that it was caught at the
3 outlet of a vessel. Where was this gas analysis
4 taken?

5 A In terms of?

6 Q -- or is it a -- for a specific well? I was
7 going to say, it says, "Cowboy" so I'm guessing maybe
8 it's the central delivery point there, but I'm not
9 sure.

10 A Yes. That's exactly right.

11 Q Okay. Thank you. There are six different
12 certificates of analysis -- has been provided.
13 However, it looks like they're all over the same two
14 wells. And those individual, the first three, is
15 there any difference between those, or are they all
16 for the same well?

17 A Can you reference the pages of the two
18 certifications?

19 Q Oh, absolutely. I was going to say it's the
20 immediate next three pages after 116. They look like
21 these three certificates all for the same well. It
22 looks like the sample was taken, or was it analyzed at
23 the same time.

24 So I'm assuming they're the same sample, but
25 my question to you is there any difference here, and

1 if so what is the difference between these different
2 analyses taken here?

3 A Give me one second.

4 Q Okay.

5 A Yes. So they're all the same sample. The
6 only difference is the -- the way they were analyzed.
7 As -- as you go through page 1 through 3, you -- you
8 have more of a -- of a breakdown of the composition as
9 opposed to more of a consolidated gas composition on
10 the first couple of pages.

11 So you -- as you get with your higher carbon
12 contents, heptane and octane, those are broken out
13 more precisely than bundling them together as you see
14 in hexanes plus with the -- with the first analysis.
15 So it's just more of a -- of a different way to look
16 at the -- the same data.

17 Q I got you. So like on page 117, it has,
18 like, the C2 plus, C3 plus, iC5 plus. The difference
19 is in the later ones -- broke --

20 A Exactly. Exactly.

21 Q Okay. Is this also the case with the second
22 set of three certificates? That's on page 120, 121,
23 and 122.

24 A Yes, sir.

25 Q Okay. Now, it appears that these were taken

1 at the well head from two of the proposed injection
2 wells. Is that correct?

3 A That's correct.

4 Q Now, I guess my question, especially taking
5 into consideration that I don't necessarily have a
6 clear picture of the size of the entire project -- the
7 gas gathering system. Do you feel that these three
8 different samples is representative of the gas
9 throughout the entirety of the gas gathering system?

10 A Not necessarily. They -- they are a good
11 proxy, but there's some key differences where these
12 are specifically geared towards the -- the wells in
13 question, all right, the wells that are part of the
14 closed loop gas capture. But they -- they have some -
15 - some minor differences in terms of the -- the
16 formations that are -- that are being produced.

17 So there -- there will be some minor
18 differences in terms of -- of the gas compositions
19 across the -- the field because they're -- they're
20 generally different formations. But -- but notionally
21 as you look at it from the -- the larger components,
22 which is methane and ethane, those are relatively
23 consistent, but you will see some differences across
24 the other -- the other components.

25 Q Now, your sample that was taken at the

1 Cowboy central delivery point, would this be a
2 relatively constant representation of the gas provided
3 as a whole right there -- of the comingled amount of
4 it if, I guess, if that makes sense.

5 A That's correct. That is a normalized
6 content for what you would see with all the gas coming
7 in from the -- the source wells that are not part of
8 the closed loop gas capture system today.

9 Q So this should be a reasonable
10 representation of your injectant. Is that correct?

11 A Precisely.

12 Q Okay. Now, I guess, I didn't look to see
13 which formations these two wells are in that you've
14 provided the gas analysis for. One of them looks like
15 it has a substantial amount of carbon dioxide similar
16 to your -- whereas the other, that being the 25H seems
17 like it has substantially less carbon dioxide in the
18 native production. Is that accurate to say?

19 A That's accurate.

20 Q Okay. I guess just to confirm with you, is
21 there any concern that the injection of this CO2 is
22 going to decrease the value of aid of production once
23 you start recovery of the gas?

24 A No. Because the -- the relative volume of
25 that well in comparison to the -- the volume going

1 into Cowboy is -- is substantially -- is substantially
2 offset.

3 Q Let me rephrase my question, I guess. If
4 you did not inject any gas into this well and you're
5 just sitting there producing -- as we had represented
6 here, is that gas being -- is the owners of this well
7 being paid more with the cleaner gas than once it has
8 the carbon dioxide in it?

9 Does that question make sense to you? Maybe
10 I can try rephrasing again, if not.

11 A Sure. Let me -- let me rephrase where --
12 where you're going with it.

13 Q Yeah, yeah.

14 A So post -- post event, when -- when this
15 specific well begins to produce, the -- the -- really
16 the question is would -- would the gas produced at
17 that point be of higher value than otherwise?

18 Q Would -- actually, I guess, the question
19 would be, is it of lower value than otherwise because
20 it will have substantially more carbon dioxide because
21 of the recovered gas versus the native production,
22 which has a much lower quantity of CO2?

23 A Right, right. And just -- just to make sure
24 we're -- we're relatively comparing the same things.
25 You're saying would it be lower quality in -- in

1 the -- in the terms of gas going into Cowboy versus
2 gas being produced from the specific well in terms of
3 the -- the royalty owners and interest owners of
4 specifically PC 1H?

5 Q That would be the latter of that, yes,
6 essentially, whether it makes a difference to the
7 royalty owners. Maybe your sales contract does not --
8 you're not taking it into account. Maybe they're
9 going to get paid the same regardless. But that's
10 essentially what my question is to you.

11 A Lower -- lower gas quality. Can you
12 rephrase that in -- in a different way specifically?

13 Q Oh, okay.

14 A Because I'm -- I want to make sure we're
15 referencing the same thing here, 'cause I'm -- I'm
16 with you, but it's -- it's --

17 Q Okay. Yeah, I'll --

18 A -- talk about Cowboy -- when we talk about
19 this -- this specific well, it -- it --

20 Q Yeah. I'll try to put it more into -- I'll
21 try to put it more into numbers form. Let's say prior
22 to an event, it's producing -- let's say it produces
23 100 MCF at a low carbon dioxide quantity. Let's
24 say -- gets paid 50 -- well, whatever. Let's say it's
25 \$10 MCF, something crazy.

1 If it then after an event is now producing a
2 high volume of carbon dioxide along with the gas, the
3 native production is still 100 MCF of clean gas, are
4 they getting the full amount -- the \$10 -- for that
5 100 MCF, or would they only get \$8 per an MCF?

6 A Right. And you're specifically referencing
7 the well with 14 percent carbon dioxide?

8 Q I'm representing the well of -- or the 25H
9 that has 0.03.

10 A Got you. Okay.

11 Q So I guess, that would be 3.4 percent by
12 mole or moles.

13 A Yep. Yep. I'm with you now. Okay. So --
14 so in general terms, the -- the gas that would be
15 injected to this specific well would be representative
16 of the gas that you saw on the Cowboy outlet, which
17 has carbon dioxide at 0.14 percent.

18 And so your -- your comment to that is that
19 the 0.14 is higher than the 0.03. Is that -- is that
20 fair?

21 Q Yes. And my question in regards to that is,
22 if you increase the amount of C-102 -- or CO2 --
23 excuse me -- as coming out of the 25H well, in the
24 native production, the owners in that well going to
25 see the same amount of money from their native

1 production, or are they going to see less because now
2 there's much more CO2 being produced from it?

3 A Got you. Got you. Yeah, so -- so we -- we
4 currently transfer custody with samples similar to
5 this. So as we -- as we produce that, the -- our
6 ability to ensure that interest owners and royalty
7 owners are compensated based off of their actual Btu
8 value stays consistent through the stream.

9 So in a similar fashion that we would be
10 balancing out mass along with GOR, there -- there's
11 also a -- there's also prudence to have the -- the Btu
12 balanced pre and post event.

13 Q Meaning that you would pay the owners for
14 their native production as if it was at the pre-event
15 quality. Is that correct?

16 A That is correct.

17 Q Okay. So then would it be fair to say that
18 the injection of gas into any of these injection
19 wells, not specifically just the 25H, is it fair to
20 say that that injection will not lower the value of
21 the reproduced native gas?

22 A That is correct.

23 Q Okay, thank you.

24 A You bet.

25 Q And all of these samples taken here, it

1 appears that there is very little to no H2S. Is that
2 representative of the field as a whole?

3 A That is correct.

4 Q Okay. Maybe I'll stick to this side,
5 continue on talking about the allocation. It appears
6 that what XTO is proposing is -- I know you guys are
7 calling it a mass balancing, but in laymen's terms
8 would it be accurate to call it essentially the first
9 in, the first out method of allocation?

10 A That's correct.

11 Q Let's see. Some of my other questions here
12 it looks like you already answered. Now, the XTO
13 takeaway -- or let me back up. The title transfer
14 that occurs between individual central tank batteries
15 and the low-pressure line that for XTO midstream, can
16 you classify what sort of meter is being used there?

17 A Yes. It's a custody transfer orifice meter.

18 Q Okay. And now there's reference to the
19 allocations to the individual wells being done via
20 well test. I guess, is this accurate to the
21 comingling project that includes these injection
22 wells, or is this essentially across the entirety of
23 the field where this was referencing?

24 A No. This is specific to the -- the
25 injection wells.

1 Q And the injection wells, are they covered in
2 a single project? It looks like there's two
3 compressor stations there.

4 A When you say, "a single project"?

5 Q I mean a single comingling project, or is
6 there, or are they separated? Are they combined prior
7 to the title transfer to XTO midstream?

8 A There are two comingling orders as part of
9 these -- these ten wells that -- that are comingled
10 prior to the custody transfer.

11 Q Okay. So there's two different comingling
12 project, and by comingling projects, I'm defining that
13 as a set of wells which are comingled prior to title
14 transfer.

15 A That's correct.

16 Q Okay. Now, of those two comingling
17 projects, is allocations to the individual wells being
18 done via well tests?

19 A Yes. Today it is.

20 Q You say today. Is the intent to change
21 that?

22 A The intent would be to have more
23 conservative testing post hearing approval.

24 Q So basically, potentially more conservative
25 after such -- after this pilot project would be

1 approved. Is that accurate to say?

2 A That's accurate.

3 Q Okay. I guess, are you aware of what -- I
4 guess, are you aware that the closed loop gas capture
5 guidance stipulations -- project?

6 A Can you repeat the last five seconds?

7 Q Okay. I'm getting too far away from my
8 computer -- moving too much. The guidance document
9 that's been issued, are you aware that the
10 stipulations within it are based upon a project in
11 which each well has its own independent separator and
12 is being -- its production is being continuously
13 metered and measured?

