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

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

Docket No.  
35-24

Case Nos. 24679, 24680, 24681,  
24721, 24736, 24279, 24743, 24287,  
24288, 24289, 24290, 24291, 24292,  
24294, 24295, 24296, 24297, 24304,  
24305, 24306, 24307, 24308, 24309,  
24310, 24311, 24312, 24313, 24287,  
24288, 24291, 24292, 24304, 24305,  
24306, 24307, 24308, 24309, 24443,  
24445, 24454, 24456, 24467, 24468,  
24469, 24470, 24551, 24552, 24602,  
24604, 24655, 24656, 24657, 24658,  
24703, 24704, 24705, 24706, 24709,  
24719, 24720, 24745, 24416, 24753,  
24457

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HEARING

DATE: Thursday, August 22, 2024  
TIME: 8:30 a.m.  
BEFORE: Hearing Examiner Gregory A. Chakalian  
LOCATION: Pecos Hall  
Wendell Chino Building  
1220 South Saint Francis Drive  
Santa Fe, NM 87505  
REPORTED BY: James Cogswell  
JOB NO.: 6773973

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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)

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

ALSO PRESENT:

John Garcia, Technical Examiner - OCD (by  
videoconference)

Freya Tschantz, Law Clerk, OCD

Sheila Apodaca, Witness

Braxton Blanford, Witness (by videoconference)

Matthew Pardee, Witness (by videoconference)

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I N D E X

WITNESSES:	DX	CX	RDX	RCX
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JON RUTLEDGE				
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By Ms. Pena			142	
MATTHEW LANGHOFF				
By Mr. Feldewert			188	

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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
Case No. 24743:		
Exhibit 1	Curriculum Vitae of Nicholas Karns	67/67
Exhibit 2	Notice of Violation against Northern Pacific Oil and Gas, Inc. 6/21/14	67/67
Exhibit 3	Emails of Sara Griego re: UPS and United States Postal Service tracking information for Notice of Violation	67/67
Exhibit 4	Emails of Shelia Apodaca re: certified mailing of Docketing Notice for Notice of Violation 7/24/24	67/67
Exhibit 5	Delivery and read email Notice with email response from Respondent	67/67
Case Nos. 24287 and 24288:		
Exhibit A	Self-affirmed Statement of Isaac Evans, Landman	113/113
Exhibit B	Self-affirmed Statement of Andrew Parker, Geologist	113/113

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2	NO.	DESCRIPTION	ID/EVD
3	Case Nos. 24287 and 24288 (Cont'd):		
4	Exhibit C	Self-affirmed statement of	
5		Mailing notice	113/113
6	Exhibit D	Affidavit of Publication	113/113
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8	Case Nos. 24291 and 24292:		
9	Exhibit A	Self-affirmed Statement of	
10		Isaac Evans, Landman	113/113
11	Exhibit B	Self-affirmed Statement of	
12		Andrew Parker, Geologist	
13	Exhibit C	Self-affirmed statement of	
14		Mailing notice	113/113
15	Exhibit D	Affidavit of Publication	113/113
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17	Case Nos. 24294 and 24295:		
18	Exhibit A	Self-affirmed Statement of	
19		Isaac Evans, Landman	115/115
20	Exhibit B	Self-affirmed Statement of	
21		Andrew Parker, Geologist	115/115
22	Exhibit C	Self-affirmed statement of	
23		Mailing notice	115/115
24	Exhibit D	Affidavit of Publication	115/115
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1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case Nos. 24304 to 24309:		
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5		Isaac Evans, Landman	119/119
6	Exhibit B	Self-affirmed Statement of	
7		Andrew Parker, Geologist	119/119
8	Exhibit C	Self-affirmed statement of	
9		Mailing notice	119/119
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12	Case Nos. 24310 to 24313:		
13	Exhibit A	Self-affirmed Statement of	
14		Isaac Evans, Landman	120/120
15	Exhibit B	Self-affirmed Statement of	
16		Andrew Parker, Geologist	120/120
17	Exhibit C	Self-affirmed statement of	
18		Mailing notice	120/120
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21	Case Nos. 24443 and 24445:		
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23	Exhibit 2	Self-Affirmed Statement of	
24		Ben Kessel, Geologist	123/123
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1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case Nos. 24443 and 24445 (Cont'd):		
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5		Notice - Deana Bennett	123/123
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7	Case Nos. 24454 and 24456:		
8	Exhibit 1	Compulsory Pooling Checklist	123/123
9	Exhibit 2	Self-Affirmed Statement of	
10		Ben Kessel, Geologist	123/123
11	Exhibit 3	Self-Affirmed Statement of	
12		Notice - Deana Bennett	123/123
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14	Case Nos. 24467 to 24470:		
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18	Exhibit Tab C	Affidavit of Ben Kessel,	
19		Geologist	135/136
20	Exhibit Tab D	Declaration of Ms. Bennett	135/136
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22	Case No. 24551:		
23	Exhibit A	Self-Affirmed Statement of	
24		Braxton Blandford	151/153
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1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
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5		Charles Crosby	151/153
6	Exhibit C	Self-Affirmed Statement of	
7		Dana S. Hardy	151/153
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9	Case No. 24552:		
10	Exhibit A	Self-Affirmed Statement of	
11		Braxton Blandford	163/163
12	Exhibit B	Self-Affirmed Statement of	
13		Charles Crosby	163/163
14	Exhibit C	Self-Affirmed	
15		Statement of Dana S. Hardy	163/163
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17	Case Nos. 24602 and 24604:		
18	Exhibit A	Compulsory Pooling	
19		Application Checklist	167/168
20	Exhibit B	Application of Ameredev	
21		Operating, LLC	167/168
22	Exhibit C	Affidavit of Brandon Forteza,	
23		Landman	167/168
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1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case Nos. 24602 and 24604 (Cont'd):		
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5		Geologist	167/168
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13	Exhibit A	Self-Affirmed Statement of	
14		Adriana Salgado	170/170
15	Exhibit B	Self-Affirmed Statement of	
16		Tyler Hill	170/170
17	Exhibit C	Self-Affirmed Statement of	
18		Dana S. Hardy	170/170
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20	Case Nos. 24703 and 24704:		
21	Exhibit 1	Pooling Checklist	173/173
22	Exhibit 2	Landman's Affidavit	173/173
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2	NO.	DESCRIPTION	ID/EVD
3	Case Nos. 24703 and 24704 (Cont'd):		
4	Exhibit 6	Application and Proposed	
5		Notice	173/173
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8	Exhibit A	Self-Affirmed Statement of	
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12	Exhibit C	Self-Affirmed Statement of	
13		Dana S. Hardy	174/174
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15	Case Nos. 24709:		
16	Exhibit A	Self-Affirmed Statement of	
17		Corie Mathews, Landman	177/177
18	Exhibit B	Self-Affirmed Statement of	
19		Leah Johnson, Geologist	177/177
20	Exhibit C	Self-Affirmed Statement of	
21		Notice - Darin C. Savage	177/177
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24	Exhibit A	Self-Affirmed Statement of	
25		Matthew Langhoff	183/183

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case Nos. 24719 and 24720 (Cont'd):		
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10	Exhibit A	Extension Application	184/184
11	Exhibit B	Original Pooling Order	184/184
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13		Shelley Klingler, Landman	184/184
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21		of Matthew Pardee	187/190
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23		Notice - Dana Hardy	187/190
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E X H I B I T S (Cont'd)

NO.	DESCRIPTION	ID/EVD
Case No. 24753:		
Exhibit A	Self-Affirmed Statement of Travis Macha	194/194
Exhibit B	Self-Affirmed Statement of Notice - Dana S. Hardy	194/194

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2	Self-affirmed Affidavit from Mr. Rutledge re: percentage Acceptance - Late Marked Exhibit	147
3	Numbers for cost savings for consolidated facilities, land acreage disturbance and amount of emissions reduced from Mr. Blanford for Case 24551 - Late Marked Exhibit	160

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D O C U M E N T S R E Q U E S T E D (Cont'd)

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6	Affidavit from Mr. Langhoff Updating drilling production Costs from 7,500 to 9,000 Case 244716 - Later Marked Exhibit	192

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P R O C E E D I N G S

THE HEARING EXAMINER: All right. Good morning. It is 8:30 on August 26th. This is the regular docket of the Oil Conservation Division. And before I start calling the cases on our docket, our technical examiner, John Garcia, who leads our technical team, has an announcement for the parties in the room. Mr. Garcia.

MR. GARCIA: Thank you. I just wanted to remind all the parties and all counsel and any operators in the room, back on July 9th, OCD released an announcement for upgrades to the C-104, C-105, and the C-102 forms. Those upgrades went into effect August 1st. And after August 1st, the 102 is to be used in all submissions, APDs, hearings, NSLs, et cetera. Reviewing the exhibits of today's docket, the majority of the cases did not use the new 102. I'll accept them today, but I believe next docket would be my start of objecting or continuing cases, whichever is the best method due to using, you know, the old version of 102, which is no longer valid. That's all I have.

THE HEARING EXAMINER: Thank you, Mr. Garcia. Before we begin, are there any questions?

MS. MCLEAN: I have a question.

1 THE HEARING EXAMINER: Ms. McLean.

2 MS. MCLEAN: Mr. Garcia, it was my  
3 understanding that we could keep using the old form  
4 102 if the case had been pending before August 1st.  
5 Would you like us to start using the new form for  
6 those older cases as well?

7 MR. GARCIA: When you say pending, like  
8 if it's been submitted for a while or the case has  
9 been on the docket for a while?

10 MS. MCLEAN: The case has been on the  
11 docket.

12 MR. GARCIA: I would prefer the new 102  
13 being used, because we released it on July 9th. The  
14 notice with an effective date of August 1st per  
15 management. And engineering has been rejecting these  
16 for other submissions we get. We have done some VWA  
17 with, like, APDs that are pending before the BLM. So  
18 I guess we might need to talk offline about your guys'  
19 unique situations. But we would prefer to be one of  
20 two speeds as much as possible.

21 MS. MCLEAN: Okay.

22 MR. GARCIA: Basically, they're more  
23 geared towards horizontal wells. They're probably  
24 long overdue, but they have more horizontal well  
25 information on them.

1 MS. MCLEAN: Thank you.

2 THE HEARING EXAMINER: So Ms. McLean,  
3 are you suggesting that with the application you filed  
4 C-102?

5 MS. MCLEAN: No, we typically just  
6 attach them as exhibits for the hearing, but we  
7 will just only tell the clients the new one from now  
8 on.

9 THE HEARING EXAMINER: So you can  
10 submit an amended exhibit packet with a cover letter  
11 showing that you changed those C-102 to the new one  
12 and then Freya will remove the old exhibit packet if  
13 that's applicable. Does that sound okay, Mr. Garcia?

14 MR. GARCIA: That'd be preferred.

15 THE HEARING EXAMINER: All right.  
16 Sounds good. Is there anything further on the C-102s  
17 from anyone?

18 MS. BRADFUTE: Mr. Hearing examiner.

19 THE HEARING EXAMINER: Yes.

20 MS. BRADFUTE: Mr. Hearing Examiner and  
21 Mr. Garcia, if you have a pooling application that  
22 relates to a federal well where the plat that was used  
23 before the BLM is on an old C-102, form, should the  
24 applicant for the pooling case just use a new C-102,  
25 or should they use the C-102 that was submitted with

1 their APD to BLM?

2 MR. GARCIA: I would prefer the 102 for  
3 the hearing packet, but the APD will accept whatever  
4 was submitted to BLM.

5 MS. BRADFUTE: Okay.

6 THE HEARING EXAMINER: And that's with  
7 a lot of multiple operators. Most operators  
8 understand the point pretty easily and again, they  
9 just let it horizontal vulnerable. They're only, I  
10 think, one or two operators that had questions, but  
11 for the most part we be using the new 102 for for all  
12 submissions.

13 MS. BRADFUTE: Great. Thank you so  
14 much.

15 THE HEARING EXAMINER: No problem.  
16 Mr. Garcia, anything further on the C-102s?

17 MR. GARCIA: I believe that's it.

18 THE HEARING EXAMINER: All right.  
19 Thank you, sir. I'm calling case number 24416 E.G.L.  
20 Resources. Ms. Hardy, state your name.

21 MS. HARDY: Good morning, Mr. Examiner  
22 Dana Hardy with Hinkle Shanor on E.G.L. Resources.

23 MR. FELDEWERT: Good morning,  
24 Mr. Examiner. Michael Feldewert, Santa Fe office of  
25 Holland & Hart appearing on behalf of EOG Resources,

1 Inc. Then I'm appearing on behalf of MRC Permian  
2 Company. And then finally, I'm appearing on behalf of  
3 XTO Energy, Inc., who I believe in the pooling  
4 exhibits would be identified as Mobile Producing Texas  
5 and New Mexico, Inc.

6 THE HEARING EXAMINER: Thank you.  
7 Okay, Ms. Hardy, since it's your case, how do you want  
8 to proceed?

9 MS. HARDY: Mr. Examiner, we did timely  
10 file our exhibits last Thursday and the XTO submitted  
11 an objection after that. But it's my understanding  
12 that now XTO and E.G.L. have reached an agreement  
13 under which XTO's entity, which is Mobile, will not be  
14 pooled. And XTO is withdrawing its objection to  
15 presentation by affidavit. So I'd like to present  
16 this case by affidavit today. And if that's  
17 acceptable, it's fine if it could be moved to that  
18 docket or we can do it now. Either way.

19 THE HEARING EXAMINER: Mr. Feldewert,  
20 which of your clients filed an objection?

21 MR. FELDEWERT: XTO Energy, Inc.

22 THE HEARING EXAMINER: Only?

23 MR. FELDEWERT: Only.

24 THE HEARING EXAMINER: Okay. And have  
25 you filed a withdrawal objection?

1 MR. FELDEWERT: I did not get a chance  
2 to do that before the hearing today, but Ms. Hardy is  
3 correct. If they are okay with removing Mobile  
4 Producing Texas and New Mexico Inc. from the pooled  
5 party list, then we are withdrawing our objection.

6 THE HEARING EXAMINER: Okay.  
7 Mr. Garcia, will you send me a teams chat and let me  
8 know whether you are able to review these exhibits?  
9 We have a verbal withdrawal of objection. And if  
10 you're able to review these exhibits, then I will move  
11 this case to the end of today's docket. Aha. Okay.  
12 Mr. Garcia says he's already reviewed the exhibits.  
13 So we will move 24416 to the end of our docket and we  
14 will hear it at that time, Ms. Hardy.

15 MS. HARDY: Thank you very much.

16 THE HEARING EXAMINER: So it'll be a  
17 hearing by affidavit and Mr. Feldewert, will you file  
18 a withdrawal objection?

19 MR. FELDEWERT: Yes, sir.

20 THE HEARING EXAMINER: Okay. Thank  
21 you. We're in recess on 24416. I'm calling 24679,  
22 24680, and 24681, Tap Rock Operating. Enter  
23 appearances please.

24 JENNIFER BRADFUTE: Mr. Hearing  
25 Examiner, this is Jennifer Bradfute on behalf of the

1 applicant, Tap Rock Operating LLC, in all three cases.

2 THE HEARING EXAMINER: Thank you.

3 MR. FELDEWERT: Good morning,  
4 Mr. Examiner. Michael Feldewert with the Santa Fe  
5 office of Holland & Hart on behalf of MRC Permian  
6 Company and we are only in cases 24679 and 24680.

7 THE HEARING EXAMINER: Thank you.

8 MS. KESSLER: Good morning,  
9 Mr. Examiner. Jordan Kessler on behalf of EOG  
10 Resources, Inc.

11 THE HEARING EXAMINER: Good morning.

12 MS. RYAN: Good morning, Mr. Examiner.  
13 Beth Ryan on behalf of COG operating and Concho Oil &  
14 Gas.

15 THE HEARING EXAMINER: Good morning.

16 MR. HOLLIDAY: Good morning,  
17 Professor Examiner. Ben Holliday on behalf of  
18 Cimarex.

19 THE HEARING EXAMINER: I'm sorry,  
20 Mr. Holliday, you're representing who?

21 MR. HOLLIDAY: Cimarex.

22 THE HEARING EXAMINER: Okay. It's hard  
23 to hear you. Cimarex. I got it. Okay, Ms. Bradfute,  
24 these are your cases. How do you want to proceed?

25 MS. BRADFUTE: Yes. Thank you,

1 Mr. Examiner. So prior to today's hearing date, Tap  
2 Rock Operating had agreed to a continuance with  
3 Cimarex. Cimarex has issued competing proposal  
4 letters to the parties within the unit. And Tap Rock  
5 Operating has received those proposal letters and is  
6 under the understanding that applications from Cimarex  
7 are forthcoming, but we have not yet seen those. So  
8 we mutually agreed with Cimarex to a continuance to  
9 the October 31st docket.

10 Cimarex's attorney, Mr. Holliday, did  
11 file and pay for the motions to continue these three  
12 cases. We asked for the October 24th hearing date,  
13 which I understand has been vacated. And so, there  
14 was a request to update the continuance date to the  
15 31st and Mr. Holliday was working on getting  
16 submissions over to Freya.

17 THE HEARING EXAMINER: Okay.  
18 Ms. Bradfute, I think the issue with the motions for  
19 continuance was that at first the document was  
20 received without a certification of service. Then the  
21 document received subsequent, had no signature on it,  
22 so we weren't able to accept the continuation, but now  
23 I understand. Do any of the other parties -- so Mr.  
24 Holliday, you submitted the documents. Are the  
25 positions of all of these parties on your document?

1 MR. HOLLIDAY: Yes, sir. And I spoke  
2 with Ms. Tschantz this morning and let her know that  
3 we'll be resubmitting those applications for -- with  
4 the proper signature and service.

5 THE HEARING EXAMINER: Okay, sounds  
6 good. As soon as we receive that, we can move this to  
7 the October 31st docket. But Ms. Bradfute, I mean,  
8 these are your cases. I know that we have competing  
9 applications coming. So, Mr. Holliday, when would  
10 those be filed in the future. I would have to check  
11 with Cimarex. They haven't given me a timeline yet.  
12 I would anticipate within the month.

13 THE HEARING EXAMINER: And you're  
14 anticipating that because of the 30-day time between  
15 the proposal letter and the filing?

16 MR. HOLLIDAY: Yes, sir.

17 THE HEARING EXAMINER: Okay. And  
18 Ms. Bradfute, when did you receive those proposals?

19 MS. BRADFUTE: Yeah, approximately two  
20 weeks ago, Mr. Examiner.

21 THE HEARING EXAMINER: I see. So in  
22 two weeks from now Cimarex could file, if they choose  
23 to.

24 MS. BRADFUTE: That is my  
25 understanding.

1 THE HEARING EXAMINER: And here we are,  
2 let's see, 22nd. So we're looking at early September.  
3 And then Freya, if you received -- we have only one  
4 docket the 12th of September; is that right?

5 MS. TSCHANTZ: Yes, that's correct.

6 THE HEARING EXAMINER: So they would be  
7 put on the October 3rd docket for a status conference?

8 MS. TSCHANTZ: That is the next docket,  
9 yes.

10 THE HEARING EXAMINER: And I'm assuming  
11 you're going to want these cases joined; is that right  
12 Mr. Holliday?

13 MR. HOLLIDAY: Yes, sir.

14 THE HEARING EXAMINER: And Ms.  
15 Bradfute, you wouldn't have an objection to joining  
16 these cases, would you?

17 MS. BRADFUTE: No, we would not.

18 THE HEARING EXAMINER: All right. And  
19 Ms. Bradfute, do you anticipate that the parties will  
20 negotiate their way out of a contested hearing or do  
21 you think there will be a contested hearing?

22 MS. BRADFUTE: Right now, the parties  
23 would like to negotiate their way out of a contested  
24 hearing. That is my understanding from correspondence  
25 that Tap Rock has received earlier this week from

1 Cimarex.

2 THE HEARING EXAMINER: And when did you  
3 file these cases, Ms. Bradfute?

4 MS. BRADFUTE: These cases were filed  
5 in June. I apologize. I don't have the exact date of  
6 the filing in front of me, but I believe it was June.  
7 And I can find it, if you give me just a moment.

8 THE HEARING EXAMINER: I'll be happy  
9 to.

10 MS. BRADFUTE: Thank you. They were  
11 filed on June 14th, Mr. Examiner.

12 THE HEARING EXAMINER: All right. So  
13 it's been two months now. And has there been a  
14 continuance in your cases, Ms. Bradfute, since they  
15 were filed?

16 MS. BRADFUTE: Yes, there was one prior  
17 continuance filed by COG Operating.

18 THE HEARING EXAMINER: When you say COG  
19 filed the continuance, they're your cases, so I don't  
20 quite understand what you mean.

21 MS. BRADFUTE: That's right. They were  
22 the first to file the continuance with COG Operating,  
23 but there was one prior continuance filed in my cases.

24 THE HEARING EXAMINER: Okay, but your  
25 position on that was that you -- so was it a joint

1 continuance?

2 MS. BRADFUTE: It was an unopposed  
3 Motion for Continuance.

4 THE HEARING EXAMINER: All right.  
5 Okay. So we're having another continuance today. The  
6 next time we hear this case on October 31st will be  
7 the final status conference. There won't be any more  
8 time for negotiation at that point?

9 MS. BRADFUTE: Yes. Understood.

10 THE HEARING EXAMINER: Okay. And would  
11 the parties, since there are so many parties here,  
12 would the parties confer on a November contested  
13 hearing date?

14 MS. BRADFUTE: Yes, Mr. Examiner.

15 THE HEARING EXAMINER: Okay. Very  
16 good. And Freya, do you have any dates that we would  
17 propose for a contested hearing in November?

18 MS. TSCHANTZ: Yes. One moment.

19 THE HEARING EXAMINER: We're going to  
20 give the parties some dates to discuss.

21 MS. TSCHANTZ: And I believe we have  
22 two contested hearing dates already scheduled in  
23 November, but we wanted to stack those so that we  
24 would have four dockets in November. Those dates  
25 would be November 5th and November 20th.

1 THE HEARING EXAMINER: Okay. I heard  
2 November 5th and November 20th; is that right?

3 MS. TSCHANTZ: Yes.

4 THE HEARING EXAMINER: Okay. So  
5 Ms. Bradfute, we have available November 5th and  
6 November 20th to choose from. If the parties are not  
7 ready for a status conference on those dates, the  
8 cases will be dismissed, and you can refile them after  
9 your negotiations are complete. So, Mr. Holliday,  
10 we're going to wait for legally sufficient pleadings  
11 and then we will move the cases. Now, I'm confused  
12 about one thing, Mr. Holliday. Which is your case,  
13 the Cimarex case, or do you not have a case?

14 MR. HOLLIDAY: We have not filed our  
15 own application yet. We objected --

16 THE HEARING EXAMINER: I see. So  
17 you're paying for another party's continuance?

18 MR. HOLLIDAY: We just want to be good  
19 neighbors.

20 THE HEARING EXAMINER: Okay, well  
21 that's .

22 MR. HOLLIDAY: Yes, sir, we did.

23 THE HEARING EXAMINER: Okay. I wasn't  
24 aware that parties did that for each other, but that's  
25 interesting. Okay. So, Freya, when you get the

1 pleading would you then approve the continuances to  
2 the October 31st docket, and we'll mark it a final  
3 status conference?

4 MS. TSCHANTZ: Yes, I will.

5 THE HEARING EXAMINER: All right.

6 Thank you very much. We're in recess on these cases  
7 unless there's something else from any of the parties.  
8 Not hearing anything.

9 MS. BRADFUTE: No. Thank you,  
10 Mr. Examiner.

11 THE HEARING EXAMINER: Thank you  
12 Ms. Bradfute. Okay, I'm moving now to 24721 and  
13 24736, Cimarex and Pride. Enter parties, please.

14 MR. SAVAGE: Darin Savage with Abadie  
15 and Schill appearing on behalf of Cimarex Energy  
16 Company.

17 MR. BRUCE: Mr. Examiner, Jim Bruce on  
18 behalf of Pride Energy.

19 THE HEARING EXAMINER: Good morning,  
20 sir. So Mr. Savage, are these competing cases?

21 MR. SAVAGE: Yes, sir. These are the  
22 competing cases for the creation of Wolfbone and  
23 they're related to the previous cases. And there are  
24 some issues here that we probably should talk about.

25 THE HEARING EXAMINER: Sounds good. I

1 thought we were going to list these as .- this is an  
2 extension of the contested hearing we had, is it not?

3 MR. SAVAGE: Yes, this is -- we had a  
4 contested hearing on the ruling applications.

5 THE HEARING EXAMINER: Right. And that  
6 was July 23rd?

7 MR. SAVAGE: Mr. Bruce, do you  
8 remember?

9 MR. BRUCE: Well, it was last year,  
10 Mr. Examiner. The pooling case resulted in the  
11 decision by the division to require a rule for a pool  
12 and I filed my application in this case a little over  
13 a month ago.

14 THE HEARING EXAMINER: Okay. Based on  
15 the information that Mr. Bruce just gave me, I need to  
16 look this up. Give me a minute please. I thought  
17 that we had a hearing on this, July 23rd, and that we  
18 were coming back for some notice issues. But if  
19 that's not right, I need to figure it out.

20 MR. BRUCE: Notice has not been given  
21 as to either of these cases yet, because they are  
22 anticipated to be continued further down the road.

23 THE HEARING EXAMINER: Okay. So  
24 Mr. Savage, recently we had a contested hearing on  
25 creating a special pool.

1 MR. SAVAGE: We did.

2 THE HEARING EXAMINER: This is not that  
3 case?

4 MR. SAVAGE: That was for resources --

5 THE HEARING EXAMINER: Yes.

6 MR. SAVAGE: -- regarding Cimarex. And  
7 that was August 13th.

8 THE HEARING EXAMINER: Okay. So these  
9 are cases that have not gone to a hearing yet?

10 MR. SAVAGE: They have not. They're  
11 very related to, you know, the creation of the  
12 Wolfbone in those other cases.

13 THE HEARING EXAMINER: Okay. So  
14 Mr. Savage, where are we with your case? Why are we  
15 having a status conference today?

16 MR. SAVAGE: It did surprise me a  
17 little bit that was on the docket, but there are some  
18 issues that need to be addressed. So we did a  
19 Wolfbone application. There was a notice issue that  
20 came up last time regarding what pools and formations  
21 need to be referenced to satisfy notice. And that was  
22 one of the big issues. The other issue was the scope  
23 of the case and my application has some references  
24 back to the previous pooling application, and it asked  
25 for approval of that pooling application. Mr. Bruce

1 is, and he can speak for his application, but it is a  
2 little bit leaner. So it looks like it conforms a  
3 little bit better to the scope that was discussed in  
4 the last hearing.

5 THE HEARING EXAMINER: Okay. Give me a  
6 minute here. So we received your original filing on  
7 July 9. And we received a continuance that was  
8 approved. Why did you continue the case?

