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HEARING

DATE: Thursday, October 31, 2024
TIME: 9:00 a.m.
BEFORE: Gregory A. Chakalian, Hearing Examiner
LOCATION: Pecos Hall, Wendell Chino Building
1220 South Saint Francis Drive
Santa Fe, NM 87505
REPORTED BY: James Cogswell
JOB NO.: 6773990

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DAN W. AND SANDRA LYNN SNOW; MARATHON OIL PERMIAN LLC:

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

ON BEHALF OF PBEX LLC; EGL RESOURCES INC.; MRC PERMIAN
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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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COG OPERATING; XTO PERMIAN OPERATING LLC:

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ALSO PRESENT:

Jordan Shaw, Witness (by videoconference)
Cole Bondo, Witness (by videoconference)
Joshua Prasatik, Witness (by videoconference)
John Garcia, Technical Examiner
(by videoconference)
Freya Tschantz, Law Clerk

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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
24722:		
Exhibit A	Compulsory Pooling Checklist	76/76
Exhibit B	Affidavit of John Harper, Geologist	76/76
Exhibit C	Statement of Deana Bennett	76/76
Exhibit D	Affidavit of Shane Kelly, Reservoir Engineer	76/76
NO.	DESCRIPTION	ID/EVD
24746:		
Exhibit A	Statement of Michael Gregory, Landman	79/79
Exhibit B	Statement of Thomas M. Anderson, Geologist	79/79
Exhibit C	Statement of Sharon S. Shaheen	79/79
NO.	DESCRIPTION	ID/EVD
24842:		
Exhibit A	Statement of Chad Matney	82/82
Exhibit B	Statement of Shane Finegan	82/82
Exhibit C	Statement of Michael Rodriguez	82/82

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

NO.	DESCRIPTION	ID/EVD
24853:		
Exhibit A	Notice Letter	84/84
Exhibit B	Affidavit of Publication	84/84
Exhibit C	Statement of Adam Davenport	84/84
NO.	DESCRIPTION	ID/EVD
24866:		
Exhibit A	Extension Application	88/88
Exhibit B	First Extension Pooling Order	88/88
Exhibit C	Affidavit of David Johns, Landman	88/88
Exhibit D	Affirmed Statement of Notice	88/88
Exhibit E	Affidavit of Publication	88/88
NO.	DESCRIPTION	ID/EVD
24871:		
Exhibit A	Declaration of Farley Duvall, Land Professional	93/93
Exhibit B	Declaration of Deana M. Bennett	93/93

E X H I B I T S (Cont'd)		
NO.	DESCRIPTION	ID/EVD
24875:		
Exhibit A	Compulsory Pooling Application Checklist	96/96
Exhibit B	Application of OXY USA Inc. for Compulsory Pooling	96/96
Exhibit C	Statement of Amber Delach, Sr, Land Negotiator	96/96
Exhibit D	Statement of Jared Rountree, Geologist	96/96
Exhibit E	Statement of Notice	96/96
Exhibit F	Affidavit of Publication	96/96
24884:		
Exhibit A	Compulsory Pooling Application Checklist	105/105
Exhibit B	Application of COG Operating LLC for Compulsory Pooling	105/105
Exhibit C	Statement of Michael Monju, Landman	105/105
Exhibit D	Statement of Ben Breyman, Geologist	105/105
Exhibit E	Notice Statement	105/105

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	24884 (Cont'd):		
4	Exhibit F	Notice of Publication	105/105
5			
6	NO.	DESCRIPTION	ID/EVD
7	24885:		
8	Exhibit A	Compulsory Pooling	
9		Application Checklist	105/105
10	Exhibit B	Application of COG Operating	
11		LLC for Compulsory Pooling	105/105
12	Exhibit C	Statement of Michael Monju,	
13		Landman	105/105
14	Exhibit D	Statement of Ben Breyman,	
15		Geologist	105/105
16	Exhibit E	Notice Statement	105/105
17	Exhibit F	Notice of Publication	105/105
18			
19	NO.	DESCRIPTION	ID/EVD
20	24887:		
21	Exhibit A	Statement of Sean Johnson	107/107
22	Exhibit B	Statement of Brian Dombroski	107/107
23	Exhibit C	Statement of Michael	
24		Rodriguez	107/107
25			

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

NO.	DESCRIPTION	ID/EVD
24889:		
Exhibit A	Statement of Kevin Woolley	109/109
Exhibit B	Statement of Cole Hendrickson	109/109
Exhibit C	Statement of Dana S. Hardy	109/109
NO.	DESCRIPTION	ID/EVD
24897:		
Exhibit A	Application of XTO for Pool Reassignment	113/113
Exhibit B	Statement of Joshua Prasatik, Landman	113/113
Exhibit C	Statement of Cole Bondo, Reservoir Engineer	113/113
Exhibit C-4	Diagram Including Section 13	121/121
Exhibit D	Statement of Notice	113/113
Exhibit E	Affidavit of Publication	113/113

1 P R O C E E D I N G S

2 THE HEARING EXAMINER: Good morning.
3 It is 9:00 a.m. These are the hearings of the Oil
4 Conservation Division for October 31, 2024. We have
5 sent out a final agenda. And I'm going to start with
6 case number 1 on our agenda. It is case 24185 joined
7 with 24678, 24886. Entries of appearance, please?

8 MR. FELDEWERT: Good morning, Mr.
9 Examiner. Michael Feldewert with the Santa Fe office
10 of Holland & Hart on behalf of PBEX LLC and EGL
11 Resources. And then I'm separately appearing for MRC
12 Permian Company.

13 THE HEARING EXAMINER: And, Mr.
14 Feldewert, before I take any more entries of
15 appearance, based on my records, when EGL was being
16 represented by Mr. Bruce, you filed an objection in
17 February of this year. What happens with that
18 objection now that you're representing both parties?

19 MR. FELDEWERT: So I know we filed an
20 objection in the Avant -- in competing Avant Lobo Loco
21 cases. MRC had initially filed their competing
22 Semelback [ph] wells. Those were dismissed, I think,
23 back in July or August. So MRC no longer opposes
24 either applications -- either applications moving
25 forward.

1 THE HEARING EXAMINER: And when you say
2 either applications, which cases do you -- are you
3 speaking about?

4 MR. FELDEWERT: They no longer oppose
5 Avant Lobo Locos nor PBEX.

6 THE HEARING EXAMINER: But you do have
7 an objection to the EGL case?

8 MR. FELDEWERT: If we do have an
9 objection to the EGL case, then I need to withdraw
10 that.

11 THE HEARING EXAMINER: Okay. Yeah. I
12 have it in our docketing -- in our imaging system and
13 I don't see any withdrawal. And it's an issue that
14 the hearing clerk and I were discussing yesterday. So
15 would you please file a withdrawal of objection?

16 MR. FELDEWERT: Certainly.

17 THE HEARING EXAMINER: All right.
18 Thank you. I'm just going to make a note.

19 I'm sorry. So the rest of the issues
20 of appearance please, because there are many parties
21 here.

22 MS. BENNETT: Good morning, everyone.
23 Deana Bennett on behalf of Avant Operating LLC in all
24 of these cases.

25 THE HEARING EXAMINER: Good morning.

1 MS. HARDY: Good morning, Mr. Examiner.
2 Dana Hardy with Hinkle Shanor on behalf of Concho --
3 sorry -- COG Operating and Concho Oil & Gas.

4 THE HEARING EXAMINER: Good morning.

5 MR. SAVAGE: Good morning, Mr.
6 Examiner. Darin Savage with Abadie & Schill appearing
7 on behalf of Cimarex Energy.

8 THE HEARING EXAMINER: Good morning.
9 I -- who is -- who is -- who's representing Snow?

10 MS. BENNETT: Good morning, Mr.
11 Examiner. That's myself, Deana Bennett, on behalf of
12 Dan Snow and Sandra Lynn Snow.

13 THE HEARING EXAMINER: Okay. Thank
14 you. And you filed an objection on their behalf; did
15 you not?

16 MS. BENNETT: To the EGL cases, yes, I
17 did.

18 THE HEARING EXAMINER: Right. Okay.
19 Very good. And you're maintaining that objection;
20 right?

21 MS. BENNETT: Well, it's my -- well, I
22 filed an objection also on behalf of Avant, so I'm
23 maintaining the Avant objection. I believe that Avant
24 may have acquired the Snow interest, and if so, then
25 the Snow objection would be sort of melded into the

1 Avant objection. But I'll -- I'll check on that.

2 THE HEARING EXAMINER: Okay. Very
3 good. Okay. Those are the parties that I have here.
4 So if Mr. Feldewert is withdrawing MRC's objection to
5 the EGL application in 24185, then I think Ms.
6 Bennett, you are the only party that has an objection
7 in that case; is that correct?