14 A Yes, sir. I'm aware of that.

15 Q Okay. And I didn't notice it within this
16 application packet, and I may have missed it. But
17 would it be accurate then to say that XTO is
18 requesting an extension from those stipulations
19 included there then?

20 A No. That's not accurate.

21 Q Okay. So then it's XTO's intention to put
22 all these injection wells into their own individual
23 separators and measure them independently. Is that
24 correct?

25 A Yes, sir.

1 Q Oh, okay. I didn't -- I guess I completely
2 missed that. Okay. Very good, then. That's
3 definitely the more ideal. So with that in mind,
4 would it be accurate that XTO will be able to --
5 points both prior to an injection event and after an
6 injection event then?

7 A Precisely.

8 Q Okay, very good. Very good. Okay. Now, in
9 regards to the first in, first out method, as maybe
10 yourself -- I know Mr. Rankin had referenced it -- the
11 division is not currently approving that in general.
12 As such, is it accurate to say that XTO is fine with a
13 either DUR or decline curve analysis methodology for
14 allocation between recovered and native production?

15 A Yes. We're planning on employing a GOR
16 analysis to segregate the native gas belonging to the
17 closed loop gas capture well proprietors.

18 Q Okay, very good. I just want to see if I've
19 got more on the allocation side or gas side, or if I
20 should move onto the next topic. I think I can move
21 on.

22 Okay. It seems from the application that
23 XTO's intent is to inject down the tubing during an
24 injection event. Is that accurate --

25 A That is correct.

1 Q Now, during the injection event or during
2 the entire life of when one of these injection wells
3 is in operational status ready to receive injection,
4 would it be accurate to say that XTO intends to
5 maintain a tubing packer installed in the hole?

6 A That's correct.

7 Q Okay, thank you. Now, currently it seems
8 that several of these wells -- proposed injection
9 wells are very low producing wells and/or are TA'd
10 currently. Is that accurate?

11 A Yes, sir.

12 Q Do you feel that there's a concern there
13 that it may be more difficult for XTO to recover most
14 of the injected gas if there's currently low volume
15 being produced currently, or do you feel that's going
16 to make a difference? That's going to be a question
17 for the reservoir engineer, if you feel that would be
18 more appropriate.

19 A Can you --

20 Q Say it one more time?

21 A -- specify your concerns?

22 Q Okay. I can. I guess what my concern would
23 be is if it will take significantly longer to
24 reproduce the injected gas. And actually, let me
25 reclarify that, as I don't mean to say it's my

1 concern. What I mean to say is that's my question, is
2 whether XTO has considered it and whether they feel
3 it's a concern?

4 A We have considered it. However, as part of
5 this project, what -- what we're intending to do and
6 have -- have really agreed to do is change the
7 artificial lift method of the wells to gas lift, which
8 would ultimately provide us the ability to -- to
9 produce that -- reproduce that gas quicker than we
10 would otherwise, in their prior state.

11 Q So I guess, let me ask maybe a slight
12 follow-up question to that then. Assuming that their
13 bottom hole pressures are relatively -- I don't want
14 to say minimal -- but lower, under gas lift, will you
15 be able to maintain the current pressures that is
16 there today? Or will that increase your bottom hole
17 pressure by anything?

18 A I'm going to defer to Owen --

19 Q Okay. I'll --

20 A -- to get him to precisely clarify that
21 question to you.

22 MR. MCCLURE: Okay. I'm assuming we
23 want to wait until we have him here, Mr. Hearing
24 Examiner? We don't want to have him step in, do we?

25 THE HEARING EXAMINER: No.

1 MR. MCCLURE: Okay, thank you.

2 BY MR. MCCLURE:

3 Q I'll re-ask him when it comes up. A
4 question on the same subject, which would be more in
5 your wheelhouse, it is XTO's intent, based on what --
6 you kind of just kind of answered this question
7 already for me, but just let me ask it again, just to
8 clarify.

9 It is XTO's intent to essentially take all
10 these -- the lower producing ones and the currently
11 TA'd ones and bring them back to production and
12 maintain them in production while they are in -- as
13 ready for injection. Is that correct?

14 A That is correct.

15 Q Okay, thank you. Okay. This next
16 question -- Mr. Olivas, was Exhibit C under yours, or
17 was that under somebody else? I'm looking at page 69
18 of 228.

19 A Yes. That was -- that was by somebody else,
20 our geologist, Carlos.

21 Q Okay. I'll ask him about that then when
22 that comes up. And is that --

23 THE HEARING EXAMINER: Just to clarify
24 your questions, Mr. McClure, are you asking about the
25 table operational conditions -- this table that I'm

1 showing here?

2 MR. MCCLURE: Yes, yes.

3 THE HEARING EXAMINER: Okay.

4 MR. MCCLURE: That is correct.

5 THE HEARING EXAMINER: Okay. Sorry.

6 We wanted to -- I just want to make sure, depending on
7 the issue, some of this may fall into Mr. Olivas' area
8 of testimony. So maybe go ahead and ask him. We can
9 decide whether it's appropriate for him.

10 MR. MCCLURE: Yes, sir. Okay. I
11 definitely can do that because it's very
12 straightforward. He probably even may very well have
13 the answer to it.

14 BY MR. MCCLURE:

15 Q You can see that the bottom five wells have
16 a zero pressure for current average surface pressure.
17 Are these just the wells that are currently not
18 producing or not under gas lift? Or what's the reason
19 for that zero being there?

20 A Yes. Carlos would be better suited to go
21 ahead and answer that for you.

22 Q Okay. So then yes ain't the answer. Yes is
23 the answer to -- or yes is that I should hold the
24 question a bit. Is that correct?

25 A Right. Go ahead and hold the question.

1 Q Okay. Very good. Now your gun barrel views
2 that are on page -- or start on page 44 of 228.
3 Mr. Olivas, the wells that aren't injection wells were
4 left off of here. My question is in regards to those
5 wells. Was any of them within the target injection
6 interval here -- that being the Bone Spring here?

7 A Specifically, the source wells?

8 Q Well, I guess, any wells. It doesn't
9 necessarily have to be -- wells. It seems like on the
10 AOR there's some, like, lay-down wells mingled in the
11 midst of this. There might've -- I think there was
12 some stand-up wells relatively close to these as well.

13 A Right. I've -- I've got some information on
14 that, but I think your -- your question would be
15 better suited for -- for Owen in this case. So
16 following up on the witness.

17 Q Okay. So your reservoir engineer, correct,
18 Mr. Hehmeyer?

19 A That's correct.

20 Q Okay. And now it appears that XTO is
21 seeking authority to add additional injection wells
22 administratively, all within the current area -- is
23 that accurate to say?

24 A When you say "injection wells
25 administratively" can you -- can you provide some

1 context?

2 Q By "injection well" I'm referring to these
3 closed loop gas capture wells that we plan to use for
4 the temporary injection. In regards to
5 administratively, what I'm referring to is not needing
6 to come back to hearing in order to amend the order to
7 -- it would be done out of the hearing process and
8 instead just an application submitted to the division.

9 A That's correct.

10 Q Okay. I guess my question here is, you
11 specifically include wells that's within the AOR. Is
12 the thought process that you would request to add
13 these without conducting a new AOR because the AOR has
14 already been done? Or is it simply to encapsulate an
15 area, tracts that are close to the existing injection
16 wells?

17 Do you want me to ask that question one more
18 time, maybe make it a little clearer?

19 A If you can, yes.

20 Q Yes, sir. Assuming that this were to be
21 approved by the division, would it be XTO's intent
22 that they do not need to run a new AOR on any new
23 wells brought into the project?

24 A The -- the intent would be for -- for source
25 wells specifically as we have new drilling wells come

1 in, not necessarily with injection wells, but new
2 source wells to be able to amend as necessary,
3 understanding that the -- the source wells will have
4 similar properties to -- to the -- the source wells
5 that are currently in the ARO.

6 Q I was going to say, we might be talking
7 about two different requests here, because I believe
8 within the packet is reference to additional source
9 wells maybe added in the context of the comingling
10 permits. Does that sound familiar to you?

11 A When you say "added as part of the
12 comingling permit" is this any future wells?

13 Q Correct. That was my -- well, I mean, that
14 was my interpretation of XTO's application was. I
15 don't know if that's accurate or not.

16 A Right. Okay. We're saying the same thing
17 there. Then that was -- that was my explanation.

18 Q Okay. Okay. So you're referring -- your
19 answer is specifically for the source wells.

20 A Correct.

21 Q Okay. I guess where my question is
22 orienting around is the inclusion -- injection wells.
23 And where I'm referencing is on page 167 of 228, and
24 it's paragraph 8 on that page. I guess I'm not sure
25 whose affidavit this is here. Oh, this is a -- oh,

1 actually, it's your self-affirmed statement,
2 paragraph 8.

3 MR. RANKIN: Mr. Examiner, I might be
4 able to short circuit this, because it actually wasn't
5 part of our application, and we're willing to drop
6 that because it wasn't actually part of the written
7 application.

8 THE HEARING EXAMINER: Okay.

9 MR. RANKIN: That's -- yeah.

10 THE HEARING EXAMINER: So are you
11 objecting to the question?

12 MR. RANKIN: No. I'm just letting
13 Mr. McClure know that I think -- it's was part of the
14 application, Mr. McClure, and so it's actually not
15 something that we're intending to seek or pursue under
16 this application.

17 THE HEARING EXAMINER: So where is
18 Mr. McClure getting this?

19 MR. RANKIN: It's from an affidavit or
20 self-affirmed statement or Mr. Olivas' statement, but
21 it wasn't part of the application as filed.

22 THE HEARING EXAMINER: Okay. So does
23 the affidavit need to be amended to take it out?

24 MR. RANKIN: Well, I guess, Mr. Olivas
25 -- we can do that if it will be helpful, so the record

1 is clear, so it's not -- I mean, this is part of the
2 record, I suppose, but I'm happy to submit a
3 revised --

4 THE HEARING EXAMINER: Okay.

5 MR. RANKIN: -- statement to make it
6 clear that that specific request is not part of the
7 application.

8 THE HEARING EXAMINER: Okay. So you're
9 going to submit an amended -- okay. So what are you
10 doing then?

11 MR. RANKIN: I will correct the
12 self-affirmed statement to make clear that XTO is not
13 seeking administrative approval for additional
14 injection wells within the product area.