9 MR. SAVAGE: For the Wolfbone  
10 application, Pride and Cimarex, counsel was in  
11 discussion about how to proceed on this. We were  
12 looking at the order and how to proceed. And we  
13 needed some additional time as I remember it.

14 THE HEARING EXAMINER: Okay.

15 MR. BRUCE: And Mr. Examiner, I believe  
16 the filing date for my application missed the original  
17 August hearing. And so, mine was originally set for  
18 this hearing.

19 THE HEARING EXAMINER: I understand.  
20 I'm going to take a look at the order in this case. I  
21 know we have Mr. Garcia here, but I still want to look  
22 at the order. Okay. Looks like we have a final order  
23 issued April 8, in your underlying case. I think that  
24 was 23295, Mr. Savage; is that right?

25 MR. SAVAGE: Yes sir. I believe that's

1 correct. I don't have it in front of me, but I agree  
2 with that.

3 THE HEARING EXAMINER: Okay. Let's see  
4 if I can take a look at the copy of this order here.  
5 Looks like you filed, no, Mr. Bruce filed, and this is  
6 in your case. Gives notice of its intent to submit a  
7 proposal for a special Wolfbone pool in the area  
8 subject to order R23132. Pride intends to confer with  
9 Cimarex in an effort to reach agreement on the  
10 Wolfbone pool proposal to avoid submission of  
11 competing proposals. If possible, streamline the  
12 Hasten Rizzo. But there are competing proposals now,  
13 is that right?

14 MR. SAVAGE: Yes. And and that was  
15 after our related hearing on August 13th, there looked  
16 like an opportunity to possibly do some kind of joint  
17 application. But that's something that probably  
18 Cimarex would have to discuss. But it looks like that  
19 could be an option.

20 THE HEARING EXAMINER: Because that's  
21 what you're filing in the other case. Is a joint --

22 MR. SAVAGE: That is correct.

23 THE HEARING EXAMINER: -- a joint  
24 application for a special pool. Okay. All right.  
25 Now I'm starting to understand the differences and the

1 similarities between the cases. Before I go to you,  
2 Mr. Bruce, let me think a little further on this. So  
3 one way or another you are going to apply, or you have  
4 applied for -- you have competing proposals to apply  
5 for a Wolfbone special pool and now you're trying to  
6 decide if you can get together on the issues and file  
7 a joint?

8 MR. BRUCE: Yes, sir.

9 THE HEARING EXAMINER: All right. A  
10 joint case where you're not competing any longer.  
11 Yours was filed July, last month. And Mr. Bruce,  
12 yours was filed what, right after Cimarex's?

13 MR. BRUCE: That is correct, sir.

14 THE HEARING EXAMINER: All right. So  
15 where are you in your negotiations?

16 MR. SAVAGE: Well, there there's a  
17 number of items that we liked.

18 THE HEARING EXAMINER: I'll deal with  
19 the notice issue in just a moment, but -- and I can  
20 deal with that because I've discussed with technical.

21 MR. SAVAGE: So counsel conferred  
22 yesterday. And one of the questions we have, we may  
23 want to -- we both have different allocation formulas  
24 in those applications. That's the only matter that  
25 really would be at issue in a competing situation. So

1 we discussed, you know, putting those allocation  
2 formulas in the pooling application that would be  
3 filed after that. And that way we could file these  
4 and have a clean Wolfbone.

5 We don't see, and obviously I don't,  
6 and Mr. Bruce can talk to this, but we didn't discuss  
7 not seeing anything in the rules that would prohibit  
8 moving the allocation formula into the pooling  
9 application. But we would possibly like some feedback  
10 if that that is something that the OCD would accept.

11 THE HEARING EXAMINER: All right, let's  
12 deal with the notice issue first and then I'll go to  
13 Mr. Garcia to answer if he wants to, your question  
14 just now. In the hearing we had a few weeks ago, the  
15 issue was how far out did you need to provide notice?  
16 In that case, there were four sections under creation  
17 of the special pool. And the parties had agreed that  
18 notice would be provided, one mile outside of those  
19 four sections. So therefore, it would be a 16-section  
20 area of notice. And I think the technical division,  
21 reading .-

22 Freya, can you mute whatever is making  
23 that noise? Thank you. I think the technical  
24 examiner was unsure of how the rule was written,  
25 whether you needed to provide more notice than that.

1 I spoke with the technical team and we're going to go  
2 by the more restrictive notice. So the notice that  
3 you provided, in the area you provided, is the way we  
4 will go in the future. The problem with the notice  
5 last time was, of course, the second pool was not  
6 noticed. And I know that you have fixed that. And I  
7 think we'll hear those cases today or that case today.  
8 Is that right Mr. Savage? It's your case.

9 MR. SAVAGE: Which case?

10 THE HEARING EXAMINER: The case that we  
11 continued because notice needed to be perfected.

12 MR. SAVAGE: No, that -- we're  
13 submitting the joint application on the 27th.

14 THE HEARING EXAMINER: Okay.

15 MR. SAVAGE: Along with the amended  
16 hearing packet.

17 THE HEARING EXAMINER: But we issued a  
18 notice, the division issued a notice with the  
19 corrected legal description, and noticed it on our  
20 website. So that 20-day period, would that not be  
21 cured now?

22 MR. SAVAGE: I would have to look at  
23 that. I'm not -- I don't -- I'm not sure if I  
24 understand the details of that.

25 THE HEARING EXAMINER: Okay. So either

1 way that case will come back in several more weeks.

2 MR. SAVAGE: That is correct.

3 THE HEARING EXAMINER: After you've  
4 mailed out your notice and published your notice.  
5 Okay. All right. So that's not on our docket today.  
6 Okay. All right. So that answers one of your  
7 questions; right? Mr. Bruce, do you have a question  
8 about what I said or are you clear about that?

9 MR. BRUCE: I'm clear about it. Thank  
10 you.

11 THE HEARING EXAMINER: Excellent.  
12 Excellent. And Mr. Bruce, we didn't have you at the  
13 hearing a week or two ago where this issue first came  
14 up. But is your legal interpretation of the rule and  
15 a special pool creation similar?

16 MR. BRUCE: Yes. From what Mr. Savage  
17 told, really no issues with giving notice. So I'm  
18 pretty sure I understand the ins and outs. Thank you.

19 Mr. FELDEWERT: Mr. Examiner.

20 THE HEARING EXAMINER: Yeah.

21 MR. FELDEWERT: I think my colleague  
22 Adam Rankin was at that hearing.

23 THE HEARING EXAMINER: He was.

24 MR. FELDEWERT: For what it's worth, we  
25 totally agree with your interpretation of the rule.

1 That's been our understanding for quite some time.  
2 And that is the area of interest, plus one mile.

3 THE HEARING EXAMINER: Perfect.

4 MR. FELDEWERT: So appreciate the  
5 clarification.

6 THE HEARING EXAMINER: By all means.  
7 Thank you. All right. So Mr. Savage, now you have a  
8 question for our technical examiner. Mr. Garcia, do  
9 you have an answer for Mr. Savage at this time?

10 MR. GARCIA: Yeah, I have a preferred  
11 path forward. I would prefer to hear the special pool  
12 as just the special pool, you know, geology,  
13 reservoir, engineering dock, vertical extent,  
14 horizontal extent. The problem Mr. Savage, with adding  
15 allocation front list to special pools is keep in mind  
16 any operator who drills in that pool in the future, or  
17 near to that pool in the future can request amendments  
18 to pools, extending them, contracting them, deleting  
19 them, et cetera.

20 I don't know if you want to merge or  
21 compulsory pooling allocation methods with a special  
22 pool order that can be amended in the future for  
23 various reasons. So that's my preferred method is why  
24 we wanted them separate. I just don't want to blur  
25 compulsory pooling with special polls.

1 MR. SAVAGE: So if I understand that  
2 correctly, then it would be appropriate to put the  
3 allocation formula into compulsory pooling and have it  
4 as part of that and have it completely separate from  
5 the Wolfbone application?

6 MR. GARCIA: I think it'd be cleaner,  
7 and it'd be preferred. You know, we don't get pool  
8 requests often in a hearing. I think we have two in  
9 my backlog that I got to review, you know, which are  
10 requesting, you know, expansions, contractions, and  
11 for vertical wells, which is not common anymore,  
12 allowables, how much the well is to produce. So I  
13 just -- I guess maybe third bullet, down the line your  
14 compulsion point may get amended for non-compulsory  
15 pooling reasons.

16 MR. SAVAGE: Okay. So are you saying  
17 there would be an issue with putting our allocation  
18 formula in compulsory pooling?

19 MR. GARCIA: No, you could do it in  
20 pooling. Just let's not do it to the pool.

21 MR. SAVAGE: Okay. The pool creation.  
22 Yes, I agree with that. So that sounds like we can do  
23 a clean creation of Wolfbone pool. That would be a  
24 clean canvas on which we can then submit competing  
25 applications that would create the unit to the

1 specifications of the competing applications.

2 MR. GARCIA: Perfect.

3 MR. SAVAGE: Thank you.

4 THE HEARING EXAMINER: Mr. Savage, I  
5 didn't understand what you just said and I'm not sure  
6 what you really meant by that. But I think Mr. Garcia  
7 is saying when it comes to the application for the  
8 special pool, we don't want to see the allocation of  
9 production interests as a condition or a factor in  
10 that. Now once the special pool is created, when you  
11 submit your competing pooling applications there, I  
12 think he's saying it's applicable.

13 MR. SAVAGE: I agree with that.

14 THE HEARING EXAMINER: Mr. Garcia, did  
15 I get that right?

16 MR. GARCIA: Correct.

17 THE HEARING EXAMINER: Okay, good.  
18 We'll put a note in these cases. So Mr. Savage,  
19 Mr. Bruce, when are we going to hearing?

20 MR. BRUCE: Mr. Examiner, originally  
21 was going to try in mid October, but it sounds like  
22 both Mr. Savage and I either file new applications or  
23 file a joint application simply for pool creation.  
24 And so, we could work on that over the next couple of  
25 weeks. It would probably still be in October, but it

1 would go to a regular hearing.

2 THE HEARING EXAMINER: When you say "a  
3 regular hearing date," do you mean a regular docket?

4 MR. BRUCE: Yes, because what we would  
5 want previously was a special hearing docket, like on  
6 October October 14th, unless you guys want --

7 THE HEARING EXAMINER: Okay. I'm not  
8 catching everything you say, but I think I heard you  
9 say we have these cases set on an October 14th special  
10 docket?

11 MR. BRUCE: Preliminarily, yes. We  
12 have spoken with the division about consolidating them  
13 for a contested hearing date in October.

14 THE HEARING EXAMINER: Mr. Savage, do  
15 we have a pre-hearing order in this case? Should I  
16 look for a -- we do have -- wait, are you nodding,  
17 yes, we have one or not?

18 MS. TSCHANTZ: Mr. Hearing examiner,  
19 I'm informally holding October 15th as a possible date  
20 for a contested hearing.

21 THE HEARING EXAMINER: Did you say 15  
22 or 14?

23 MS. TSCHANTZ: The 15th.

24 THE HEARING EXAMINER: 1-5. Okay. So  
25 Mr. Bruce and Mr. Savage, we have a date of October

1 15th for a special hearing. Now, obviously if you  
2 submit a joint application and there's not going to be  
3 an allocation formula, maybe it doesn't need to be a  
4 contested hearing.

5 MR. SAVAGE: Could that be done just  
6 administratively as a submission and --

7 THE HEARING EXAMINER: That, I don't  
8 know. Mr. Garcia.

9 MR. GARCIA: Full creations have to  
10 come through a hearing, I believe.

11 THE HEARING EXAMINER: Perfect, thank  
12 you. But we could add that to a regular docket and  
13 almost hear it by affidavit, in other words. When  
14 will -- I need to put some sort of limit on this. You  
15 said it'd take a couple more weeks to negotiate a  
16 joint submission, Mr. Savage and Mr. Bruce?

17 MR. SAVAGE: Yes.

18 THE HEARING EXAMINER: Okay.

19 MR. SAVAGE: And then we would have to  
20 send out notice, satisfy notice on all that. And we'd  
21 submit the application and we'd have to do the notice  
22 procedures.

23 THE HEARING EXAMINER: Haven't the  
24 parties already done their notice for their individual  
25 applications?

1 MR. BRUCE: I have not.

2 MR. SAVAGE: I have not.

3 THE HEARING EXAMINER: Oh, is that not  
4 done at the application stage?

5 MR. SAVAGE: It's done. We have 20  
6 days before the hearing and 10 business days for  
7 publication notice. So if we get a date such as we  
8 get on October 15th, then often we will, you know,  
9 manage that case and notice at a later time. It's  
10 still satisfy notice.

11 THE HEARING EXAMINER: I see. But when  
12 you file a case with the division, I feel like I'm  
13 learning. I feel like it's day one for me and I feel  
14 like I'm learning everything new. When you file a  
15 case with the division and you don't know it's  
16 contested at that point and you're hoping for a  
17 hearing by affidavit, wouldn't you have to notice  
18 that?

19 MR. SAVAGE: So when you file an  
20 application, you file it 30 days before, so you have  
21 your docket set.

22 THE HEARING EXAMINER: Sure.

23 MR. SAVAGE: So then you have to do  
24 notice within that window, that tight window of 30  
25 days.

1 THE HEARING EXAMINER: Yes.

2 MR. SAVAGE: So you would send out your  
3 letter notice within 20 days in publication. So it's  
4 a much faster -- it doesn't allow for any flexibility,  
5 but if you have a contested hearing based on filed  
6 applications, then you set a date, at a later date,  
7 and then you have some flexibility.

8 THE HEARING EXAMINER: I see. So in  
9 other words, you knew that this would be contested, so  
10 you didn't do notice. That's what you're saying?

11 MR. SAVAGE: That's correct.

12 THE HEARING EXAMINER: Now I  
13 understand. That makes sense. Okay. Well, I don't  
14 know that we're having a contested hearing because the  
15 parties don't know whether they can work out their  
16 differences and file a joint. But I'm going to give  
17 you a deadline. So we'll go two weeks from today.  
18 And I'm going to consider the holiday and add some  
19 days there, too. So give me a minute here. Let's go  
20 with the Monday after the first week in September.  
21 That would be the 9th. The parties have until the 9th  
22 to file a joint pooling application, special pooling,  
23 special pool creation application. If the parties  
24 file it on the 9th, then you'll do your notice  
25 appropriately and we'll put it on a regular docket

1       sometime in October.

2                       We have three dockets in October, so  
3       you have plenty of room here.  If the parties don't  
4       file it by the 9th, then I'm expecting that we're  
5       going to issue a pre-hearing order and we will have a  
6       contested hearing on the 15th, the date Freya  
7       mentioned, of October.  Anything further on these two  
8       cases?

9                       MR. SAVAGE:  No. sir.  Thank you.

10                      THE HEARING EXAMINER:  Thank you.

11                      MR. BRUCE:  Thank you.

12                      THE HEARING EXAMINER:  I'm just going  
13       to make some notes.  All right.  We're in recess on  
14       these two cases.  We're moving now to case 24279.  
15       Riley Permian.

16                      MR. PADILLA:  Mr. Examiner, Al Padilla  
17       for Riley Permian.

18                      MR. FELDEWERT:  Good morning,  
19       Mr. Examiner.  Michael Feldewert, with the Santa Fe  
20       office of Holland & Hart, appearing on behalf of four  
21       entities.  It's the MRC Delaware Resources, LLC and  
22       MRC Permian Company.  And then, also for Colgate  
23       Production, LLC and Permian Resources Operating, LLC.

24                      THE HEARING EXAMINER:  Thank you.

25                      MS. HARDY:  Mr. Examiner, good morning.

1 Dana Hardy on behalf of V-F Petroleum.

2 THE HEARING EXAMINER: Thank you.

3 Mr. Padilla, this is your case. I see that there's a  
4 companion case that's not on today's docket. It looks  
5 like this is a continuation of the contested hearing  
6 from July 23rd.

7 MR. PADILLA: That's correct,  
8 Mr. Examiner. The reason we're here today is to cure  
9 a notice problem with the location of the well on the  
10 24279 case.

11 THE HEARING EXAMINER: So 24280 was  
12 taken under advisement, then?

13 MR. PADILLA: Yes.

14 THE HEARING EXAMINER: Okay, very good.  
15 And the notice, what was the issue on notice?

16 MR. PADILLA: The notice was an  
17 incorrect location of the well. We had a footage  
18 location from the south line instead of the north  
19 line. So we had to re-advertise and publish, and  
20 we've done that. And we've also resubmitted our  
21 exhibit package. At the tail end of the exhibit  
22 package are the self-affirming statements, mine. And  
23 the last two pages is a new self-affirming statement  
24 indicating that we have published. And at that time,  
25 we also had a problem with that was discovered with

1 Apache Corporation. They haven't entered an  
2 appearance in the 20 days. And so -- and we've  
3 corrected the location.

4 THE HEARING EXAMINER: All right.  
5 Thank you. Mr. Feldewert, do you have anything to say  
6 about these cases?

7 MR. FELDEWERT: No, Sir.

8 THE HEARING EXAMINER: Okay.  
9 Ms. Hardy?

10 MS. HARDY: No, thank you.

11 THE HEARING EXAMINER: All right.  
12 Sounds good. Mr. Padilla, we had our hearing. Who  
13 else was here contesting it?

14 MR. PADILLA: As far as I know,  
15 Mr. Feldewert's clients and V-F Petroleum, Ms. Hardy's  
16 client.

17 THE HEARING EXAMINER: Okay. All  
18 right. Let me see what you have here, submitted. You  
19 have 137-page exhibit packet for Riley Permian  
20 Operating, and this was submitted it looks like two  
21 days ago. And you want me to go to the very end.  
22 Have the parties reviewed this exhibit packet?

23 MR. FELDEWERT: Mr. Examiner, I think  
24 the only addition was the reformulation of the notice.  
25 So we're not concerned.

1 THE HEARING EXAMINER: Okay. All  
2 right. You're not concerned. I agree. Oh, you agree.  
3 All right, let me go here to the end and see what we  
4 have here. So, Mr. Padilla, you have a new affidavit  
5 dated the 20th, you have Exhibit A. Okay. So did you  
6 just do the publication, or did you also mail an  
7 individual notice?

8 MR. PADILLA: The only entity that we  
9 had noticed was Apache.

10 THE HEARING EXAMINER: I see. But you  
11 had already mailed them?

12 MR. PADILLA: We had FedExed them --

13 THE HEARING EXAMINER: Right.

14 MR. PADILLA: -- a copy of the  
15 application

16 THE HEARING EXAMINER: I remember. And  
17 you were waiting to see if they were going to object?

18 MR. PADILLA: Correct.

19 THE HEARING EXAMINER: And they have  
20 not.

21 MR. PADILLA: They have not.

22 THE HEARING EXAMINER: All right. And  
23 now we have the publication and you have here an  
24 affidavit. It says it was published July 30th, so  
25 that was about a week after our hearing, and the

1 correction of the legal description. Was it the legal  
2 description that was being fixed?

3 MR. PADILLA: It was the well location.  
4 We had it I don't know how many feet from the south  
5 line. It should have been the same distance from the  
6 north Line.

7 THE HEARING EXAMINER: "Applicant seeks  
8 an order for a salt water disposal well for the Angel  
9 Ranch," blah blah, blah. "Pool code to be drilled at  
10 a location 1,320 feet from the north line." Is that  
11 the idea?

12 MR. PADILLA: That's correct.

13 THE HEARING EXAMINER: From the north  
14 line? I see. "And 1,320 feet from the east line"; is  
15 that right?

16 MR. PADILLA: Yes. The only error we  
17 had was in the distance from the north line.

18 THE HEARING EXAMINER: Because you put  
19 from the south line originally; is that right?

20 MR. PADILLA: We had it from the south  
21 line.

22 THE HEARING EXAMINER: All right,  
23 sounds good. Okay, so this shows that it was  
24 published. It was published on the 30th, and today's  
25 the 22nd. So I think we clear the 10 day mark with

1 room to spare. Okay. Let me just check my notes in  
2 the case to make sure that I concur with what you just  
3 said about the only problem. Now, Mr. Padilla, did  
4 you have another exhibit packet that we need? Yes,  
5 you did. It looks like you have another packet here  
6 on 7/17.

7 MR. PADILLA: Correct. And apparently,  
8 we filed that together with the pre-hearing statement.  
9 So we couldn't separate that in order to substitute  
10 the the new exhibit packet.

11 THE HEARING EXAMINER: It's not what I  
12 see. I see an 11-page document saying Permian  
13 Resources, Riley Permian, Table of Contents exhibits  
14 A1, 2, 3, and 4. Why can't we remove this document?

15 MR. PADILLA: I don't have any problem.  
16 I just .-

17 THE HEARING EXAMINER: You remembered  
18 it differently. Let me look at your pre-hearing  
19 statement. This is Permian. No. Well, I think this  
20 is you, Permian Resources Consolidated Pre-Hearing  
21 Statement. It's a six-page document. It was filed on  
22 the same day.

23 MR. PADILLA: Right.

24 THE HEARING EXAMINER: I believe it's  
25 signed by you. Let me look. No, this is Adam Rankin

1 signed this document. So this is not you. I get  
2 confused with all the Permian here. Let me take a  
3 look at this one. Here's MRC. This is also Mr.  
4 Rankin. Mr. Feldewert, why would we have two? We  
5 have an MRC Permian company's Consolidated Pre-Hearing  
6 Statement and we have a Permian Resources Consolidated  
7 Pre-Hearing Statement, both signed by Mr. Rankin.

8 MR. FELDEWERT: Two different clients  
9 represented by the same firm?

10 MR. FELDEWERT: Yes.

11 THE HEARING EXAMINER: Okay. And  
12 clearly no conflict. Yeah, of course not. Okay.  
13 This is Mr. Padilla's pre-hearing statement. This is  
14 133-page document. So I'm not sure why we have a --

15 MR. PADILLA: The problem, so I  
16 understand, Mr. Examiner, is that we filed them  
17 together.

18 THE HEARING EXAMINER: I understand  
19 that. This is 133-page document that includes your  
20 exhibits. So I see that. But then, I also see -- I  
21 just don't know why we have, so -- and maybe this is  
22 not from -- I have to look again, but this says it was  
23 from you. Did you file a pre-hearing statement with  
24 exhibits and then file some more exhibits later?

25 MR. PADILLA: There was one exhibit, my

1 self-affirming statement.

2 THE HEARING EXAMINER: Okay.

3 MR. PADILLA: Where we gave notice to  
4 Apache Corporation. I think that was dangling out  
5 there. We filed that, but it wasn't labeled as an  
6 exhibit. It may not have been. I'm not sure.

7 THE HEARING EXAMINER: Did you have a  
8 witness? Was it your witness named Chris Canton?

9 MR. PADILLA: No, that was  
10 Mr. Feldewert, I mean .

11 THE HEARING EXAMINER: Rankin.

12 MR. PADILLA: Mr. Rankin.

13 THE HEARING EXAMINER: That was Mr.  
14 Rankin's?

15 MR. PADILLA: Client.

16 THE HEARING EXAMINER: Okay. All  
17 right. I understand. Okay. Let me just look at my  
18 notes in this case, since I guess we won't be removing  
19 any documents in this case. 24279, now, have you  
20 filed your closing argument and your post-hearing  
21 submission?

22 MR. PADILLA: I did, yes.

23 THE HEARING EXAMINER: When?

24 MR. PADILLA: Last night.

25 THE HEARING EXAMINER: Last night.

1 Okay. Freya, did everyone who was involved, did  
2 Mr. Rankin also file closing argument and whatever  
3 they needed to?

4 MS. TSCHANTZ: Yes, I do have some  
5 recent filings in the queue. Joanne Gallegos, that's  
6 Mr. Padilla's office, I believe?

7 MR. PADILLA: Yes.

8 MS. TSCHANTZ: Closing statements for  
9 both cases.

10 THE HEARING EXAMINER: What about --

11 MS. TSCHANTZ: As well as Adam Rankin,  
12 both cases.

13 THE HEARING EXAMINER: Okay. And in  
14 these post hearing submissions, did you propose, I  
15 don't remember what I ordered. But did you include  
16 proposed findings of fact and conclusions of law or  
17 just closing arguments?

18 MR. PADILLA: Just the closing  
19 argument.

20 THE HEARING EXAMINER: That's what was  
21 requested?

22 MR. PADILLA: Yes, as far as I know.

23 THE HEARING EXAMINER: Okay. Well,  
24 sure.

25 MR. PADILLA: I mean, no. I looked at

1 the transcript to make sure, because you did require  
2 findings, conclusions of law and .-

3 THE HEARING EXAMINER: Other cases,  
4 yes.

5 MR. PADILLA: The north.

6 THE HEARING EXAMINER: But I think I  
7 leave that up to technical examiner, to determine what  
8 would be helpful to them and not for me. So let me  
9 look here.

10 MS. HARDY: Mr. Examiner?

11 THE HEARING EXAMINER: Yes.

12 MS. HARDY: I recall that Mr. McClure  
13 did not want the party to submit proposed findings and  
14 conclusions.

15 THE HEARING EXAMINER: Thank you. And  
16 I see Mr. Goetz was involved in this case as well.  
17 Okay. Yeah, it was Phil Goetz who just wanted closing  
18 arguments. So we're good there. And so basically  
19 this case can be taken under advisement, at this  
20 point?

21 MS. TSCHANTZ: Yes.

22 THE HEARING EXAMINER: All right. So  
23 thank you, counsel. We will take this case under  
24 advisement.

25 MR. PADILLA: Thank you, Mr. Examiner.

1 THE HEARING EXAMINER: Yes, of course.  
2 I am calling 24743. This looks like a notice of  
3 violation case. Entries of appearance, please?

4 MS. TREVINO: Christy Trevino for the  
5 Oil Conservation Commission.

6 THE HEARING EXAMINER: Thank you. Are  
7 there any other parties? Counsel, have you had any  
8 indication from the respondent that they were going to  
9 appear?

10 MS. TREVINO: No. We did have a email  
11 response from them, but we had no indication that they  
12 had any intention to appear or provide evidence  
13 otherwise of the notice violation.

14 THE HEARING EXAMINER: And what did  
15 their email say?

16 MS. TREVINO: Would you like me to read  
17 it or --

18 THE HEARING EXAMINER: Just paraphrase?

19 MS. TREVINO: He -- the respondent said  
20 that he was working on it, and he had a team working  
21 on it, but he hadn't provided any evidence. And we  
22 did check with our engineering team, and there was no  
23 evidence of any production reports.

24 THE HEARING EXAMINER: And they were  
25 put on notice of today's hearing?

1 MS. TREVINO: Yes, several times.

2 THE HEARING EXAMINER: And they never  
3 indicated that they wanted to appear?

4 MS. TREVINO: No.

5 THE HEARING EXAMINER: Okay. All  
6 right. Let me take a look at your case, 24743.

7 MS. TREVINO: I will note that I did  
8 file a Notice of Errata, yesterday.

9 THE HEARING EXAMINER: A notice of  
10 what?

11 MS. TREVINO: Errata.

12 THE HEARING EXAMINER: What is that?

13 MS. TREVINO: Like a notice of an  
14 error. I just reorganized the documents. That way  
15 there's a little bit better flow today.