8 MS. BENNETT: I think that's probably
9 right.

10 THE HEARING EXAMINER: Ms. Hardy?

11 MS. HARDY: We are not objecting.
12 We're just monitoring these cases.

13 THE HEARING EXAMINER: Mr. Savage?

14 MR. SAVAGE: Yes, we also monitoring.

15 THE HEARING EXAMINER: Okay. Very
16 good. Okay. So let's start with 24185, and that, of
17 course, is Mr. Feldewert's case. We have stated
18 previously back in -- actually in June -- that we were
19 going to have a final status conference in August.

20 In fact, in September we met again.
21 And then again in early October. And now here we are.
22 So what are we doing with your case, Mr. Feldewert?

23 MR. FELDEWERT: Mr. Examiner, you may
24 recall that certainly EGL and, I believe, Avant, they
25 received notice from the BLM that there were concerns

1 about the drilling, what they thought was going to be
2 the -- island, due to the sand dune lizard, which
3 resulted in us dismissing one of our cases in 24184,
4 and then refiling in September case 24886 involving
5 now an additional quarter section of land.

6 My understanding is that Avant had a
7 similar issue. I know I believe, Dana, that they sent
8 out some competing -- new competing proposals in
9 September. I don't know where they are in getting
10 those on the Division docket.

11 But that's a long way of saying that
12 the parties have been -- had an unexpected event which
13 has required them to reexamine their competing
14 development plans. And at least for my client, has
15 resulted in the filing of a new application in
16 September that accompanies the existing application
17 under case 24185.

18 THE HEARING EXAMINER: Okay. I
19 understand.

20 Ms. Bennett?

21 MS. BENNETT: Thank you. Yes. Avant
22 did send out revised competing proposals in late
23 September, early October. And we filed competing
24 applications yesterday.

25 And I just checked with my assistant to

1 see if those applications had been assigned case
2 numbers yet, and they haven't yet been assigned case
3 numbers, which makes sense since we filed them
4 yesterday afternoon.

5 But we did file the competing -- we did
6 file new applications yesterday requesting the
7 December 5th, I think it is, docket, which I
8 understand will be pushed to a status conference on
9 December 21st, I believe it is. I don't have the
10 dates right in front of me.

11 And so that's where we stand. Avant is
12 interested in setting a contested hearing, but
13 sometime in January or February.

14 THE HEARING EXAMINER: So Ms.
15 Bennett -- okay.

16 So first, Freya, do you see those
17 applications?

18 MS. TSCHANTZ: I do. I see two
19 applications.

20 THE HEARING EXAMINER: Okay. Great.
21 Can you accept them now and give them case numbers?

22 MS. TSCHANTZ: Yes.

23 THE HEARING EXAMINER: Just call them
24 out when you can.

25 MS. TSCHANTZ: It will take me about 60

1 seconds.

2 THE HEARING EXAMINER: Ms. Bennett, did
3 you -- when you filed your new cases yesterday, based
4 on your -- based on your proposals that were sent out
5 at the end of September, are you dismissing any cases?

6 MS. BENNETT: Yes. Once the new cases
7 are approved and on the docket, I will be dismissing
8 case number 24678.

9 THE HEARING EXAMINER: That's what I
10 thought. Okay. So would you please file a motion to
11 dismiss that, and I'll get an order out to dismiss.
12 And so you're dismissing one case, but you have filed
13 how many new cases?

14 MS. BENNETT: I filed two new cases.
15 So case 24678 was a north half case, and the cases
16 that I filed are a north half case and a south half
17 case.

18 THE HEARING EXAMINER: I see. Thank --
19 thank you.

20 MS. BENNETT: And so --

21 THE HEARING EXAMINER: Okay. I
22 understand. We're just waiting on Freya to give us
23 the numbers.

24 MS. TSCHANTZ: The first one is 24945.
25 And I need to go through the approval process for the

1 second one.

2 THE HEARING EXAMINER: Okay.

3 Ms. Bennett, did you hear?

4 MS. BENNETT: I did. Thank you.

5 THE HEARING EXAMINER: All right. And
6 Ms. Bennett, is there any way to know whether 24945
7 replaces 24678? I don't know if it's in -- no. You
8 can't tell?

9 MS. BENNETT: No.

10 THE HEARING EXAMINER: No. You can't
11 tell. Okay.

12 MS. BENNETT: No, I can't tell.

13 THE HEARING EXAMINER: Okay.

14 MS. BENNETT: I'm not sure in what
15 order they were submitted to the Division.

16 THE HEARING EXAMINER: I understand.
17 So, Ms. Bennett, 24678, is that the north half or is
18 that the south half?

19 MS. BENNETT: That's the north half.

20 THE HEARING EXAMINER: That's the north
21 half. Okay. Well, okay. Then I'll be -- I'll be
22 able to tell you which one this case is.

23 MS. TSCHANTZ: The second case number
24 is 24946.

25 THE HEARING EXAMINER: Thank you. So

1 they're sequential. So, Ms. Bennett, the first case
2 number 45 is actually the north half. So would that
3 take the place of 78?

4 MS. BENNETT: Yes, it will. And I'll
5 file a motion to dismiss and note in that motion to
6 dismiss that it's been replaced by that next number.

7 THE HEARING EXAMINER: All right.

8 Mr. Feldewert, we have availability on
9 December the 3rd for a contested hearing. How does
10 that work for you?

11 MR. FELDEWERT: I'm looking now. It's
12 a little difficult for me because we have a contested
13 hearing the next week, which means our witness, our
14 exhibits, and pre-hearing statements would be due on
15 the same day as this hearing.

16 THE HEARING EXAMINER: You have a
17 contested hearing before which tribunal?

18 MR. FELDEWERT: Before you all on
19 December 10th.

20 THE HEARING EXAMINER: On December
21 10th.

22 Freya, what do you have for December
23 10th?

24 MS. TSCHANTZ: We do have a contested
25 hearing --

1 THE HEARING EXAMINER: Sorry?

2 MS. TSCHANTZ: We do have a contested
3 hearing set for December 10th.

4 THE HEARING EXAMINER: Do you have the
5 case numbers?

6 MS. TSCHANTZ: I believe they're 24839
7 through 24841.

8 THE HEARING EXAMINER: Okay. Is there
9 multiple -- is it competing? I'm not looking at that
10 docket. I guess I should just look at the docket
11 instead of --

12 MR. FELDEWERT: Yes. At least the ones
13 I have, yes, they're competing.

14 THE HEARING EXAMINER: They are
15 competing. Okay. Competing with whom?

16 MR. FELDEWERT: Yeah. MRC competing
17 with Civitas.

18 THE HEARING EXAMINER: All right.
19 Because, Freya, I don't have that
20 docket at all in our hearings module. Why would it
21 not be showing up?

22 MS. TSCHANTZ: We may have not received
23 continuances for that date yet.

24 THE HEARING EXAMINER: Okay.

25 MR. FELDEWERT: It probably hasn't been

1 published yet; has it, Freya?

2 THE HEARING EXAMINER: So, Freya?

3 MS. TSCHANTZ: I'm sorry. I didn't
4 hear that.

5 THE HEARING EXAMINER: Okay. It's
6 okay. What case numbers are in that -- the 12/10
7 docket?

8 MS. TSCHANTZ: 24839 through 24841.

9 THE HEARING EXAMINER: Okay. And what
10 other cases?

11 MS. TSCHANTZ: I'm pulling up the pre-
12 hearing order right to get more information.

13 THE HEARING EXAMINER: Mr. Feldewert,
14 are these your cases, 24839 through 41.

15 MR. FELDEWERT: You're going to have to
16 give me a minute. If they involve the MRC, Tony La
17 Russa, yes. I don't have -- I didn't do it by case
18 number on my calendar, 248.

19 THE HEARING EXAMINER: And, Ms.
20 Bennett, do you have cases in that docket too?

21 MS. BENNETT: I'm looking at my docket
22 sheet right now.

23 THE HEARING EXAMINER: Okay.

24 Ms. Hardy, do you have -- do you have
25 cases on December 10 docket?

1 MS. HARDY: No. I do not.

2 THE HEARING EXAMINER: You don't.
3 Okay. Does anyone else in this room have cases on the
4 December 10? You do, Mr. Rodriguez?

5 MR. RODRIGUEZ: I do.

6 THE HEARING EXAMINER: Who are you
7 representing there?

8 MR. RODRIGUEZ: Civitas.

9 THE HEARING EXAMINER: Civitas. Okay.
10 Do you know your case numbers?

11 MR. RODRIGUEZ: Yes.

12 THE HEARING EXAMINER: Do you want to
13 come up to a microphone and turn it on? I'm trying to
14 figure out what's going on here, because it's not
15 something I can look at in my hearings module. It's
16 just not there. So, Mr. Rodriguez, you were going to
17 tell us your case numbers?

18 MR. RODRIGUEZ: Yes. So the Civitas
19 case numbers for December 10th docket are 24840,
20 24841, and 24839. And I believe they're competing
21 with Matador's, Tony La Russa applications, which were
22 recently filed. I believe those are 24930, 31, and
23 33.