15 THE HEARING EXAMINER: Okay.

16 MR. RANKIN: Yeah.

17 THE HEARING EXAMINER: And where does
18 it say that in the affidavit?

19 MR. RANKIN: It's on this page 167 of
20 228, paragraph 8.

21 THE HEARING EXAMINER: Paragraph 8,
22 okay. So you're going to take out paragraph 8?

23 MR. RANKIN: Correct.

24 THE HEARING EXAMINER: So Mr. McClure,
25 did you hear that?

1 MR. MCCLURE: Yes, I did, Mr. Hearing
2 Examiner. And as such, my question is now moot since
3 they'll be removing it.

4 THE HEARING EXAMINER: Right. Okay.
5 Let me make that decision whether it's moot or not.

6 MR. MCCLURE: I apologize.

7 THE HEARING EXAMINER: That's fine. So
8 okay. So there is another item that's going to be
9 amended in the whole packet. So in your cover letter,
10 will you mention what you're doing here with
11 paragraph 8 in the affidavit of Mr. Olivas and then
12 what else you're doing with notice and description,
13 et cetera, et cetera.

14 MR. RANKIN: Correct.

15 THE HEARING EXAMINER: Okay, very good.
16 Mr. McClure, do you have any more questions for this
17 witness?

18 MR. MCCLURE: Yes, I do. Yes, I do,
19 Mr. Hearing Examiner.

20 THE HEARING EXAMINER: Okay. Go right
21 ahead.

22 BY MR. MCCLURE:

23 Q Mr. Olivas, on page 126 of 228 -- that's
24 your AOR spreadsheet -- yeah, Mr. Rankin is there, it
25 looks like. Does this include and only include the

1 wells that's within the AOR area?

2 A Specifically page 126 or the whole AOR?

3 Q Well, the entirety of the spreadsheet here.
4 So it's 126, 127, 128, and 129.

5 A So the full list is Exhibit F.

6 Q Okay. What pages is Exhibit F on? Oh,
7 that's the source wells, right, is Exhibit F?

8 A Right. Just to make sure we're talking
9 about the same thing here.

10 Q Oh, we're not. We're not. Let me re-ask my
11 question. So I get scrolled back down. Okay.

12 On page 124 of 228, there's a map here with
13 the AOR around each of the proposed injection wells.
14 Are all of the wells that fall within that AOR area
15 there, are all of those in that spreadsheet that I've
16 referenced which I think is Exhibit J if I'm not
17 mistaken.

18 A That's correct.

19 Q Okay. Are these only the wells as with an
20 AOR or all of the wells on this entire map?

21 A So the wells that are listed are only the
22 wells that are part of the AOR.

23 Q Okay, thank you. Now, do we have reference
24 anywhere to a full accounting of the casing setting
25 depths for each casing string along with their top of

1 cement for each casing string for each of these wells?

2 A That'd be a question better suited for our
3 reservoir engineer.

4 Q Okay. Let me slightly change the question
5 just a little bit, but I may re-ask it as well.

6 Within these exhibits, are you aware of that
7 information I just referenced being included in this
8 exhibit anywhere? That information being casing
9 setting depths including production, intermediate
10 surface casing, along with the topper cement for each
11 one of those?

12 A Not in the specific spreadsheet that we're
13 viewing right now.

14 Q Okay. And not within the application to
15 your knowledge, at least?

16 A For the specific AOR wells.

17 Q Yes. That's correct.

18 A Correct.

19 MR. MCCLURE: Thank you. Let me skim
20 my notes one last time. Thank you, Olivas. I think
21 I'm -- or Mr. Olivas, I think I have no further
22 questions for you.

23 THE HEARING EXAMINER: Mr. Rankin, any
24 follow-up?

25 MR. RANKIN: Yes, Mr. Examiner, I do.

1 Just take me a moment to get my notes organized here.
2 One moment.

3 REDIRECT EXAMINATION

4 BY MR. RANKIN:

5 Q Mr. Olivas, Mr. McClure was asking you many
6 questions about the facilities within and around the
7 Poker Lake unit. And I believe he was asking for
8 purposes of understanding how the gas is combined. He
9 was asking about the different midstream entities, the
10 infield gathering that was going on, where the gas is
11 marketed, and questions along those lines. Those all
12 go to questions relating to service comingling.

13 Mr. Olivas, while you're a surface
14 facilities engineer, are you part of the service
15 comingling group at XTO?

16 A No, I'm not.

17 Q So while you have a general idea about how
18 the surface facilities work and the operational aspect
19 of them, you're not intimately familiar with the
20 comingling orders or how exactly those comingling
21 orders are structured under XTO's operation?

22 A That's correct.

23 Q Okay. And as you may be aware, when the
24 division issues these closed loop gas capture orders,
25 they often will include a statement that they're not

1 seeking to -- approval for these orders doesn't
2 override or exempt any requirements from the division
3 to obtain proper approvals for service comingling.
4 Are you familiar with that language?

5 A Yes. Yes, I am.

6 Q So the questions that Mr. McClure were
7 asking I think was to try to understand, so the nature
8 of the current status of comingling in and around the
9 unit for the source wells and then the CLGC wells that
10 you're proposing to inject into.

11 But as and when -- I think you kind of
12 addressed this, but I want to make sure it's clear for
13 the record -- as and when the division approves this
14 injection to this pilot project, XTO would make sure
15 that its surface comingling authority is appropriate
16 for the way the system is set up at the time. Is that
17 correct?

18 A That is correct.

19 Q Okay. So your surface comingling group then
20 will work with the division to ensure that it has the
21 proper authorities in place, given the way the system
22 is set up, the way the source gas will be diverted
23 into these proposed injection wells?

24 A Yes.

25 Q Okay. Mr. McClure was asking you some

1 questions about -- again it might be helpful just to
2 point out for the record and kind of walk through so
3 we understand how it's set up, because I think there
4 was a lot of reference to these systems and
5 facilities. And I think the spreadsheet that you
6 prepared as a supplement to be attached to your
7 statement may help both the division and the record be
8 clear about what XTO is proposing and how this is all
9 set up.

10 If you would, Mr. Olivas, I'm referring here
11 to Exhibit B5 attached to your statement. I've got it
12 up here on the screen. If you would just take a
13 moment to walk through and explain to Mr. McClure and
14 the division how the system is currently set up and
15 how it will operate during an upset event in which
16 you'll be injecting gas into the proposed CLGC wells.

17 A Yes. Yes. So -- the scope of the
18 application is really tailored to the closed loop gas
19 capture wells. So when we look at this in terms of a
20 GOR gas allocation protocol, we -- we ultimately
21 activate the gas allocation protocol post storage
22 event. And this will conclude once the full volume of
23 injected storage gas is accounted for.

24 But subsequent to this phase, we -- we
25 revert to standard gas allocation procedures. The --

1 the overview of this during a closed loop gas capture
2 storage phase, we -- we integrate gas flows from
3 various sources into a single closed loop gas capture
4 well, and that's shown in the top left blue, which are
5 the source wells, and then the bottom blue circle,
6 which is the closed loop gas capture well.

7 Post event the -- the gas originating from a
8 closed loop gas capture well comprises of gas with
9 gas, native gas, and storage gas production, which are
10 all sourced from the reservoir and collectively termed
11 reservoir gas.

12 In -- in terms of the calculation and
13 allocation, we will employ continuous monitoring of
14 gas with gas, which is mandated for each gas with
15 closed loop capture well. As mentioned earlier, we're
16 also employing a gas oil ratio analysis to segregate
17 native gas which -- which is belonging to the closed
18 loop capture well proprietors from storage gas
19 production, which is attributed to the -- to the
20 source well owners.

21 Following a storage event, a well test
22 allocation method is applied, which will entail --
23 which will entail well test data to ensure a
24 consistent accounting for gas production.

25 Q So when Mr. McClure referenced in the

1 application as filed, XTO was originally proposing a
2 more simple mass balance accounting based on
3 essentially first in, first out, meaning XTO would
4 allocate following an injection event all the
5 subsequently produced gas from a CLGC well as inject
6 produced gas until you've recovered the 100 percent
7 volume.

8 And then you would start accounting the rest
9 of the gas on production as being native gas and
10 allocate those to the owners in those wells. That was
11 the original proposal; correct?

12 A That's correct.

13 Q And based on discussions with the division,
14 your understanding is the division is disinclined to
15 approve that methodology at this time?

16 A That is correct.

17 Q And for that reason -- and you were going to
18 do this anyway -- you're now proposing to do what the
19 division has approved previously, which is to do a GOR
20 or gas to oil ratio analysis, subsequent to a gas
21 injection event and allocate based on that GOR
22 analysis; correct?

23 A That is correct.

24 Q And you'll be prepared to submit a
25 supplement exhibit outlining an example of how that

1 would be implemented?

2 A Yes, I will.

3 MR. RANKIN: And so Mr. McClure, just
4 for your benefit, subsequent to this hearing, we'll be
5 providing an additional exhibit that details what XTO
6 will propose in line with what the division has
7 previously approved following injection events for gas
8 allocation.

9 BY MR. RANKIN:

10 Q Mr. Olivas, on the same sort of topic here,
11 Mr. McClure was asking you questions about the quality
12 of the gas based on the gas analyses that were
13 presented in the exhibit packet. And I just wanted to
14 make sure that the record was clear, because I had a
15 little trouble following it myself.

16 And I'm just going to go back and make sure
17 that for the record and for the division we have a
18 clear statement of which of these gas samples
19 represents the injection gas, and which of the gas
20 samples represent the CLGC gas, and then we can just
21 talk briefly.

22 I think you confirmed the bottom line here,
23 which is that owners in the CLGC wells will not be
24 harmed or impaired based on the quality of the gas
25 being injected or subsequently produced; right?

1 A That is correct.

2 Q Okay. But nevertheless, I would like to
3 just confirm the understanding, so the record is
4 clear. And I'll flip through the pages here. So
5 starting at page 114 -- it seems that it didn't match
6 up my page number. Oh, I know why, because it's a PDF
7 page versus -- okay.

8 So it's actually PDF page 116 which is this
9 exhibit marked Exhibit G. And it's a gas analysis
10 from RAM Energy Solutions. And it identifies the
11 meter idea is being that Cowboy outlet is -- catcher.

12 I believe your testimony was -- and I just
13 want to make sure this is clear for the record -- that
14 this is the location of the CDP right at the point of
15 the gas sales; correct?

16 A That's correct.

17 Q And this gas is representative of all the
18 source wells that would be used for produced injected
19 gas into the ten CLGC wells; correct?