16 THE HEARING EXAMINER: I understand.  
17 Hold on one minute. Let me just pull up the case, and  
18 so I can look at your submission. Do you have your  
19 witnesses here?

20 MS. TREVINO: I do.

21 THE HEARING EXAMINER: Okay. And who  
22 are your witnesses?

23 MS. TREVINO: I'm going to be calling  
24 Mr. Nicholas Karns.

25 THE HEARING EXAMINER: Okay.

1 MS. TREVINO: Ms. Sarah Griego.

2 THE HEARING EXAMINER: Okay.

3 MS. TREVINO: And then I'm leaving the  
4 option to call Ms. Sheila Apodaca.

5 THE HEARING EXAMINER: Okay.

6 MS. TREVINO: But I have arguments that  
7 we may not hear.

8 THE HEARING EXAMINER: Sounds good. So  
9 I have here, in this case, I have a docketing notice.  
10 I have a pre-hearing statement. I have a resume.  
11 Mr. Karns has already been admitted as an expert in  
12 administrative matters.

13 MS. TREVINO: Understood.

14 THE HEARING EXAMINER: He does need to  
15 be qualified again.

16 MS. TREVINO: Okay.

17 THE HEARING EXAMINER: Okay. And I  
18 have a Notice of Errata. Okay. So this is the  
19 document that has .- I see. So you have your  
20 pre-hearing statement again here. Okay. I am looking  
21 for the -- okay, here we go. You have a table of  
22 contents. So you have your CV. All right. We have a  
23 notice of violation. We have something from one of  
24 your witnesses. We have something from another  
25 witness, which you may not call. And then we have, it

1 looks like some notice things here.

2 MS. TREVINO: Yes.

3 THE HEARING EXAMINER: Okay. Where is  
4 Mr. Karns? I see you mentioned Ms. Griego and Ms.  
5 Apodaca, but I don't see where you mentioned Mr. Karns  
6 in your table of contents.

7 MS. TREVINO: He will be presenting  
8 Exhibit 2, the Notice of Violation.

9 THE HEARING EXAMINER: Perfect.

10 MS. TREVINO: And then, the subsequent  
11 documents.

12 THE HEARING EXAMINER: Okay. Do you  
13 want to make a very brief opening argument?

14 MS. TREVINO: Yes, Mr. Hearing  
15 Examiner. This case involves violations regarding 79  
16 wells owned and operated by the respondent Northern  
17 Pacific. This has been an uncontested case thus far.  
18 Northern Pacific has not filed or presented any  
19 evidence to suggest these violations have not  
20 occurred. Sixty-five wells are out of compliance with  
21 19.15.25.8 and thus, are out of compliance with  
22 19.15.5.9(A). As for the other 14 wells, they are in  
23 plugged, not release status, meaning that they will  
24 need to complete the necessary service remediation and  
25 reclamation work under the appropriate roles. For all

1 79 of the wells, Northern Pacific has not filed any  
2 C-115 reports since April of 2023.

3 THE HEARING EXAMINER: And that C-115  
4 is production?

5 MS. TREVINO: Yes, it's production.

6 THE HEARING EXAMINER: So in other  
7 words, they're not producing?

8 MS. TREVINO: Yes.

9 THE HEARING EXAMINER: Okay. And did  
10 you say that they have been plugged and they need to  
11 be remediated or neither?

12 MS. TREVINO The 14 of the 79 are in a  
13 plugged status, but we have no indication that they've  
14 been remediated according to the rules.

15 THE HEARING EXAMINER: And the other --  
16 so 14 may be plugged but are definitely not  
17 remediated. What about the other of the 79?

18 MS. TREVINO: The other ones, the 65s,  
19 they're just out of compliance. They are showing up  
20 on an inactive well list, and they have not filed any  
21 production reports.

22 THE HEARING EXAMINER: So you don't  
23 know whether they're plugged or not?

24 MS. TREVINO: Correct.

25 THE HEARING EXAMINER: Okay. Very

1 good.

2 MS. TREVINO: We issued the Notice of  
3 Violation June 21st, 2024. And since then, nothing  
4 has been filed to indicate the violations have not  
5 occurred. And we will be presenting the two  
6 witnesses, and then, possibly Ms. Apodaca.

7 THE HEARING EXAMINER: Let's get them  
8 all sworn in at the same time.

9 MS. TREVINO: Okay.

10 THE HEARING EXAMINER: Can you have  
11 them all come up to the witness stand? We've done  
12 this before, so I think they know the drill.  
13 Ms. Griego, would you turn on the microphone, please?  
14 The green one. And would you all stand a little  
15 closer to the microphone please? Would you all raise  
16 your right hands, please?

17 THE HEARING EXAMINER: Do you swear or  
18 affirm the testimony you are about to give today is  
19 the truth, the whole truth, and nothing but the truth  
20 under penalty of law?

21 THE HEARING EXAMINER: Would you state  
22 and spell your names individually?

23 THE WITNESS: Sara Greigo,  
24 S-A-R-A-G-R-I-E-G-O.

25 THE HEARING EXAMINER: Thank you.

1 THE WITNESS: Sheila Apodaca,  
2 S-H-E-I-L-A-A-P-O-D-A-C-A.

3 THE HEARING EXAMINER: Thank you.

4 THE WITNESS: I'm Nicholas Karns.  
5 N-I-C-H-O-L-A-S. Last name K-A-R-N-S.

6 THE HEARING EXAMINER: Thank you. Will  
7 you all sit in those white seats so you're close until  
8 we call you. Do you want to submit your exhibits at  
9 this time?

10 MS. TREVINO: No. I'll submit them as  
11 we go through the witnesses, unless you would prefer  
12 us to just submit them all.

13 THE HEARING EXAMINER: I mean, unless  
14 there's an objection I can take -- you know, we can go  
15 that route. We can go either route. I don't know why  
16 it would be necessary for you to have to provide a  
17 foundation for each exhibit at this time. But if you  
18 prefer to do it that way, we can do it witness by  
19 witness.

20 MS. TREVINO: No, we can go ahead and  
21 submit them all. All right, I do want to note that  
22 I'm going to go out of exhibit order fine. Just so  
23 when we get there, it's not --

24 THE HEARING EXAMINER: As long as  
25 they're all marked.

1 MS. TREVINO: Yes.

2 THE HEARING EXAMINER: Okay. They're  
3 all marked. So which exhibits are you asking to be  
4 entered into evidence?

5 MS. TREVINO: We're asking for Exhibit  
6 1, 2, and its subsequent exhibits, and 3, 4, and 5.

7 (Case 24743 Exhibits 1 through 5 were  
8 marked for identification.)

9 THE HEARING EXAMINER: Okay. Are there  
10 any objections? Your exhibits are admitted into  
11 evidence.

12 (Case 24743 Exhibits 1 through 5 were  
13 marked for identification and received  
14 into evidence.)

15 What I would like you to do is with  
16 each witness that has provided the exhibits, if you  
17 will ask them the appropriate questions so that I know  
18 that they're true and accurate copies, that they don't  
19 have any changes to make to their exhibits at this  
20 time, and that they adopt them under oath, as true and  
21 correct.

22 MS. TREVINO: Yes, Mr. Examiner.

23 THE HEARING EXAMINER: Okay. Which  
24 witness do you want to call first?

25 MS. TREVINO: I will be calling

1 Ms. Sarah Griego first.

2 THE HEARING EXAMINER: Ms. Griego.

3 WHEREUPON,

4 SARA GRIEGO,

5 called as a witness and previously sworn to tell the  
6 truth, the whole truth, and nothing but the truth, was  
7 examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MS. TREVINO:

10 Q Good morning, Ms. Griego.

11 A Good morning.

12 Q Please state your name for the record.

13 A Sara Griego.

14 Q And what is your current employment?

15 A I am the law clerk for the General Counsel  
16 of the Energy and Natural Resources Department.

17 Q And do your duties include serving pleadings  
18 and other documents on behalf of OCD?

19 A Yes.

20 Q Are you familiar with the NOV the basis of  
21 this case today?

22 A Yes.

23 Q Did you handle this document or process it  
24 in any way?

25 A Yes.

1 THE HEARING EXAMINER: Which document?

2 MS. TREVINO: And we're going to be  
3 referring to Exhibit 3. And I'm going to go ahead and  
4 put it on the screen. I apologize. And this will be  
5 Exhibit 3, pages 13 through 20.

6 THE HEARING EXAMINER: 13 through 20?

7 MS. TREVINO: Yes.

8 THE HEARING EXAMINER: Thank you.

9 MS. TREVINO: 13 through 20.

10 BY MS. TREVINO:

11 Q And back on the NOV, did you send this out  
12 via certified mail?

13 A Yes, I did.

14 Q And are these an email chain of your  
15 tracking for the certified mail and through UPS?

16 A Yes.

17 Q Is it a true and accurate description of the  
18 documents that you have shared and submitted as it  
19 relates to the certified mail?

20 A Yes.

21 Q And no changes have been made?

22 A No.

23 Q And I'm going to go ahead and scroll through  
24 them a little bit slower. And would that be the  
25 mailing envelope?

1 A Yes.

2 Q And then the green card for certified mail?

3 A Yes.

4 Q And then would this be the UPS tracking?

5 A Yes.

6 Q And then the tracking label?

7 A Yes.

8 Q Do you know the status of the tracking? Was  
9 it delivered or returned?

10 A It was returned.

11 Q It was. And Ms. Griego, Mr. Santiago Garcia  
12 for Northern Pacific, was identified in these mailing  
13 documents. How did you come about that contact  
14 information?

15 A Off -- I get it off of the Notice of  
16 Violation that was provided to me.

17 Q Thank you. No further questions.

18 THE HEARING EXAMINER: Ms. Griego, did  
19 you have any contact with Northern Pacific Oil and  
20 Gas?

21 THE WITNESS: No, I did not.

22 THE HEARING EXAMINER: Okay. I have no  
23 questions for this witness.

24 MS. TREVINO: Would she be released?

25 THE HEARING EXAMINER: Yes.

1 MS. TREVINO: Thank you.

2 THE WITNESS: Thank you.

3 THE HEARING EXAMINER: Did you ask her  
4 if she adopted this under oath?

5 MS. TREVINO: I did not.

6 THE HEARING EXAMINER: Did you ask her  
7 if she prepared Exhibit 3?

8 MS. TREVINO: I did not.

9 THE HEARING EXAMINER: Would you ask  
10 those two questions?

11 REDIRECT EXAMINATION

12 BY MS. TREVINO:

13 Q Did you prepare Exhibit 3?

14 A No, I did not.

15 Q Did you provide Exhibit 3 to counsel for  
16 OCD?

17 A Can you scroll down a little bit? I believe  
18 that comes from James Garcia. He is the gentleman  
19 that deals with the UPS, and we send it out. We just  
20 hand it off to him. He deals with the UPS part and  
21 then provides us back with the shipping label from  
22 UPS.

23 Q Okay. And do you adopt these documents  
24 under oath?

25 A What does that mean, because .

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1 THE HEARING EXAMINER: Let me help. In  
2 Exhibit 3, what part do you have personal knowledge  
3 of?

4 THE WITNESS: So I did prepare it for  
5 UPS, and that's really my extent of it, though.  
6 Again, I give that to James Garcia in our mailroom who  
7 then takes it further within the UPS part. He --  
8 again, he's the one that kind of provides the tracking  
9 label and all of that. I do the tracking label just  
10 for USPS.

11 THE HEARING EXAMINER: And so, you  
12 prepared the envelope, you gave it to Mr. Garcia to  
13 send out?

14 THE WITNESS: Yes.

15 THE HEARING EXAMINER: And what about  
16 the status of the delivery? Is that something you  
17 have personal knowledge of?

18 THE WITNESS: Yes, he does provide us  
19 with the tracking number. We -- I was able to look it  
20 up and it does say it was not delivered, returned to  
21 us.

22 THE HEARING EXAMINER: Oh, it was  
23 returned?

24 THE WITNESS: Yes.

25 THE HEARING EXAMINER: But you didn't

1 get it when it was returned?

2 THE WITNESS: Correct. Oh, all right.  
3 Thank you.

4 THE HEARING EXAMINER: I have no  
5 further questions for this witness. Thank you, Ms.  
6 Griego.

7 THE WITNESS: You're welcome.

8 THE HEARING EXAMINER: You want to call  
9 your next witness?

10 MS. TREVINO: Yes. My next witness  
11 will be Mr. Nicholas Karns, and he'll testify to  
12 Exhibit 2.

13 THE HEARING EXAMINER: Two, and that  
14 starts on what page?

15 MS. TREVINO: The Notice of Violation  
16 is pages 2 through 5. And then, the subsequent  
17 exhibits that he'll testify to are 6 through 12. I'll  
18 go ahead and scroll up there.

19 NICHOLAS KARNS,  
20 called as a witness and previously sworn to tell the  
21 truth, the whole truth, and nothing but the truth,  
22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MS. TREVINO:

25 Q Good morning. Good morning. Mr. Karns, can

1 you please state your name for the record?

2 A Good morning. My name is Nicholas Karns.

3 THE HEARING EXAMINER: Can you turn on  
4 the microphone? Thank you.

5 THE WITNESS: Sorry. Good morning. My  
6 name is Nicholas Karns.

7 MS. TREVINO: And Mr. Hearing Examiner,  
8 as he's certified by this court, do I need to go  
9 through the employments still or .-

10 THE HEARING EXAMINER: No. I mean, if  
11 you feel his duties support the exhibits that are  
12 admitted into evidence and his familiarity, his  
13 personal knowledge is tied to his duties then, yes, I  
14 think you should.

15 BY MS. TREVINO:

16 Q Mr. Karns, what's your current employment?

17 A I'm currently employed with the Oil  
18 Conservation Division of EMNRD.

19 Q And what do your duties include?

20 A I am -- my title is Administrative  
21 Compliance Officer. I review applications for new  
22 operators, process water haulers. We do production  
23 reports, well transfer reports, as well as financial  
24 compliance. And that entails notifying legal  
25 department, other departments, of non-compliance, when

1 it shows up.

2 Q And I'm going to go ahead and show you  
3 Exhibit 2, which is the Notice of Violation.

4 A Yes.

5 Q And do you recognize that?

6 A I do, yes.

7 Q Did you prepare this?

8 A I did, yes.

9 Q I'm going to scroll through it slowly so you  
10 can see all the pages for the NOV. And moving to  
11 Exhibit 2A, the well list, did you prepare this?

12 A I did, yes.

13 Q And how is this report prepared?

14 A It's generated through our e-permitting  
15 database. This particular list is a compilation of  
16 all the wells operated by operator, in this case  
17 Norther Pacific.

18 Q And this is a true and accurate description  
19 of the report that you pulled?

20 A This is -- that's correct.

21 Q And on that date, you pulled it, June 18th,  
22 2024?

23 A Yes; correct.

24 Q Do you have any reason to believe that  
25 anything has changed on this specific report, on

1 Exhibit 2A, since you pulled it?

2 A No, I don't.

3 Q Do you know how long these wells have been  
4 inactive for?

5 A It was -- the last C-115 submitted, God, off  
6 the top of my head, I'm not sure. It's on one . it's  
7 on the next exhibit, I believe. That C-115, that one,  
8 yes, 4/21/2023.

9 Q So it's been over a year since they last  
10 reported production?

11 A That's correct.

12 Q Would that be a violation of our rules?  
13 25.8/25.9?

14 A Yes.

15 Q And is this C-115 created the same way as  
16 the inactive well list?

17 A Yes. And different button, same database?

18 Q Yeah. And is this one a true and accurate  
19 description of the report that you pulled?

20 A Yes.

21 Q And has anything changed?

22 A As of this morning, when I checked, no,  
23 nothing's changed.

24 Q And I'm going to go ahead and -- oh, not  
25 yet. On these reports, can you view wells that are

1 unplugged at sites, not released status?

2 A Yes.

3 Q And from your understanding, what does that  
4 mean?

5 A It means that the well has been plugged.  
6 There's been a form submitted showing that the well  
7 has been plugged, but the remediation and cleanup  
8 hasn't been, you know, stamped by OCD saying that it's  
9 clear to go. So in my understanding there, it hasn't  
10 been verified that, you know, besides been remediated  
11 and equipment's been hauled off, all that.

12 Q And .

13 A That's my understanding, like I'm not a  
14 field guy.

15 Q Thank you. And then, I'm going to go ahead  
16 and move to Exhibit 2C, the civil penalty calculator.  
17 Does this chart, and I'm going to go through it kind  
18 of slowly because it is a couple pages. Is this an  
19 accurate description of the civil penalties for  
20 Northern Pacific?

21 A Yes.

22 Q And did you generate this?

23 A I did, yes.

24 Q And has anything changed regarding the civil  
25 penalties?

1           A     No.

2                         MS. TREVINO:  I have no further  
3 questions for Mr. Karns.

4           Q     I do have to ask him, do you adopt these  
5 records under oath?

6           A     Yes.

7                         THE HEARING EXAMINER:  I do have a  
8 question.  I'm looking at what's been marked as  
9 Exhibit 2C, the civil penalty calculator.  That was  
10 the last exhibit you asked him about, wasn't it?

11                        MS. TREVINIO:  Yes.

12                        THE HEARING EXAMINER:  Okay.  
13 Mr. Karns, how are these civil penalties derived?

14                        THE WITNESS:  In terms of the amount,  
15 how long .-

16                        THE HEARING EXAMINER:  Yes.

17                        THE WITNESS:  The amount's been  
18 pre-determined?  So the -- the calculator that we use  
19 is just a really intricate Excel sheet.  The amounts  
20 have all been pre-determined by the formula, which I  
21 believe was created by our legal department shortly  
22 before my arrival with OCD.  I didn't build the  
23 calculator.

24                        THE HEARING EXAMINER:  So .-

25                        THE WITNESS:  But I believe the

1 penalties are a derivative of the amount setting rule.

2 THE HEARING EXAMINER: What I'm  
3 wondering about is what makes them reasonable? What  
4 makes these counties reasonable? I see some of them  
5 that are at \$500. I can't tell if 2,500 is a maximum  
6 or not. There's many columns here, and I'm trying to  
7 understand, but I see that many -- so could you go  
8 through one of them with me and explain how it comes  
9 out to the red number at the end?

10 THE WITNESS: As well as I can. I'd be  
11 happy to.

12 THE HEARING EXAMINER: So can you pick  
13 a line?

14 THE WITNESS: Sure. Yeah, so we look  
15 at line one.

16 THE HEARING EXAMINER: Okay.

17 THE WITNESS: The -- the data that I  
18 input in the calculator is limited to entering the API  
19 number for the well it's in violation. And then,  
20 selecting the type of violation. The rules all have a  
21 dropdown in the calculator. In this case, I selected  
22 5.9, which is non-compliance for the amount of  
23 inactive wells allowed. In this case, there are 65  
24 inactive wells. They're allowed two, and we -- we can  
25 count, unfortunately this calculator doesn't list them

1 by line, but there should be for 5.9 non-compliant, 63  
2 wells total.

3 And then going down the line  
4 horizontally, we mark the -- you know, how many -- if  
5 there's any like outstanding descriptors for the well,  
6 their level of non-compliance. There's -- there's an  
7 option in there for, like, gross negligence, stuff  
8 like that. These are all just the standard baseline  
9 that I choose. I don't -- I don't pick anything  
10 extra. It generates the total at the end, calculates  
11 them line by line, and puts the grand total up in the  
12 top left of the report.

13 THE HEARING EXAMINER: I see. It looks  
14 to me as though there's no line numbers on this  
15 left-hand. It looks to me that when you change the  
16 reason from 5.9 to 7.14 to 7.42 .-

17 THE WITNESS: Yeah, it will change the  
18 amounts that are calculated at the end.

19 THE HEARING EXAMINER: Right.

20 THE WITNESS: It changes the descriptor  
21 in, what is that column three, I guess column C,  
22 explaining what the violation is.

23 THE HEARING EXAMINER: And I'm assuming  
24 the 5.9 and the 7.14, those are rule numbers. You're  
25 leaving up in .-

1 THE WITNESS: Correct -- correct, yes.

2 THE HEARING EXAMINER: So 19.15 point  
3 what?

4 THE WITNESS: It's a 17.14. These are  
5 the specifics. So we're not talking about the -- the  
6 general non-compliance for activity. We're talking  
7 about the specifics. In this case, the specific  
8 violations and the penalties being requested were for  
9 5.9, which is inactive wells. And 7.14, which is  
10 failure to produce C-115 for the monthly production  
11 reports.

12 THE HEARING EXAMINER: I see. And then  
13 we come to a grand total of what?

14 THE WITNESS: One hundred sixty-one  
15 thousand five hundred dollars.

16 THE HEARING EXAMINER: How do you say  
17 your last name?

18 MS. TREVINO: You can say Travena or  
19 Trevino, if you want.

20 THE HEARING EXAMINER: Counsel, is it  
21 your burden to show that the penalties are reasonable?

22 MS. TREVINO: Yes, it is. However, I  
23 do believe that we kind of met the threshold here as  
24 there is 79 wells that are non-compliant. And in this  
25 case, we're only calculating for 63, or 65 and we're

1 dropping down to 63. And then we're also looking at  
2 the days in violation, the days penalized and we're  
3 only penalizing for one day. It could aggregate  
4 higher based on how long they have been out of  
5 compliance. So it is our burden to meet the  
6 preponderance of the evidence here, but we, in good  
7 faith, are preparing this calculator.

8 THE HEARING EXAMINER: So in other  
9 words, you're saying that you could, or I'll guess  
10 I'll ask the witness. So, Mr. Karns, you can find  
11 them in violation for more than one day?

12 THE WITNESS: That's correct. The --  
13 this calculator makes, the way that I generate it and  
14 fill it out, is basically bare minimum.

15 THE HEARING EXAMINER: Got it.

16 THE WITNESS: Bare minimum in terms of  
17 penalty amount.

18 THE HEARING EXAMINER: Okay. So it's  
19 your argument that it's fair and reasonable because  
20 you could ding them for many more days than one day?

21 MS. TREVINO: We could. However, the  
22 division is in the mindset of aiming for compliance  
23 rather than penalization.

24 THE HEARING EXAMINER: Okay. It's a  
25 good argument. Is there anything left for Mr. Karns

1 to testify to?

2 MS. TREVINO: I have nothing further.

3 THE HEARING EXAMINER: Thank you.

4 You're excused. And then Ms. Apodaca, what are we  
5 doing with that witness?

6 MS. TREVINO: I'm reserving her if  
7 necessary. I do have an argument to make in terms of  
8 the docketing notice and notice. We sent out the  
9 document notice via email and certified mail on July  
10 24th, 2024.

11 THE HEARING EXAMINER: Am I looking at  
12 an exhibit? I'm not sure what you're talking about.

13 MS. TREVINO: No, not just yet.

14 THE HEARING EXAMINER: No. Okay. So  
15 you said don't what now?

16 MS. TREVINO: I can scroll down to have  
17 that prepared. Thanks. And I do apologize, some of  
18 these documents are kind of funky.

19 And so, for my argument, I'll be  
20 arguing for Exhibit 4 and 5.

21 THE HEARING EXAMINER: 4 and 5.

22 MS. TREVINO: Ms. Apodaca had presented  
23 or mailed via certified mail to Northern Pacific,  
24 Mr. Santio Garcia, the docking notice along with the  
25 copy of the NOV, which also had the date of this

1 hearing. And Exhibit 4, her email chain that she  
2 provided me when she sent the notice out, the cover  
3 page on the mailing documents. And then, Exhibit 5,  
4 and I apologize, I'll back up a little bit. This is  
5 the read receipt from Mr. Santiago Garcia that he read  
6 the Notice of Violation.

7 THE HEARING EXAMINER: What page is  
8 that on?

9 MS. TREVINO: This is Exhibit 5, page  
10 26.

11 THE HEARING EXAMINER: Okay. Let's  
12 see. I see it. Okay. I see it.

13 MS. TREVINO: And then, on page 27 we  
14 have the delivered notice of the docketing notice  
15 along with a copy of NOV.

16 THE HEARING EXAMINER: Okay.

17 MS. TREVINO: Mr. Santiago Garcia has  
18 responded on page 28, to our notice that we sent, the  
19 docketing notice specifically on July 24th.

20 THE HEARING EXAMINER: Okay.

21 MS. TREVINO: And the division is going  
22 to argue that this is a opposing party statement and  
23 should be admitted under that rule, which is the New  
24 Mexico Rules of Evidence. And I understand that this  
25 is an administrative hearing, but that threshold is

1 much higher. And so, that rule is 11-801. Mr. Garcia  
2 has identified as the agent for this operator, and his  
3 response would provide actual notice of this hearing,  
4 the docking statement and the NOV.

5 THE HEARING EXAMINER: Okay.

6 MS. TREVINO: And so, I have nothing  
7 further after that, and I proceed to closing.

8 THE HEARING EXAMINER: So why is it  
9 that you don't want to call Ms. Apodaca who's been  
10 sworn and sitting in this room to bring in any of  
11 these exhibits?

12 MS. TREVINO: I was honestly trying to  
13 just save her time. I know that she's been sitting  
14 here, but I was trying to kind of work around that.  
15 And if that wasn't a sufficient argument then I was  
16 going to have her here just in case.

17 THE HEARING EXAMINER: Well, there's  
18 more here. You have Exhibit 4, and you have Exhibit  
19 5. Both exhibits are provided here for notice to  
20 Mr. Garcia?

21 MS. TREVINO: Yes.

22 THE HEARING EXAMINER: Okay. You are.  
23 And you're saying that his statement, a party deponent  
24 is not hearsay, even though hearsay is admissible at  
25 an administrative hearing. You're saying that this is

1 evidence of notice and that's why you're not calling  
2 Ms. Apodaca?

3 MS. TREVINO: Yes.

4 THE HEARING EXAMINER: Okay. That  
5 argument's fine with me. Do you have anything further  
6 in your case?

7 MS. TREVINO: Just closing.

8 THE HEARING EXAMINER: Go ahead.

9 MS. TREVINO: The OCB has demonstrated  
10 that several attempts have been made to serve the  
11 respondent, Northern Pacific, through Mr. Santiago.  
12 We have this response from Mr. Santiago that would  
13 indicate that he has had actual notice of the  
14 proceedings here today. Mr. Karns presented evidence  
15 that provided that he has been in violation of our  
16 inactive well rule 25.8 and 26.9(A), and the reporting  
17 production rule 7.24. Moreover, under 25.10, plugging  
18 must be done in accordance with our rules.

19 THE HEARING EXAMINER: Can I stop you  
20 for a moment? I'm a little confused. Can you look at  
21 something here?

22 MS. TREVINO: Yes.

23 THE HEARING EXAMINER: Well, this says  
24 Exhibit 4, and it's your page 25, even though it's  
25 page 34 of the PDF. It's your page 25. Now, I

1 believe this is the certified mail with the NOV that  
2 was sent to Mr. Santiago Garcia?