24 THE HEARING EXAMINER: Okay. Thank
25 you. Mr. Feldewert, does that comport with your

1 information?

2 MR. FELDEWERT: It should appear on the
3 November 7th docket.

4 THE HEARING EXAMINER: Okay. I'm not
5 looking at that docket, so I don't know.

6 But Mr. Rodriguez is here, and he says
7 his cases are 24839 through 41; right, Mr. Rodriguez?

8 MR. RODRIGUEZ: That's correct.

9 THE HEARING EXAMINER: And Matador's
10 cases are 24930 through 33. That's correct?

11 MR. RODRIGUEZ: 30, 31, and 33.

12 THE HEARING EXAMINER: Oh, so not 32?

13 MR. RODRIGUEZ: No.

14 THE HEARING EXAMINER: I got it. Okay.

15 MR. RODRIGUEZ: I believe, Mr.

16 Feldewert, we agreed at the last status conference
17 that once these cases were filed for Matador that
18 Matador would file a motion to consolidate these cases
19 to the December 10th docket.

20 THE HEARING EXAMINER: Freya, did you
21 receive a motion to consolidate those cases?

22 MS. TSCHANTZ: Not yet. I believe the
23 new cases, the first time they'll be on the docket is
24 November 7th. So it may be that we're waiting until
25 after November 7th for the motion. Currently, the

1 pre-hearing order only lists the Civitas cases.

2 THE HEARING EXAMINER: Okay.

3 So, Mr. Feldewert, would you file a
4 motion to consolidate? We don't have to wait till
5 November 7th since the cases are filed.

6 MR. FELDEWERT: Yes.

7 THE HEARING EXAMINER: All right. Now,
8 Mr. Feldewert, you have cases on the 10th. So what
9 was your -- what was your concern about the 3rd and
10 why you wouldn't be able to file exhibits a week
11 before the 3rd?

12 MR. FELDEWERT: So my concern is that
13 when we are having the hearing on December 3rd, that
14 is when the exhibits and statements are due for the
15 December 10th hearing.

16 THE HEARING EXAMINER: I think if I'm
17 not mistaken, Mr. Feldewert, the pre-hearing orders
18 have lately said four working days before. So four
19 working days before the 10th would be -- let me look
20 at my calendar here. One, two, three, four. No. It
21 would be Wednesday the 4th. Actually, it'd be the day
22 after.

23 MR. FELDEWERT: But wouldn't it be 8:30
24 in the morning on the 4th? I think that's what you've
25 always said.

1 THE HEARING EXAMINER: You know, I'm
2 happy to change that to be the close of business on
3 the 4th, and I can issue an amended pre-hearing order.
4 As you can tell, I'm concerned about the length that
5 these cases have been around.

6 MS. BENNETT: Mr. Hearing Examiner?

7 THE HEARING EXAMINER: Yes, Ms.
8 Bennett?

9 MS. BENNETT: Ms. Bennett. I
10 understand that Division's concerned about the length
11 of time that the cases have been around, but there's
12 also been a number of moving parts in the cases --

13 THE HEARING EXAMINER: Sure.

14 MS. BENNETT: -- that neither Avant nor
15 EGL have been able to control. And Avant is -- I
16 mean, under duress, I suppose we could have a December
17 hearing, but their preference would be a January
18 hearing. I have contested hearings not on December
19 3rd, but on December 17th, plus the regular docket.

20 And so like Mr. Feldewert, I have some
21 concerns about timing. So I -- in the event that is
22 useful at all in moving the discussion along in terms
23 of hearing dates, I know Avant's strong preference
24 would be to have a January hearing date.

25 THE HEARING EXAMINER: I can -- hold on

1 a second. I can -- I can see -- I can see having a
2 trailing docket on the 10th. I'm just not willing to
3 keep pushing these out. I have issued a pre-hearing
4 order in March that was vacated in April based on the
5 party's representations.

6 And here we are in October -- the last
7 day of October, talking about a hearing now in
8 January. And that's just too far for me. That's
9 almost a year from when the cases were first filed. I
10 understand the BLM threw a curve ball. I get all
11 that.

12 But at this point, the parties are not
13 able to resolve their issues amongst themselves and
14 the Division has to schedule according to its
15 availability as well. So I'll leave it up to the
16 parties.

17 You can either decide on the 3rd of
18 December, and I can amend the pre-hearing order so
19 that your exhibits are due in a way that makes it
20 easier. Or we can have a trailing docket on the 10th,
21 because, who knows, maybe the cases will resolve.

22 And I didn't even ask Mr. Rodriguez.
23 What is the likelihood of resolution before December
24 10?

25 MR. RODRIGUEZ: Mr. Hearing Examiner, I

1 understand your concern. I would offer two things.
2 One, as you know, now the parties have had to refile.
3 Avant has refiled both of their cases. They dismissed
4 their cases that were filed some time ago that you're
5 concerned about, and they have refiled them. We
6 refiled in September.

7 As I look at them now, they do involve
8 additional acreage because of the change in the
9 drilling location. My understanding is that this
10 change of acreage, that the parties are in
11 discussions, and they're not at an impasse. And part
12 of this change of acreage is a result of that.

13 So I would suggest that you are in a
14 position to accommodate Avant's request for a hearing
15 in January. I certainly second that request given the
16 circumstances -- I would say somewhat unique
17 circumstances -- of these particular matters.

18 THE HEARING EXAMINER: If I set a
19 hearing in January, I'm not going to change it under
20 any circumstances. The parties will have to dismiss
21 their cases if they don't proceed to a contested
22 hearing in January. Do the parties understand that?

23 MS. BENNETT: Yes.

24 MR. RODRIGUEZ: Yes.

25 THE HEARING EXAMINER: Okay. I have

1 the -- I have the 14th of January available.

2 MS. BENNETT: I mean, I would like to
3 confer with my client, but I will say that from my
4 perspective that works. I'm just checking with them
5 on witness availability. But from my availability,
6 the 14th works. Thank you for considering that.

7 THE HEARING EXAMINER: Sure.

8 MR. FELDEWERT: Appreciate that as
9 well. I just noticed it'll probably have to be a
10 trailing docket; right? Because I think you have a
11 contested case in the 14th?

12 THE HEARING EXAMINER: Freya?

13 MS. TSCHANTZ: We do.

14 THE HEARING EXAMINER: Okay. Then it
15 would be a trailing docket.

16 MR. FELDEWERT: I appreciate the
17 accommodation.

18 THE HEARING EXAMINER: Sure. Okay.
19 We'll issue a --- we vacated the original pre-hearing
20 order so we will issue an amend -- no. We'll issue a
21 new pre-hearing order for the 14th of January. Is
22 there anything left with these cases?

23 MR. FELDEWERT: No. And a good
24 thing -- and, Mr. Examiner, then we don't need to do
25 anything with the existing matters on the -- on

1 December 10th.

2 THE HEARING EXAMINER: I'm sorry. I
3 don't understand the question.

4 MR. FELDEWERT: So Mr. Rodriguez and I
5 don't have to do anything with the existing matter on
6 the 10th. You don't need to amend the pre-hearing
7 order or anything like that.

8 THE HEARING EXAMINER: I wasn't sure I
9 was going to amend the pre-hearing order for the 10th.

10 MR. RODRIGUEZ: Okay. My understanding
11 is there's just going to be a motion to consolidate
12 the Matador cases at this point.

13 THE HEARING EXAMINER: And definitely I
14 still need to do that. And that's why I asked if you
15 would file a motion, Mr. Feldewert, to consolidate
16 your cases with the pre-hearing order. But otherwise
17 I wasn't going to amend the pre-hearing order for the
18 10th.

19 MR. FELDEWERT: Okay.

20 THE HEARING EXAMINER: Okay.

21 MS. BENNETT: Mr. Examiner?

22 THE HEARING EXAMINER: Yes.

23 MS. BENNETT: I did get confirmation
24 from Avant that they're available on January 14th.

25 THE HEARING EXAMINER: Okay. Thank

1 you.

2 MS. BENNETT: Thank you.

3 THE HEARING EXAMINER: You're welcome.
4 So now it looks like we'll be issuing a -- so let me
5 make sure I understand the case numbers that we're
6 going to have on this pre-hearing order that we're
7 issuing for January 14.

8 We are going to have the two new cases,
9 24945 and 24946. We're going to have 24886 and I
10 think we're going to have 24185. Is that correct?

11 MR. FELDEWERT: Yes, sir.

12 THE HEARING EXAMINER: All right. So
13 we have one, two -- so we're going to have four cases
14 in total on the pre-hearing order, and the parties
15 agree to that?