20 A That's correct.

21 Q And in this particular case, Mr. McClure is
22 particularly interested in the quality of the gas
23 based on the CO2 content. And this is an accurate
24 representative of the CO2 content for the injected
25 gas?

1 A At this point in time for the timeframe that
2 the gas analysis was -- was taken.

3 Q So this gas will shift around a little bit
4 with CO2?

5 A That's correct. With -- with the intent to
6 have gas samples --

7 Q Throughout. But now when you describe --
8 let me put that aside. So this is the proposed
9 injection gas, and Mr. McClure reviewed with you
10 another set of gas certificate analyses which are
11 representative of some of the CLGC wells; correct?

12 A Correct.

13 Q And these, in some cases, have higher CO2
14 content, such as this one from the 1H well. It has
15 approximately 14.12 -- percent?

16 A That correct.

17 Q Okay. And this was representative of the
18 native gas. In other words, the gas that's going to
19 be produced after you've recovered all the injected
20 gas?

21 A Right.

22 Q And another example is this other well
23 that's included in this analysis is the 25H well;
24 correct?

25 A Correct.

1 Q And this has a different carbon dioxide
2 content than the one we just looked at. And as I
3 understood Mr. McClure's questions, he was asking you
4 whether or not, because this particular well -- the
5 25H -- has a low carbon dioxide content, if the owner
6 in this well is going to be negatively impacted
7 because some of the gas injected will have a higher
8 CO2 content. Is that your understanding of his
9 questions?

10 A Yes, it was.

11 Q Now, you previously just reviewed for us how
12 Exxon Mobile is going to -- or XTO is going to be
13 conducting a GOR analysis to confirm when the injected
14 gas will be fully recovered.

15 And so I guess, my question to you is, you
16 know, is there going to be any harm to these owners
17 when there's a GOR analysis confirming that you have
18 recovered all the gas and you only start paying
19 royalty on these owners in the CLGC wells once that
20 gas is recovered. Is that a practical summary of how
21 this will work?

22 A Can you repeat your question?

23 Q Yeah. So I guess my question is, like, you
24 know, the owner in this 25H well, right, it has a
25 certain carbon dioxide content. After a CLGC gas

1 injection event from the Cowboy gas with a slightly
2 higher CO2 content, that gas will be recovered, and it
3 will be measuring based on GOR to confirm that you're
4 getting 100 percent or close to 100 percent recover;
5 correct?

6 A That's correct.

7 Q And you won't start paying royalty on these
8 owners in the existing well until you've recovered
9 that produced gas?

10 A That's correct.

11 Q And if there was any comingling or any
12 mixing of the gas and the quality of this gas, it's
13 not going to impair their value once you sell the gas
14 for these owners. Is that your testimony?

15 A That's correct.

16 Q Okay. And I think Mr. McClure got this
17 testimony from you, but I just wanted to make sure
18 that it's very clear for the record. Mr. McClure was
19 asking whether XTO had intended to allocate or
20 designate well testers for each CLGC well following an
21 injection event. And you explained that that was the
22 case; correct?

23 A That is correct.

24 Q And in the application, you do say here that
25 each CLGC well will be continuously monitored

1 following an injection as required by recent division
2 CLGC orders. And that's your understanding of what
3 you intended; correct?

4 A That is correct.

5 MR. RANKIN: Okay. Yeah, I don't think
6 I have any further questions, Mr. Examiner.

7 THE HEARING EXAMINER: I thank you.
8 Mr. McClure, can we let this witness go?

9 MR. MCCLURE: Unfortunately,
10 Mr. Hearing Examiner, I do have a couple extra
11 questions in regards to his latest testimony, if I
12 may.

13 THE HEARING EXAMINER: Okay.

14 RE-CROSS EXAMINATION

15 BY MR. MCCLURE:

16 Q Mr. Olivas, your earlier testimony in
17 regards to the title transfer between the operating of
18 the wells and the midstream, is that still correct, or
19 is that called into question now after Mr. Rankin's
20 questions?

21 A In terms of?

22 Q Is there a midstream entity of each of these
23 central tank batteries essentially selling to and then
24 being essentially repurchased and injected into the
25 injection wells?

1 A When you say "repurchased" --

2 THE HEARING EXAMINER: Mr. Olivas, it's
3 not proper for the witness to ask questions of the
4 examiner. So if you don't understand the question,
5 just say you don't understand.

6 THE WITNESS: Okay.

7 BY MR. MCCLURE:

8 Q Do you want me to rephrase it?

9 A Can you rephrase that piece? Yes, please.

10 Q Yes, sir. Earlier my understanding of your
11 testimony, and I wish to confirm my understanding is
12 correct, you had testified that there's one entity in
13 XTO -- I'm just, for purposes of this hearing refer to
14 it as the XTO Operating -- is the one that owns the
15 wells. They are then selling gas to a midstream
16 entity that's also owned by XTO. Is that correct?

17 A Yes.

18 Q Okay. And then that gas, that is now owned
19 by the midstream entity. Is the gas that's being
20 injected into these CLGC wells. Is that correct?

21 A That is correct.

22 Q Now, does the title transfer then not occur
23 from the midstream back to operations at the time of
24 injection, or is it still owned by midstream then?

25 A No. It's still owned by midstream, and

1 you'll see in the --

2 Q Okay.

3 A -- in the protocol that we -- we -- near the
4 afterwards, there's an example calculation there. But
5 what the meter is used for there that's shown on this
6 diagram prior to the close of gas capture, it's --
7 it's there to -- to give us an inventory of how much
8 gas was -- was injected for -- for purposes of -- of
9 ensuring that -- that we are -- are allocating that
10 once the well has been produced.

11 But it's -- it's not -- it's not a custody
12 transfer. It's an inventory management.

13 Q Okay. So then when the gas is produced from
14 the CLGC well, a part of that gas is owned by
15 midstream, and a part of that gas is owned by
16 operations; is that correct?

17 A That is correct.

18 Q Okay. Now based off your description of how
19 allocation would work under GOR method that you just
20 testified to Mr. Rankin, can you please describe for
21 me again how you envision, or how that allocation
22 would work. So immediately after an injection event,
23 and you now start producing, how is that gas being
24 allocated?

25 A Yes. So to give you a theoretical example,

1 assume we inject 1,500 MCF of gas over a full day.
2 Now, prior to that event we will have measured gas
3 lift volume. We'll have measured oil well tests and
4 water tests with -- with ultimately a pre-event GOR.
5 So that gives us our -- our baseline for -- for prior
6 to the event.

7 Now, post event after injecting 1,500 MCF,
8 we now have -- have measured through the storage gas
9 injection meter, that -- that amount of inventory. So
10 that is -- that is our inventory of injected storage
11 gas.

12 Post event, we will continue to measure oil,
13 water, and gas and -- and we will use those
14 measurements to calculate native gas, based off of
15 the -- the pre-event GOR. And that -- that native gas
16 will be subtracted and -- and really subtracted out so
17 that we could understand our storage gas production.
18 And then subtract out the storage gas production from
19 the inventory of injected storage gas.

20 Q Okay. So then would it be accurate to say
21 that on day one you may be allocating part of the
22 production to recovered gas and part of the production
23 to native gas. Is that correct?

24 A That is correct.

25 MR. MCCLURE: Okay, thank you. I was a

1 little confused, I guess, by your earlier testimony.
2 I just wanted to confirm we're on the same page. But
3 that's also my understanding. Thank you, sir.

4 I have no further questions,
5 Mr. Hearing Examiner.

6 THE HEARING EXAMINER: All right,
7 Mr. McClure, I sent you a Teams chat. Would you
8 respond to it?

9 Okay, Mr. Rankin, can this witness be
10 excused?

11 MR. RANKIN: Mr. Examiner, I just want
12 to make one comment, and maybe Mr. Olivas can confirm
13 this.

14 RE-DIRECT EXAMINATION

15 BY MR. RANKIN:

16 Q But Mr. Olivas, if there was somebody at XTO
17 that knows better the ownership or exactly how title
18 transfer occurs, and if Mr. McClure would like to know
19 that information -- although it's not clear that it's
20 relevant to the CLGC division guidelines for these
21 kinds of cases -- but if that's something the division
22 would like to know, is that something that we can
23 provide to Mr. McClure after the hearing?

24 A Yes, we can.

25 MR. RANKIN: Okay, thank you.

1 THE HEARING EXAMINER: May this witness
2 be excused? Thank you, Mr. Olivas.

3 THE WITNESS: Thank you.

4 THE HEARING EXAMINER: Okay,
5 Mr. Rankin, who is your second witness?

6 MR. RANKIN: Mr. Examiner, we'd like to
7 call our second witness, Dr. Carlos Lopez.

8 THE HEARING EXAMINER: Dr. Lopez,
9 you're under oath. Would you please have a seat
10 there. And let's deal with your exhibits.
11 Mr. Rankin.

12 DIRECT EXAMINATION

13 BY MR. RANKIN:

14 Q Mr. Lopez, have you prepared in this exhibit
15 packet what's been marked as Exhibit C, which is your
16 self-affirmed statement?

17 A Yes.

18 Q And did you also attach to that
19 self-affirmed statement what's been marked as Exhibit
20 C1 and C2?

21 A Yes.

22 Q And is C1 a copy of your curriculum vitae,
23 your educational and work experience as a petroleum
24 geologist?

25 A Yes.

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1 Q Have you previously testified before the
2 division?

3 A No.

4 Q And you have not had your credentials as an
5 expert in petroleum geology accepted as a matter of
6 record?

7 A Yes.

8 Q You have not yet?

9 A Oh, I've not. Sorry.

10 MR. RANKIN: Yeah. But at this time,
11 Mr. Examiner, unless the division would like to query
12 Dr. Lopez on his credentials as a petroleum geologist,
13 I would request that Dr. Lopez be tendered an expert
14 in petroleum geology and accepted as a matter of
15 record.

16 THE HEARING EXAMINER: What page is his
17 CV on?

18 MR. RANKIN: It's on page 197 of 228.

19 THE HEARING EXAMINER: 197.

20 MR. RANKIN: 197.

21 THE HEARING EXAMINER: And you're
22 seeking to qualify him as a geoscientist?

23 MR. RANKIN: As a petroleum geologist.

24 THE HEARING EXAMINER: Okay. I will
25 qualify Mr. Lopez as a petroleum geologist.

1 MR. RANKIN: Thank you, Mr. Examiner.

2 BY MR. RANKIN:

3 Q Mr. -- Dr. Lopez -- I apologize. I keep
4 saying Mr. and I want say Doctor. Do you have any
5 corrections or updates, revisions to your
6 self-affirmed statement that you've prepared as
7 Exhibit C?