3 MS. TREVINO: On page 25.

4 THE HEARING EXAMINER: It's Exhibit 4,  
5 and it's yellow.

6 MS. TREVINO: Okay. This one is the  
7 docketing notice.

8 THE HEARING EXAMINER: The docketing  
9 notice to give him notice that we would be hearing  
10 this case today?

11 MS. TREVINO: Yes.

12 THE HEARING EXAMINER: Okay, sounds  
13 good. So what I don't understand is in his email to  
14 you, which is further down, would you go to his email?  
15 A little further down, just a little. Yeah.

16 MS. TREVINO: I can see that.

17 THE HEARING EXAMINER: Look at his  
18 address there.

19 MS. TREVINO: I see that. The address  
20 we used was the address on OCD permitting and this was  
21 the first response that we had had this entire time.

22 THE HEARING EXAMINER: Well, that may  
23 be that you have a different address than OCD  
24 permitting, but there is the addresses he's providing  
25 to you. So do you have an argument of how it's

1 sufficient to serve notice at a different address than  
2 what you have here from him?

3 MS. TREVINO: Yes. I believe that  
4 based on their reporting and being compliant with our  
5 rules, the operators must be updating their  
6 information as well. We're going off rules in OCD  
7 permitting, kind of our standard practice. If  
8 Mr. Garcia had responded, potentially we could have  
9 had time to recertify him at this address. However,  
10 this address hasn't, and in my time here, hasn't come  
11 up as an address of service. We also had the -- we  
12 sent it certified mail and Ms. Griego also sent it  
13 UPS, which is an additional thing that we aren't  
14 needed to do. But in that case, there was no  
15 forwarding address. And so, we're going off of what  
16 permitting has.

17 THE HEARING EXAMINER: And I understand  
18 you are arguing that the rules, the OCD rules require  
19 someone to update their address or else they're non-  
20 compliant. My concern is that if they're non-  
21 compliant, we have to let them know that they're non-  
22 compliant. Did you attach anything to this email, to  
23 Mr. Garcia, that you responded to?

24 MS. TREVINO: Yes. So before, and I  
25 can scroll down, OCD had sent, I had sent several

1 emails to him regarding the docking statement and  
2 Mr. Tremaine had also sent it as an attachment along  
3 with the certified mail that was sent kind of outside  
4 the email chain, by Ms. Apodaca and Ms. Griego.

5 THE HEARING EXAMINER: So you were  
6 representing here that you sent the docketing  
7 statement to him by email?

8 MS. TREVINO: Yes.

9 THE HEARING EXAMINER: To this email.

10 MS. TREVINO: The one that he responded  
11 from.

12 THE HEARING EXAMINER: Right. That's  
13 good enough for me. But in the future, I'd be careful  
14 with relying on items that are mailed, especially if  
15 you get something like this, and it shows that you've  
16 mailed it to a different address.

17 MS. TREVINO: Understood.

18 THE HEARING EXAMINER: Okay. Is there  
19 anything further on this case? I know you were in the  
20 middle of your closing statement and I interrupted  
21 you.

22 MS. TREVINO: It's okay. I'm just  
23 going to try to pick up where I left. With all the  
24 evidence presented and some of the questions that you  
25 have presented to us, we believe that OCD has met its

1 burden. So today we're going to be requesting a  
2 plugging order for sure. Financial assurances and  
3 termination of authorization to transport along with  
4 the civil penalties indicated in that exhibit.

5 THE HEARING EXAMINER: Okay. So based  
6 on the evidence you've provided, I find that there has  
7 been a violation, and that the penalty is fair and  
8 reasonable. And you prepare an order for me to sign  
9 with citations to the exhibits and the conclusions of  
10 law, and I'll review it.

11 MS. TREVINO: Yes. Thank you.

12 THE HEARING EXAMINER: Thank you,  
13 Ms. Trevino. And then, you Ms. Apodaca and Mr. Karns.  
14 All right. We're in recess on this case. Let's move  
15 on to many joined cases; 24287, 88, 89, 90, 91, 92,  
16 94, 95, 96, 97, 24304, 05, 06, 07, 08, 09, 10, 11, 12  
17 and 13. These are Matador Production Company.

18 MR. FELDEWERT: Yes. Mr. Examiner,  
19 Michael Feldewert, Santa Fe office of Holland & Hart  
20 on behalf of the applicants .-

21 THE HEARING EXAMINER: MRC Permian.

22 MR. FELDEWERT: MRC Permian.

23 THE HEARING EXAMINER: Who else do we  
24 have to enter an appearance?

25 MS. HARDY: Mr. Examiner .-

1 MR. BRUCE: Mr. Examiner.

2 THE HEARING EXAMINER: Go ahead.

3 MS. HARDY: Okay. Dana Hardy with  
4 Hinkle Shanor on behalf of E.G.L. Resources and I  
5 believe Mr. Bruce is also appearing for E.G.L.  
6 Resources.

7 THE HEARING EXAMINER: So, Ms. Hardy,  
8 was this a case in which you weren't sure if Mr. Bruce  
9 would appear, and so you entered an appearance?

10 MS. HARDY: That's correct.

11 THE HEARING EXAMINER: Very good. So,  
12 Mr. Bruce, are you able to represent E.G.L. today?

13 MR. BRUCE: I think we both are. Dana  
14 has spoken on that. I would let her proceed. Thank  
15 you.

16 THE HEARING EXAMINER: Okay. Thank  
17 you, Mr. Bruce. Yeah, it's easier to hear Ms. Hardy.  
18 Okay. Mr. Feldewert, these are your cases. Were they  
19 objected to?

20 MR. MORGAN: Mr. Examiner if I may?  
21 Scott Morgan with Cavin & Morgan in Albuquerque on  
22 behalf of Strategic Energy Income Fund IV, LP. And we  
23 were appearing only in cases 24287 through 24297.

24 THE HEARING EXAMINER: Okay. I didn't  
25 catch your name.

1 MR. MORGAN: Scott Morgan.

2 THE HEARING EXAMINER: Scott Morgan.

3 Let me write it.

4 MR. MORGAN: And we filed our  
5 pre-hearing statement on Thursday with that objection,  
6 but in subsequent communications and Mr. Feldewert can  
7 speak to it as well with Matador, we're withdrawing  
8 objections to most of these cases. There are four  
9 cases, where we are continuing to object. We don't  
10 anticipate any sort of testimony or anything on those  
11 cases today. And that they can truthfully be set for  
12 the next uncontested hearing. We were simply waiting  
13 for some more technical data, which has now been  
14 provided.

15 THE HEARING EXAMINER: Mr. Morgan, I  
16 don't see the party listed on my worksheet. What is  
17 the name?

18 MR. MORGAN: Strategic Energy --

19 THE HEARING EXAMINER: Strategic  
20 Energy.

21 MR. MORGAN: -- Income IV, LP. And  
22 that's in that particular statement.

23 THE HEARING EXAMINER: And you filed an  
24 entry. Freya, would you change the layout of this and  
25 stop sharing whatever document was being shared?

1 MS. TSCHANTZ: Yes, I sent a request to  
2 Christy Trevino.

3 THE HEARING EXAMINER: Oh, okay.

4 MS. TSCHANTZ: To stop sharing.

5 THE HEARING EXAMINER: Thank you very  
6 much.

7 MR. MORGAN: And Mr. Examiner, we were  
8 looking at this file early this morning at my office,  
9 and we didn't see the objection in the entry in the  
10 case file for some reason. And that could be on our  
11 end. We did see the pre-hearing statement in there.  
12 And so, I'm not sure if that was from my staff, if  
13 that was separate emails and some didn't go through.  
14 I don't know. But as I mentioned, in our  
15 communications with Matador this week, we were  
16 planning to withdraw in at least seven of those cases  
17 and then agree to continue those. Just the four.

18 THE HEARING EXAMINER: All right.  
19 Well, first of all I want to see your entry of  
20 appearance in at least one case.

21 MR. MORGAN: No, absolutely. And I  
22 looked this morning, about 5:00 a.m. and did not see  
23 them. But I did see the pre-hearing statement and I'm  
24 not sure .-

25 THE HEARING EXAMINER: I see.

1 MR. MORGAN: And I'm not sure from my  
2 staff perspective -- they were not at the office at  
3 5:00 a.m. this morning.

4 THE HEARING EXAMINER: What date did  
5 you file your pre-hearing statement?

6 MR. MORGAN: We did, yes, on  
7 Thursday.

8 THE HEARING EXAMINER: Thursday of last  
9 week. So last week. That would be -- I'll look  
10 around the 14th. Well, I'll look at the 15th.

11 MR. MORGAN: Our firm often has the  
12 enviable position of being contacted Wednesday night  
13 and Thursday morning the week before.

14 THE HEARING EXAMINER: Okay.

15 MR. MORGAN: And so --

16 THE HEARING EXAMINER: Let me first  
17 find Mr. Feldewert's pre-hearing statement filed on  
18 the 15th a week ago. So let me now look. And  
19 Mr. Feldewert, do you list, let's see, other parties?  
20 We have PBEX. We have E.G.L. I don't see -- I don't  
21 think Mr. Feldewert knew that you had entered an  
22 appearance; right, Mr. Feldewert?

23 MR. FELDEWERT: Correct.

24 THE HEARING EXAMINER: Okay. When did  
25 you enter your appearance, Mr. Morgan?

1 MR. MORGAN: It should have been on  
2 Wednesday or excuse me, Thursday the 15th, as well  
3 with that pre-hearing statement. I'm just going to  
4 pull that up right now as well.

5 THE HEARING EXAMINER: Well, I'm going  
6 to keep looking while you do that as well. I have Ms.  
7 Hardy, her entry of appearance on behalf of E.G.L. and  
8 PBEX.

9 MS. HARDY: That's correct.

10 THE HEARING EXAMINER: Very good. And  
11 I see that you sent this also. You served MRC  
12 Permian, PBEX, E.G.L., Avant Operating. Are they a  
13 party in this case? I didn't hear an entry of  
14 appearance for Avant Operating. Oh, are you  
15 representing multiple parties again?

16 MR. FELDEWERT: No, I'm not. There's a  
17 little bit of a history here.

18 THE HEARING EXAMINER: I'm sure

19 MR. FELDEWERT: Both Avant and Lario  
20 initially appeared and objected to these matters.  
21 You'll see -- go through the entire history. They  
22 have since withdrawn their appearance and their  
23 objections.

24 THE HEARING EXAMINER: And then, I see  
25 that you served Mr. Suazo and Ms. Graham, but it

1 doesn't say who they're representing. So I'm confused  
2 about that. Do you know who they're representing?

3 MR. FELDEWERT: I believe it was Lario.

4 MS. HARDY: Yes, I believe it was. I  
5 was serving everyone who had .-

6 THE HEARING EXAMINER: Entered an  
7 appearance, at one point or another.

8 MS. HARDY: Right.

9 THE HEARING EXAMINER: Of course. That  
10 makes sense. So you didn't know about Mr. Morgan  
11 either, and his client. So Mr. Morgan, I'm still  
12 looking for your entry of appearance or your  
13 pre-hearing statements.

14 MR. MORGAN: So I'm looking at case  
15 24289, and that's where I'm seeing it show up. It  
16 shows the date stamp of the 16th on this particular  
17 file, on this particular case.

18 THE HEARING EXAMINER: So you're not  
19 seeing it in all the cases that you you meant to enter  
20 an appearance?

21 MR. MORGAN: I'm going back to look at  
22 the rest of them right now.

23 THE HEARING EXAMINER: Yes.

24 MR. MORGAN: But I did see it in that  
25 one, specifically.

1 THE HEARING EXAMINER? Eighty-nine?

2 MR. MORGAN: Eighty- nine. Yes, 89.

3 THE HEARING EXAMINER: So,  
4 Mr. Feldewert, these are your cases; right?

5 MR. FELDEWERT: Yes.

6 THE HEARING EXAMINER: All of these  
7 cases are yours?

8 MR. FELDEWERT: Yes.

9 THE HEARING EXAMINER: Okay. While  
10 Mr. Morgan is .- and Ms. Bennett, were you entering an  
11 appearance, as well, in some of these cases?

12 MS. BENNETT: Thank you, Mr. Examiner.  
13 I was just coming up to clarify the state of the  
14 record with respect to Avant if the hearing examiner  
15 had questions.

16 THE HEARING EXAMINER: Yes.

17 MS. BENNETT: But Mr. Feldewert  
18 clarified that for me.

19 THE HEARING EXAMINER: Oh, he did.  
20 Okay. So you're not entered in these cases?

21 MS. BENNETT: Not for Avant, but I am  
22 still looking through the case files to see if we  
23 might be in on behalf of Franklin Mountain Energy.

24 THE HEARING EXAMINER: Okay.

25 MS. BENNETT: But I'll let you know in

1 just a couple minutes.

2 THE HEARING EXAMINER: Okay. Perfect.

3 MS. BENNETT: Thank you.

4 THE HEARING EXAMINER: Thank you. But  
5 you haven't filed an interim appearance in any of  
6 these cases, to this point?

7 MS. BENNETT: That's what I'm reviewing  
8 the records for.

9 THE HEARING EXAMINER: Oh, I see.  
10 Okay. Mr. Feldewert, why are these such complicated  
11 cases? I've never had cases quite this complex  
12 before. Everybody else is making a comment. Will you  
13 clarify for us, then?

14 MR. FELDEWERT: They have a long  
15 history.

16 THE HEARING EXAMINER: Yes, they do.  
17 Okay.

18 MR. FELDEWERT: There were -- you may  
19 recall, this is the one where I had up on the screen  
20 and there were competing applications to the north and  
21 the south of our acreage. There was overlapping  
22 competing applications and age. As I told you, some  
23 months ago, I thought they were going to be able to  
24 work it out and it took some time. But yes, they were  
25 able to work things out and all of the competing

1 parties. So we filed all of our material anticipating  
2 that we would be able to go forward by affidavit  
3 today. After filing our materials, I know I did  
4 receive an entry and objection from them. We also saw  
5 their pre-hearing statement.

6 THE HEARING EXAMINER: Only on certain  
7 cases, though.

8 MR. FELDEWERT: Well, and that's --  
9 initially they objected to the whole suite of cases.

10 THE HEARING EXAMINER: I see. Okay.

11 MR. FELDEWERT: We subsequently saw  
12 that, and we informed them that they were only  
13 interest owners in four of the cases. So they have --  
14 at some point, would have filed a withdrawal of their  
15 objection for all but those four cases that we  
16 identified in which they are a part.

17 THE HEARING EXAMINER: And which are  
18 the four cases that they have a working interest in,  
19 24289 and 24290?

20 MR. FELDEWERT: Yes. And then, the  
21 other two are 24296 and 24297.

22 THE HEARING EXAMINER: Freya, are you  
23 hearing this?.

24 MS. TSCHANTZ: I am.

25 MR. FELDEWERT: I can also help clarify

1 that it only involves the Art Smith set of cases.

2 THE HEARING EXAMINER: Art Smith.

3 MR. FELDEWERT: Because they only own  
4 in tract two, which is in the east half of section  
5 three.

6 THE HEARING EXAMINER: So then, Mr.  
7 Morgan, it sounds to me like if you did enter an  
8 appearance or filed a pre-hearing statement in any  
9 other case besides these four, that it should be  
10 removed.

11 MR. MORGAN: Yes. And we filed that  
12 objection, excuse me, the withdrawal of objection  
13 yesterday morning on those other seven cases.

14 THE HEARING EXAMINER: Which you don't  
15 have an interest in?

16 MR. MORGAN: Which we don't have an  
17 interest in, yeah. And after discussions with  
18 Matador, that's exactly what we discovered. And so,  
19 we think those seven can absolutely move forward today  
20 by affidavit.

21 THE HEARING EXAMINER: I don't know  
22 that they can, but I understand that there's no  
23 objection.

24 MR. MORGAN: We have no objection.

25 THE HEARING EXAMINER: Or any other

1 party; is that right?

2 MR. MORGAN: Correct.

3 THE HEARING EXAMINER: Correct. And  
4 you're looking at me as though we should be able to  
5 move forward by affidavit. But if this was a status  
6 conference, the technical examiner would not have  
7 reviewed your exhibits.

8 MR. FELDEWERT: So if I step back, so  
9 number one I hope he reviewed the exhibits.

10 THE HEARING EXAMINER: We do have some  
11 hearing by affidavits here on that.

12 MR. FELDEWERT: Okay.

13 THE HEARING EXAMINER: Yes we do.

14 MR. FELDEWERT: And I know that we were  
15 in a position to be able to move forward --

16 THE HEARING EXAMINER: Okay, very good.

17 MR. FELDEWERT: -- on the recently  
18 filed objections.

19 THE HEARING EXAMINER: Now I  
20 understand. I'm with you now. I understand now.  
21 Okay. So we won't be able to move forward today on  
22 four cases by hearing, by affidavit. But all the  
23 other cases we should be able to.

24 MR. FELDEWERT: Yes, that's my  
25 understanding.

1 THE HEARING EXAMINER: Yes. All right.  
2 Mr. Morgan, in looking at the four cases that you have  
3 an interest in, have you actually filed an entry of  
4 appearance?

5 MR. MORGAN: I don't see it in there.  
6 I believe that we have. I do see the pre-hearing  
7 statement in there that was filed on Thursday.

8 THE HEARING EXAMINER: In the four  
9 cases?

10 MR. MORGAN: In those four cases.

11 THE HEARING EXAMINER: Okay. So first  
12 of all, please enter an appearance --

13 MR. MORGAN: We'll make sure that those  
14 show up.

15 THE HEARING EXAMINER: -- in the four  
16 cases. Also send an email to Ms. Tschantz asking her  
17 to remove the pre-hearing statements in the other  
18 cases that you don't have a working interest in.

19 MR. MORGAN: Absolutely.

20 THE HEARING EXAMINER: All right. This  
21 is going to be confusing to our technical team if they  
22 see something that shouldn't be there.

23 MR. MORGAN: And we'll ensure as well  
24 that we'll double check to make sure the withdrawal of  
25 those objections show up as well. We'll just remove

1       them.

2                       THE HEARING EXAMINER:   Well, they  
3 shouldn't be there in the first place?

4                       MR. MORGAN:   They shouldn't be there.

5                       THE HEARING EXAMINER:   Yes.  So if  
6 there isn't -- normally an objection is filed with an  
7 entry of appearance but you don't have that.

8                       MR. MORGAN:   Yeah, we don't -- I don't  
9 see it in there, just the pre-hearing statement is all  
10 it shows for some reason.

11                      THE HEARING EXAMINER:   So how did you  
12 enter an objection in those other cases?

13                      MR. MORGAN:   So we -- I mean we emailed  
14 them.  These are typically my clients, so they didn't  
15 have any sort of OGRID number.  So we emailed them  
16 over.  And so, we prepared a separate entry and  
17 objection, as well as a pre-hearing statement.

18                      THE HEARING EXAMINER:   And do you see  
19 the objections?

20                      MR. MORGAN:   I do not.  I only see the  
21 pre-hearing statements for some reason.

22                      THE HEARING EXAMINER:   And is there  
23 some reason -- you said your client has an OGRID  
24 number; right?

25                      MR. MORGAN:   Does not.  This client

1 does not.

2 THE HEARING EXAMINER: So you were  
3 relying on email? Freya, did you see this email?

4 MS. TSCHANTZ: I'm searching my email  
5 right now.

6 THE HEARING EXAMINER: Okay. When did  
7 you send it?

8 MR. MORGAN: It would've been Thursday  
9 evening from my staff, around the same time that the  
10 pre-hearing statement was sent, as well.

11 THE HEARING EXAMINER: Okay.

12 MS. TSCHANTZ: Do you know who, like,  
13 sent it?

14 MR. MORGAN: Probably, I believe it was  
15 Anna Williamson.

16 MS. TSCHANTZ: Okay.

17 THE HEARING EXAMINER: Okay. So while  
18 we're looking -- so I've told you to enter an  
19 appearance on your four cases. And included in your  
20 appearance, you're going to also include the fact that  
21 you object?

22 MR. MORGAN: Correct.

23 THE HEARING EXAMINER: So an entry of  
24 appearance and notice of objection in the title line,  
25 to make it very clear what's going on.

1 MR. MORGAN: Yes. And that's how they  
2 were prepared?

3 THE HEARING EXAMINER: Yes.

4 MS. TSCHANTZ: And I did find the  
5 email. I uploaded the pre-hearing statement from  
6 cases 24287 to 97. But that was the only document  
7 that I saw.

8 MR. MORGAN: Okay. But you didn't  
9 receive a separate email with the objections it  
10 doesn't sound like.

11 MS. TSCHANTZ: I did not.

12 MR. MORGAN: Okay.

13 THE HEARING EXAMINER: And Freya, what  
14 case did you say that you uploaded it to?

15 MS. TSCHANTZ: I uploaded the  
16 pre-hearing statement to 24287 through 24297.

17 THE HEARING EXAMINER: All right, so  
18 you're going to be removing it now.

19 MS. TSCHANTZ: Okay.

20 THE HEARING EXAMINER: In all the cases  
21 that they're not a party to. They're only a party to  
22 89 through 90. So 89, 90, 96, 97.

23 MS. TSCHANTZ: Okay.

24 THE HEARING EXAMINER: Anything else  
25 from them in any other case should be removed.

1 MS. TSCHANTZ: Okay.

2 THE HEARING EXAMINER: And we're  
3 waiting for them to email an entry of appearance and  
4 notice of objection. What are you objecting to?

5 MR. MORGAN: So at this point, my  
6 clients hadn't received the technical data that they  
7 had requested in order to make an informed decision on  
8 whether to participate.

9 THE HEARING EXAMINER: I see. And  
10 Mr. Feldewert, did you know that?

11 MR. FELDEWERT: Only when they first  
12 contacted us last week. As to what's been going on  
13 between the parties before and after that, I'm not  
14 privy.

15 THE HEARING EXAMINER: Okay. But as of  
16 now you know what the objection is based on?

17 MR. FELDEWERT: We understand that  
18 there was some additional information. It's my  
19 understanding the client is starting to cooperate.

20 THE HEARING EXAMINER: Okay.

21 MR. MORGAN: Yeah, I believe that's all  
22 been received. I think it was received on Monday.  
23 They did a pretty quick job of getting it to us.

24 THE HEARING EXAMINER: All right. So  
25 do you anticipate that you'll be withdrawing your

1 objection?

2 MR. MORGAN: I anticipate that we will  
3 be withdrawing those objections.

4 THE HEARING EXAMINER: You will. Okay.

5 MR. MORGAN: That's my anticipation.

6 THE HEARING EXAMINER: Okay. And Ms.  
7 Hardy, do you have any reason why we can't proceed by  
8 hearing, by affidavit today, in the other cases?

9 MS. HARDY: No, not from E.G.L. and  
10 PBEX's perspective.

11 THE HEARING EXAMINER: Perfect. Thank  
12 you. Mr. Feldewert, do you want to prepare? Now, let  
13 me ask the technical examiner. Mr. Garcia, if we  
14 proceed by affidavit in these other cases, will you  
15 have any questions for the witnesses?

16 MR. GARCIA: I do not.

17 THE GROUP: Okay. Can we do this in a  
18 sort of a group?

19 MR. FELDEWERT: I have, because of the  
20 nature of what's being requested .-

21 THE HEARING EXAMINER: Yes.

22 MR. FELDEWERT: Split up at four  
23 different stages.

24 THE HEARING EXAMINER: Perfect.

25 MR. FELDEWERT: Now with that said, if

1 you are continuing these four cases, I would ask, they  
2 be continued to the next docket.

3 THE HEARING EXAMINER: Okay.

4 MR. FELDEWERT: Because they've gotten  
5 the technical information.

6 THE HEARING EXAMINER: Okay.

7 MR. FELDEWERT: I would think there's  
8 no reason why we'd be able to proceed by affidavit the  
9 remaining four cases at the next docket.

10 THE HEARING EXAMINER: All right, so  
11 let me circle 89, 90, 96 and 97, and you're going to  
12 file a continuance to the next docket.

13 MR. FELDEWERT: I would ask that they  
14 would file a continuance.

15 MR. MORGAN: We can file the  
16 continuance. Just trying to be good neighbors.

17 THE HEARING EXAMINER: I see. Okay.  
18 All right.

19 MR. FELDEWERT: I'm always for saving  
20 my client money.

21 THE HEARING EXAMINER: Okay. Let me  
22 write this down. Strategic Energy. So that'll go to  
23 the September 12th docket.

24 MR. FELDEWERT: Thank you.

25 THE HEARING EXAMINER: Today is the

1 first day I've learned that one company can continue  
2 another company's case. However, how will he do that  
3 without an OGRID number?

4 MR. MORGAN: I believe there's a  
5 separate portal for that where we can do it via email  
6 as well. But there's a portal for paying that fee  
7 associated.

8 THE HEARING EXAMINER: Ms. Tschantz.

9 MS. TSCHANTZ: That hasn't come up in  
10 my experience. So I'd have to look into it further.

11 MR. MORGAN: We will work with her on  
12 that. We've done it in the past.

13 THE HEARING EXAMINER: You have?

14 MR. MORGAN: We have.

15 THE HEARING EXAMINER: I've never heard  
16 of it before. And I didn't know that it was a  
17 practice for one company to pay for another company's  
18 continuance.

19 MR. FELDEWERT: It only became a  
20 practice when the division initiated these exorbitant  
21 court fees.

22 THE HEARING EXAMINER: We have to pay  
23 salaries. All right. So why don't you present your  
24 cases in the four batches that you want to.

25 MR. FELDEWERT: Thank you. So,

1 Mr. Examiner, I'm going to focus on the Art Smith  
2 cases involving the Bone Spring formation, and the  
3 remaining cases there are 24287 to 88. And then,  
4 24291 and 92.

5 THE HEARING EXAMINER: Okay.

6 MR. FELDEWERT: That involves Bone  
7 Spring and Art Smith matters. You'll see that these  
8 set of cases seek to create either 320 acres standup  
9 spacing units in section 34, and 3, or 160-acre  
10 standup spacing units in the west half of section 34  
11 due to existing development. I will note that the  
12 application was initially filed for approval of  
13 overlapping spacing units. But due to notice issues,  
14 as we indicated in our pre-hearing statements, we have  
15 dismissed that request, and we will pursue those  
16 administratively. If I look at case 24287 as an  
17 example, which is one of the cases that is proceeding  
18 today, you'll see that it has, as in all the other  
19 packets, it provides the policy fluid checklist in the  
20 application.

21 And then you have Exhibit A, which is  
22 from the landman, Mr. Isaac Evans, who has previously  
23 testified before the division. And he provides in  
24 each case the C-102s for the well. Now you and  
25 Mr. Garcia will see that for the two mile wells, in

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1 other words, the larger standup spacing units, there's  
2 actually two C-102s, because A split up between two  
3 different pools.

4 THE HEARING EXAMINER: Okay.

5 MR. FELDEWERT: He provides a tract  
6 map, he provides a summary of interests identifying  
7 the pool parties, which is always either it looks like  
8 a group of working interest owners. There's some  
9 record title that's being pooled and then a group of  
10 overriding royalty owners.