16 MS. BENNETT: Yes.

17 THE HEARING EXAMINER: All right.
18 Thank you. All right. We're off the record in these
19 three cases.

20 And, Ms. Bennett, we are waiting for
21 your motion to dismiss 24 -- No. Yes. 24678.

22 MS. BENNETT: Yes.

23 THE HEARING EXAMINER: Okay. So we
24 have a motion from Mr. Feldewert. We have a motion
25 from Ms. Bennett. And we have a pre-hearing order on

1 that case. Okay.

2 Moving onto item line 4 on our docket.
3 It is 24231. It is joined with 24232, 24481, 24482,
4 83, and 84. Entries of appearance, please?

5 MS. BENNETT: Good morning.

6 MR. FELDEWERT: Good morning, Mr.
7 Examiner.

8 MS. BENNETT: Morning.

9 MR. FELDEWERT: Good morning, Mr.
10 Examiner. Michael Feldewert, Santa Fe office of
11 Holland & Hart, on behalf of MRC Permian. I'm also
12 appearing on behalf of Fasken Oil and Ranch in case
13 24232.

14 THE HEARING EXAMINER: Good morning.

15 MS. BENNETT: Good morning, Mr.
16 Examiner. Deana Bennett on behalf of Marathon Oil
17 Permian in all of these cases.

18 THE HEARING EXAMINER: Good morning.
19 Do we have any other parties that you know of, Ms.
20 Bennett?

21 MS. BENNETT: Not that I know of.

22 THE HEARING EXAMINER: Okay. So, Ms.
23 Bennett, the oldest case here is also quite old.
24 24231. It is your case, so I'm going to ask you how
25 do you want to proceed?

1 MS. BENNETT: Thank you. Yes.
2 Marathon's cases were filed in February. And MRC
3 filed its competing applications in April, but they
4 were originally set for a June 13th hearing. So while
5 they might seem like they've been on docket for a
6 while, these actually, all things considered,
7 haven't -- the contest between the two parties hasn't
8 been ripe, I guess I'd say, all that long.

9 It's my understanding that the parties
10 are in discussions and that they would like additional
11 time through January or February to complete those
12 discussions. One thing I would note, and I'll be
13 bringing this up later today as well, is that
14 Marathon -- and this is publicly available
15 information. I'm not giving away any secrets here.

16 But Marathon is being acquired by
17 ConocoPhillips. And that acquisition is expected to
18 close at the end of the year or by the end of the
19 year. And so that's created, as you can imagine, some
20 moving -- additional moving parts influx that have --
21 that has also slowed the process down a bit.

22 And so that's Marathon's request is to
23 allow additional time through January or February,
24 which would allow both the acquisition to close and
25 allow additional time for the parties to have

1 discussions.

2 THE HEARING EXAMINER: Mr. Feldewert?

3 MR. FELDEWERT: I think that makes a
4 lot of sense. MRC's aware of the acquisition and
5 agree that we should probably set this for status
6 conference after the acquisition has closed.

7 THE HEARING EXAMINER: Based on my
8 notes in August, what I heard from the parties was
9 that -- based on my notes from August, I have that the
10 parties are close to resolving the issue, and continue
11 this to today to give the parties ample time to
12 negotiate. I understand that there is a merger going
13 on. I knew about that sometime ago.

14 I -- that's all well and good, but
15 these cases are very old. And what I will do is I
16 will set them for a contested hearing, and if the
17 parties resolve their issues before the contested
18 hearing, then so be it. We have available January the
19 28th.

20 Ms. Bennett, January the 28th?

21 MS. BENNETT: That sounds great. Thank
22 you.

23 THE HEARING EXAMINER: Okay. Mr.
24 Feldewert?

25 MR. FELDEWERT: We can -- hold on a

1 second. We will make that work.

2 THE HEARING EXAMINER: Okay.

3 Freya, would you please make a note
4 that we're going to issue a pre-hearing order for
5 these cases for a January 28 contested hearing?

6 MS. TSCHANTZ: Yes.

7 THE HEARING EXAMINER: Is there
8 anything further on these cases?

9 MR. FELDEWERT: Thank you.

10 MS. BENNETT: Not for me. Thank you
11 very much.

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

14 I'm now on line 10 of our docket. I am
15 calling case number -- well, this case was dismissed,
16 but it was refiled as a new case based on Tap Rock
17 filing. So I believe I'm calling 24879, 24680, and
18 24681. Entries of appearance, please?

19 MR. HOLLIDAY: Good morning, Mr.
20 Examiner. This is Ben Holliday appearing on behalf of
21 Cimarex Energy Company.

22 THE HEARING EXAMINER: Cimarex. Thank
23 you.

24 MR. FELDEWERT: Good morning, Mr.
25 Examiner. Michael Feldewert on behalf of -- with the

1 law firm Holland & Hart on behalf of MRC Permian.

2 THE HEARING EXAMINER: Good morning.

3 MS. HATLEY: Good morning, Mr.

4 Examiner. Keri Hatley appearing on behalf of COG
5 Operating.

6 THE HEARING EXAMINER: Good morning.
7 Who's appearing for Tap Rock?

8 MR. SAYER: Mr. Examiner, Matthias
9 Sayer on behalf of --

10 THE HEARING EXAMINER: Is your -- is
11 your microphone on, sir?

12 MR. SAYER: Sorry. Mr. Examiner,
13 Matthias Sayer entering an appearance on behalf of Tap
14 Rock with Bradfute Sayer.

15 THE HEARING EXAMINER: So Jennifer
16 Bradfute is no longer representing Tap Rock?

17 MR. SAYER: She is. We -- we are
18 partners.

19 THE HEARING EXAMINER: Oh, okay.

20 MR. SAYER: She's not able to be here
21 today, so I'm here on her behalf.

22 THE HEARING EXAMINER: Okay. And so
23 would you say your name again slowly?

24 MR. SAYER: Yeah. Matthias Sayer.

25 THE HEARING EXAMINER: Sayer. Can you

1 spell the last name?

2 MR. SAYER: S-A-Y-E-R.

3 THE HEARING EXAMINER: Mr. Sayer.

4 Okay. So am I correct, Mr. Sayer, that you are filing
5 a motion to dismiss 24679, and it has now been refiled
6 as 24879?

7 MR. SAYER: That's correct.

8 THE HEARING EXAMINER: Okay. Why was
9 it dismissed and refiled?

10 MR. SAYER: My understanding is that
11 there were some errors in certain well location
12 footages.

13 THE HEARING EXAMINER: I understand.
14 Okay. And which party, Mr. Sayer, objected to your --
15 to your cases?

16 MR. SAYER: I'm not entirely sure.

17 THE HEARING EXAMINER: You don't know.
18 Okay. Let's start with Mr. Holliday. I think you
19 objected; didn't you?

20 MR. HOLLIDAY: Yes, Mr. Examiner.

21 THE HEARING EXAMINER: I thought so.

22 MR. HOLLIDAY: Cimarex objected.

23 THE HEARING EXAMINER: And why did you
24 object?

25 MR. HOLLIDAY: We have competing

1 development plans for this area.

2 THE HEARING EXAMINER: Have you filed
3 them?

4 MR. HOLLIDAY: We've not filed them
5 yet, although being as is the final status conference,
6 we anticipate filing shortly.

7 THE HEARING EXAMINER: So you've sent
8 out your proposals when?

9 MR. HOLLIDAY: I don't have a date,
10 although proposals have been sent out. I'm not aware
11 of the date. I can get that for you.

12 THE HEARING EXAMINER: All right.
13 Would you look that up while I'm speaking to the other
14 parties, please?

15 Mr. Feldewert, did you object?

16 MR. FELDEWERT: We did not.

17 THE HEARING EXAMINER: You're just
18 monitoring?

19 MR. FELDEWERT: Yes, sir.

20 THE HEARING EXAMINER: Okay. Ms.
21 Hatley?

22 MS. HATLEY: Mr. Examiner, we're just
23 monitoring.

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

1 MR. SAYER: Mr. Examiner, I believe it
2 was Coterra was perhaps the only party that we were
3 aware of who had objected.

4 THE HEARING EXAMINER: Coterra. I
5 didn't hear an entry of appearance for Coterra. Did I
6 miss it?

7 MR. HOLLIDAY: Trying to do two things
8 at once. Mr. Examiner, it's Ben Holliday. I believe
9 the entry of appearance was on behalf of Cimarex
10 Energy Company of Colorado, although I'll look that up
11 as well.

12 THE HEARING EXAMINER: Okay. Well,
13 while he's looking that up, Mr. Sayer, as you can
14 tell, I want to set these for a contested hearing, or
15 you can dismiss them. It's up to you. When are you
16 available for a contested hearing?

17 MR. SAYER: The second -- the second
18 date in December.

19 THE HEARING EXAMINER: We have -- are
20 you saying the 3rd or the 10th?

21 MR. SAYER: The 10th.

22 THE HEARING EXAMINER: The 10th. Okay.
23 Will it be you or will it be Ms. Bradfute who --

24 MR. SAYER: It will likely be Ms.
25 Bradfute.

1 THE HEARING EXAMINER: Ms. Bradfute.
2 Okay. Okay. So that'll be a trailing docket; you
3 understand that?

4 MR. SAYER: Okay.

5 THE HEARING EXAMINER: Okay.

6 Mr. Holliday, did you figure out when
7 you sent out the proposals?

8 MR. HOLLIDAY: I did not. The
9 confirmation I had just said that proposals have been
10 sent, and I've requested clarification of the date.