8 A No.

9 MR. RANKIN: Mr. Examiner, at this time
10 I would move the admission of Exhibit C and their
11 attachments C1 and C2 to the record.

12 THE HEARING EXAMINER: Okay. Are there
13 any objections? Not hearing any, they are admitted
14 into evidence.

15 (Case 24273 Exhibit C was received into
16 evidence.)

17 Mr. McClure, do you have any questions
18 for this witness? I think it's mute. I didn't mute
19 him.

20 MR. MCCLURE: I apologize. I muted
21 myself. I was probably coughing at some point.
22 Mr. Hearing Examiner, I do -- I was slightly
23 distracted. Our current witness is the geologist,
24 Mr. Hehmeyer; right?

25 THE HEARING EXAMINER: No. It's

1 Mr. Lopez, sir.

2 MR. MCCLURE: Oh, Mr. Lopez. Okay.
3 Oh, actually, the geologist is Mr. Lopez. The
4 reservoir engineer is Mr. Hehmeyer. All right. I
5 only have a few limited questions here.

6 CROSS-EXAMINATION

7 BY MR. MCCLURE:

8 Q Mr. Lopez, on page 48 of 228, we have our
9 type log or our log from the Pierce Canyon 17
10 Federal 1.

11 A Yes.

12 Q Is there included anywhere within the
13 application packet, like, a written-out pick for top
14 and bottom for each of the confining layers?

15 A Yes. It's included.

16 Q Okay. Where is that included at, sir? Oh,
17 is it down in that -- let me scroll down.

18 MR. MCCLURE: Which page is that,
19 Mr. Rankin?

20 MR. RANKIN: Mr. McClure, I think if
21 you turn to page 177 of 228, there's Exhibit B2
22 attached to Dr. Lopez's testimony. It's a table that
23 identifies the top of each confining layer within the
24 Bone Spring.

25 MR. MCCLURE: Okay, yeah. I did not

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1 notice this table. Thank you.

2 BY MR. MCCLURE:

3 Q I think this is the -- this question, I
4 believe -- what we have listed here is essentially a
5 list of all the wells, and in the upper confining
6 layer for each one of those wells. Is that correct,
7 Mr. Lopez?

8 A Yes. That's correct.

9 Q Okay. Thank you. Yeah, I somehow
10 completely missed this table. And that's what we had
11 referenced here. Okay. Let me make a quick note.
12 I'll do this quickly.

13 Okay. It seems like maybe one of the
14 questions that I had asked of Mr. Olivas, might've
15 been for you, Mr. Lopez. But I think two of them will
16 wait for Mr. Hehmeyer, unless all three of them
17 were -- they might all be for Mr. Hehmeyer.

18 Did you have any, Mr. Lopez -- page 69 of
19 228. Nothing on this table was prepared by you or
20 under your guidance; is that correct?

21 A No. It wasn't prepared by me.

22 Q Okay. For some reason I had -- and on the
23 gun barrel diagram on page 44, were those prepared by
24 you or under your guidance?

25 A Those were prepared by -- by Mr. Hehmeyer.

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1 But we agreed on -- on the information of --

2 Q Okay. I'm with you. I'm with you. In
3 regards to any information about offset wells being
4 within the formations of interest, does that question
5 involve you, or is that a question for Mr. Hehmeyer?

6 A I think we both might be able to respond,
7 but I think it also depends on -- on the question.

8 Q Well, let me ask the question real fast, and
9 just let me know, I guess, if it's a better question
10 for you for Mr. Hehmeyer. I think for context what
11 I'm looking at is -- I'm wondering if any of the
12 offsetting wells that are in the AOR are also within
13 these same formations.

14 A You know, as far as I remember, I think we
15 have wells in the Delaware Mountain Group there and
16 recently we have Wolfcamp wells.

17 Q Okay.

18 A But I -- I refer to Owen Hehmeyer to -- for
19 a more specific response for that.

20 MR. MCCLURE: Okay, sir. I'll go ahead
21 and ask him, again, as well. I guess that was kind of
22 my speculation. I wondered if some of them wasn't or
23 maybe all of them isn't in the Delaware Mountain Group
24 or the Wolfcamp, but that was essentially my question
25 there. So just confirm, I'll go ahead and ask him as

1 well then.

2 Yes, that is all the questions I have
3 for you. Thank you, Mr. Lopez.

4 THE HEARING EXAMINER: Thank you,
5 Mr. McClure. Is there any follow-up?

6 MR. RANKIN: There are no follow-ups.

7 THE HEARING EXAMINER: Thank you. May
8 this witness be excused?

9 THE WITNESS: Thank you.

10 THE HEARING EXAMINER: You may be.
11 Thank you. Would you call your third witness, please?

12 MR. RANKIN: Thank you, Mr. Examiner.
13 Mr. Examiner, I'd like to call our third witness,
14 Dr. Owen Hehmeyer.

15 THE HEARING EXAMINER: Now,
16 Mr. Hehmeyer, you're under oath, and I see that you
17 have taken a computer with you over to the witness
18 stand. If you're going to look at that to answer a
19 question, please let us know.

20 THE WITNESS: I will.

21 THE HEARING EXAMINER: Mr. Rankin?

22 MR. RANKIN: Thank you, Mr. Examiner.

23 DIRECT EXAMINATION

24 BY MR. RANKIN:

25 Q Dr. Hehmeyer, will you please state your --

1 oh, you've already done that. Never mind. It's out
2 of habit. You've already stated your full name for
3 the record.

4 Dr. Hehmeyer, have you prepared what's been
5 marked as Exhibit D as your self-affirmed statement
6 that was part of this exhibit packet filed on Tuesday
7 this week?

8 (Case 24273 Exhibit D was marked for
9 identification.)

10 A I recognize this exhibit. I believe it
11 might've been prepared at XTO's direction by Manhard
12 Consulting.

13 Q Oh, I'm sorry.

14 A I'm not seeing Exhibit D on the screen. I
15 think I'm holding the correct one.

16 Q So I guess I'm talking about for the exhibit
17 packet, Exhibit D is your self-affirmed statement?

18 A Oh, yeah. Yes. I did prepare the
19 self-affirmed statement, yes.

20 Q You were throwing us off earlier.

21 A Yeah. I was looking at a different exhibit.

22 Q Got it. Yeah, Exhibit D, that was the
23 self-affirmed statement that you prepared and
24 submitted as part of the exhibit packet on Tuesday;
25 correct?

1 A Yes, it is.

2 Q And also attached to that is your
3 Exhibit D1, which I your curriculum vitae?

4 A Yes.

5 Q Mr. Hehmeyer, have you previously testified
6 before the division and have had your credentials as
7 an expert in reservoir engineering accepted by the
8 division as a matter of record?

9 A I have never testified before the NMOCD.

10 Q Dr. Hehmeyer, does your CV accurately
11 reflect your education and work experience and qualify
12 to testify in your opinion as an expert in reservoir
13 engineering?

14 A I believe that it does.

15 MR. RANKIN: Mr. Examiner, his CV is
16 attached and included at page 207 of the exhibit
17 packet.

18 THE HEARING EXAMINER: And what are you
19 seeking to have him qualified, as a reservoir
20 engineer?

21 MR. RANKIN: Correct, Mr. Examiner. We
22 would ask the division to tender Dr. Hehmeyer as an
23 expert in reservoir engineering.

24 THE HEARING EXAMINER: Based on his
25 resume, he is so qualified. Please proceed.

1 MR. RANKIN: Thank you, Mr. Examiner.

2 BY MR. RANKIN:

3 Q In Exhibit D2 is a statement that you
4 prepared reflecting your opinion that injection of gas
5 temporarily into these wells will not impair adversely
6 or positively the ultimate recovery from these wells?

7 A Yes. I believe it will have no effect on
8 the ultimate recovery of the wells.

9 Q Any corrections, additions, or changes to
10 your self-affirmed statement marked as Exhibit D?

11 A I have no changes.

12 MR. RANKIN: At this time,
13 Mr. Examiner, I would move the admission of Exhibit D,
14 D1, and D2 into the record, and ask they be accepted.

15 THE HEARING EXAMINER: And D2 is one
16 page; is it not?

17 MR. RANKIN: It is.

18 THE HEARING EXAMINER: And it starts
19 out -- it's page 209 -- and it starts out "Closed Loop
20 Gas Capture Project"?

21 MR. RANKIN: That is correct.

22 THE HEARING EXAMINER: Are there any
23 objections? Okay. D and its subparts are now
24 admitted into the record.

25 //

1 (Case 24273 Exhibit D was received into
2 evidence.)

3 I think let's deal with yours as well
4 at this time.

5 MR. RANKIN: Okay.

6 THE HEARING EXAMINER: What do you have
7 that you want to enter?

8 MR. RANKIN: Mr. Examiner, also
9 attached to the exhibit packet are Exhibits E and F.
10 Exhibit E is a notice affidavit that I prepared
11 reflecting that we have provided notice to all the
12 affected parties as required by the division CLGC
13 guidance, including surface owners and working
14 interest owners within the area of review.

15 (Case 24273 Exhibit E was marked for
16 identification.)

17 In addition, based on the division's
18 request, we have also provided notice to all the
19 royalty owners and interest owners in the gas both in
20 the CLGC wells, and as I understand, from the source
21 wells as well.

22 (Case 24273 Exhibit F was marked for
23 identification.)

24 And following my affidavit,
25 Mr. Examiner, is a letter that we provided to each of

1 these owners and interest owners showing that we
2 provided notice of today's hearing. It was continued,
3 yeah, for March 21st. Following that is a certified
4 mailing list showing that each of the owners or
5 affected parties was provided notice and the status of
6 the mailing.

7 THE HEARING EXAMINER: I see your
8 affidavit marked as Exhibit E. I don't see where
9 anything is marked as Exhibit F.

10 MR. RANKIN: I haven't quite got -- I
11 guess, I'll -- so following the certified -- I'm
12 sorry. Following my letter, not as a separate exhibit
13 but as the same exhibit is the list of parties who
14 received notice and the status of the certified
15 mailing.

16 THE HEARING EXAMINER: Okay.

17 MR. RANKIN: Thank you for correcting
18 me. That is several pages long. And then when you
19 get to the end of that, there's Exhibit F, which is
20 the last exhibit of the packet. It is a notice of
21 publication from a newspaper, in which we identified
22 the subject matter of the application, the hearing,
23 and then identified each of the parties by name.