11 THE HEARING EXAMINER: And I'm assuming  
12 the C-102s in all of your exhibit packets are the old  
13 version?

14 MR. FELDEWERT: They are. Oh, yeah.

15 THE HEARING EXAMINER: Which I know  
16 we're making an exception today for.

17 MR. FELDEWERT: Yes. But it was my  
18 understanding that we filed them, yes.

19 THE HEARING EXAMINER: But on September  
20 12 it sounds like we're not going to be making that  
21 exception.

22 MR. FELDEWERT: Let me ask Mr. Garcia  
23 if I could have some leeway since we've already filed  
24 our exhibits in those cases.

25 THE HEARING EXAMINER: Go ahead.

1                   MR. FELDEWERT:  If he would allow that  
2   to proceed, particularly since they're just drafts.  
3   He also provides then the well proposal letter along  
4   with the AFE and in his communications with the  
5   working interest owners that received approval.  
6   Exhibit B in each case is a statement from Commander  
7   Parker.  He's a geologist for the company and he's  
8   also previously testified before the division.  He  
9   provides the same statement for all of these cases  
10  because it's applicable to all of the Bone Spring  
11  cases.  He provides a locator map, a structure map of  
12  cross section reference lines and then a structural  
13  cross section using the five wells that he identifies  
14  in the construction map.  And on that structural cross  
15  section he identifies the target zones for the initial  
16  art Smith wells.

17                   We then provide as Exhibit C, a  
18  statement confirming that the application was sent by  
19  certified mailed to all parties.  And then, Exhibit B  
20  is the Affidavit of Publication.  So with that I would  
21  ask that the exhibits in these four cases be admitted,  
22  and that these remaining four cases be taken under  
23  advisement.

24    //

25    //

1 (Cases 24287, 24288, 24291 and 24292  
2 Exhibits A through D were marked for  
3 identification.)

4 THE HEARING EXAMINER: Okay. And I'm  
5 looking at the Affidavit of Publication, which is from  
6 April of this year. And the letter was sent out March  
7 29th. So I know Mr. Garcia has no questions for you.  
8 So the exhibits in these four cases are received into  
9 evidence, and these four cases will be taken under  
10 advisement. And were you asking Mr. Garcia for leeway  
11 at this time on the C-102s for those four cases that  
12 may come to hearing affidavit in September?

13 (Cases 24287, 24288, 24291 and 24292  
14 Exhibits A through D were received into  
15 evidence.)

16 MR. FELDEWERT: Yes, since we've  
17 already filed them.

18 THE HEARING EXAMINER: I understand.  
19 Mr. Garcia, do you have a response to that?

20 MR. GARCIA: That's fine. The exhibits  
21 are already submitted in our system and reviewed by  
22 us. Just for clarity, Mr. Feldewert, I got lost with  
23 four cases. Did you just take them under advisement?

24 THE HEARING EXAMINER: Good question.  
25 It would 24287, 24288, 24291, 24292.

1 MR. GARCIA: Okay, perfect.

2 THE HEARING EXAMINER: And Mr. Garcia,  
3 will you put a note in the four cases that have been  
4 objected to, 24289, 90, 96, and 97, that you have made  
5 a second exception on those four cases that they can  
6 still use the old C-102s?

7 MR. GARCIA: Yes.

8 THE HEARING EXAMINER: All right.

9 MR. GARCIA: And I'll talk to my staff,  
10 too.

11 THE HEARING EXAMINER: Okay. Thank you  
12 very much. All right Mr. Feldewert, your next case?

13 MR. FELDEWERT: Yes. It would be,  
14 let's see, the remaining cases would be 24294 and  
15 24295. This involves the Wolf Camp formation under  
16 sections 34 and three for Art Smith wells. Exhibits  
17 are similar in both cases. It provides the compulsory  
18 pool checklist in the application. We have the  
19 same -- a statement again from Isaac Evans who  
20 previously testified he provides a draft C-102 for  
21 each well. And it's one pool which just one C-102, a  
22 track map, a summary of interest identifying pool  
23 parties, a well proposal letter with the AFE, and then  
24 a summary of communications with the working interest  
25 owners.

1                   We then have a statement from  
2 Andrew Parker who is a geologist with the company who  
3 has previously testified. He provided the same  
4 statement in these Wolf Camp cases because it's the  
5 same analysis. And so, he provides a locator map, a  
6 structure map with cross section lines and then a  
7 structural cross section using the logs from the wells  
8 that he has identified. And in that structural cross  
9 section he provides the target zone for the Art Smith  
10 Wolf Camp place. Exhibit C, again, is a statement  
11 confirming that that notice was sent by certified mail  
12 to the approved parties. And then, Exhibit D is the  
13 David Affidavit of Publication.

14                   So I would move the admission of the  
15 exhibits in these two cases and ask that these two  
16 cases be taken under advisement.

17                   THE HEARING EXAMINER: Are there any  
18 objections. Not hearing any, your exhibits are  
19 admitted in case 24294 and 95.

20                   (Case 24294 and 24295 Exhibits A  
21 through D were marked for  
22 identification and received into  
23 evidence.)

24                   And in this case, I actually see  
25 Mr. Morgan's document. Looking for a signature here.

1 Here we are, for Strategic Energy and I think they're  
2 alleging that you have not gone through the proper  
3 procedure to get voluntary agreements to pull the  
4 land, at least as to them. Is that your  
5 understanding?

6 MR. FELDEWERT: I can only go by what  
7 he has put in there. I don't agree with that.

8 THE HEARING EXAMINER: Right.

9 MR. FELDEWERT: And I think he has  
10 indicated that that opinion no longer exists. And I  
11 would also say that these cases, they're not even  
12 appropriate.

13 THE HEARING EXAMINER: Exactly, that is  
14 correct. Yeah.

15 MR. MORGAN: I understand that. But  
16 this is the first time I'm able to see what you filed  
17 in your pre-hearing statement has not made a good  
18 faith effort to voluntarily pool Strategic Energy. Is  
19 that your position in the other four cases?

20 MR. MORGAN: Yes. Since that technical  
21 data had not been . yeah, had not been received.

22 THE HEARING EXAMINER: Right.

23 MR. MORGAN: Correct.

24 THE HEARING EXAMINER: Oh I see.

25 Because the data had not been received.

1 MR. MORGAN: Exactly.

2 THE HEARING EXAMINER: I see. Okay.  
3 All right. So these two cases will be taken under  
4 advisement and then your remaining cases 24304 through  
5 the end.

6 MR. FELDEWERT: Yeah. So again I split  
7 them up by formation. Okay. So Strategic Growth was  
8 not involved in these cases.

9 THE HEARING EXAMINER: Right. I  
10 understood that.

11 MR. FELDEWERT: So the first set of  
12 cases would be what we call the Jim Rolfe Bone Spring  
13 wells, which is 24304 TO 24309. Exhibits again are  
14 similar in all of these six cases. We a statement  
15 from Isaac Evans, again a landman who's previously  
16 testified. He provides a draft C-102s for each well.  
17 And it's a single pool, so there's only one C-102. He  
18 provides a tract map showing the area, a summary of  
19 interest identifying the pool parties, which includes  
20 working interest owners, record title owners, and an  
21 overriding royalty interest owners. Provides a sample  
22 of well proposal letter along with the AFE and any  
23 summary of communications with working interest owners  
24 that pool. Exhibit B is from Andrew Parker, a  
25 geologist who again has previously testified before

1 the division. He provided the same statement in all  
2 six of these cases, because the analysis was  
3 identical. He provides a locator map, a structured  
4 map with the cross section reference lines, and then a  
5 structural cross section using the logs from the four  
6 wells and he's identified.

7 And then on there, structural cross  
8 section identifies the target zones for the six  
9 initial general Bone Spring wells. Exhibit C is a  
10 statement confirming that the application was sent by  
11 certified mail to pool parties. You will note that  
12 there are two letters in there. We had an initial  
13 mailing in March, and we found some additional owners  
14 and sent a second letter directed at those additional  
15 owners. Similarly, exhibit D is an affidavit of  
16 publication and there's actually two affidavits to  
17 accommodate the second round of notice. So with that  
18 we would move the admission of these exhibits into  
19 evidence, and ask that these six cases be taken under  
20 advisement.

21 THE HEARING EXAMINER: Okay. Are there  
22 any objections to these exhibits? Not hearing any,  
23 your exhibits in these cases, 24304 through 24309 are  
24 admitted into evidence. And these cases will be taken  
25 under advisement. That leaves us with 24310 through

1 24313?

2 (Cases 24304 to 24309 Exhibits A  
3 through D were marked for  
4 identification and received into  
5 evidence.)

6 MR. FELDEWERT: Yes, sir. Again, these  
7 are single pool in the Wolf Camp formation in sections  
8 22 and 27 in 18 South 34 east of county for the  
9 Jim Rolfe Camp well. Exhibits are similar to what  
10 we've previously seen. We have compulsory fluid check  
11 list and an application. We have a statement from  
12 Isaac Evans who has previously testified with the same  
13 set of exhibits we previously discussed. The only  
14 difference here is that we had two Wolf camp pools.  
15 So there are two C-102s in each case that allocate the  
16 acreage to the two Wolf camp pools. We then the same  
17 or a similar statement from Andrew Parker, who again  
18 has previously testified. His statement is the same  
19 for all four of these cases because he's analyzing the  
20 Wolf Camp formation. And he provides that locator  
21 map, a structure map with cross-referenced lines and a  
22 structural cross section that identifies the target  
23 zone for the initial four Jim Rolfe for Wolf Camp  
24 wells.

25 We then have Exhibit C, which is a

1 statement confirming that notice was sent to the  
2 parties to be pooled. Again, we have two letters for  
3 the regions I had previously articulated in the last  
4 case set of cases. And then Exhibit D contains  
5 Affidavits of Publication. Again, there are two  
6 affidavits because they are addressed to an initial  
7 set of parties to be pooled and a second set that was  
8 subsequently discovered. So with that, I would move  
9 the admission of these exhibits in all four of these  
10 cases and ask if these four cases be taken into  
11 advisement.

12 Are there any objections? Not hearing  
13 any, these exhibits in case numbers 24310 through  
14 24313 are admitted into evidence and the cases are  
15 taken under advisement. Thank you.

16 (Cases 24310 to 24313 Exhibits A  
17 through D were marked for  
18 identification and received into  
19 evidence.)

20 MR. FELDEWERT: Thank you. And thank  
21 you for the accommodation for the accommodation of the  
22 C-102s.

23 THE HEARING EXAMINER: I'm calling now  
24 2444, 43, 45, 54, and 56, Franklin Mountain Energy  
25 cases.

1 MS. BENNETT: Good morning,  
2 Mr. Examiner. Deana Bennett on behalf of Franklin  
3 Mountain Energy.

4 THE HEARING EXAMINER: Good morning.

5 MR. FELDEWERT: Good morning,  
6 Mr. Examiner. Michael Feldewert, Santa Fe Office of  
7 Holland & Hart appearing behalf of XTO Energy, Inc.

8 MS. BENNETT: Thank you.

9 THE HEARING EXAMINER: Are there any  
10 other parties that you know of Ms. Bennett?

11 MS. BENNETT: Not that I know of.

12 THE HEARING EXAMINER: Excellent. How  
13 do you want to proceed?

14 MS. BENNETT: I'd like to proceed by  
15 affidavit.

16 THE HEARING EXAMINER: Okay, great.

17 MS. BENNETT: Yeah.

18 THE HEARING EXAMINER: Was there an  
19 objection, Mr. Feldewert?

20 MR. FELDEWERT: XTO has no objection to  
21 them proceeding by affidavit.

22 THE HEARING EXAMINER: Fantastic. Do  
23 you want to present them all four together or are you  
24 separating them?

25 MS. BENNETT: I'd like to present them

1 together.

2 THE HEARING EXAMINER: Perfect. Go  
3 right ahead.

4 MS. BENNETT: And these four cases  
5 which are 24443, 24445, 24454, and 24456, Franklin  
6 Mountain Energy 3, is seeking an order from the  
7 division, pooling uncommitted working, uncommitted  
8 mineral interests. And together these four cases  
9 cover the east half of sections 27 and 34, township  
10 18, south range 35 east. And they cover both the Bone  
11 Spring and the Wolf Camp. We timely filed exhibits  
12 and our exhibit packets are very similar. I'll just  
13 run through one of them quickly for the division's  
14 enjoyment. The first exhibit in all of our exhibit  
15 packets is the compulsory pooling checklist followed  
16 by the application. We've then included the  
17 self-affirmed statement of Don Johnson, who's  
18 previously testified before the division and has  
19 credentials have been accepted as a matter of record.  
20 And behind his self affirmed statements are the usual  
21 land exhibits.

22 The next tab is the self-affirmed  
23 statement of Ben Kessel. He's the director of geology  
24 for Franklin Mountain Energy 3. And he's previously  
25 testified before the division and his credentials have

1 been accepted as a matter of record. And behind his  
2 declaration are the usual geology exhibits. And then  
3 Exhibit 3 my self-affirmed Statement of Notice where I  
4 affirm that notice was timely provided. So that's the  
5 outline of the exhibits for all three cases. So if  
6 the division's preference is for me to seek to admit  
7 them in each case individually. I'm happy to do that.

8 THE HEARING EXAMINER: No, not  
9 necessary. So are you seeking to have them all  
10 exhibits?

11 MS. BENNETT: Yes.

12 THE HEARING EXAMINER: Okay.

13 MS. BENNETT: At time I'd like to ask  
14 that the exhibits in case 24443, 24445, 24454, and  
15 24456 be admitted into the record.

16 THE HEARING EXAMINER: Any objections?

17 MR. FELDEWERT: No objection.

18 THE HEARING EXAMINER: Your exhibits  
19 are admitted in all four cases. Mr. Garcia, do you  
20 have any questions on these cases?

21 (Cases 24443, 24445, 24454 and 24456  
22 Exhibits 1, 2 and 3 were marked for  
23 identification.)

24 MR. GARCIA: I do not.

25 THE HEARING EXAMINER: Excellent.

1 1 They're taken under advisement. Thank you.  
2 2 MS. BENNETT: Thank you. And just to  
3 3 confirm, we have the old form C-102s in here, too.  
4 4 And it's my understanding that that's okay?  
5 5 THE HEARING EXAMINER: For today it is,  
6 6 yeah.  
7 7 MS. BENNETT: And may I ask a  
8 8 clarifying question for some cases that we have coming  
9 9 up on August 27th, or can I discuss that with you on  
10 10 the break?  
11 11 THE HEARING EXAMINER: Sure. August  
12 12 th  
12 12 27 , we have a special docket.  
13 13 MS. BENNETT: Yes, you do. August  
14 14 27th, let me take a look at it. Hold on. Mr. Garcia,  
15 15 who is the technical examiner for August 27th?  
16 16 MR. GARCIA: I believe it will be Dean.  
17 17 THE HEARING EXAMINER: Dean. Okay.  
18 18 Let me get to that August 27th. I'm pulling up the  
19 19 docket. One moment. Okay. And we're going to have  
20 20 Dean McClure as our technical examiner. And these are  
21 21 Franklin Mountain Energy 3 compulsory pooling ball  
22 22 state com. 24198 and 99. Then it looks like through  
23 23 then 05, 06, then Matador. Would that be  
24 24 Mr. Feldewert?  
25 25 MR. FELDEWERT: Yes, sir.

1 THE HEARING EXAMINER: I see. Okay.  
2 And what is your question?

3 MS. BENNETT: Two things. First of  
4 all, we previously submitted our exhibit packets for  
5 those cases. And so, I'd like to request the  
6 division's .

7 THE HEARING EXAMINER: Sure.

8 MS. BENNETT: -- courtesy to let us use  
9 the C-102s that were previously submitted.

10 THE HEARING EXAMINER: Okay. And while  
11 Mr. Garcia's thinking about that, what's your other  
12 question?

13 MS. BENNETT: My other request or my  
14 other comment is that the cases that are set for  
15 August 27th were originally protested both by Ameredev  
16 for half of the cases and by Matador, MRC, excuse me,  
17 for the other half of the cases. And those objections  
18 have now been withdrawn. And so, I was proposing to  
19 Mr. Feldewert that I submit a Motion to Vacate or  
20 amend the current pre-hearing order to transform the  
21 hearing into a hearing by affidavit.

22 THE HEARING EXAMINER: And then, we can  
23 move it to a different docket?

24 MS. BENNETT: If you'd like to we can,  
25 or we can leave it on August 27th, your preference,

1 THE HEARING EXAMINER: I think the  
2 preference for the division is to conserve resources  
3 for technical examiners. And so, all of these cases,  
4 and how many -- so I'm confused though, because we  
5 have Franklin Mountain Energy cases and then we have  
6 it looks like competing applications.

7 MR. FELDEWERT: If I may, we as a  
8 result .-

9 THE HEARING EXAMINER: Yes.

10 MR. FELDEWERT: Ms. Bennett just  
11 explained we have now dismissed our competing  
12 application.

13 THE HEARING EXAMINER: I see it here.  
14 Here

15 MR. FELDEWERT: We are still in the  
16 case. I may have questions. I don't know, but it  
17 shouldn't be very long. In fact .

18 THE HEARING EXAMINER: Okay.

19 MR. FELDEWERT: -- I would not use that  
20 as a reason to keep it on the current date.

21 THE HEARING EXAMINER: I understand.

22 MS. BENNETT: Mr. Examiner, I will note  
23 that Franklin Mountain Energy 3 intends to have  
24 witnesses present.

25 MR. FELDEWERT: Yes.

1 MS. BENNETT: And they have already  
2 booked their travel for August 27th thinking that we  
3 would be sticking with that day even for an  
4 uncontested hearing. I can check with them to see if  
5 they can change their travel arrangements, but they  
6 did already book flights to be here on August 27th.

7 THE HEARING EXAMINER: I understand  
8 perfectly. If we have a hearing by affidavit, I mean  
9 it's certainly -- I mean even if it was a contested  
10 hearing, they don't have to be here. Would they  
11 prefer not to come at all?

12 MS. BENNETT: Their preference is to  
13 come.

14 THE HEARING EXAMINER: They would like  
15 to come?

16 MS. BENNETT: Yes.

17 THE HEARING EXAMINER: Okay.

18 MS. BENNETT: I'm happy to confer with  
19 them on the break about this wrinkle.

20 THE HEARING EXAMINER: If they want to  
21 come, we'll have the hearing. It sounds like it'll be  
22 a lot easier for the technical team. I know we're  
23 trying to conserve resources with the technical team.

24 So, Mr. Garcia, two issues for you to  
25 chime in on. Number one, these cases going to hearing

1 on the 27th, you said will be hearings by affidavit  
2 and not contested. Is it permissible for them to  
3 retain the use of the old C-102?

4 MR. GARCIA: Yeah, I believe Dean's  
5 starting to review the cases already. Cases wide we  
6 just go start pushing new C-102s. And you know, if  
7 you tell me when that date has started so I will -.

8 MR. GARCIA: I would say the 29th.

9 THE HEARING EXAMINER: Right. Sounds  
10 good. So yes. Well, the parties know at this point,  
11 so I'll help enforce that. But when it comes to the  
12 hearing that day, would there be a problem for Mr.  
13 McClure to be the technical examiner if we keep the  
14 date of the 27th of August?

15 MR. GARCIA: No, we've already  
16 scheduled meetings around it. It got reported.

17 THE HEARING EXAMINER: Okay. So then,  
18 Ms. Bennett, yes, we will make an exception on the  
19 C-102s. And yes, we will have the hearing here in  
20 Pecos Hall for your witnesses to attend on the 27th.  
21 And that starts at 8:30; is that correct?

22 MS. BENNETT: That's correct.

23 THE HEARING EXAMINER: All right, well  
24 they're coming a long way for a very short hearing,  
25 but that's fine.

1 MS. BENNETT: Thank you.

2 THE HEARING EXAMINER: That's fine.  
3 Okay, so we take these other cases under advisement.  
4 Okay.

5 MS. BENNETT: Thank you.

6 THE HEARING EXAMINER: And thank you.  
7 Calling now Ms. Bennett. Looks like we have some more  
8 of your cases, Ms. Pena. Okay, I'm calling now 24467,  
9 68, 69, and 70. The four cases, they're joined. Are  
10 you ready for a hearing by affidavit?

11 MS. PENA: I am, yes.

12 THE HEARING EXAMINER: All right.  
13 Parties enter an appearance there.

14 MS. PENA: Yaritha Pena with Modrall  
15 Sperling on behalf of Franklin Mountain Energy 3.

16 THE HEARING EXAMINER: Thank you.

17 MR. FELDEWERT: Michael Feldewert,  
18 Santa Fe office of Holland & Hart on behalf of XTO  
19 Energy, Inc.

20 THE HEARING EXAMINER: Had you filed an  
21 objection that you've now withdrawn?

22 MR. FELDEWERT: We no longer object. I  
23 don't think we filed an objection. We do not object  
24 to these matters proceeding by affidavit.

25 THE HEARING EXAMINER: Ms. Pena, is

1 that the only other party that you know of?

2 MS. PENA: That I'm aware of, yes.

3 THE HEARING EXAMINER: Please proceed.

4 MS. PENA: Okay. I will present all  
5 four of these in a brief fashion.

6 THE HEARING EXAMINER: Perfect.

7 MS. PENA: All four of these cases are  
8 companion cases encompassing all of irregular section  
9 2, section 11 and the respective sections in the north  
10 half, and north half south half of section 14, in  
11 township 19, south range 35 east, in Lee County, New  
12 Mexico. All four applications seek to dedicate their  
13 respective species units to four Bone Spring nexus bed  
14 wells. We timely filed exhibits last week in each of  
15 these cases. And the exhibit packet is the same in  
16 all four. Exhibit A contains the compulsory pulling  
17 checklist and behind tab B contains the affidavit of  
18 Mr. Jon Rutledge, who has not previously testified  
19 before the division. And we now seek to admit him as  
20 a expert in petroleum land matters. We have included  
21 his credentials in his affidavit on Exhibit B and his  
22 resume is included on Exhibit BE.

23 THE HEARING EXAMINER: And he's here to  
24 testify?

25 MS. PENA: He is.

1 THE HEARING EXAMINER: All right. So  
2 for some reason my VPN is not connecting, so I can't  
3 see, maybe I can get to it another way. Let me see if  
4 I can go through the public portal or I can restart.  
5 You know what, I'm just going to restart my computer.  
6 So let's take a five minute break before we hear from  
7 your witness. And I'll restart my computer and hope  
8 that that fixes it. All right, we're off the record.  
9 Thank you.

10 (Off the record.)

11 THE HEARING EXAMINER: Okay, we're back  
12 on the record. It's 10:45 a.m. on August 22nd. And  
13 Ms. Pena, do you have Mr. Rutledge available?

14 MS. PENA: Yes, he is.

15 THE HEARING EXAMINER: He was on a team  
16 call. Would you ask him to turn on his camera?

17 MS. PENA: Could you turn on your  
18 camera Mr. Rutledge? I don't know if my mic is  
19 working.

20 THE HEARING EXAMINER: You want to say  
21 it again.

22 MS. PENA: Mr. Rutledge. We're also  
23 not on the screen. Oh, maybe because . I don't  
24 think .-

25 THE HEARING EXAMINER: There's no one

1 there.

2 MS. PENA: Yeah. He's not ready to .

3 THE HEARING EXAMINER: Let's go back on  
4 recess and until Ms. Tschantz is ready.

5 (Off the record.)

6 THE HEARING EXAMINER: Good. All  
7 right. It is 10:49 a.m. We had a little housekeeping  
8 to deal with. We're back on the record now. We are  
9 going to qualify Mr. Jon Rutledge as an expert once we  
10 get him on the camera and sworn in.

11 MS. PENA: Mr. Rutledge, do you mind  
12 turning on the camera? There you are.

13 THE HEARING EXAMINER: Okay. Mr.  
14 Rutledge, you're seeking to be admitted as an expert  
15 in what field?

16 MR. RUTLEDGE: Landman, sir.

17 THE HEARING OFFICER: Landman. Okay,  
18 very good. Would you raise your right hand.

19 WHEREUPON,

20 JON RUTLEDGE  
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, under penalty of law, was examined and  
24 testified as follows:

25 THE WITNESS: I do.

1 THE HEARING EXAMINER: Okay. What  
2 education do you have that goes toward Landman?

3 THE WITNESS: Yes, sir. I've been on  
4 Landman for the past 14 years. Strong background in  
5 title examination, negotiation and acquisition of land  
6 rights, preparation and submission of administrative  
7 land related documents to ensure compliance with the  
8 rules and regulations.

9 THE HEARING EXAMINER: Okay. And the  
10 question was what education do you have that goes to  
11 that expertise?

12 THE WITNESS: Oh, yes sir. Graduated  
13 from the University of Colorado, economics degree.

14 Okay. And when was that?

15 THE WITNESS: I -- I graduated in 2008.

16 THE HEARING EXAMINER: Okay. And since  
17 then you've been working in as a landman, for who?

18 THE WITNESS: For the past year for  
19 Franklin Mountain Energy. And previous TOC Land  
20 services.

21 THE HEARING EXAMINER: Okay. I'm just  
22 reviewing your -- did you prepare this resume?

23 THE WITNESS: Yes sir, I did.

24 THE HEARING EXAMINER: You did. All  
25 right. All right, Mr. Rutledge, you are hereby

1 qualified as an expert in petroleum landman issues  
2 before this division. Ms. Pena.

3 MS. PENA: Thank you. Following  
4 Mr. Rutledge's affidavit in tab B are the standard  
5 land exhibits. A note that I would also like to make  
6 on the record is in exhibit B, three of each case  
7 under the unit situation, there are a total of four  
8 parties listed for one percentage. And through FAME  
9 they have had a little bit of a title issue dispute.  
10 So they list four parties under that percentage, but  
11 they have executed a letter of agreement between FME  
12 and XTO, who seems to be the operator in charge of  
13 that percentage. So they will be moving forward with  
14 a letter of agreement in that regard.

15 The rest of the exhibits behind tab B  
16 are the standard land exhibits. Exhibits in tab C, I  
17 apologize, contain the affidavit of Ben Kessel, the  
18 director of geology for Franklin, who has previously  
19 testified before the division, and his standard  
20 geology exhibits. In tab D that contains the standard  
21 notice exhibits including the declaration of  
22 Ms. Bennett that shows that we timely noticed and  
23 published for these cases. At this point I would ask  
24 that the exhibits for all four cases in 24467 through  
25 24470 be admitted into the record and that the cases

1 be taken under advisement.

2 (Cases 24467 to 24470 Exhibits Tab A  
3 through Tab D were marked for  
4 identification.)

5 THE HEARING EXAMINER: I'm looking at  
6 Mr. Kessel's affidavit and what I don't see is the  
7 typical language that I see in an affidavit. Do you  
8 want to look at it?