11 THE HEARING EXAMINER: Okay. Okay.
12 Mr. Holliday, it's been requested that we have a
13 contested hearing on the 10th of December; is that a
14 problem?

15 MR. HOLLIDAY: Let me look real quick.

16 MR. SAYER: Mr. Examiner, just
17 interjecting quickly while he's looking at that. It
18 is my understanding that Coterra and Tap Rock are --
19 have made meaningful progress in several conversations
20 and coming to terms. Whatever that's worth.

21 THE HEARING EXAMINER: Thank you.

22 Mr. Holliday?

23 MR. HOLLIDAY: December 10th works. I
24 think Cimarex's preference would be to have a later
25 setting, if that's possible. Although I'll seek

1 confirmation from them as to whether the 10th works
2 for them. It's open on my calendar.

3 THE HEARING EXAMINER: And you're going
4 to clarify when the proposals were sent out?

5 MR. HOLLIDAY: Yes, I requested it.
6 And as soon as we pop off here, I'll get on the phone,
7 and I can jump back in, and let you know.

8 THE HEARING EXAMINER: Perfect. I'd
9 appreciate that.

10 So, Mr. Sayer, I understand that
11 negotiations are ongoing. They're always ongoing.
12 And hopefully they'll be -- hopefully they'll be
13 fruitful. But if not, we'll have a hearing on the
14 10th to resolve these cases. Is there anything
15 further from the parties?

16 MR. SAYER: No.

17 MR. HOLLIDAY: Not from Cimarex. No,
18 thank you.

19 THE HEARING EXAMINER: Okay. Thank
20 you. All right, we're off the record until Mr.
21 Holliday has some information about the proposals.

22 Okay. I'm now moving on to line number
23 13 on our docket. It is again Tap Rock. No. I've
24 dealt with that case number. That's the new case
25 number. Okay. I'm now on line 14 on our docket. It

1 is 24774, Avant Operating.

2 MS. BENNETT: Good morning, Mr.
3 Examiner. Deana Bennett with Avant Operating. And
4 this case and cases 17 and 18 on the docket are
5 competing applications.

6 THE HEARING EXAMINER: Thank you.

7 MS. BENNETT: And so I've entered an
8 appearance in the two cases that I just mentioned, 17
9 and 18 in the docket as well.

10 THE HEARING EXAMINER: So let -- thank
11 you, Ms. Bennett. Let me call those cases. 24892,
12 24893, as well as 24774. Entries of appearance?

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

16 THE HEARING EXAMINER: Thank you.

17 MS. BENNETT: Yes. And again, to
18 confirm, Deana Bennett on behalf of Avant Operating in
19 all three cases.

20 THE HEARING EXAMINER: Are these
21 supposed to be joined, Ms. Bennett?

22 MS. BENNETT: Well, yes, but there was
23 no way for the Division to, I think, know that,
24 because the Choctaw Bingo cases, the Mewbourne cases,
25 were filed for today's docket as a first hearing. And

1 so there wasn't an opportunity before today really to
2 identify the case numbers and join them.

3 THE HEARING EXAMINER: Okay. Well,
4 you -- are there any other parties on these three
5 cases?

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

7 THE HEARING EXAMINER: All right. So
8 you have the older case, Ms. Bennett. What do you
9 want to do?

10 MS. BENNETT: Thank you. We would like
11 to set these cases for a contested hearing or that's
12 Avant's desire is to set these cases for a contested
13 hearing. And Avant is interested in a February
14 hearing date if there is one available.

15 THE HEARING EXAMINER: We do. We have
16 two February dates. So, Mr. Feldewert, Ms. Bennett,
17 we have the 2nd of February, and we have the 18th of
18 February.

19 Ms. Bennett, your preference?

20 MS. BENNETT: For my own personal
21 preference, I think either one of those is fine.

22 THE HEARING EXAMINER: Ms. Bennett,
23 it's almost impossible to hear you. The microphone
24 isn't so good on your -- on your --

25 MS. BENNETT: Okay. I'm sorry.

1 THE HEARING EXAMINER: -- your device.
2 What were you saying?

3 MS. BENNETT: From my perspective,
4 either one of those dates work, and I'm just going to
5 be texting with Avant right now to see if they have a
6 preference.

7 THE HEARING EXAMINER: Okay.

8 Okay. Mr. Feldewert?

9 MR. FELDEWERT: So I think as I look at
10 the calendar here, probably the 18th. Is that the
11 second one you provided?

12 THE HEARING EXAMINER: It was.

13 MR. FELDEWERT: That was Tuesday.
14 That's probably -- that appears to be best for my
15 schedule and for Mewbourne.

16 THE HEARING EXAMINER: Okay

17 MS. BENNETT: And I did receive
18 confirmation from Avant that 2/18 is better for them
19 as well.

20 THE HEARING EXAMINER: Perfect. We
21 will issue a pre-hearing order for February 18 for a
22 contested hearing in case numbers 24774, 24892, and
23 24893. And those are the only cases on that docket,
24 is that correct, Ms. Bennett?

25 MS. BENNETT: Yes.

1 THE HEARING EXAMINER: Okay, perfect.
2 Anything further?

3 MS. BENNETT: Nothing from me.

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

5 THE HEARING EXAMINER: Excellent.
6 We're off the record in those cases.

7 I'm now on line number 15. This is
8 case number 24849, Avant Operating.

9 MS. BENNETT: Good morning, Mr.
10 Examiner. Deana Bennett on behalf of Avant Operating.

11 THE HEARING EXAMINER: Thank you.

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

15 THE HEARING EXAMINER: Good morning.
16 Did you file an objection, Mr. Feldewert?

17 MR. FELDEWERT: Yes, sir.

18 THE HEARING EXAMINER: I thought so.
19 Okay.

20 Ms. Bennett, how do you want to
21 proceed?

22 MS. BENNETT: Thank you. So we were
23 set to go to hearing on this case earlier in October.
24 And MRC objected based on some confusion -- some
25 confusion by MRC about the status of some outstanding

1 orders. And those orders have now expired by their
2 own terms. So those orders are no longer an issue in
3 these cases. But in the meantime -- or in this case,
4 I should say.

5 But in the meantime, I reached out to
6 Mr. Feldewert, and he informed me that MRC was going
7 to be sending out competing proposals. And so -- but
8 I did check with Avant as of yesterday, and they
9 hadn't received any competing proposals.

10 So right now I think Avant is either in
11 a holding pattern or wants to move forward to set
12 these cases for a contested -- this case for a
13 contested hearing based on when or if MRC has sent out
14 competing proposals.

15 THE HEARING EXAMINER: Thank you.

16 Mr. Feldewert?

17 MR. FELDEWERT: I took a look. It
18 looks like the acreage that Avant sought to pool was
19 under existing pooling orders -- you may recall that,
20 there was four of them -- under which there had been
21 extinctions of the time to drill. Those orders
22 actually did not expire until the day before
23 yesterday. So October 28th.

24 So in light of their -- they have now
25 expired, MRC does feel like it's now in a position to

1 send out competing development plans. They didn't
2 want to do that while there was -- and I don't think
3 can do that while there's existing pooling orders.

4 So they have competing development
5 plans that they intend to send out for discussion
6 between the parties. And I -- now I do recognize that
7 I guess Avant succeeded to this acreage because I
8 believe the pooling orders were under legacy reserves.
9 So MRC intends to get those out.

10 Hopefully, the parties can have some
11 discussions about their -- I guess their own desires
12 now to develop this acreage and how they want it done.
13 So that's where things stand. So I don't know,
14 probably a status conference in -- where are we,
15 November -- probably maybe December.

16 THE HEARING EXAMINER: So, Mr.
17 Feldewert, I didn't hear any sort of firm commitments
18 to when you are sending out proposals. Do you know?

19 MR. FELDEWERT: Well, the expired
20 pooling orders expired the day before yesterday. So I
21 can check with the client, but I suspect that they
22 have those ready to go out, and they can get those out
23 shortly.

24 THE HEARING EXAMINER: Okay. So if we
25 send them out shortly, maybe file with the Division

1 sometime in early December for, what, a January
2 docket?

3 MR. FELDEWERT: We certainly do that.
4 Yeah.

5 THE HEARING EXAMINER: Okay. So if we
6 come back -- if we come back in December, maybe by the
7 second docket in December, you'll have a lot more
8 concrete information for us?