24 THE HEARING EXAMINER: I see.

25 MR. RANKIN: We ask that in addition to

1 Exhibit D and the attachments, that Exhibit E and F
2 also be accepted into the record.

3 THE HEARING EXAMINER: Are there any
4 objections? Hearing none, Exhibits E and F are
5 admitted into evidence.

6 (Case 24273 Exhibit E and Case 24273
7 Exhibit F were received into evidence.)

8 So at this point, to be clear, all the
9 exhibits are entered into evidence.

10 Mr. McClure, do you have any questions
11 for this witness?

12 MR. MCCLURE: Yes, I do, Mr. Hearing
13 Examiner.

14 THE HEARING EXAMINER: Okay. Let's
15 hear them.

16 CROSS-EXAMINATION

17 BY MR. MCCLURE:

18 Q Mr. Hehmeyer, let's go ahead and clean up
19 some of our early questions real fast before I get
20 into the original questions I had for you. Page 69 of
21 228. On this table here, the bottom five wells have a
22 zero pressure recorded for current average surface
23 pressure. What is the reason for that being zero
24 rather than having a number there?

25 A Most of the closed loop gas capture wells

1 are currently down because they've been worked over
2 for change to gas lift. Zero PSIG pressure indicates
3 to me that that well is down and that there's a fluid
4 column that's preventing any pressure from reaching
5 the surface, so it's zero. That's a sign that it's
6 not producing.

7 Q Okay, thank you, sir. So then would my
8 assumption from that is all of these pressures are
9 just the pressures that's currently sitting on the
10 production casing irregardless as to whether -- lift
11 or not?

12 A Correct. It says, "current average surface
13 pressure." I take that to be the -- the, yeah, the
14 surface pressure. If it's a positive number, you
15 know, it could be producing or not producing. But
16 zero tells me for sure it's not producing.

17 Q Okay. And that clearly isn't under gas lift
18 currently?

19 A I don't believe that they have restarted the
20 gas lift into these wells yet.

21 Q Okay. Thank you, sir. Several of the
22 proposed injection wells currently either low
23 producing or not producing because they're TA'd. As
24 such, I assume their bottom hole pressures are likely
25 relatively low. Does XTO have any concerns in regard

1 to the ability to mostly recover any gas as
2 temporarily injected into them?

3 A I don't have any concerns about the ability
4 to recover gas on these wells. There are, I believe,
5 all of them or almost all of them are currently down
6 because they were worked over in preparation for this
7 project. I reviewed the bottom hole pressures
8 available from the -- data which was entered into the
9 record, and it showed bottom hole pressures of high
10 hundreds of pounds to low thousands, depending on how
11 recently that well had been active.

12 That they're currently down means that the
13 pressure of the bottom of the hole is climbing, right,
14 as the reservoir pressure diffuses back to the well.

15 When we first turn these wells back on, it's
16 likely that they'll be good producers and produce at
17 pressures that are over 1,000 pounds. And they may
18 need to produce for a few months before they're drawn
19 back down and able to take gas.

20 They -- they will get there at the proposed
21 new operating pressure. And in fact, I believe that
22 the wells now have installed gauges as well. So when
23 we restart, we'll be able to monitor the pressure --
24 something -- and that's great new data that wasn't
25 available prior to the initiation of this project.

1 Q Now, I guess, with the assumption that these
2 wells will likely be in operational status for, I
3 mean, at least greater than a year, and you would
4 presume that they'll eventually be drew back down --

5 A Correct. They've been successfully --

6 Q -- their latest production -- correct?

7 A Yes. They've been successfully drawn down
8 to 600, 800 pounds previously, and I've got every
9 reason to believe that we'll be able to draw them back
10 down to those same pressures again, yes, which is
11 below the pressure of the proposed injection system.
12 So they should be able to take gas once they've been
13 drawn back down to those previous pressures.

14 Q The question is, do you have any concern in
15 regards to being able to recover most of the gas
16 injected when you're in your recovery phase after the
17 injection event?

18 A No. I -- I don't expect it to diffuse very
19 far from the fracture face. The duration of the
20 injection is quite short, and when you turn the wells
21 around and begin to produce, the first thing that you
22 should get back is the gas you just injected.

23 Q And you don't believe that it will -- okay.
24 Let me back up. I believe you've essentially answered
25 my question. I'll move on.

1 Okay. The only other cleanup question I
2 have for you, Mr. Hehmeyer, page 44 of page 228. Are
3 you familiar with these gun barrel views that we have
4 depicted here?

5 A I created both the gun barrel and the map
6 myself, so I'm quite familiar.

7 Q Very good. Just totally clicked something
8 on my -- there we go. Clicked something on my
9 keyboard, and it went away from where I wanted it to
10 be.

11 Okay. There's numerous offset wells,
12 including some wells that are, I mean, crossing these
13 wells --

14 A Correct.

15 Q -- in a lay-down configuration. Are any of
16 those wells within the formation of interest, that
17 being the Bone Spring?

18 A The Bone Spring -- as I think the NMOCD
19 defines it -- is from the top of the Avalon to the
20 base of the third Bone Spring, which is the top of the
21 Wolfcamp XY. There's no modern horizontal wells
22 drilled yet in those zones.

23 But for the purpose of your question, I -- I
24 would draw your attention to the map. I think it's --
25 my map is a good map, but a better map is the one

1 prepared by Manhard. I have it as Exhibit I with the
2 AOR. It actually has those wells you're talking about
3 that cross it and like the vertical wells and some of
4 the newly permitted wells.

5 I'm prepared to talk about a whole bunch of
6 those wells, which I think is the gist of your
7 question.

8 Q Well, let me provide you a little bit of
9 context. Essentially in the pilot projects, the
10 division's purpose for these approvals is for us to
11 gather data. Part of that data is to determine --
12 into these wells is affecting offset production.

13 A Yeah.

14 Q So I guess what my interest here is in
15 determining which wells, if any, are within one-eighth
16 mile of -- or even one-quarter mile within one of
17 the -- of one of these injection wells, be it that be
18 the vertical or not and which formations they're
19 within.

20 A Okay. All right. Yeah. So I was quite
21 interested in that as well, and I've looked at some of
22 the wells on this map. Like, the horizontal wells
23 that cross, I guess, like, the group of six on the
24 right -- you can see there's a few -- a few wells that
25 intersect them perpendicular on this map.

1 When I saw that, I was like, huh, well, I
2 better find out what depth those wells are at, of
3 course. And I did go and check. Those -- those wells
4 are drilled in the Delaware Mountain Group. They're
5 not drilled in the Bone Spring.

6 And the closest approach is the 387H that
7 crosses the red well on the upper right of this
8 picture. That well is more than 1,300 feet -- yes,
9 correct -- that well is more than 1,300 feet above the
10 injection well.

11 Q Okay. So it's in another bench higher than
12 that; is that correct?

13 A Correct. It's not in the Bone Spring. It's
14 in the Delaware Mountain Group.

15 Q Oh, okay. I see what you're saying. Okay.
16 And then there are several vertical wells depicted in
17 this AOR. Are those perforated within the interval of
18 interest?

19 A So you said the distance you were most
20 interested in was one-quarter mile. I was -- as part
21 of my due diligence, the distance I was most
22 interested in was the distance that I felt that the
23 hydraulic fractures could cover, which was more like a
24 few hundred feet.

25 So I individually reviewed each dot on this

1 map that was within about 330 feet of each of the red
2 wells, including checking their depths in some fancy
3 software. And the -- the vertical wells here are for
4 the most part abandoned. Most of them are quite
5 shallow. I didn't see any vertical wells that are
6 producing that are drilled close to the red wells and
7 to the depths of interest, which is the Bone Spring.

8 Q But to confirm, that only includes wells
9 that are within 300 feet of the -- is that correct?

10 A Yeah, I was around 300 feet. So I didn't
11 check every -- every -- I didn't hand check every well
12 within, I think you said, 1,000, a quarter mile, which
13 would be 1,320 feet.

14 Q And -- I was at a quarter mile, but if
15 memory serves me right, I think the -- it's either a
16 quarter mile or eighth mile on our guidance. And I
17 don't remember positively. But regardless, you didn't
18 extend to within an eighth of a mile. It was 300 feet
19 is the most that you had extended to?

20 A 330 feet.

21 Q Oh, 330 feet. I'm sorry.

22 A I understand. I work a lot in Texas, and
23 330 feet is, you know, a popular number. So --

24 Q Okay. No. That's what the setback is.

25 A -- somewhere to the -- the sizes of the

1 hydraulic fractures.

2 Q And --

3 A And although you did not -- you said the
4 Bone Spring, but you see the long horizontal wells
5 over on the west side that are on top of the red line?

6 Q Okay, yep.

7 A Those are the wells that are -- are the most
8 interesting to me because they're modern wells, and
9 they're obviously, they're large. They're drilled in
10 the Wolfcamp, and though you see on this map that
11 they're only permitted, which is why they're straight
12 lights and not real surveys, those are XTO wells, and
13 they are now drilled. And some of them are now
14 completed.

15 And there's two of them that are in the
16 Wolfcamp, which is underneath the Bone Spring. And I
17 believe it is possible that two of those wells could
18 communicate with the 10H well, even with --

19 Q So we --

20 A -- a different formation on paper, I mean,
21 it's -- they're 600 feet or 800 feet below. So but we
22 don't know yet. They're not producing, but that would
23 be something to watch for.

24 Q Yeah. So they are completed in what XTO
25 refers to as the Wolfcamp XY, I think -- the top

1 formation in the Wolfcamp. Is that correct?

2 A I couldn't say if it's the A or the XY. I
3 just know it's the Wolfcamp.

4 Q Okay. So one of the -- one of the upper two
5 benches that XTO identifies in the Wolfcamp. Is that
6 correct?

7 A Right.

8 Q I guess essentially what the division --

9 THE HEARING EXAMINER: Mr. McClure?

10 MR. MCCLURE: Yes, sir.

11 THE HEARING EXAMINER: Are you going to
12 want additional analysis?

13 MR. MCCLURE: Likely, yes.

14 THE HEARING EXAMINER: Okay. Why
15 don't --

16 MR. MCCLURE: To meet our guidance.

17 THE HEARING EXAMINER: Why don't you
18 just tell Mr. Rankin what you need, and we will leave
19 the evidentiary record open for the additional
20 analysis, since we're coming back on April 18th to
21 finish this case anyway.