9 MS. PENA: Yes, I'm there.

10 THE HEARING EXAMINER: Do you see what  
11 I'm talking about?

12 MS. PENA: Are you talking about the  
13 language that he's previously testified before the  
14 division?

15 THE HEARING EXAMINER: No, no.

16 MS. PENA: Okay. The language that  
17 typically goes at the end of the affidavit that talks  
18 about how they attest under penalty of law that this  
19 is true.

20 MS. PENA: So this is an affidavit and  
21 we have them notarize the affidavit.

22 THE HEARING EXAMINER: Okay.

23 MS. PENA: So on page of 31 and 63 of  
24 the PDF, they're all notarized.

25 THE HEARING EXAMINER: Okay.

1 MS. PENA: So they're not a  
2 self-affirmed declaration for these set of cases.

3 THE HEARING EXAMINER: Thank you for  
4 the clarification.

5 MS. PENA: Of course.

6 THE HEARING EXAMINER: Okay. Are there  
7 any objections to these exhibits in these four cases?

8 MR. FELDEWERT: Mr. Examiner, I do have  
9 a question.

10 THE HEARING EXAMINER: Okay. Well, are  
11 you objecting to the exhibit or ...

12 MR. FELDEWERT: No. So let me  
13 rephrase. I have no objection to exhibits, but I do  
14 have a question from Mr. Rutledge.

15 THE HEARING EXAMINER: Fine. Let's  
16 deal with the admission. So there's no objection to  
17 the admission of your exhibits in these four cases.  
18 So your exhibits are hereby admitted as evidence in  
19 these four cases. Mr. Feldewert, is your question to  
20 Mr. Rutledge about a particular case or all four  
21 cases?

22 (Cases 24467 to 24470 Exhibits Tab A  
23 through Tab D were were received into  
24 evidence.)

25 MR. FELDEWERT: I think it applies to

1 all four, but I can use just one exhibit.

2 THE HEARING EXAMINER: Okay. Please  
3 proceed.

4 CROSS-EXAMINATION

5 BY MR. FELDEWERT:

6 Q I'm looking at page 19 of a 63-page PDF for  
7 case 244669, Mr. Rutledge, at issue, part of your  
8 exhibit B3. Let me know when you're there.

9 THE HEARING EXAMINER: Summary of it.

10 THE WITNESS: Yes sir, I'm there.

11 BY MR. FELDEWERT:

12 Q Okay. And you prepared this, correct?

13 A Yes, I did.

14 Q All right. And I think there was discussion  
15 that you had four parties listed for that 9.1%  
16 interest.

17 A Yes sir.

18 Q And I understand that that's because there  
19 is a title dispute amongst these four parties?

20 A Yes. It goes back to an old operating  
21 agreement that XTO appears to be the successor in  
22 interest to. So it's kind of a contractual versus  
23 operating rights.

24 Q Okay. You mentioned that you had some sort  
25 of letter agreement with XTO. Does that letter

1 agreement address when you will be asked to make an  
2 election and pay their fair share? Or does that  
3 letter agreement address what the percentage is going  
4 to be in that circumstance given the title dispute, or  
5 does it address both?

6 Q I believe it just addresses the election to  
7 participate and cash it all at that time.

8 A Okay.

9 Q What percentage do you anticipate asking XTO  
10 to pay its share of, given the title dispute?

11 A Yeah, it would be that 9.101251 percent.

12 Q So at this time, even though there's a title  
13 dispute, the company anticipates requiring XTO to make  
14 it pay its 9.102 percent share of the costs?

15 A That's my understanding, yes sir.

16 Q Okay. And can you understand that XTO may  
17 have a concern about doing that given the title  
18 dispute?

19 A Yes, sir. I can see that.

20 Q Okay. And so, if XTO requests it, will the  
21 company delay XTO's requirement to pay its share of  
22 the well cost until after this title dispute is  
23 resolved?

24 A I think that's fair.

25 Q You think it's fair? You think the company

1 will agree to that, as the land representative here?

2 A I think they would.

3 Q Okay. All right. With that representation,  
4 I appreciate your time.

5 A Yes sir.

6 THE HEARING EXAMINER: Does that end  
7 your questions, Mr. Feldewert?

8 MR. FELDEWERT: Yes.

9 THE HEARING EXAMINER: Mr. Garcia, do  
10 you have any questions for these cases?

11 MR. GARCIA: Just one question. Adding  
12 on to Mr. Feldewert's question, does that extension  
13 also apply to the other parties listed under that 9.1  
14 percent?

15 THE WITNESS: Yes sir, it would.

16 MR. GARCIA: Okay. Have they been in  
17 contact about what percentage they actually owe?

18 THE WITNESS: We have been in contact  
19 with them, yes.

20 MR. GARCIA: Okay. And been, I guess,  
21 clear with them that still looking out the details,  
22 but you don't provide them their exact percentages  
23 that they own when it's resolved?

24 THE WITNESS: Yes, sir.

25 MR. GARCIA: All right. No questions.

1 THE HEARING EXAMINER: All right.  
2 Thank you.

3 MR. GARCIA: No further questions.

4 THE HEARING EXAMINER: So, Mr. Garcia,  
5 without the information that you just asked about, are  
6 we still able to take the case under advisement?

7 MR. GARCIA: Honestly, I don't know.  
8 That's why I was trying to figure out. It's -- I  
9 mean, title disputes are outside of OCD jurisdiction,  
10 but asking someone to be completely pooled for a  
11 percentage they don't know is interesting. Because  
12 they can't make a judgment call if they're  
13 participating in this well or not, if they don't know  
14 how much they owe.

15 THE HEARING EXAMINER: So can they -.

16 MR. GARCIA: We would prefer to  
17 continue it until the title dispute is resolved, which  
18 I know may be some time. But I don't know how we can  
19 expect a party to pick if they're wanting to be a  
20 committed party or not.

21 THE HEARING EXAMINER: Let me ask a  
22 couple of questions. Mr. Rutledge.

23 THE WITNESS: Yes, sir.

24 THE HEARING EXAMINER: When do you  
25 anticipate resolving this title dispute?

1 THE WITNESS: I don't have a good  
2 timeline on that. Again, I think it's going to be  
3 negotiations between all parties about the chain of  
4 title, and where those gaps are. You know, ultimately  
5 this could ultimately end in a quiet time dispute.

6 THE HEARING EXAMINER: And that could  
7 take some time; right?

8 THE WITNESS: Yes, sir.

9 THE HEARING EXAMINER: Well, I mean, I  
10 understand Mr. Garcia's concern and, of course, XTO's  
11 concern as well. Ms. Pena, you're asking the division  
12 to take this under advisement; right?

13 MS. PENA: I am. As in many cases in  
14 pooling cases, there is title issue disputes that are  
15 ongoing. And we've noticed, and FME has sent out  
16 their well proposals to all four parties involved and  
17 they're aware of the potential percentage that are  
18 implicated in these matters. And no one has received,  
19 or we haven't received an objection from these  
20 parties. I would like to ask a redirect question to  
21 Mr. Garcia.

22 THE HEARING EXAMINER: Oh please, go  
23 right ahead.

24 MS. PENA: Mr. Rutledge. I'm sorry.

25 //

1 CROSS-EXAMINATION

2 BY MS. PENA:

3 Q Mr. Rutledge, in your letter agreement with  
4 XTO, they're aware of the potential percentage that  
5 they have?

6 A They're aware of the certain percentage they  
7 have. I don't think we -- we discussed that in the  
8 letter agreement.

9 Q Between the letter agreement. What have you  
10 discussed with XTO regarding moving forward from this  
11 pooling order or pooling application?

12 A In what regard?

13 Q In the letter to elect to participate,  
14 they're aware that there's other three parties  
15 involved in the title dispute.

16 A I discussed with their landman many months  
17 ago about the contractual interest versus the  
18 operating rights.

19 Q And they agreed to the letter?

20 A Yes, they did.

21 THE HEARING EXAMINER: Ms. Pena, do  
22 they have that in writing the agreement that he just  
23 mentioned?

24 BY MS. PENA:

25 Q Mr. Rutledge, do you have the letter

1 agreement signed by XTO?

2 A I do.

3 THE HEARING EXAMINER: And what about  
4 the other parties? Because Mr. Garcia is concerned  
5 about not just XTO, whose counsel is here in front of  
6 us, but these other three parties, do we have  
7 agreement in the same way?

8 THE witness: We do not have a slide  
9 letter agreement with those parties. No, sir.

10 THE HEARING EXAMINER: Okay. So what  
11 I'm understanding is of the four parties that are  
12 involved in the title dispute, you have an agreement  
13 in writing with XTO that their interest could be  
14 anywhere between what, 1 percent and 9 percent; is  
15 that the idea?

16 THE witness: No, I -- I think it's --  
17 it's an issue of whether XTO owns that full 9 percent  
18 or whether the other parties own that 9 percent.

19 THE HEARING EXAMINER: So XTO may own  
20 no percent then?

21 THE WITNESS: Yes, sir; that's correct.

22 THE HEARING EXAMINER: Or they may own  
23 all 9 percent?

24 THE WITNESS: That is correct.

25 THE HEARING EXAMINER: I see. And

1 you're able to submit that letter from XTO  
2 acknowledging this agreement?

3 THE WITNESS: I can submit the letter  
4 agreement, yes, sir. Ms. Pena.

5 MS. PENA: Yes, we can amend the  
6 exhibit packet to include that letter.

7 THE WITNESS: I don't think you need to  
8 actually amend the packet in this case. Why don't you  
9 just file a supplemental exhibit in this case? I  
10 don't know what your, I don't what would it be, "F",  
11 "G", what would it be?

12 MS. PENA: I can add it to his land  
13 exhibit tab.

14 THE HEARING EXAMINER: Oh, perfect.

15 MS. PENA: It would be B9, in this  
16 case.

17 THE HEARING EXAMINER: Would you  
18 include a cover letter with that?

19 MS. PENA: Yes.

20 THE HEARING EXAMINER: Okay. So we're  
21 going to keep the hearing record open in these four  
22 cases to receive that letter. Mr. Garcia, would that  
23 letter help you?

24 MR. GARCIA: Yes, for XTO. I guess I  
25 can cover my other issues with questions, if I may?

1 THE HEARING EXAMINER: Yes, please go  
2 ahead. Yes.

3 MR. GARCIA: Have you been in contact  
4 with the other three parties and they're aware that  
5 their percentage can range anywhere from zero to 9.1  
6 percent?

7 THE WITNESS: Yes, sir.

8 MR. GARCIA: Okay. And they had no  
9 objection to that?

10 THE WITNESS: They did not appear to,  
11 no.

12 MR. GARCIA: I believe I could resolve  
13 my concerns with those questions, Mr. Examiner.

14 THE HEARING EXAMINER: All right, thank  
15 you Mr. Garcia. So we will take this case under  
16 advisement once we receive the supplemental Exhibit  
17 B9.

18 MS. PENA: Yes.

19 THE HEARING EXAMINER: B9, and with the  
20 cover letter to explain why you're submitting this.  
21 So we'll keep the record open. How long will it take  
22 for you to submit that?

23 MS. PENA: If I can have until Monday.

24 THE HEARING EXAMINER: Perfect.  
25 Monday.

1 MR. FELDEWERT: Mr. Examiner, if I may?

2 THE HEARING EXAMINER: Yes.

3 MR. FELDEWERT: The only comment I  
4 would have is that I believe the letter agreement does  
5 not address the payment obligation under an election  
6 to participate under the pooling order. But it's my  
7 understanding from Mr. Rutledge that they will not  
8 require XTO to pay a share of cost. In other words,  
9 they can make an election, but they won't require them  
10 to pay a share of the cost until they get the title  
11 issue resolved. That's my understanding. Is that  
12 correct Mr. Rutledge?

13 THE WITNESS: That is correct, sir.

14 MR. FELDEWERT: Okay. In that case  
15 then we would not object to the matter being taken  
16 under advisement.

17 THE HEARING EXAMINER: That sounds  
18 good. So, Mr. Rutledge, when you provide that letter  
19 showing that XTO has agreed to whatever you said they  
20 agreed to, I'd like a cover letter from you showing  
21 what Mr. Feldewert just asked you to be the case.

22 THE WITNESS: Understood.

23 THE HEARING EXAMINER: Okay. And Ms.  
24 Pena, please have Mr. Rutledge submit it either as a  
25 self-affirmed statement or as an affidavit.

1 MS. PENA: Yes.

2 THE HEARING EXAMINER: So we can take  
3 it as fact.

4 MS. PENA: Yes, we will.

5 THE HEARING EXAMINER: And so, Monday  
6 still okay with you for that?

7 MS. PENA: Yes.

8 THE HEARING EXAMINER: Okay. So that's  
9 the 26th of August?

10 MS. PENA: Yes.

11 THE HEARING EXAMINER: All right. So,  
12 Mr. Garcia and Franklin Mountain, we will hold the  
13 administrative record open, the hearing record in this  
14 case until close of business August 26th to get a  
15 supplemental exhibit. There will be two supplemental  
16 exhibits, a B9 and a B10. B9 will have this letter  
17 agreement that is signed by XTO and B10 will be a  
18 self-affirmed or an affidavit statement from Mr.  
19 Rutledge stating what he just told Mr. Feldewert  
20 during this hearing, regarding the election?

21 MS. PENA: Yes, that's correct. Thank  
22 you.

23 THE HEARING EXAMINER: Okay, excellent.  
24 These cases are in recess. We now move to number 37  
25 on our docket, which is Mewbourne Oil. And it's not

1 joined with 24552, but are you presenting these cases  
2 today by affidavit?

3 MS. MCLEAN: Yes, I am.

4 THE HEARING EXAMINER: Please enter  
5 your appearance.

6 MS. MCLEAN: Jackie McLean with Hinkle  
7 Shanor on behalf Mewbourne.

8 THE HEARING EXAMINER: Is there there  
9 anyone else?

10 MS. MCLEAN: I believe Ms. Shaheen is  
11 in, too.

12 MS. SHAHEEN: Sharon Shaheen on behalf  
13 of Permian Resources.

14 THE HEARING EXAMINER: And Ms. Shaheen,  
15 did you -- now, I called 24551. But Ms. McLean, is  
16 this joined with 52, or not?

17 MS. MCLEAN: It is not Mr. Examiner.

18 THE HEARING EXAMINER: Is not. Do you  
19 prefer to do it individually?

20 MS. MCLEAN: I think so.

21 THE HEARING EXAMINER: Okay. There are  
22 different areas and also Ms. Shaheen is not part of  
23 the other one.

24 THE HEARING EXAMINER: Perfect.  
25 Ms. Shaheen, did you object to these, at some point?

1 MS. SHAHEEN: We did file an objection  
2 to presentation by affidavit but have since withdrawn  
3 that with the understanding that neither OXY nor any  
4 OXY entity is being pooled in this proceeding.

5 THE HEARING EXAMINER: Okay, perfect.  
6 Thank you. Have you reviewed the exhibits in this  
7 case?

8 MS. SHAHEEN: I have reviewed them. I  
9 haven't reviewed the ones that were filed. And again,  
10 assuming that OXY is not being pooled, and that is  
11 reflected or not reflected in the exhibits, depending  
12 on how you look at it, then we have no objection to  
13 the exhibits.

14 THE HEARING EXAMINER: Okay. I have a  
15 question about representation. It looks like it -- do  
16 you know a Spencer Fane?

17 MS. SHAHEEN: Yes. Montgomery &  
18 Andrews merged with Spencer Fane as of August 1st.  
19 And we are still trying to catch up with the filing of  
20 the name change for our firm.

21 THE HEARING EXAMINER: Okay. But there  
22 was no other entry of appearance for Permian. It's  
23 always been you?

24 MS. SHAHEEN: It's always been me.

25 THE HEARING EXAMINER: Perfect. And

1 then, Ms. McLean, will you have your witness, I guess  
2 it'd be your landman so that Ms. Shaheen can ask that  
3 question about OXY not being pooled?

4 MS. MCLEAN: Yes. And I can also .

5 THE HEARING EXAMINER: Oh, okay.

6 MS. MCLEAN: -- say so on August 19th  
7 we filed an amended exhibit packet and in the cover  
8 letter we say that Exhibit A removes OXY from being  
9 pooled.

10 THE HEARING EXAMINER: Perfect. Ms.  
11 Shaheen, would you review that while we get started  
12 here and then you can let me know if there's an  
13 objection?

14 MS. SHAHEEN: I will do that.

15 THE HEARING EXAMINER: All right,  
16 sounds good. Ms. McLean.

17 MS. MCLEAN: Thank you. In case number  
18 24551, Mewbourne applies for an order pooling all  
19 uncommitted interest in the Bone Spring formation in a  
20 1,920-acre spacing unit comprised of sections 10, 11  
21 and 12, township 20, south range 27, east in Eddy  
22 County. And in this application Mewbourne's also  
23 seeking approval of a non-standard oil spacing unit  
24 with this application. The exhibit packet submitted  
25 to the division includes a compulsory pooling

1 checklist. Exhibit A, the self-affirmed statement of  
2 Braxton Blanford and accompanying land exhibits. And  
3 Mr. Blanford has previously testified. Exhibit B,  
4 self-affirmed statement of Charles Crosby and his  
5 geology exhibits. Mr. Crosby has also previously  
6 testified. And then, Exhibit C, the notice exhibit.

7 And for these, Mr. Bruce sent out the  
8 notice letters and cause of notice to be published.  
9 We have reviewed that and can attest that the letters  
10 were sent out to the interested parties and notices  
11 published timely on July 13th, 2024. And with that I  
12 ask that exhibits A, B, and C and all sub exhibits be  
13 admitted into the record in case number 24551 and that  
14 the case be taken under advisement.

15 (Case 24551 Exhibits A through C were  
16 marked for identification.)

17 THE HEARING EXAMINER: Ms. Shaheen?

18 MS. SHAHEEN: Yes, I'm having trouble  
19 finding what Ms. McClean was talking about with  
20 respect to a letter saying that they're not pooling.

21 THE HEARING EXAMINER: Oh, she was  
22 saying that there's a cover letter saying that they're  
23 not being pooled, but then I think there's what,  
24 exhibit A?

25 MS. MCLEAN: Yes. So the first page of

1 the pleading is just a Notice of Amended Exhibit where  
2 we describe what has been revised in the exhibits. So  
3 it should be the first page of that document that was  
4 filed.

5 MS. SHAHEEN: You know what, I'm  
6 wondering if it's been released.

7 MS. MCLEAN: I have it right now. It  
8 says released to imaging on 8/20/2024.

9 THE HEARING EXAMINER: And I'm looking  
10 at it, too.

11 MS. SHAHEEN: Oh, are you?

12 THE HEARING EXAMINER: I am looking at  
13 it, yes.

14 MS. SHAHEEN: I'm not finding it.  
15 Okay.

16 THE HEARING EXAMINER: Now,  
17 Ms. Shaheen, I am looking at -- if you look at page 15  
18 of 48, you'll see exhibit A.

19 MS. SHAHEEN: 15 of 48. Okay.

20 THE HEARING EXAMINER: And Ms. McLean,  
21 would you direct Ms. Shaheen to the proper --

22 MS. MCLEAN: Yes. So then, on page 16,  
23 which is the second page of exhibit A, there are  
24 parties that will be pooled, highlighted in yellow.  
25 We put on the bottom also parties to be pooled are

1 highlighted in yellow. And in the self-affirmed  
2 statement it says that parties to be pooled are  
3 highlighted in yellow. OXY is not highlighted in  
4 yellow.

5 MS. SHAHEEN: Okay. Now I'm looking at  
6 the correct document. And we have no objection to  
7 admission of these exhibits and the division taking  
8 this case under advice.

9 THE HEARING EXAMINER: Thank you. Your  
10 exhibits are admitted into evidence. Mr. Garcia, are  
11 there any questions for this case?

12 (Case 24551 Exhibits A through C were  
13 received into evidence.)

14 MR. GARCIA: Yes, I don't think so.

15 THE HEARING EXAMINER: Okay. And are  
16 you going to ask questions to the landman or the  
17 geologist or are these directed about notice?

18 MR. GARCIA: One will be to the  
19 landman, and if I may one might be direct to counsel.

20 THE HEARING EXAMINER: All right,  
21 perfect. Let's start with the landman. Ms. McLean,  
22 do you have the landman?

23 MS. MCLEAN: He should be on? I  
24 don't .-

25 THE HEARING EXAMINER: Mr. Blanford,

1 are you with us?

2 MR. BLANFORD: Yes, can you hear me?

3 THE HEARING EXAMINER: I can now. Will  
4 you turn on your screen please?

5 MR. BLANFORD: Yes.

6 THE HEARING EXAMINER: Thank you, sir.

7 MR. BLANFORD: Hold on one second.

8 THE HEARING EXAMINER: Mr. Blandford, I  
9 think maybe you have a cover over your -- there you  
10 go. There you go. Will you raise it? There you go.  
11 Perfect. Thank you.

12 Would you raise your right hand,  
13 please?

14 WHEREUPON,

15 BRAXTON BLANFORD,  
16 called as a witness and having been first duly sworn  
17 to tell the truth, the whole truth, and nothing but  
18 the truth, under penalty of law, was examined and  
19 testified as follows:

20 THE WITNESS: I do.

21 THE HEARING EXAMINER: Thank you,  
22 Mr. Garcia?

23 MR. GARCIA: Yeah, I'm sorry. Let me  
24 screen share if I may.

25 THE HEARING EXAMINER: Please.

1 MR. GARCIA: Mr. Blanford, can you see  
2 my screen now?

3 THE WITNESS: I can.

4 MR. GARCIA: But I just wanted to  
5 confirm this is your exhibit in the blue boxes showing  
6 your preferred spacing unit for the non-standard  
7 spacing unit, correct?

8 THE WITNESS: Yes. That that's the  
9 spacing unit. All sections 10, 11, and 12 and then  
10 the red is the affected acreage.

11 MR. GARCIA: Okay. And then I know  
12 this is not your exhibit, but this is the geology  
13 exhibit. And I just want to make sure it's your  
14 spacing unit, as long as we are reviewing. He has  
15 this black box, outlined which is half of those three  
16 sections we just discussed and has it marked as  
17 probation unit. So this is not then the NSPS you are  
18 requesting in your plan affidavit, correct?

19 THE WITNESS: Right.

20 MR. GARCIA: Okay, just wanted to  
21 clarify.

22 THE WITNESS: Yeah, that -. that -- I  
23 would -- that is probably that way because the two  
24 wells in this case are the -- the 622 and 624, the  
25 north app wells. So it looks like that's what he's

1 done there.

2 MR. GARCIA: Yeah, I figured, you know,  
3 geology and landman difference. Just wanted to make  
4 sure your exhibit's the one we're proceeding with on  
5 the NSPS. That's all my questions, Mr. Examiner, for  
6 the landman.

7 THE HEARING EXAMINER: Okay. And so,  
8 Mr. Garcia, are you going to want one of those  
9 exhibits to be corrected?

10 MR. GARCIA: I don't think it's needed.

11 THE HEARING EXAMINER: Okay.

12 MR. GARCIA: If the landman testifies  
13 to the NSPS size.

14 THE HEARING EXAMINER: Okay.

15 MR. GARCIA: I just wanted to make sure  
16 for my peace of mind.

17 THE HEARING EXAMINER: And did you have  
18 a question for counsel?

19 MR. GARCIA: I do, if I may.

20 THE HEARING EXAMINER: Please.

21 MR. GARCIA: I have to say some of my  
22 thought now. Typically, when we do non-standard  
23 probation cases, especially this size, which is full  
24 or standard spacing units, about a year, year and a  
25 half ago OCD started requiring proof prevention of

1 waste for NSPS that are this large. Did you have any  
2 exhibits in your packet today, for your client, that  
3 shows that? Typically, that involves something along  
4 those lines of land acreage savings, like less  
5 disturbance of consolidated facilities, emissions  
6 reductions, and/or monetary value reductions? Do we  
7 have anything on that today,

8 MS. MCLEAN: Mr. Garcia, we do have in  
9 his self-affirmed statement at paragraph 11 that  
10 Mewbourne's request for approval of a non-standard  
11 spacing unit will allow it to consolidate service  
12 facilities and will consequently prevent surface,  
13 environmental, and economic waves. And so, as a  
14 result we're requesting the non-standard spacing unit.

15 MR. GARCIA: Sorry. Do you know what  
16 page that is in the PDF?

17 THE HEARING EXAMINER: It's page 6.

18 MS. MCLEAN: It's on page 6, paragraph  
19 11.

20 THE HEARING EXAMINER: Do you guys have  
21 any actual numbers on the reduction it is? Because  
22 consolidating facilities is not a non-standard  
23 operation evaluation for us. It's typically beyond  
24 that request for this. You can consolidate facilities  
25 all day long for us and be without an NSP.

1 MS. MCLEAN: I would have to defer to  
2 Mewbourne on actual numbers. But we can get that and  
3 get it to you to supplement, if you would like.

4 MR. GARCIA: I would appreciate it,  
5 because trying to keep MSPs and units from lowering  
6 those lines and the NSP requires proof of permission  
7 in most.

8 MS. MCLEAN: And would you like that  
9 submitted as a separate exhibit?

10 MR. GARCIA: I will defer to  
11 Mr. Examiner take whatever the correct legal means is.

12 THE HEARING EXAMINER: Thank you. Will  
13 that be a landman exhibit or a geology exhibit?

14 MS. MCLEAN: I would have to -- it  
15 should be land, I would think.

16 THE HEARING EXAMINER: Okay. So then,  
17 we have Mr. Blanford here.

18 MS. MCLEAN: He could .- if he has  
19 the .-

20 THE HEARING EXAMINER: Mr. Blanford,  
21 can you turn on your screen again, please?  
22 Mr. Blanford, did you hear what Mr. Garcia was asking  
23 for?

24 THE WITNESS: The .- asking for .- it  
25 wasn't specifically related to the cost savings?

1 MR. GARCIA: Cost savings reduction of  
2 acreage that's being consolidated with facility  
3 construction and then emissions reductions.  
4 Typically, there's some sort of emissions reductions  
5 in consolidated facilities as well.

6 THE WITNESS: Right. I -- I do not  
7 have exact numbers. I would need to circle up with  
8 some guys over here and get those to you.

9 THE HEARING EXAMINER: So, Mr. Garcia,  
10 I want to write down exactly what you're looking for.  
11 So I heard something about cost savings, is that the  
12 first thing you're looking for?

13 MR. GARCIA: That's correct. So cost  
14 savings on, if the NSP is approved, how much money  
15 would the operator save by consolidating facilities  
16 versus if it was not approved?

17 THE HEARING EXAMINER: I see. Very  
18 good.

19 MR. GARCIA: And then same question  
20 with land acreage disturbance. You know, they may  
21 need to disturb the 60 percent reduction because they  
22 can consolidate facilities now.

23 THE HEARING EXAMINER: I get it.

24 MR. GARCIA: You know, acreage served  
25 if approved, acreage served, if not approved, what

1 that difference is. And then same thing with VOC  
2 emissions, methane, et cetera.