9 MR. FELDEWERT: We should, yes.

10 THE HEARING EXAMINER: Okay.

11 Freya, when is the second docket in
12 December?

13 MS. TSCHANTZ: December 19th.

14 THE HEARING EXAMINER: You said 19?

15 MS. TSCHANTZ: Yes.

16 THE HEARING EXAMINER: All right.

17 So, Ms. Bennett, please continue this
18 case to the December 19 docket for a status
19 conference. And at that time, I will set a contested
20 hearing with a lot more information from Mr. Feldewert
21 and his client. Does that seem fair?

22 MS. BENNETT: Thank you for that. Mr.
23 Examiner, is it possible to set this case and the
24 subsequently filed cases on the January 28th docket,
25 and if the parties on December 20 -- or December 19th

1 have reached a resolution, then we can eliminate that
2 from that January 28th docket, and if they haven't
3 then we already have a hearing date set?

4 THE HEARING EXAMINER: I mean it's
5 certainly possible. It would be a trailing docket
6 because we'd already have a case on the -- on that
7 docket. Is that your preference?

8 MS. BENNETT: Yes. That would be my
9 preference. A status conference on the 19th, and then
10 being on the trailing docket on the 28th.

11 THE HEARING EXAMINER: Okay.

12 Mr. Feldewert?

13 MR. FELDEWERT: -- to talk to the
14 client about it. I don't believe the parties are at
15 an impasse to require the setting of a contested
16 hearing date since they haven't had an opportunity to
17 even discuss their competing development plans.

18 THE HEARING EXAMINER: And, Ms.
19 Bennett, do you have an argument to -- do you have an
20 argument to why you feel like having a contested
21 hearing set at the end of January would either help
22 your negotiations or be beneficial in some other way?

23 MS. BENNETT: Yes. I do think it would
24 help with the negotiations having a firm deadline set
25 for the parties to be working towards. But also my

1 understanding, and I don't know what MRC's interest is
2 in this acreage, but -- or what -- even if the
3 development plan that MRC is going to propose will be
4 100 percent competing with the bonds, or if it will be
5 only partially overlapping with the bonds.

6 But what I do know is in Avant's
7 development area, it has -- or MRC has a very small
8 interest. So there's also no reason to delay this
9 from moving forward because MRC's interest is very
10 small. That's my understanding. I don't have the
11 number in front of me. I want to say from last time
12 it was maybe 18 percent, I think. And so with that,
13 there's no real reason to delay.

14 THE HEARING EXAMINER: All right.

15 Mr. Feldewert, Ms. Bennett put her
16 cards on the table. Do you want to add anything?

17 MR. FELDEWERT: Certainly. I think my
18 understanding is MRC has a substantial interest in
19 section 23, which has been part of this acreage that
20 has been subject to pooling orders now for quite some
21 time.

22 So it sounds like -- and not knowing
23 exactly how the competing proposal is going to
24 overlap -- and I think Ms. Bennett recognized that --
25 I think there's a lot of discussion to be had between

1 the parties.

2 So my understanding is you are
3 reluctant to set a hearing date unless the parties
4 that are on an impasse. That certainly could not be
5 said here, because they have not even had a chance to
6 look at the competing development plans.

7 So, you know, that would be my
8 suggestion as to why it was -- it's premature to set a
9 contested hearing date and taking up one of your
10 contested hearing dates in January.

11 THE HEARING EXAMINER: You know, Mr.
12 Feldewert, I agree with you insofar as, you know, the
13 point of setting a contested hearing is when the
14 parties are at an impasse.

15 But I also -- but I also try to listen
16 to the applicant, the initial applicant, who filed
17 their case, because I don't know what time constraints
18 that they have. I haven't heard any, but I don't know
19 what time constraints they may have on their leases,
20 et cetera.

21 And it would -- if a hearing date would
22 help in the negotiations, I'm certainly not opposed to
23 that. And it is a trailing docket on the January
24 28th, because it wouldn't be in the first position.
25 So it wouldn't really be taking up a position on our

1 docket.

2 So I'm going to -- I'm going to accept
3 the argument of Ms. Bennett to set this case on a
4 trailing docket on January 28th for a contested
5 hearing. We will find out your case numbers on
6 December 19 when we reconvene on this case. Is there
7 anything further from the parties?

8 MS. BENNETT: Nothing from -- thank
9 you.

10 THE HEARING EXAMINER: Okay.

11 MR. FELDEWERT: No, thank you.

12 THE HEARING EXAMINER: All right.

13 Thank you, sir. Moving on to line number 16. This is
14 24874 for Avant Operating.

15 MR. HOLLIDAY: Good morning, Mr.
16 Examiner. Ben Holliday appearing on behalf of Avant
17 Operating.

18 THE HEARING EXAMINER: Thank you, sir.

19 MR. FELDEWERT: Good morning, Mr.
20 Examiner. Michael Feldewert on behalf of Devon.

21 THE HEARING EXAMINER: Devon. Thank
22 you. Did you file an objection, Mr. Feldewert?

23 MR. FELDEWERT: Yes, sir.

24 THE HEARING EXAMINER: You did?

25 MR. FELDEWERT: Yes, sir.

1 THE HEARING EXAMINER: What was the
2 basis of the objection?

3 MR. FELDEWERT: My understanding when I
4 spoke with the client fairly recently was that they
5 have not had any discussions with Avant after
6 receiving the well proposal letters. There's also
7 concerns about an existing Cimarex producing well in
8 the acreage. I understand that Cimarex has also
9 objected to this matter.

10 And so until they have those
11 discussions and have a better understanding about that
12 Cimarex producing well, they're not quite sure what
13 their position is here. They may end up sending out
14 competing development plans based on those
15 discussions. But quite frankly, they haven't had any
16 discussions yet.

17 THE HEARING EXAMINER: Thank you. And
18 I see Mr. Savage with his microphone on.

19 MR. SAVAGE: That is correct. Darin
20 Savage on behalf of Cimarex Energy. And it's my
21 understanding we made an appearance. I'm not sure if
22 we've made an objection on this at this point.

23 THE HEARING EXAMINER: Are you able to
24 see what you filed in this case?

25 MR. SAVAGE: Yeah. Let me pull that up

1 and I'll --

2 THE HEARING EXAMINER: It's case number
3 24874.

4 Mr. Holliday, did you see an objection
5 from Cimarex in this case?

6 MR. HOLLIDAY: I thought that I did.
7 Yes. I did. Yeah.

8 MR. SAVAGE: You did. Okay. I'm
9 sorry. I must have just not recalled it accurately.

10 THE HEARING EXAMINER: Okay. So you
11 did object. Do you know why you objected, Mr. Savage?

12 MR. SAVAGE: I haven't been given the
13 specifics on this. I was just told that they -- entry
14 of appearance and apparently an objection. So I'm
15 going to have to confer with the client and find those
16 details.

17 THE HEARING EXAMINER: Okay. Well,
18 this is not an old case. It was filed September,
19 middle of September.

20 Mr. Holliday, how do you want to
21 proceed?

22 MR. HOLLIDAY: I think given the early
23 stages of it and the fact that we haven't really --
24 the parties haven't been able to connect yet, that it
25 would be best to set this for a second status

1 conference on the December 19th docket.

2 THE HEARING EXAMINER: Okay.

3 MR. HOLLIDAY: Would be my preference.

4 THE HEARING EXAMINER: All right.

5 Well, that's what we'll do. So this will be continued
6 to December 19 for a status conference. And you will
7 have to file the continuance, Mr. Holliday.

8 MR. HOLLIDAY: Yes, sir.

9 THE HEARING EXAMINER: And did you --
10 so is there anything further on this case?

11 MR. HOLLIDAY: Nothing further on this
12 case, but I do have an update on the --

13 THE HEARING EXAMINER: Proposals.

14 MR. HOLLIDAY: -- well proposals.

15 THE HEARING EXAMINER: All right. So
16 let's recall that case. Mr. Holliday, what case
17 number are we talking about?

18 MR. HOLLIDAY: That was consolidated
19 cases 24680, 24681, and 24879.

20 THE HEARING EXAMINER: Okay. And what
21 lines -- what line numbers are they in our docket
22 today?

23 MR. HOLLIDAY: Those were lines number
24 11 through 13.

25 THE HEARING EXAMINER: Eleven through

1 thirteen. Eleven through thirteen. Okay. Okay. So
2 what did you find out?

3 MR. HOLLIDAY: So I haven't received
4 confirmation of the date yet, but I did receive
5 confirmation that Cimarex's competing well proposals
6 were sent out on July 22nd.

7 THE HEARING EXAMINER: And we don't
8 have the attorney for Tap Rock here anymore. So, Mr.
9 Holliday, I'm not sure that that advances any
10 position.

11 MR. HOLLIDAY: No. Correct. I just
12 was providing information because it was requested.
13 We'll be filing our competing applications very
14 shortly, so that would be the next step.

15 THE HEARING EXAMINER: Because in
16 August, we were told that -- or the parties were told
17 that that was the final status conference. If the
18 parties aren't ready for a contested hearing in
19 November, the cases will be dismissed. The parties
20 were provided contested hearing dates of 11/5 and
21 11/20. So what happened after that, Mr. Holliday?