22 MR. MCCLURE: Yes, sir. The only thing
23 I was looking at was just seeing if I could find
24 positively whether our guidance says quarter mile or
25 eighth mile. Unfortunately, off the top of my head, I

1 wasn't sure. But I can look at that here after --

2 THE HEARING EXAMINER: Okay. But
3 maybe, Mr. McClure -- Mr. McClure, maybe Mr. Rankin
4 knows. Do you know?

5 MR. RANKIN: I'm sorry to say off the
6 top of my head, I cannot recall whether it's an eighth
7 or a quarter. But I believe that if Mr. McClure is
8 asking, I mean the -- I'm not sure if you're asking
9 for the AOR analysis, Mr. McClure?

10 MR. MCCLURE: Mr. Rankin, what I'm
11 asking for is a suitable list of offset wells that can
12 be monitored to confirm that injection is not having
13 an effect on offset production.

14 THE HEARING EXAMINER: Is that clear
15 now? Okay. Mr. McClure, I think we can get that for
16 you, and we'll have it for you when we reconvene
17 April 18th.

18 MR. MCCLURE: Yeah, and I'll be able to
19 let him know, I guess, in the meantime; right? Is
20 that the thought process?

21 THE HEARING EXAMINER: That's right.

22 MR. MCCLURE: So they can have it
23 prepared? Okay. Thank you.

24 THE HEARING EXAMINER: That's right.

25 MR. MCCLURE: Very good. I'll plan on

1 providing it to Mr. Rankin.

2 THE HEARING EXAMINER: Right.

3 Mr. Rankin, do you have any questions at this point
4 for this witness based on the questions Mr. McClure
5 asked?

6 MR. RANKIN: I do not, Mr. Examiner.

7 THE HEARING EXAMINER: Okay. Very
8 good. We'll we're going to come back. Now, I don't
9 expect you to have to bring your witnesses back.
10 Where are they coming from? Houston?

11 MR. RANKIN: Two places, Mr. Examiner,
12 Houston and Midland.

13 THE HEARING EXAMINER: They can appear
14 virtually, but I would recommend that they all appear
15 in case Mr. McClure has any recross or whatever you
16 want to call it at this point.

17 Mr. McClure, are you clear about what
18 Mr. Rankin is going to submit in the meantime?

19 MR. MCCLURE: Yes. But if I may pause
20 our proceedings for a little bit, I still have
21 additional questions that I would like to ask this
22 witness today, if I may.

23 THE HEARING EXAMINER: Okay. Go ahead.

24 MR. MCCLURE: Thank you, sir.

25 //

1 BY MR. MCCLURE:

2 Q Mr. Hehmeyer, the frac modeling program that
3 was used to, I guess, predict -- model what the
4 fractures may look like for these wells --

5 A Yep.

6 Q -- which program was used for that?

7 A It's the Schlumberger package which is
8 commonly called Kinetix.

9 Q Okay. Very good. I was going to say I
10 think I'm actually maybe familiar with it. I was
11 going to say I don't remember it being called Kinetix,
12 but it was several years back when I was --

13 In regards to determining the parameters
14 used within that model, what was used to make those
15 determinations?

16 A So to make a prediction of the size and
17 width of a hydraulic fracture, you need a lot of input
18 data.

19 Q Exactly.

20 A Some of which is measured, and some of which
21 is estimated. Among the most important of those is
22 what's called the minimum stress. So you basically --
23 you have to know how much energy it takes to crack the
24 rocks at every single depth.

25 We have estimations of that, but it's

1 uncertain. And that's what kind of controls how tall
2 and wide the fracture -- like, how much energy it
3 takes to crack the rock. Also, what controls how
4 large that goes is how long you pumped, how hard you
5 pumped, and what you pumped.

6 So what was done was that we have experts --
7 being a large company -- whose full-time job it is, is
8 to do nothing but model hydraulic fractures. And we
9 give them the, what's called the pump curves. So
10 like, how much water was pumped, and how much sand was
11 pumped versus time. And they input that along with a
12 stress curve that comes from a geologist who examines
13 logs.

14 And then they run a simulation with the
15 fluid properties, the rock properties, and all of
16 those pumping curves in order to make their best guess
17 about how tall it could grow and how wide it could
18 grow. It's -- it's quite sophisticated. And Kinetix
19 is the most -- I would say the -- the industry
20 standard, but it's -- this is definitely the best that
21 we could do.

22 Q Yes, sir. I understand. I guess maybe to
23 try to direct your question a little more in or direct
24 my question a little bit more specific, in order to
25 get your rock properties then initially, you had the

1 program do a log interpretation and then maybe it was
2 refined by a petrophysicist. Is that --

3 A Correct.

4 Q Okay. Okay.

5 A There's a geoscientist on our team, a
6 petrophysicist, as you accurately guessed. And her
7 job was to supply those curves to the hydraulic
8 fracturing modelers. And she did the best she
9 could -- she could, but it's an estimation, you know.

10 And small changes -- small changes in the
11 interpretation from the geophysicist about the
12 individual stress and pressure in the rock can lead to
13 moderate or large changes in the height or width of
14 the fracture. It makes it quite difficult. But we do
15 have lots of logs, right, in Poker Lake.

16 So and there's also sort of competing
17 interpretations of what that could be. But this is
18 one interpretation of what that fracture could've
19 looked like based on a single deterministic input from
20 the geophysicist.

21 Q Yes, sir. I understand. Yeah, and I feel
22 your pain, I guess, when it comes to determining those
23 parameters, I guess. Oh, go ahead.

24 A Well, I was going to say, I notice when I
25 review other applications that people had not provided

1 these. And as a reservoir engineer, I really did want
2 to provide these and show you, like, what it could be
3 and -- and also like -- but -- but knowing that's just
4 one interpretation of what it could be; right?

5 It could also be different, and you know,
6 maybe others haven't supplied them, like, in the past,
7 but like, this was our -- our best effort at one
8 interpretation of what it could be.

9 Q And just to quickly wrap up on how the
10 models were produced. As far as checking and
11 confirming the output from the model, there was never
12 any microseismic or anything like that conducted;
13 correct?

14 A No. At the time that these wells were
15 fracked, I'm not aware that anyone did microseismic on
16 these wells in particular.

17 Q Okay. So then would it be correct to say
18 that in regards to confirmation, is kind of production
19 matching kind of what was used to try to confirm
20 the --

21 A -- production, you have to then take the
22 predicted shape of the hydraulic fracture model and
23 import it into a reservoir simulation, and then run
24 that stimulation. That -- that second step was not
25 done. That's -- that's --

1 Q Okay.

2 A -- unfortunately, that's even more
3 challenging.

4 Q Okay, sir. Now, on page -- I think
5 Mr. Rankin might have me on the page I want. Let me
6 get my PDF pulled up and put back over here. I have
7 marked page 52 -- oh, actually, what Mr. Rankin has is
8 decent, but 52 shows me my confining layer as well.
9 On page 52 of 228, if you wanted to -- yes.

10 If we look at that frac model or the
11 possible fracture shape for the Avalon, it appears
12 that it is going through the confining layer there.

13 A Correct. That's what the picture shows.

14 Q So I guess with that in mind, are we able to
15 consider that layer confining then?

16 A I would still -- I would still consider that
17 layer to be confining in this particular case, despite
18 what this model shows.

19 Q I was going to say, from the division's
20 standpoint, we have to side on the conservative
21 position, especially considering that there is likely
22 there's Delaware Mountain Group Production quite
23 literally right across there. But even if it wasn't,
24 we would still be looking at isolation of strata.

25 And as such, I mean, even the possibility

1 that we may be fracking through that confining layer,
2 very much limits the ability, I guess, of the division
3 to approve your three different Avalon injector wells.

4 A The model only shows the wetted hydraulic
5 fracture. It does not show the propped hydraulic
6 fracture. And if it's not propped, it can't
7 communicate.

8 Q And is not injecting of gas capable of going
9 through fractures, whether they're propped or not?

10 A If they're not propped and the injection
11 pressure is below what's called -- what the fracturing
12 pressure, no. It won't be able to reopen it. The
13 injection pressure is too low to reopen that fracture.

14 Q So I guess, do you know what your opening
15 pressure is -- your open -- stresses there?

16 A It -- in the -- it's always the case that to
17 crack the rock, you have to raise it to a pressure
18 that exceeds the hydrostatic pressure typical
19 gradients for stress, or like 0.5 to 0.8 PSI per foot.
20 And the injection is going to be well, well under
21 hydrostatic pressure. So it's not possible for the
22 injection to crack the rock or reopen the fracture.

23 Q Now, these wells have been producing for I
24 don't know how many years, but I would assume the
25 matrix pressure is at least somewhat reduced from at

1 the point that they're originally fracked. Would you
2 agree with that?

3 A Yeah. They've -- we've definitely withdrawn
4 enough fluid to reduce the pressure within tens of
5 feet from each fracture face by hundreds of pounds.

6 Q So with that consideration, do you still
7 feel that you would need the same pressure as what was
8 needed when the wells were fracked in order to reopen
9 the fracture?

10 A We're injecting at a pressure that's, I
11 believe, well below what it would take to reopen that
12 fracture. I think you're going to have to press
13 against the rock at pressures exceeding hydrostatic
14 pressure.

15 In -- in other basins, I've seen injected
16 gas travel thousands of feet through fractures that I
17 believe were reopened, but that took many, many, many
18 thousands of pounds of pressures well in excess of
19 hydrostatic gradient.

20 Q Now, how these orders are being issued,
21 we're not currently putting guidelines on -- we have a
22 maximum injection pressure, yes, but we don't
23 currently have a maximum injection duration or maximum
24 injection rate, anything else along those lines.

25 So is it your testimony today that you do

1 not believe that given your pressures be maxed out on
2 injection or reach 1,250 max going down, you do not
3 believe the bottom hole pressures could possibly
4 exceed the closing pressure of those fractures?

5 A That's my testimony. I do not believe we're
6 going to reopen that unpropped fracture. There's
7 additional reasons why I think it's -- that it's not
8 propped as well. I've examined the water oil ratio of
9 all three producing Avalon wells and proposal, and
10 they're all extremely consistent, between 6 and 7.

11 And they're also consistent with the broader
12 area. And when you look at the WORs of Delaware
13 Mountain Group wells, they're all really high -- much
14 higher than that. If this was propped and connected
15 to the Delaware Mountain Group, the producing WORs at
16 those three Avalon wells would be much higher.

17 And it's just not. They're eerily
18 consistent, suggesting they're all producing from the
19 Avalon the same as all the other Avalon wells in the
20 area. So I pretty strongly believe that it's not
21 propped in the Delaware Mountain Group.