3 THE HEARING EXAMINER: So I have three  
4 savings. If this is approved, the non-standard  
5 spacing, that's what this is; right?

6 MR. GARCIA: Correct.

7 THE HEARING EXAMINER: All right. If  
8 the non-standard spacing is approved, show us how  
9 you're going to save costs by consolidating  
10 facilities, first of all. Number two, show us how  
11 your emissions are going to be reduced, your VOC  
12 emissions. And finally, show us how your land acreage  
13 disturbance is going to be reduced.

14 MR. GARCIA: Correct.

15 THE HEARING EXAMINER: Those are the  
16 three things that you're looking for.

17 MR. GARCIA: Yeah.

18 THE HEARING EXAMINER: Okay, perfect.

19 MR. GARCIA: And for your knowledge,  
20 Mr. Examiner, NSPs require proof of prevention release  
21 to be approved. Consolidated facilities is not one of  
22 these criteria. It's more of a unit thing, which OCD  
23 saw jurisdictional units for primary development.

24 THE HEARING EXAMINER: I see. Okay.  
25 Good. But in this case you want that?

1 MR. GARCIA: Perfect.

2 THE HEARING EXAMINER: Okay. Perfect.  
3 So, Mr. Blanford, there are three data points that  
4 Mr. Garcia is asking for. Do you understand all  
5 three?

6 THE WITNESS: Yes. He wants the  
7 numbers on what -- what cost savings, land acreage  
8 disturbance and the amount of emissions reduced.

9 THE HEARING EXAMINER: Okay. That's  
10 correct, right, Mr. Garcia?

11 MR. GARCIA: Correct.

12 THE HEARING EXAMINER: All right. So,  
13 Mr. Blanford, when will you be able to provide that,  
14 so we can take this case under advisement?

15 THE WITNESS: I can work on getting  
16 that today, so.

17 THE HEARING EXAMINER: Okay. So, Ms.  
18 McLean, it sounds like you'll have this soon. When do  
19 you want me to expect that you'll send it, so I can  
20 close the record?

21 MS. MCLEAN: Monday, the 26th.

22 THE HEARING EXAMINER: Monday. Okay.  
23 Very good. I think that's the 26th, is that right?

24 MS. MCLEAN: Correct.

25 THE HEARING EXAMINER: All right, so we

1 have August 26th. I would like this to be an exhibit  
2 of the landman's because he's attesting to this as  
3 true and accurate. So please present an amended  
4 exhibit packet with a cover letter to explain why you  
5 are amending it. Once we get that by the close of  
6 business on the 26th, we will take this case under  
7 advisement. Mr. Garcia, anything further on this  
8 case?

9 MS. GARCIA: Not on this case.

10 All right, very good. Ms. McLean, are  
11 you ready to proceed to your next case, 24552?

12 MS. MCLEAN: I am.

13 THE HEARING EXAMINER: And your  
14 appearance, please?

15 MS. MCLEAN: Jackie McClean of Hinkle  
16 Shanor on behalf of Mewbourne Company.

17 THE HEARING EXAMINER: And do we have  
18 any other parties entering?

19 MS. MCLEAN: Not in this case.

20 THE HEARING EXAMINER: Okay. Very  
21 good. So go right ahead.

22 MS. MCLEAN: In case number 24552,  
23 Mewbourne applies for an order pooling all uncommitted  
24 interests in the Bone Spring formation and a 1,924.32  
25 acres spacing unit, comprised of sections 1, 2, and 3,

1 township 20, south range 27 East, in Eddy County. And  
2 in this one Mewbourne is also seeking approval of a  
3 non-standard horizontal spacing unit with the  
4 application. So I anticipate we'll have the same  
5 question. The exhibit packet that we did submit  
6 includes the compulsory pooling checklist,  
7 self-affirmed statement of Braxton Blanford, and  
8 geologist Charles Crosby, as well. And then Exhibit C  
9 is the notice exhibits.

10 And again, these were sent out by  
11 Jim Bruce, but we have reviewed and can attest that  
12 the letters were sent to interested parties and  
13 publication was made on July 13th, 2024. And I'd ask  
14 that exhibits A, B, and C and all sub exhibits be  
15 admitted into record and that case 24552 be taken  
16 under advisement. Thank you.

17 Are there any objections? Not  
18 hearing any, the exhibits are admitted into evidence.  
19 Mr. Garcia, do you have the same issue with this case?

20 (Case 24552 Exhibits A, B and C were  
21 marked for identification and received  
22 into evidence.)

23 MR. GARCIA: Yes. And same list.

24 So Mr. Blanford, please turn on your  
25 screen. Mr. Blanford, we're going to need the same

1 information for this case as we did for the other  
2 case. Is that acceptable to you?

3 THE WITNESS: Yes.

4 THE HEARING EXAMINER: Okay. I think  
5 you said yes.

6 THE WITNESS: Yes, I did.

7 THE HEARING EXAMINER: Thank you. And  
8 same timeframe for this or is that going to delay you?

9 THE WITNESS: No, I believe I should be  
10 able to do the same timeframe.

11 THE HEARING EXAMINER: Okay, very good.  
12 Thank you. You can turn your camera off again. So,  
13 Ms. McClean, we will keep the record open for the same  
14 amount of time for this case, expecting the same  
15 amended exhibit packet with the landman exhibit being  
16 added, cover letter. And then, we'll take it under  
17 advisement once we get that August 26th close of  
18 business.

19 MS. MCLEAN: Okay. We will do that.

20 THE HEARING EXAMINER: All right, thank  
21 you. Well, we're in recess on these two cases. I'm  
22 now moving to 24602 and 24604, Ameredev Operating.  
23 Enter appearances, please.

24 MS. VANCE: Yes, good morning,  
25 Mr. Hearing Examiner, Mr. Garcia. Paula Vance on

1 behalf of the applicant Ameredev Operating, LLC.

2 THE HEARING EXAMINER: Okay. Please  
3 proceed.

4 MS. VANCE: Thank you, Mr. Hearing  
5 Examiner. And I will present these as consolidated  
6 cases. All of the acreage for both of these cases is  
7 within township 26, south range 36 east, Lee County,  
8 New Mexico. And specifically, in case 24602 Ameredev  
9 is seeking to pool the interest in a standard  
10 320-acre, more or less horizontal well spacing unit,  
11 comprised of the west half of the east half of  
12 sections 3 and 10. And dedicate this to the Pimento  
13 Fed Com 26-36-03 11TH. And then, in case number  
14 24604, Ameredev seeks to pool the interest in a  
15 standard 320 acre spacing, more or less horizontal  
16 well spacing unit. And that would be comprised of the  
17 east half east half of sections 3 and 10 and dedicate  
18 this to the Pimento Feck Com 26-36-03 117H. And both  
19 of those it would be pooling in the Wolf Camp and it's  
20 a Wildcat Wolf Camp pool. And that pool code is  
21 98234.

22 In these cases we have included a copy  
23 of the application. We've provided the compulsory  
24 pooling checklist as well as the self-affirmed  
25 statements of Landman, Brandon Fortezza and geologist,

1 Parker Foy, both whom have previously testified before  
2 the division and the credentials have been accepted as  
3 a matter of record. Mr. Forteza's statement is  
4 Exhibit C, and that includes all of the standard land  
5 exhibits. And then, Mr. Foy's statement is Exhibit D,  
6 and that includes all of the standard sub exhibits for  
7 geology. In this case, Mr. Foy did not observe any  
8 faulting pinch outs or other geologic impediments to  
9 the horizontal drilling of these wells.

10 And then, lastly we have Exhibit E,  
11 which is my self-affirmed statement of notice with a  
12 sample copy of the notice letter that went out, and  
13 that was on August 2nd, 2024. And then, a copy of the  
14 Affidavit of Notice of Publication, which is Exhibit  
15 F. And that was timely published on August 6th, 2024.  
16 And I would note we redid, you'll see that these are,  
17 revised hearing packets and that is because we redid  
18 the notice. We needed to redo the notice in these and  
19 that's why we continued. And you'll see that there  
20 are revised hearing packets in both of those cases.  
21 And on the cover letter we point out each of the  
22 exhibits that we swapped out.

23 And just to highlight which ones those  
24 are, in both cases it would be a revised Exhibit CH,  
25 which is the pooling exhibit. A revised Exhibit CH,

1 which is the chronology of contacts. And then the  
2 notice both the letter notice, and the Affidavit of  
3 Notice of Publication. So revised Exhibits E and F.  
4 Unless there are any questions, I would ask that all  
5 exhibits and sub exhibits for both cases be taken  
6 under advisement -- be admitted into the record and  
7 that these cases be taken under advisement. We'll  
8 standby by for questions.

9 (Cases 24602 and 24604 Exhibits A  
10 through F were marked for  
11 identification.)

12 THE HEARING EXAMINER: When did you  
13 file the initial exhibit packet?

14 MS. VANCE: I would have to check the  
15 case file to see .

16 THE HEARING EXAMINER: Let me see. If  
17 it's easy to find, I can find it. Okay, on 7/5. I see  
18 it.

19 MS. VANCE: Yes.

20 THE HEARING EXAMINER: So Freya, would  
21 you remove the exhibit packet filed on 7/5?

22 MS. TSCHANTZ: Yes.

23 THE HEARING EXAMINER: All right. In  
24 both cases?

25 MS. TSCHANTZ: Yes.

1 THE HEARING EXAMINER: All right.  
2 Thank you. All right. So are there any objections to  
3 these exhibits admitted into evidence? Not hearing  
4 any, these exhibits are admitted into evidence. Mr.  
5 Garcia, do you have any questions In cases 24602 and  
6 24604?

7 (Cases 24602 and 24604 Exhibits A  
8 through F were received into evidence.)

9 MR. GARCIA: I do not.

10 THE HEARING EXAMINER: Okay, very good.  
11 These two cases are taken under advisement. Thank  
12 you.

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

15 THE HEARING EXAMINER: We're now moving  
16 to some Mewbourne Oil cases, 24655, 56, 57, and 58.  
17 Enter an appearance, please.

18 MS. MCLEAN: McClain with Hinkel Shanor  
19 on behalf of Mewbourne Oil Company.

20 THE HEARING EXAMINER: Thank you. Are  
21 there any other parties?

22 MS. MCLEAN: Not in these cases.

23 THE HEARING EXAMINER: Not in these  
24 cases. Okay. So would you like to present them as a  
25 group?

1 MS. MCLEAN: Yes.

2 THE HEARING EXAMINER: Excellent,  
3 please.

4 MS. MCLEAN: Thank you. In case  
5 numbers 24655, 56, 57, and 58, Mewbourne seeks to pool  
6 uncommitted entrance in the Bone Spring and Wolf Camp  
7 formations in all of section 33, in the east half half  
8 and southwest quarter of section 28, township 21,  
9 south range 32 east, in Lee County. And with these  
10 Mewbourne has already applied for and received  
11 administrative approval for these to be non-standard  
12 horizontal spacing units. In case numbers 24657 and  
13 24658, Mewbourne is also requesting that order numbers  
14 R22924, R22925, and R22926 be vacated. And these  
15 orders cover much of the acreage as a subject of these  
16 current applications. And since these orders were  
17 entered last year, Mewbourne's drilling plans have  
18 changed.

19 The exhibit packet submitted to the  
20 division for these cases include the compulsory  
21 pooling checklist, Exhibit A is the self-affirmed  
22 statement of Adriana Salgado and accompanying land  
23 exhibits. And she has previously testified before the  
24 division. Exhibit B is the self-affirmed statement of  
25 Tyler Hill and his corresponding geology exhibits.

1 Mr. Hill has also previously testified before the  
2 division. And then, Exhibit C, the notice exhibits.  
3 And for these Mr. Bruce also sent out notice that we  
4 have reviewed. And notice letters were sent to  
5 interested parties, and it was published on July 10th,  
6 2024. So I ask that Exhibits A, B, and C and all sub  
7 exhibits be admitted into the record. And that case  
8 numbers 24655 through 24658 be taken under advisement.

9 THE HEARING EXAMINER: Are there any  
10 objections? Not hearing any, cases 24655, 56, 57 and  
11 58 are all admitted with the exhibit packets into  
12 evidence. And are there any questions, Mr. Garcia, on  
13 these four cases?

14 (Cases 24655 to 24658 Exhibits A  
15 through C were marked for  
16 identification and received into  
17 evidence.)

18 MR. GARCIA: No questions.

19 THE HEARING EXAMINER: Thank you.  
20 These four cases will be taken under advisement. I'm  
21 now going to call two cases that are on the docket  
22 24705 and 24706, Mewbourne Oil, but I'm also calling  
23 24703 and 24704, which are not on the docket, but  
24 which will be continued to this docket, after the  
25 hearing is over. Enter your appearance, please?

1 MS. MCLEAN: Yes, Jackie McClain on  
2 behalf of Mewbourne. Well, would you like us to  
3 present 24703 and 04 first, or 24705 and 706?

4 THE HEARING EXAMINER: Are they  
5 related?

6 MS. MCLEAN: No, they are not.

7 THE HEARING EXAMINER: So 03 and 04,  
8 are they related to each other?

9 MS. MCLEAN: Yes.

10 THE HEARING EXAMINER: Those are. What  
11 about 05 and 06, are they related to each other?

12 MS. MCLEAN: Yes, they are.

13 THE HEARING EXAMINER: Either way.  
14 Present them in either order you want.

15 MS. HARDY: Mr. Examiner, thank you.  
16 Dana Hardy, Hinkle Shanor. I will present to your  
17 cases 24703 and 24704.

18 THE HEARING EXAMINER: And are there  
19 any other parties in this case?

20 MS. HARDY: There are not.

21 THE HEARING EXAMINER: Okay, very good.  
22 Please proceed.

23 MS. HARDY: And, Mr. Examiner, these  
24 cases were heard on the last docket and were continued  
25 to today so that we can provide the Affidavits of

1 Publication, because those were not available at the  
2 time.

3 THE HEARING EXAMINER: Yes.

4 MS. HARDY: So we have provided those.  
5 We filed our amended exhibits and those show that we  
6 timely published notice on July 27th. We did also  
7 submit amended exhibits because the technical examiner  
8 of the last hearing had requested that we remove the  
9 exhibit stickers from several exhibits and relocate  
10 them. So we also did that and provided those. So at  
11 this point, I would just ask that the exhibits be  
12 admitted to the record and these two cases be taken  
13 under advisement.

14 THE HEARING EXAMINER: Okay, let me  
15 just review this. So Exhibits 2A, C and D were  
16 resubmitted without stickers, is that the idea?

17 MS. HARDY: That's correct.

18 THE HEARING EXAMINER: All right. And  
19 then we have the Affidavit of Publication at the end.  
20 Let me take a look. And Exhibit 5 is what I'm looking  
21 at; is that right?

22 MS. HARDY: C5, yes.

23 THE HEARING EXAMINER: Perfect. And  
24 looks like it's page 30 of 33.

25 MS. HARDY: Yes.

1 THE HEARING EXAMINER: Looks like it  
2 was published on July 27th. So there's been plenty of  
3 time to perfect that notice. Are there any  
4 objections? Not hearing any, these exhibits in these  
5 two cases are admitted into evidence. Well, Mr.  
6 Garcia, are there any questions on these two cases?

7 (Cases 24703 and 24704 Exhibits 1  
8 through 6 were marked for  
9 identification and received into  
10 evidence.)

11 MR. GARCIA: No questions.

12 THE HEARING EXAMINER: Excellent. So  
13 cases 24703 and 24704 are taken under advisement. And  
14 now 05 and 06, please.

15 MS. VANCE: Thank you.

16 MS. MCLEAN: Yes, Jackie McLean for  
17 Mewbourne in 24705 and 24706. And in these cases,  
18 Mewbourne is seeking to pool uncommitted interest in  
19 the Bone Spring and Wolf Camp formations in all of  
20 section 27, 28, and 29, in township 20, south range 27  
21 east, in Eddy County and Mewbourne has applied for  
22 administrative approval for these non-standard spacing  
23 units. So that's not requested in this application.  
24 And then, in case number 24705, Mewbourne's also  
25 requesting that order numbers R22327 and R22328 be

1 vacated due to a change of drilling plans since those  
2 orders were entered, the exhibit packets that were  
3 submitted in these cases include the compulsory  
4 pulling checklist.

5 Exhibit A is the self-affirmed  
6 statement of Braxton Blanford and accompanying land  
7 exhibits. He has previously testified before.  
8 Exhibit B, geology exhibit including the self-affirmed  
9 statement of Charles Crosby, who has previously  
10 testified before the division, as well. And Exhibit  
11 C, notice exhibits. And for these, Mr. Bruce sent out  
12 the letters we've reviewed. And the letters were  
13 sent out to the interested parties and notice was  
14 published on July 27th, 2024. So with that I ask that  
15 exhibits A, B, C and all sub exhibits be admitted to  
16 the record and that case number is 24705 and 24706 be  
17 taken under advisement.

18 THE HEARING EXAMINER: Are there any  
19 objections? Not hearing any, your exhibits in both  
20 cases are admitted into evidence. Mr. Garcia, any  
21 questions on these two cases?

22 (Cases 24705 and 24706 Exhibits A, B,  
23 and C were marked for identification  
24 and received into evidence.)

25 MR. GARCIA: No questions.

1 THE HEARING EXAMINER: Thank you.  
2 These two cases are taken under advisement. And  
3 Ms. McLean, if I'm not mistaken, we had a case that  
4 was a status conference that we're now going to hear  
5 as a hearing by affidavit. What case number was that?

6 MS. MCLEAN: Oh, for that.

7 MS. HARDY: That is case number 24416.

8 THE HEARING EXAMINER: Yeah, the very  
9 first case of the day. Okay.

10 MS. HARDY: Yes.

11 THE HEARING EXAMINER: Okay. We'll  
12 call that at the end, 24416. Okay. So thank you.  
13 I'm now moving on to case 24709, Chevron USA.

14 MR. SAVAGE: Good morning, Mr. Hearing  
15 Examiner. Good morning Mr. Technical examiner.  
16 Darin Savage, with Abadie & Schill appearing on behalf  
17 of Chevron USA, Incorporated.

18 THE HEARING EXAMINER: Okay. Please  
19 proceed.

20 MR. SAVAGE: Mr. Hearing Examiner, this  
21 case was continued to today, it was originally heard  
22 on August 8th and basically it was continued to cure  
23 the publication notice, which was two days late. So I  
24 believe that would be cured at this point. You also  
25 asked us to submit an amended hearing packet and that

1 was to address the spacing unit, and we did that.

2 THE HEARING EXAMINER: Let me take a  
3 look. The last thing I have filed in this case, now  
4 we are talking about 24709; right?

5 MR. SAVAGE: 24709.

6 THE HEARING EXAMINER: The last thing I  
7 have filed in this case was an unopposed Motion for  
8 Continuance.

9 MR. SAVAGE: Correct.

10 THE HEARING EXAMINER: Okay. So let me  
11 go back in time. I have a notice of filing an amended  
12 hearing packet. It was filed on the 15th. Chevron  
13 USA submits attached hereto Exhibit 1. Chevron has  
14 amended the hearing packet to include a revised  
15 compulsory pooling checklist that lists the acreage of  
16 the unit of the spacing unit section. Okay. And  
17 that's what the technical examiner told you to --

18 MR. SAVAGE: Yes sir.

19 THE HEARING EXAMINER: So that's here.  
20 And now, I'm looking for your publication; is that  
21 right?

22 MR. SAVAGE: The publication is Exhibit  
23 C3.

24 THE HEARING EXAMINER: I see that it's  
25 July 27, which is obviously more than 10 days before

1 today. So that's cured. Is there anything further on  
2 this?

3 MR. SAVAGE: I don't believe so.

4 THE HEARING EXAMINER: All right. Are  
5 there any objections to this amended hearing packet?  
6 Not hearing any, the amended packet is entered as  
7 evidence. Mr. Garcia, any questions in 24709?

8 (Case 24709 Exhibits A through C were  
9 marked for identification and received  
10 into evidence.)

11 MR. GARCIA: No questions.

12 All right, thank you. This case is  
13 taken under advisement. Mr. Savage, thank you. I'm  
14 calling E.G.L. Resources 24719 and 24720.

15 MS. HARDY: Mr. Examiner, Dana Hardy  
16 with Hinkle Shanor on behalf of E.G.L. Resources.

17 MR. FELDEWERT: Thank you,  
18 Mr. Examiner. Michael Feldewert, Santa Fe of Holland  
19 & Hart for MRC Permian Company.

20 THE HEARING EXAMINER: Thank you. Now,  
21 it looks like Ms. Kessler might be representing EOG.  
22 I don't know if she's with us.

23 MS. HARDY: She let me know that she  
24 was going to not be on this part of the hearing and  
25 that she does not object.

1 THE HEARING EXAMINER: Perfect. Did  
2 she object at one time?

3 MS. HARDY: She did not.

4 THE HEARING EXAMINER: Mr. Feldewert,  
5 did you object at one time?

6 MR. FELDEWERT: I don't believe so.  
7 And we have no objection to them proceeding by  
8 affidavit.

9 THE HEARING EXAMINER: All right.  
10 Thank you. Ms. Hardy.

11 MS. HARDY: In case number 24719, EOG  
12 seeks an order pooling uncommitted interest in the  
13 first Bone Spring interval of the Bone Spring  
14 formation underlying a 640-acre, more or less standard  
15 horizontal spacing unit comprised of the east half of  
16 sections 24 and 25, township 18, south range 32 east,  
17 in Lee County and proposes to dedicate the unit to the  
18 LAK 24-25 Fed Com 10TH, 102H, and 103H files. And due  
19 to a depth severance, we are seeking to pool only the  
20 first Bone Spring from the top of the formation to a  
21 depth of approximately 8,700 feet. TVD. In case  
22 number 24720 E.G.L. seeks to pool a limited interest  
23 in the second Bone Spring, underlying the same  
24 acreage. That unit will be dedicated to the LAK 24-25  
25 Fed Com 20TH, 203H and 205H wells. And again, due to

1 depth severance, we are pooling the second Bone Spring  
2 from a depth of approximately 8,700 feet to 9,580 feet  
3 TVD.

4 In each case, our exhibits include the  
5 self-affirmed statements of Matthew Langhoff and  
6 geologist, Matthew Pardee. Mr. Langhoff has  
7 previously testified as an expert before the division  
8 and provides his standard land exhibits. Mr. Pardee  
9 has not previously testified before the division.  
10 We've provided his resume as Exhibit BE. He has a  
11 bachelor's degree in geoscience, has taken courses  
12 toward a master's in geophysics, and has worked as a  
13 geologist in the petroleum industry since 2013. And I  
14 would request that he be accepted as an expert in  
15 petroleum geology. I do believe he's available.

16 THE HEARING EXAMINER: Mr. Pardee, would  
17 you turn on your camera?

18 MR. PARDEE: Yes.

19 THE HEARING EXAMINER: Thank you.

20 Would you raise your right hand, please?

21 //

22 //

23 //

24 //

25 //

1 WHEREUPON,

2 MATTHEW PARDEE,

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, under penalty of perjury, was examined and  
6 testified as follows:

7 THE WITNESS: Yes, I do.

8 THE HEARING EXAMINER: All right.

9 Thank you. You're seeking to be admitted as a  
10 petroleum geologist?

11 THE WITNESS: That's correct. All  
12 right. Can you outline your experience? I'm not  
13 looking at your resume right now. So just verbally  
14 explain to me how your education and experience  
15 qualifies you as a petroleum geologist?

16 THE WITNESS: Yes, sir. I got my  
17 bachelor's in science from Salem State University in  
18 Massachusetts. I focused on geophysics there. After  
19 that I got a job with Chesapeake Energy, out in  
20 Oklahoma City. I worked there for about six months,  
21 mud logging in the field, and then promoted to Geotech  
22 inhouse in Oklahoma. While in Oklahoma was . I got my  
23 masters in Oklahoma State University. It was cut  
24 short. From there, I went to Gloster, for a  
25 contractor for hospital resources and subsequently was

1 picked up by PBX thereafter as the geologist.

2 THE HEARING EXAMINER: I'm able to hear  
3 most of what you were saying, but not all of it. What  
4 is your title now?

5 THE WITNESS: Resources.

6 THE HEARING EXAMINER: PBS resources.  
7 Is that part of E.G.L.?

8 THE WITNESS: I believe we are a  
9 subsidiary of E.G.L. or vice versa, yes.

10 THE HEARING EXAMINER: I see. Okay.  
11 And are your job duties now?

12 THE WITNESS: I handle everything from  
13 evaluating acquisition divestitures, to our  
14 development models, to putting together acquisition  
15 proposals for exploratory -- for exploratory assets as  
16 well as all of our operations, whether it be gesturing  
17 or geology.

18 THE HEARING EXAMINER: I'm trying to  
19 qualify you as a petroleum geologist. So would you  
20 give me that answer again focusing on petroleum  
21 geology?

22 THE WITNESS: Yes, sir. So I go  
23 through -- I use all of our well log data using my  
24 geologic software. Where needed I will calculate our  
25 physics logs, correlate all of our well logs and

1 physics into a geologic model being both depositional  
2 as well as reservoir quality. And then, provide those  
3 examples to our reservoir engineering team,  
4 engineering teams to give them my input on applicants  
5 we should or should not acquire.

6 THE HEARING EXAMINER: Okay. Thank you  
7 Mr. Pardee. You're hereby qualified as a petroleum  
8 geologist before this division from here on in.  
9 Ms. Hardy.

10 MS. HARDY: Thank you. Mr. Examiner,  
11 Exhibit C includes my notice affidavit and the  
12 associated sub exhibits. We did provide notice to all  
13 of the affected parties, and we did timely publish  
14 notice on August 6th. So with that, unless there are  
15 questions, I would request that the exhibits and sub  
16 exhibits be admitted to the record and that these  
17 cases be taken under advisement.

18 THE HEARING EXAMINER: Are there any  
19 objections?

20 MR. FELDEWERT: Thank you. These  
21 exhibits are admitted in both cases. Mr. Garcia, any  
22 questions?

23 //

24 //

25 //

1 (Cases 24719 and 24720 Exhibits A  
2 through C were marked for  
3 identification and received into  
4 evidence.)

5 MR. GARCIA: No questions.

6 THE HEARING EXAMINER: Thank you.

7 These two cases are taken under advisement. Thank  
8 you. We have two cases left. We have COG Operating  
9 24745.

10 MS. VANCE: Good morning again,  
11 Mr. Hearing Examiner, Mr. Garcia. Paula Vance with  
12 the Santa Fe office of Holland & Hart on behalf of the  
13 applicant COG Operating, LLC.