22 MR. HOLLIDAY: I'm not -- that does not
23 match my recollection of the cases. I -- I -- my
24 recollection -- I'm shooting from memory here -- but
25 these were last called on the -- on the second August

1 docket, and we requested some continuances.

2 They were continued to today for a
3 final status conference. I don't recall these cases
4 haven't previously been set or an actual hearing date
5 discussed.

6 THE HEARING EXAMINER: I mean we can
7 look at the verbatim transcript, but the notes here
8 are here, because this is the recollection of the
9 hearing bureau, so.

10 MR. HOLLIDAY: Okay. Well, we will
11 be -- I'm sorry. Go ahead.

12 THE HEARING EXAMINER: No, go ahead.
13 You will be what?

14 MR. HOLLIDAY: Our intention is to file
15 these competing applications perhaps today, by the end
16 of this week, so that we can consolidate them for the
17 December 10 hearing date.

18 THE HEARING EXAMINER: Okay. So if
19 these -- if these proposals went out in July, why are
20 they just being filed now?

21 MR. HOLLIDAY: I think the parties
22 were -- have been substantially -- making substantial
23 progress in trade negotiations. We've been involved
24 in drafting some of those documents. I'm frankly
25 surprised the deal has not consummated.

1 And so my understanding, and I'd have
2 to verify this with Cimarex, is that we were going to
3 propose the wells once the trade was done and both
4 parties were traded out of the acreage respectively.
5 And that's why we haven't filed. That's why competing
6 proposals have not been filed as of yet.

7 THE HEARING EXAMINER: Okay.

8 Freya, what position are these cases on
9 the December 10 docket?

10 Sorry?

11 MR. HOLLIDAY: That was my phone
12 ringing.

13 THE HEARING EXAMINER: Oh, okay.

14 MS. TSCHANTZ: We only have the one
15 contested hearing on December 10th. Oh, I'm sorry.
16 This would be number two.

17 THE HEARING EXAMINER: Okay. I'm sorry
18 I didn't hear you.

19 MS. TSCHANTZ: This would be number two
20 on the trail dock.

21 THE HEARING EXAMINER: Okay. And
22 Freya, what case numbers are these?

23 MS. TSCHANTZ: Are you referring to the
24 cases on today's docket or the ones that are already
25 set?

1 THE HEARING EXAMINER: The ones that
2 are -- you said that these cases are in the second
3 position on the December 10 docket; right?

4 MS. TSCHANTZ: Yes.

5 THE HEARING EXAMINER: Okay. What case
6 numbers are they?

7 MS. TSCHANTZ: So they are the lines 11
8 through 13 on today's docket. That's 24680, 81, and
9 24879.

10 THE HEARING EXAMINER: Okay. And do we
11 have to issue a new pre-hearing order for these three
12 cases?

13 MS. TSCHANTZ: I don't believe a pre-
14 hearing order has been issued for these cases. I
15 can -- no, they have not.

16 THE HEARING EXAMINER: Okay.
17 Mr. Holliday, do you know any
18 different?

19 MR. HOLLIDAY: I do not.

20 THE HEARING EXAMINER: All right. So
21 you are -- so you are then going file a motion. When
22 you -- when you file your new cases today -- how many
23 cases will there be?

24 MR. HOLLIDAY: I'm not sure if they're
25 going to file just one unit or three separate units.

1 I'm not sure.

2 THE HEARING EXAMINER: I see. So
3 somewhere between one and three cases?

4 MR. HOLLIDAY: Yes, sir.

5 THE HEARING EXAMINER: All right. And
6 that's by Civitas?

7 MR. HOLLIDAY: It would be Cimarex
8 Energy. Cimarex.

9 THE HEARING EXAMINER: Cimarex. One to
10 three cases filed today. And then will you file a
11 motion to consolidate your cases that you're filing
12 today with the three cases that are already on our
13 docket?

14 MR. HOLLIDAY: Yes, sir, I will.

15 THE HEARING EXAMINER: Okay. All
16 right.

17 Mr. Feldewert, are you -- I forgot.
18 Are you part of this contested hearing on December
19 10th?

20 MR. FELDEWERT: Yes. For MRC Permian.

21 THE HEARING EXAMINER: Okay.

22 MR. FELDEWERT: But we have not filed
23 an objection.

24 THE HEARING EXAMINER: So you're
25 monitoring?

1 MR. FELDEWERT: Yes, sir.

2 THE HEARING EXAMINER: Okay. And you
3 don't have competing proposals?

4 MR. FELDEWERT: Correct.

5 THE HEARING EXAMINER: Okay. All
6 right. So you're simply monitoring. Okay. All
7 right.

8 So Mr. Holliday, is there anything
9 further on these cases?

10 MR. HOLLIDAY: I do not believe so.
11 No, sir.

12 THE HEARING EXAMINER: Okay. Will you
13 communicate with Ms. Bradfute and Mr. Sayer as to our
14 discussion, since they're not here anymore? He left a
15 while ago.

16 MR. HOLLIDAY: I will. Yes, sir.

17 THE HEARING EXAMINER: All right. And
18 would you copy Freya on that email, please?

19 MR. HOLLIDAY: Absolutely.

20 THE HEARING EXAMINER: All right.
21 Okay, we're off the record in these cases.

22 Let's go to -- 16, 17, 18. I believe
23 this is our first hearing by affidavit. It is line
24 19. It is a compulsory pooling case filed by
25 applicant Mewbourne. It is 24255. Entries of

1 appearance?

2 MR. HOLLIDAY: This is Ben Holliday
3 appearing on behalf of Permian Resources Operating.

4 THE HEARING EXAMINER: And who's
5 representing Mewbourne?

6 MR. BRUCE: Mr. Examiner, Jim Bruce
7 representing Mewbourne.

8 MR. FELDEWERT: Okay.

9 THE HEARING EXAMINER: Are you ready to
10 proceed, Mr. Bruce?

11 MR. SAVAGE: Mr. Examiner, Darin Savage
12 on behalf of Devon Energy Production Company

13 THE HEARING EXAMINER: On Devon. Okay.
14 Thank you. Are there any other entries of appearance?

15 Mr. Bruce, are you ready?

16 MR. BRUCE: Mr. Examiner, late
17 yesterday, I filed uncontested a motion to dismiss
18 cases 2425 -- 24255, 24275, and 24276.

19 THE HEARING EXAMINER: I was still --
20 okay. All right. I see. Yes. I should have called
21 those two cases, and I didn't. So let me also call
22 case 24275 and 24276.

23 Mr. Holliday, did you enter on all
24 three?

25 MR. HOLLIDAY: Yes, sir. We did.

1 THE HEARING EXAMINER: Okay.

2 And, Mr. Savage, did you enter on all
3 three?

4 MR. SAVAGE: We did.

5 THE HEARING EXAMINER: Okay. Very
6 good.

7 So, Mr. Bruce, are you dismissing all
8 three?

9 MR. BRUCE: I am dismissing -- I have
10 dismissed all three. Yes.

11 THE HEARING EXAMINER: You have
12 dismissed all three. Okay. And you just filed that
13 yesterday?

14 MR. BRUCE: I believe yesterday, yes.

15 THE HEARING EXAMINER: Okay. All
16 right. Is there anything further on these cases?

17 MR. BRUCE: No, sir.

18 THE HEARING EXAMINER: All right.
19 Thank you. We're off the record in those cases, and
20 we'll move on. I am now on line number 22. This is
21 case number 24559, Marathon Oil. Entries of
22 appearance, please?

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

1 THE HEARING EXAMINER: Thank you.

2 MR. RODRIGUEZ: Good morning. Michael
3 Rodriguez with Civitas Permian Operating LLC.

4 THE HEARING EXAMINER: Thank you.

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

7 THE HEARING EXAMINER: Thank you.

8 Ms. Bennett?

9 MS. BENNETT: Yes. Thank you. Mr.
10 Examiner, the parties, specifically Marathon and
11 Civitas, have been in discussions. I did file a
12 request for a continuance that was not approved, but
13 also not denied, hopefully, which is why I appreciate
14 the opportunity to raise this with the Hearing
15 Examiner today.

16 Marathon and Civitas are in
17 discussions, and they would like to have additional
18 time to continue those discussions. And as I
19 mentioned earlier today, there are some additional
20 moving parts including the acquisition of Marathon by
21 ConocoPhillips. And that is set to close in the
22 fourth quarter.

23 So Marathon and, I understand, Civitas
24 would like to have this case be continued until
25 January or February to allow the parties to continue

1 their discussions as well as to allow the acquisition
2 to close, and COG doesn't object. And COG, just for
3 your information, Mr. Examiner, is an affiliate of
4 ConocoPhillips.