22 But I'm a scientist and you know, there's
23 always like a tiny, tiny chance. What could you do if
24 you wanted to check? You could monitor the Delaware
25 Mountain Group wells that are above, right, those

1 three producers. And if gas did leak, you would see
2 it in the GOR on those wells. And my hypothesis -- my
3 strong hypothesis is you will not see an increase in
4 GOR at those wells.

5 Q Now, those Delaware Mountain Group wells,
6 those all operated by XTO. Is that correct?

7 A Yes, they are.

8 MR. MCCLURE: Okay. The division will
9 discuss internally in regard to this. I don't know if
10 there's more discussion needed here at the hearing.

11 But just as forewarning, the -- or just
12 for providing some context, the division definitely
13 needs to take a conservative approach when we're
14 looking to make sure our injection intervals or our
15 injection wells actually are -- to the injection
16 interval. And this is definitely problematic, I
17 guess, might be the way to put it out there.

18 I guess, I don't have any more
19 questions. I thank you, sir.

20 Thank you, Mr. Hearing Examiner. No
21 more questions.

22 THE HEARING EXAMINER: Sure. Thanks,
23 Mr. McClure. Mr. Rankin, I'm sure that you have some
24 questions you want to follow up with. But I'm
25 beginning to fade, and I don't think that's a good

1 idea.

2 So since we're coming back on April 18,
3 can I ask you to think about the questions you want to
4 ask, and we will reopen the record at that time. I
5 would like to confirm my list with you. I want to
6 make sure that we're on the same page when it comes to
7 what you are going to be supplementing the record with
8 or you know, with one amended exhibit with a package
9 with a cover letter.

10 So can you just review with me what you
11 understand we still want at this point?

12 MR. RANKIN: Mr. Examiner and
13 Mr. McClure, we discussed supplementing the notice to
14 correct the acreage description for the project area
15 by providing notice to all the parties affected, and
16 republishing notice in the newspaper with that
17 correction per an updated affidavit reflecting that
18 we've done so.

19 We discussed removing paragraph 8 from
20 Mr. Olivas' testimony to make clear that while they're
21 seeking the ability to add additional source wells to
22 the injection, they are not asking for administrative
23 approval for additional injection wells.

24 We discussed -- and actually, one thing
25 we did check, Mr. McClure, you asked us about the

1 casing and cement for the area of review wells. We
2 actually have that in that table, and it was cut off
3 because it was too long, and I didn't catch that it
4 was cut off. So we can make that an addition.

5 THE HEARING EXAMINER: What exhibit
6 number is that?

7 MR. RANKIN: It's J in the application.
8 One second. It's Exhibit J in the application, page
9 120 -- starting at page 126. So the --

10 THE HEARING EXAMINER: Okay. And
11 you're going to include the full page?

12 MR. RANKIN: Yes, we will. Then
13 Mr. McClure asked also for, I believe, the guidance
14 from the -- whatever the guidance requires offsetting
15 wells, a list of offsetting wells that could be used
16 to monitor injection, I believe within a quarter mile
17 is the guidance. So we will provide a list of those
18 wells as well.

19 THE HEARING EXAMINER: And he was sure
20 about the quarter mile? I think you were going to
21 check.

22 MR. RANKIN: We'll check.

23 THE HEARING EXAMINER: Yeah.

24 MR. RANKIN: Whatever the guidance is.

25 THE HEARING EXAMINER: Right.

1 MR. RANKIN: Whether it's an eighth or
2 a quarter, we'll double check.

3 THE HEARING EXAMINER: Okay. And
4 Mr. McClure, is that a comprehensive list?

5 MR. MCCLURE: There was a few extra
6 things which I was going to ask here at the end. That
7 is -- in regards to that last item that Mr. Rankin
8 listed in regards to the offsetting wells that's
9 within the formations, if we could amend the gun
10 barrel view to include those such that I know which
11 wells are they offsetting of, if that makes sense.

12 MR. RANKIN: So in addition to a list,
13 Mr. McClure, we'll add those wells into that gun
14 barrel view.

15 MR. MCCLURE: That's if at all
16 possible. In addition to that, did you reference the
17 allocation plan that you were going to resubmit; is
18 that correct?

19 MR. RANKIN: I didn't in my last
20 summation, Mr. McClure, but our intent is to file a
21 depiction or a sample calculation for a GOR --
22 following a GOR, following a CLGC injection event.

23 MR. MCCLURE: Okay. Thank you, sir.
24 The only other things that I have on my list is if you
25 could produce a list of the central tank batteries and

1 compressor stations that are a part of this gas
2 gathering or this gas gathering facility system.

3 MR. RANKIN: Mr. McClure, I guess, I'm
4 wondering, that seems like a comingling issue, and I'm
5 wondering if we can address comingling separately at
6 another time.

7 MR. MCCLURE: Well, the reason I ask
8 for it is this project falls out of the context of our
9 currently approved pilot projects. Our currently
10 approved pilot projects don't take into account a
11 midstream. So I'm hoping to have a complete picture
12 of what we're looking at so the division can decide
13 how to proceed here. That's also the reason I was
14 asking about title transfer, to try to figure out
15 exactly what we're looking at here.

16 MR. RANKIN: So if it turns out that
17 what we were discussing was actually more like infield
18 gathering, would that change your request?

19 MR. MCCLURE: I guess I don't
20 understand your question by "infield gathering."

21 MR. RANKIN: Well, I'm trying to
22 understand why midstream makes a difference to CLGC
23 injection. I mean, I guess I'm happy to confer with
24 you, Mr. McClure, between now and then. I just don't
25 want to get too far down into comingling, which I

1 understand is a separate issue.

2 MR. MCCLURE: It's not my intent to
3 mess with comingling. My intent is to have a picture
4 of where all the source wells is being derived from,
5 if we're including that as a part of this pilot
6 project.

7 MR. RANKIN: Okay.

8 MR. MCCLURE: And under the normal
9 context of every other pilot project, your source
10 wells -- however, there is a distinction between this
11 pilot project and the other pilot projects in as there
12 wasn't a title transfer occurring in between injection
13 and production. It was being produced, injected,
14 reproduced, and then sold. There wasn't, like, that
15 middle player, at least to my understanding of prior
16 projects.

17 MR. RANKIN: Mr. McClure, is it okay if
18 I confer with you on this point as we go forward
19 between now and April 18th? Because I don't know --
20 the premise of your request, I'm not sure we have a
21 clear answer to. So I want to confer with you about
22 the circumstances before, you know, we pull all that
23 information together. Does that make sense?

24 In other words, I think if you want to
25 know the sources of the well -- the gas, I think we

1 can do that. But I'm not -- anyway, yeah, no. I'm
2 happy to confer with you and as I look into the
3 question, I may come back to you and discuss what I
4 find and see if that changes your understanding or
5 request in any way.

6 MR. MCCLURE: I guess just to make sure
7 that you understand what my current request is,
8 essentially what was I was asking for was a list of
9 the central tank batteries and compressor facilities
10 tied into this gas gathering facility system. System
11 is a better word. Are you understanding what my
12 original question was, Mr. Rankin?

13 MR. RANKIN: I need to make sure the
14 clients do.

15 MR. MCCLURE: Okay.

16 MR. RANKIN: Yeah, they do.

17 MR. MCCLURE: Okay. And then you're --
18 I guess, are you still wishing to confer further prior
19 to providing that, or what's your thought process?

20 MR. RANKIN: I think, because I don't
21 understand it, Mr. McClure, I want to make sure I
22 understand it. So I will confer with you, and I'll
23 have them work on pulling it together. But I think it
24 may be helpful for us to have a conversation, so we're
25 both on the same page.

1 MR. MCCLURE: Okay. Mr. Hearing
2 Examiner, does everything there sound appropriate to
3 you?

4 THE HEARING EXAMINER: I was going to
5 ask -- thanks for asking, Mr. McClure. I was going to
6 ask Mr. Rankin and you to please copy me on any emails
7 that go back and forth to you. Since the hearing
8 record is still open, I want to make sure that it's
9 proper, what goes back and forth.

10 So does that help you, Mr. McClure?

11 MR. MCCLURE: Yes, it does. Thank you,
12 sir.

13 THE HEARING EXAMINER: Okay. And if
14 there is a phone conversation, please reduce it to a
15 memorandum and email it.

16 MR. MCCLURE: Very good. Does that
17 work for you, Mr. Rankin?

18 MR. RANKIN: That sounds great, Dean,
19 yep.

20 THE HEARING EXAMINER: Okay.

21 MR. MCCLURE: All right, thank you.

22 THE HEARING EXAMINER: So on April 18,
23 how full is our docket, Freya?

24 MR. TSCHANTZ: On April 18th?

25 THE HEARING EXAMINER: Yes. That's

1 when we're reconvening in this case.

2 MR. TSCHANTZ: There are two contested
3 hearings and 39 cases right now.

4 THE HEARING EXAMINER: Oh, okay. Let's
5 not put anything more on the April 18 docket; okay?
6 Let's put anything we can on May, since we're now
7 going to have three contested hearings, as far as I
8 understand it. I realize that we're just cleaning
9 this one up, but who knows what can happen when you
10 produce all this evidence and Mr. McClure has a chance
11 to review it.

12 Last question, Mr. Rankin. I know we
13 didn't get to your fourth witness. Is that someone
14 who you're going to want to call in April?

15 MR. RANKIN: We may reserve the right
16 to do so --

17 THE HEARING EXAMINER: Okay.

18 MR. RANKIN: -- based on Mr. McClure's
19 questions and yeah.

20 THE HEARING EXAMINER: Now, if you call
21 this witness as an expert, I would suggest that you
22 file an affidavit and a CV if he hasn't been -- is it
23 a he?

24 MR. RANKIN: It is.

25 THE HEARING EXAMINER: Okay. I would

1 suggest that you file that in advance so I can review
2 it and so can Mr. McClure before you call that fourth
3 witness.

4 MR. RANKIN: Will do.

5 THE HEARING EXAMINER: Okay. Sounds
6 good. Mr. McClure, are we done with this case for
7 today?

8 MR. MCCLURE: Yes, sir, Mr. Hearing
9 Examiner.

10 THE HEARING EXAMINER: Okay, very good.
11 It is 4:15 p.m. on March 21st, and we have concluded
12 and are off the record. Thank you.

13 (Whereupon, at 4:15 p.m., the
14 proceeding was concluded.)

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CERTIFICATE

I, JAMES COGSWELL, 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.



JAMES COGSWELL

Notary Public in and for the
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, SHAUNA WOOLLEY, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



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