14 THE HEARING EXAMINER: So this is an  
15 amendment case?

16 MS. VANCE: Yes, it's an extension.

17 THE HEARING EXAMINER: Yes.

18 MS. VANCE: It's a request for an  
19 extension.

20 THE HEARING EXAMINER: Please just  
21 focus on good cause and notice.

22 MS. VANCE: Okay, I will jump straight  
23 to those exhibits then.

24 THE HEARING EXAMINER: Thank you.

25 MS. VANCE: So Exhibit C is the

1 self-affirmed statement of Shelly Klingler. And I  
2 believe it's in paragraph 4 that she addresses good  
3 cause. COG is addressing some logistical requirements  
4 for electrical and pipeline connection and gathering  
5 systems. We did provide an updated pooling exhibit.  
6 I believe it's Mewbourne's interest previously pooled.  
7 Was sold to Waterloo and that is also spelled out in  
8 her statement. And then, as far as the notice, that  
9 would be exhibit D. And included is my self-affirmed  
10 statement of notice. All of the parties, if you look  
11 at the mailing report, received the letter notice  
12 which was dated August 2nd, 2024. So we did not  
13 include the NOP. And unless there are any questions,  
14 I would ask that the exhibits be admitted into the  
15 record and that the case be taken under advisement.

16 THE HEARING EXAMINER: Are there any  
17 objections? Not hearing any, these exhibits are  
18 admitted in this case.

19 (Case 24745 Exhibits A through D were  
20 marked for identification and received  
21 into evidence.)

22 Mr. Garcia, are there any questions?  
23 It looks like there is.

24 MR. GARCIA: That might be me learning.  
25 Ms. Vance, I guess I would . I don't how to phrase

1 this question. When that interest is sold, is it  
2 assumed that it is sold already pooled. I -- I guess  
3 I'm just curious how it works.

4 MS. VANCE: It's subject to the pooling  
5 order; correct.

6 MR. GARCIA: Okay. So you're not  
7 seeking to pool an additional price, you're just  
8 seeking for just the Rolfe exemption?

9 MS. VANCE: Yes, that's correct.

10 MR. GARCIA: Okay, perfect. Sorry,  
11 never -- no one's ever talked to me about how it just  
12 sold, gets sold and if it's subject to it or not?

13 MS. VANCE: That's correct.

14 THE HEARING EXAMINER: Mr. Garcia, do  
15 you have any questions for the landman about good  
16 cause?

17 MR. GARCIA: I don't believe so. I saw  
18 an affidavit.

19 THE HEARING EXAMINER: Okay.  
20 Wonderful. Well, thank you, Mr. Garcia. This case  
21 will be taken under advisement. And we conclude  
22 today's docket with our first case 24416. We've  
23 already had entries of appearance. Ms. Hardy.

24 MS. HARDY: Mr. Examiner, prior to that  
25 case there is one case, which is 24753.

1 THE HEARING EXAMINER: Where do you see  
2 that on the docket?

3 MS. HARDY: It's the very last page.  
4 There's Permian Resources, the Koalas, number 51.

5 THE HEARING EXAMINER: I don't see that  
6 on my docket. Do you have it on your docket?

7 MS. HARDY: There's the last page with  
8 one case.

9 THE HEARING EXAMINER: Ah, yes. You're  
10 right. There it is.

11 MS. HARDY: We're almost done.

12 THE HEARING EXAMINER: Well, 24416. So  
13 let's deal with that case first. Ms. Hardy.

14 MS. HARDY: Okay, thank you. Let me  
15 just pull that up. In this case, E.G.L. seeks to rule  
16 a committed interest. Hold on, let me just -- I'm  
17 sorry. I need to get to the right case number. I was  
18 prepared to present the .-

19 THE HEARING EXAMINER: 24753.

20 MS. HARDY: Yes.

21 THE HEARING EXAMINER: Sorry.

22 MS. HARDY: Okay. In this case, E.G.L.  
23 seeks an order pooling on committed interest in the  
24 Bone Spring underlying a 640-acre standard horizontal  
25 spacing unit comprised of the west half of sections 10

1 and 15, township 18, south range 33 east, in the  
2 county. And proposes to dedicate the unit to the  
3 Smithers 10-15 Fed Com 102H, 103H, 201H and 203H  
4 wells. Our exhibits include the self-affirmed  
5 statements of Landman, Matthew Langhoff and geologist  
6 Matthew Pardee, both of whom have now testified  
7 previously as experts before the division.  
8 Mr. Langhoff provides the standard land exhibits and  
9 then Mr. Pardee provides the standard geology  
10 exhibits. Our notice information is included in  
11 Exhibit C. And we did provide notice to all of the  
12 effective parties and we also timely published notice.  
13 So with that, unless there are questions, I request  
14 that the case be taken under advisement and that the  
15 exhibits be accepted.

16 (Case 24416 Exhibits A, B, and C were  
17 marked for identification.)

18 THE HEARING EXAMINER: Thank you.

19 Mr. Feldewert, I do see where you had filed an  
20 objection just two days ago. And it's your  
21 representation that you're withdrawing that objection.

22 MR. FELDEWERT: It's with the  
23 understanding, and I guess we need to get it  
24 confirmed, that Mobil Producing Texas and NM, Inc is  
25 being removed from the pooling part of this.

1 THE HEARING EXAMINER: And that would  
2 be the landman who testified to that; is that correct:

3 MR. FELDEWERT: Yes.

4 THE HEARING EXAMINER: Okay, fine. So  
5 we'll get the landman up so you can ask that question.  
6 So let's do that first before we admit these  
7 documents. Because as I see it, you still have an  
8 objection here and we need to deal with that so that  
9 you can remove it.

10 Mr. Langhoff, would you please raise  
11 your right hand?

12 MR. LANGHOFF: Yes, sir.

13 THE HEARING EXAMINER: Thank you, sir.

14 WHEREUPON,

15 MATTHEW LANGHOFF,  
16 called as a witness and having been first duly sworn  
17 to tell the truth, the whole truth, and nothing but  
18 the truth, under penalty of law, was examined and  
19 testified as follows:

20 THE WITNESS: Yes.

21 THE HEARING EXAMINER: All right. Now,  
22 Mr. Feldewert.

23 CROSS-EXAMINATION

24 BY MR. FELDEWERT:

25 Q Mr. Langhoff, does the company intend to

1 file an amended pooling party list that will remove  
2 XTO's entity from the pooling list?

3 A Yes, sir. Ms. Hardy has that, and that  
4 should be filed.

5 Q Okay. And that would be Mobil Producing  
6 Texas and NM, Inc; correct?

7 A That is correct.

8 Q And there's no other XTO entity that was on  
9 your list other than that entity?

10 A That is correct.

11 Q Okay.

12 MR. FELDEWERT: So with the  
13 representation that that is being filed, then we  
14 remove our objection.

15 THE HEARING EXAMINER: All right. Will  
16 you be filing a document removing your objection?

17 MR. FELDEWERT: Yes.

18 THE HEARING EXAMINER: All right.  
19 Good. So, Ms. Hardy, there's no objection to your  
20 exhibits, however, the record will stay open for you  
21 to file an amended exhibit packet with this new  
22 document from your landman showing an amended pooling  
23 party checklist, removing XTS subsidiary or whatever  
24 you call it, mobile production, et cetera. Okay.

25 //

1 (Case 24416 Exhibits A through C were  
2 received into evidence.)

3 MS. HARDY: Thank you.

4 THE HEARING EXAMINER: All right. When  
5 can you file it.

6 MS. HARDY: I believe we can do that  
7 today.

8 THE HEARING EXAMINER: Today. Okay.  
9 How about we say tomorrow, close of business?

10 MS. HARDY: That's perfect.

11 THE HEARING EXAMINER: All right, so  
12 Mr. Langhoff, you heard all that; right?

13 THE WITNESS: Yes.

14 THE HEARING EXAMINER: All right.  
15 Thank you for your participation. We have a deadline  
16 of 8/23 for the amended exhibit packet. What exhibit  
17 will be amended by the way?

18 MS. HARDY: It's exhibit A.

19 THE HEARING EXAMINER: A?

20 MS. HARDY: Yes.

21 THE HEARING EXAMINER: Thank you. All  
22 right, we're in recess in this case. Thank you. Now  
23 24753.

24 MR. GARCIA: Mr. Examiner.

25 THE HEARING EXAMINER: Uh, oh. Yes.

1 MR. GARCIA: Quick question on the last  
2 case too, if I may.

3 THE HEARING EXAMINER: Please.

4 MR. GARCIA: For the landman.

5 THE HEARING EXAMINER: Oh, for the  
6 landman. All right. Well, were' not in recess. Come  
7 back.

8 MR. GARCIA: All right. It's a minor  
9 question.

10 THE HEARING EXAMINER: Okay, we're back  
11 on the record. We're back on the record for a  
12 question from Mr. Garcia to Mr. Langhoff.

13 MR. GARCIA: Mr. Langhoff, in your  
14 affidavit you say your overhead rate will be 7,500 a  
15 month while drilling, 750 a month while producing.  
16 Your checklist you filed has different numbers in  
17 them. So as you're revising your exhibits, can you  
18 update whichever one's correct?

19 THE WITNESS: Yes sir.

20 MR. GARCIA: And, I guess, can you  
21 answer which one's correct too, for the record? Your  
22 checklist shows 9,800 for the drilling production.

23 THE WITNESS: That 9,000 is what we're  
24 going with in more recent development. So it will be  
25 corrected to reflect 9,900.

1 MR. GARCIA: Okay. Your testimony says  
2 7,500.

3 THE HEARING EXAMINER: So maybe,  
4 Ms. Hardy, if you could remind him of that, too.

5 THE WITNESS: Yes, sir.

6 MS. HARDY. We will do that.

7 THE HEARING EXAMINER: So what document  
8 will have the 9,000 replacing the 7500?

9 MS. HARDY: That is in Mr. Langhoff's  
10 Exhibit A.

11 THE HEARING EXAMINER: His affidavit?

12 MS. HARDY: His affidavit; correct.

13 THE HEARING EXAMINER: Okay. So he'll  
14 have to submit a new affidavit then?

15 MS. HARDY: Yes.

16 THE HEARING EXAMINER: Okay. All  
17 right. Not 7,500. Okay. Excellent. Thank you,  
18 Mr. Langhoff. Thank you Mr. Garcia. We'll leave the  
19 hearing record open until tomorrow, close of business  
20 for those two documents to be amended. Thank you.

21 Okay, now we are at the last case of  
22 the day, 24753. Enter an appearance, please.

23 MS. HARDY: Dana Hardy with Hinkle  
24 Shanor on behalf of Colgate Production.

25 THE HEARING EXAMINER: Thank you.

1 Please proceed.

2 MS. HARDY: Thank you. Colgate  
3 requests a one-year year extension of time in this  
4 case to commence drilling the wells authorized by  
5 order number R22837, which includes the Koala 9 Fed  
6 Com wells. Colgate is requesting an extension so that  
7 the wells in the second Bone Spring formation can be  
8 uniformly developed with projects and offset acreage.  
9 They are going to drill the wells at the same time to  
10 avoid parent child effects on the wells, which would  
11 lead to a decreased ultimate recovery in waste. So  
12 it's a contemporaneous development situation that's  
13 resulted in the need for an extension of the joined  
14 deadline.

15 THE HEARING EXAMINER: So that's the  
16 good cause?

17 MS. HARDY: That's the good cause.  
18 Thank you. And we provided the sworn statement of  
19 Landman, Travis Macha in support of the application.  
20 He has previously testified as an expert before the  
21 division. My notice affidavit is Exhibit B. We  
22 notified the parties who originally were notified of  
23 the first case, the first polling case, and did timely  
24 publish on August 8th. So with that, I would request  
25 that the exhibits be admitted and that the case be

1 taken under advisement.

2 THE HEARING EXAMINER: And the good  
3 causes in paragraph 6, I believe of the affidavit.

4 MS. HARDY: That is correct. All  
5 right.

6 THE HEARING EXAMINER: Excellent. Are  
7 there any objections? Not hearing any, your exhibits  
8 are admitted. Mr. Garcia, any questions on this case?

9 (Case 24753 Exhibits A and B were  
10 marked for identification and received  
11 into evidence.)

12 MR. GARCIA: No questions.

13 THE HEARING EXAMINER: This case is  
14 taken under advisement and Mr. Feldberg

15 MR. FELDEWERT: No, go ahead. I got  
16 another matter.

17 THE HEARING EXAMINER: Great. This  
18 case is taken under advisement.

19 MS. HARDY: Thank you.

20 THE HEARING EXAMINER: Mr. Feldewert.

21 MR. FELDEWERT: Thank you,  
22 Mr. Examiner. There's a matter that's not on the  
23 docket that Ms. Bennett and I would like to address  
24 with you. We represent the only two parties in the  
25 case.

1 THE HEARING EXAMINER: Let me call the  
2 case.

3 MR. FELDEWERT: Okay. It involves a  
4 number of cases.

5 THE HEARING EXAMINER: Ah, it's one of  
6 these.

7 MR. FELDEWERT: Yeah, it's one of  
8 these. So the initial case number is 24457.

9 THE HEARING EXAMINER: All right. Let  
10 me get to it. I think we have a system now that we  
11 join cases and I'll be able to see what .-

12 MR. FELDEWERT: If you go into the case  
13 file, you'll see an amended pre-hearing order at the  
14 end of that case file on 24457. So that provides all  
15 the case numbers for you.

16 THE HEARING EXAMINER: Perfect. Let me  
17 get to it. And I believe that you feel there's some  
18 benefit in doing this in person, then filing a motion.

19 MR. FELDEWERT: Yes.

20 THE HEARING EXAMINER: You'll be more  
21 persuasive in person.

22 MR. FELDEWERT: Well, I think it would  
23 be more efficient, especially mindful of your efforts  
24 to save administrative efficiency.

25 THE HEARING EXAMINER: Of course. I

1 see I issued an amended pre-hearing order in these  
2 cases.

3 MR. FELDEWERT: Yes.

4 THE HEARING EXAMINER: So let me call  
5 the cases. We have case numbers 24457, 59, and 79,  
6 24460, 62, 63, 24778 through 24783 and 24784 through  
7 24790. Entries of appearance, please.

8 MR. FELDEWERT: Mr. Examiner,  
9 Michael Feldewert, Santa Fe office of Holland & Hart  
10 on behalf of MRC Permian Company.

11 MS. BENNETT: Good morning.  
12 Deana Bennett on behalf of Franklin Mountain Energy 3.

13 THE HEARING EXAMINER: Thank you. Are  
14 there any other parties that you know of?

15 MS. BENNETT: Not that I know of.

16 THE HEARING EXAMINER: You're the only  
17 parties? Okay. Perfect. What is the issue?

18 MR. FELDEWERT: Mr. Examiner, as you  
19 know, MRC and Franklin Mountain had a history of being  
20 able to resolve their issues. We had this set for a  
21 contested hearing on September 10th. Both parties  
22 have recently filed amended -. well have filed well  
23 proposals that are different from what they were  
24 initially filed, in part to try to reach a resolution.  
25 From our perspective, we remain hopeful that that's

1 going to result in a resolution. So Ms. Bennett and I  
2 have visited with our clients. Both clients believe  
3 it would be fruitful to vacate the September 10th  
4 hearing and set the matters for status conference on  
5 September 12th, at which time we'll be able to apprise  
6 you of our efforts to reach a voluntary agreement  
7 under these new proposals and hopefully avoid a  
8 resetting of a contested hearing.

9 THE HEARING EXAMINER: Okay. Let me  
10 see a few things about these cases. So this number is  
11 the lowest number I'm going to see when it was  
12 originally filed. Originally it was filed in April.  
13 So this case is four months old.

14 MS. BENNETT: One, I mean, some of  
15 them.

16 MR. FELDEWERT: Yeah.

17 THE HEARING EXAMINER: This original  
18 case is four months old. And if I look at my notes on  
19 these cases -- okay. I see my notes on these cases.  
20 Okay. Let me hear from both parties. I'll start with  
21 you, Mr. Feldewert. If we come back on September 12  
22 and we find out that, you know, the differences have  
23 not been resolved, what are you going to want to do?

24 MR. FELDEWERT: I think that if they  
25 haven't been resolved and they're at a dead end, then

1 we would anticipate a contested hearing. If they're  
2 close to an agreement, then we would ask for a  
3 continuance to allow the agreement to get finalized.  
4 The other thing that's going to come into play here  
5 is, it's my understanding that in light of these new  
6 well proposals, if we need to proceed to hearing,  
7 Franklin Mountain is going to have to refile an  
8 application anyway. So the older cases most likely  
9 are going to be dismissed.

10 You'll see that if you go into the  
11 history here, it's not torture. We actually filed  
12 recently some -- a new application and dismissed the  
13 prior application.

14 THE HEARING EXAMINER: I saw that.

15 MR. FELDEWERT: Okay. So there has  
16 been a lot of movement here. The parties are engaged  
17 in extensive effort, both substantively and  
18 procedurally to get themselves in a position where we  
19 can either resolve the matter or place the new  
20 contested hearing cases for a docket.

21 THE HEARING EXAMINER: So, Ms. Bennett,  
22 you have the oldest cases.

23 MS. BENNETT: Yes.

24 THE HEARING EXAMINER: And so, for  
25 example, 24457 has not been amended. It's in the

1 original application where you're asking for a  
2 compulsory pooling and to the extent necessary an  
3 overlapping spacing unit. What are the issues here?

4 MS. BENNETT: Thank you. So the issues  
5 are that Franklin Mountain Energy and MRC have  
6 competing applications. And originally, the competing  
7 applications were for three mile laterals. And it's  
8 my understanding that MRC's most recent applications  
9 are for two mile laterals. And Franklin Mountain  
10 Energy recently sent out proposal letters for the Wolf  
11 Camp. That will be two mile laterals. But it's my  
12 understanding that they're not going to amend their  
13 Bone Spring cases. So I don't have the case numbers  
14 right in front of me, but what I can say is that  
15 certain of those older cases will remain, and certain  
16 of them will be dismissed and replaced with new  
17 applications that I'm going to be filing shortly for  
18 the October 3rd, I think, docket.

19 And so, while I'm generally in  
20 agreement with what Mr. Feldewert said, it's Franklin  
21 Mountain Energy's goal to set a contested hearing on  
22 the September 12th status conference date for a  
23 contested hearing, in hopefully, October. Now, I  
24 recognize that the parties, as Mr. Feldewert has said,  
25 have a long history of working things out. And so,

1 fingers crossed, but there's also benefit in having a  
2 contested hearing date set, so that we can keep moving  
3 to final.

4 THE HEARING EXAMINER: Okay. Now, I'm  
5 inclined to agree with your position that if I vacate  
6 September 10 now, that we reset these cases for a  
7 final status conference in September 12. So either we  
8 go to hearing in October, either contested hearing or  
9 a hearing by affidavit, either way, because obviously  
10 we won't be able to hear the cases on the 12th of  
11 September. The next docket won't be until the 3rd of  
12 October.

13 So either we're going to hear these by  
14 affidavit in October, or we hear them by contested  
15 cases, or the parties are going to dismiss their cases  
16 and we will wait for the parties to finish  
17 negotiations before we take these cases up. I'm  
18 uncomfortable about keeping April cases on the docket  
19 that long. It'll be half a year by that point.

20 Mr. Feldewert, is there anything further?

21 MR. FELDEWERT: No.

22 THE HEARING EXAMINER: Okay. Ms.  
23 Bennett, anything further?

24 MS. BENNETT: No.

25 THE HEARING EXAMINER: No. Okay. So

1 Freya, are the cases -- give me a minute. I want to  
2 check to see how this looks in our system because it  
3 may be that the parties have to continue the cases out  
4 of the September 10 docket. So give me a minute here  
5 to look. Oh, yes. We do have a number of cases  
6 already in the September 10 docket. The division  
7 won't be moving those. That'll be up to Matador or  
8 MRC as you say, and Franklin Mountain, depending on  
9 whose cases they are or how they want to be good  
10 neighbors with each other. To move these cases to the  
11 September 12 docket -- Freya, how busy is a September  
12 12 docket?

13 MS. TSCHANTZ: Let me check. One  
14 moment.

15 THE HEARING EXAMINER: Thank you. And  
16 it looks like it's only MRC Permian's cases, Mr.  
17 Feldewert that are on the September 10th docket.  
18 That's what --

19 MR. FELDEWERT: No. It may be a factor  
20 of your pre-hearing order. It's only recent, the  
21 amended amended pre-hearing order --

22 THE HEARING EXAMINER: Yes.

23 MR. FELDEWERT: -- is only recent to  
24 this issue. But you'll see that that pre-hearing  
25 order, that you amended one that you .-

1 THE HEARING EXAMINER: Yes.

2 MR. FELDEWERT: -- executed lists all  
3 the cases that should be on the September 10th docket.

4 THE HEARING EXAMINER: Well, I know  
5 that it lists the cases, but it's up to the parties to  
6 continue their cases into that docket and they have  
7 not been.

8 MR. FELDEWERT: So, Ms. Bennett, I  
9 guess you end up saving your client some money. So  
10 unfortunately, the person who did it correctly is  
11 unfortunately going to pay a bit more, but there we  
12 have it. So Mr. Feldewert, please move all of the  
13 cases that are on the amended pre-hearing order that  
14 are here in the September 10 docket, move them all  
15 over to September 12 for a status conference.

16 MR. FELDEWERT: Okay.

17 THE HEARING EXAMINER: And actually,  
18 I'm looking further, Mr. Feldewert. Your cases were  
19 dismissed, at least some of them. Let me see how many  
20 of these are dismissed. So you know, actually, they  
21 are all dismissed.

22 MR. FELDEWERT: My assumption is that  
23 all of those cases that were on .-

24 THE HEARING EXAMINER: Yes.

25 MR. FELDEWERT: -- that are listed on

1 the September 10th docket should have been all the  
2 cases that were recently dismissed.

3 THE HEARING EXAMINER: They were.

4 MR. FELDEWERT: Which means that I may  
5 have saved my client some money.

6 THE HEARING EXAMINER: Yes.

7 MR. FELDEWERT: Now, when we refiled  
8 our cases, we refiled them for the September 10th  
9 docket. So when I filed the application, I listed the  
10 September 10th docket, anticipating that we were going  
11 to go to a contested here.

12 THE HEARING EXAMINER: Yes.

13 MR. FELDEWERT: So I am going to have  
14 to move those .

15 THE HEARING EXAMINER: I see.

16 MR. FELDEWERT: -- from the September  
17 10th docket to the September 12th docket.

18 THE HEARING EXAMINER: Well, you may  
19 have filed them to -- I don't know if Freya has  
20 processed .-

21 MR. FELDEWERT: Well, maybe I'm -.

22 THE HEARING EXAMINER: -- them or not.  
23 Because they're not actually on the September 10  
24 special docket. So Freya, can you tell me where MRC  
25 Permian's cases are, that he filed?

1 MS. TSCHANTZ: Do you have one case  
2 that I can look up. There's 74 cases on the September  
3 12th docket.

4 THE HEARING EXAMINER: 24778.

5 MS. TSCHANTZ: That application is on  
6 the September 12th docket.

7 THE HEARING EXAMINER: Okay.

8 MR. FELDEWERT: I won't complain.

9 THE HEARING EXAMINER: Yeah. So,  
10 Freya, 24778 through 83, are they all on the September  
11 12th docket?

12 MS. TSCHANTZ: Yes.

13 THE HEARING EXAMINER: Okay. What  
14 about 24784 through 9?

15 MS. TSCHANTZ: Also September 12th.

16 THE HEARING EXAMINER: Well, you got  
17 lucky. Somehow you read my mind that we were going to  
18 continue or not continue, but vacate.

19 MR. FELDEWERT: Pure luck.

20 THE HEARING EXAMINER: Yeah, I guess it  
21 was. I think the parties should file a joint motion  
22 restating what you said to me today so that it's in  
23 the imaging system, why I'm doing what I'm doing. I'm  
24 not going to file an order vacating the amended pre-  
25 hearing order. But I do want a joint motion with your

1 cases that I just went over 778 through 783, 784  
2 through 790, which are already on the September 12th  
3 docket. So please file that along with these other  
4 cases.

5 Now, Ms. Bennett, you have six cases  
6 here, 57, 59, 79, 60, 62, and 63. As you know, none  
7 of them are on the September 10 special docket. I  
8 don't know where they are. Freya, will you look on  
9 the September 12th docket and see if any of  
10 Ms. Bennett's cases are there? I'll give you the  
11 numbers again if you want.

12 MS. TSCHANTZ: I have the pre-hearing  
13 order.

14 THE HEARING EXAMINER: Oh, fantastic.

15 MR. FELDEWERT: Mr. Examiner, while  
16 she's looking that up .-

17 THE HEARING EXAMINER: Yes.

18 MR. FELDEWERT: I think procedurally we  
19 probably need to file either a Motion to Vacate the  
20 pre-hearing order and reset.

21 THE HEARING EXAMINER: Okay.

22 MR. FELDEWERT: Or a notice based on  
23 your ruling today. That might be the most efficient  
24 way.

25 THE HEARING EXAMINER: A notice.

1 MR. FELDEWERT: Okay.

2 THE HEARING EXAMINER: A joint notice.

3 MR. FELDEWERT: Okay.

4 THE HEARING EXAMINER: We'll put them  
5 in all the right case numbers.

6 MR. FELDEWERT: Okay.

7 MS. TSCHANTZ: It looks like those  
8 cases are awaiting a motion to continue. They're not  
9 on a specific docket yet.

10 THE HEARING EXAMINER: Are they all  
11 joined together in our system?

12 MS. TSCHANTZ: Yes.

13 THE HEARING EXAMINER: Okay.

14 MS. TSCHANTZ: I have quite a few.  
15 Yes, they're all jointed.

16 THE HEARING EXAMINER: Okay. So, Ms.  
17 Bennett, would you file motions for continuances in  
18 those six cases to get them on the September 12th  
19 docket?

20 MS. BENNETT: I will.

21 THE HEARING EXAMINER: Okay. Thank  
22 you. And Freya, how crowded is the docket now?

23 MS. TSCANTZ: Non-continued cases,  
24 there were 74.

25 THE HEARING EXAMINER: All right.

1 Well, we're only .-

2 MR. FELDEWERT: It won't take very  
3 long.

4 THE HEARING EXAMINER: Right? We're  
5 checking in with the parties to see how your  
6 negotiations are going. Freya, will you mark that as  
7 a final status conference?

8 MS. TSCHANTZ: Yes.

9 THE HEARING EXAMINER: All right.  
10 Thank you. Does that address the party's issues?

11 MS. BENNETT: Yes.

12 THE HEARING EXAMINER: Okay. Good.  
13 Then we're off the record in those cases. Did you  
14 have anything else?

15 THE HEARING EXAMINER: No. We're good.  
16 This hearing is concluded, and we are off the record.  
17 Thank you.

18 (Whereupon, at 12:11 p.m., the  
19 proceeding was concluded.)

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CERTIFICATE OF DEPOSITION OFFICER

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.

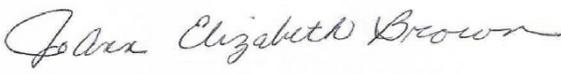


JAMES COGSWELL  
Notary Public in and for the  
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, JOANN E. BROWN, 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.



JOANN E. BROWN

[& - 15th]

<b>&amp;</b>	<b>1,924.32</b> 162:24	<b>10:49</b> 132:7	14:10,12
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[intention - karns]

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[karns - leah]

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