5 THE HEARING EXAMINER: I understand.
6 Do you any of the other parties want to tell me
7 anything?

8 MR. RODRIGUEZ: Ms. Bennett summarized
9 to our positions pretty succinctly.

10 THE HEARING EXAMINER: Okay.
11 Ms. Hardy?

12 MS. HARDY: No. Thank you.

13 THE HEARING EXAMINER: Ms. Bennett,
14 there's no objection to proceeding by affidavit. So
15 this case was filed in May, and I don't understand why
16 it hasn't been presented. If it's not ready to go to
17 hearing, why don't you just dismiss it, and then
18 refile it once the negotiations are over?

19 MS. BENNETT: Mr. Examiner, the fact
20 that there's not an objection is evidence of the
21 parties' negotiations. Civitas has not felt the need
22 to object as of yet because the parties are in
23 discussions.

24 That isn't to say that Civitas
25 couldn't. But that's more a reflection of the

1 parties' negotiations than it is of any sort of
2 staleness or unripeness of this case.

3 THE HEARING EXAMINER: Okay. I
4 understand that. This case is six months old. It's
5 half a year old. It's been continued three times, and
6 now you're asking for another continuance into the
7 distant future.

8 And it's not going to be granted. So
9 either we set it for a contested hearing, or you
10 dismiss it, or you proceed by affidavit. I mean, is
11 there an objection from Civitas or from COG to proceed
12 by affidavit?

13 MS. HARDY: COG does not object. We're
14 monitoring this case, Mr. Examiner.

15 MR. RODRIGUEZ: Civitas would object
16 until a JOA has been executed.

17 THE HEARING EXAMINER: A JOA?

18 MR. RODRIGUEZ: Correct.

19 THE HEARING EXAMINER: Okay. I
20 understand. So you don't want your interest pooled?

21 MR. RODRIGUEZ: Not at this time, no.

22 THE HEARING EXAMINER: Not at this
23 time.

24 MR. RODRIGUEZ: But Civitas is hopeful,
25 and there have been very productive discussions

1 occurring to where, like I said, Civitas would be
2 hopeful that a JOA would be signed prior to these
3 cases being --

4 THE HEARING EXAMINER: But -- does --
5 what is your interest in this land?

6 MR. RODRIGUEZ: Civitas has a 5.6
7 percent working interest.

8 THE HEARING EXAMINER: Okay. So you
9 have a working interest. Okay. Now this case was
10 filed -- proposals were sent out presumably sometime
11 in April. So you've had seven months to negotiate.
12 What's the sticking point?

13 MR. RODRIGUEZ: I'm not sure what the
14 finer details are in the negotiations. I can
15 certainly find out. But at this time I don't know
16 what any sticking points would be.

17 THE HEARING EXAMINER: Okay.

18 Ms. Bennett, do you know anything about
19 the issues that are preventing this case from moving
20 forward?

21 MS. BENNETT: I don't know what the
22 specific issues are with respect to the JOA. But I do
23 know that there was some delay on my part and on
24 Marathon's part in getting the JOA to Civitas, because
25 the Marathon landman that I'm working with had a baby

1 and had parental leave, and so that added some
2 additional time in relaying things to Civitas.

3 But since that has -- you know,
4 everyone's back at work, getting things pushed out,
5 and we got the JOA to Civitas, I think it was at the
6 end of July or the beginning of August. So it isn't
7 as if they've had the JOA since April. They've had
8 the JOA, I think, since the end of July, beginning of
9 August. Don't quote me on that. I'm going from
10 memory here.

11 So I mean if it's the Hearing
12 Examiner's desire to set this for a contested case or
13 for a hearing by affidavit, I would ask that this case
14 be set on the 1/28 trailing docket with the other
15 Marathon cases, and hopefully we have resolution by
16 then.

17 THE HEARING EXAMINER: Okay.

18 Anything further, Mr. Rodriguez?

19 MR. RODRIGUEZ: No, sir. No.

20 THE HEARING EXAMINER: Ms. Hardy?

21 MS. HARDY: No.

22 THE HEARING EXAMINER: Okay. Thank
23 you.

24 So I'll compromise with you, Ms.
25 Bennett. Instead of dismissing this case, because I

1 don't think it's ready to be filed here in the
2 Division at this point, I will set this for a hearing
3 by affidavit on the first December docket. That'll be
4 December --

5 Freya, is that the 5th or 7th?

6 MS. TSCHANTZ: The 5th.

7 THE HEARING EXAMINER: The 5th. So,
8 Ms. Bennett, this case will be on the December 5th
9 docket for a hearing by affidavit. If you're not
10 ready to proceed by affidavit, no problem, we'll
11 dismiss the case, and you can refile it after Civitas
12 and you work out the JOA.

13 MS. BENNETT: Thank you.

14 THE HEARING EXAMINER: Thank you.

15 Anything further on this case?

16 MR. RODRIGUEZ: No.

17 MS. HARDY: No.

18 THE HEARING EXAMINER: Okay. We're off
19 the record in that case.

20 Let's move on to another hearing by
21 affidavit. We are on line 23. This is 24722, Avant
22 Operating.

23 MS. BENNETT: Good morning, Mr.
24 Examiner. Deana Bennett on behalf of Avant Operating.

25 THE HEARING EXAMINER: Thank you.

1 MR. FELDEWERT: Good morning, Mr.
2 Zander. Michael Feldewert on behalf of PBEX LLC.

3 THE HEARING EXAMINER: And I believe --
4 did you withdraw your objection?

5 MR. FELDEWERT: Yes, sir. I was going
6 to say we had a competing case that we have dismissed,
7 and we withdrew our objection. So we are simply
8 appearing in this matter.

9 THE HEARING EXAMINER: Okay. Now did
10 you file a -- did you file a withdrawal of objection
11 with the Division?

12 MR. FELDEWERT: Yes.

13 THE HEARING EXAMINER: Okay, good. And
14 then which is the case that you've dismissed?

15 MR. FELDEWERT: 24860.

16 THE HEARING EXAMINER: Okay. Thank
17 you.

18 MR. FELDEWERT: Glad I wrote it down.

19 THE HEARING EXAMINER: Yeah, me too.
20 Thank you.

21 Freya, did we issue an order dismissing
22 that case; do you know?

23 MS. TSCHANTZ: I believe so, but I'll

24 THE HEARING EXAMINER: Thank you for
25 checking.

1 Are there any other issues of
2 appearance in these cases? No. Okay.

3 MS. SHAHEEN: Yes. Sharon Shaheen,
4 Santa Fe office of Spencer Fane on behalf of Eagle
5 Natural Resources.

6 THE HEARING EXAMINER: What natural
7 resources?

8 MS. SHAHEEN: Eagle Natural Resources.

9 THE HEARING EXAMINER: Like the bird?

10 MS. SHAHEEN: Yes.

11 THE HEARING EXAMINER: Eagle. Thank
12 you.

13 MS. SHAHEEN: Like, fly like an eagle.

14 THE HEARING EXAMINER: Got it. Okay.
15 Welcome, Ms. Shaheen.

16 Are there any other entries of
17 appearance before we do the hearing by affidavit? Not
18 hearing any.

19 Ms. Bennett?

20 MS. BENNETT: Thank you very much.
21 Yes. As the hearing examiner indicated, this case is
22 uncontested, and I intend to present it by affidavit.
23 Just a bit of background.

24 Avant previously submitted exhibits on
25 August 1st. And in preparing both for what was going

1 to be a contested hearing, but now for the affidavit
2 hearing, Avant had a few changes to make to the
3 exhibits, namely updating the C-102s to the Division's
4 current form of C-102. And there were a couple of
5 changes to the ownership charts.

6 And so we provided revised exhibits.
7 We timely filed revised exhibits. But in preparing
8 for the hearing yesterday with Avant, I realized that
9 I did not include the reservoir engineer's signature
10 page. And so we're working on getting that, and I
11 will submit a revised packet today that includes the
12 reservoir engineer's signature page. So my apologies
13 for --

14 THE HEARING EXAMINER: No, perfect.
15 Thanks for telling us. And looking at the imaging
16 system, I see on August 1st there were documents filed
17 in this case. So you're saying those should be
18 removed from this case; is that correct?

19 MS. BENNETT: That's right. Those have
20 been superseded by the ones that I filed last week.

21 THE HEARING EXAMINER: Freya, do you
22 see the August 1st exhibit packet?

23 MS. TSCHANTZ: Yes.

24 THE HEARING EXAMINER: Okay, good.
25 Would you remove them?

1 MS. TSCHANTZ: Yes.

2 THE HEARING EXAMINER: Okay, great.

3 And so now, Ms. Bennett, the August 1st
4 packet didn't have this missing document; does it?

5 MS. BENNETT: It did. I made the same
6 mistake in the August. Well, I just repeated the
7 mistake from August 1st in the ones I filed most
8 recently.

9 THE HEARING EXAMINER: So that packet
10 wouldn't help you then. Okay.

11 MS. BENNETT: No. No.

12 THE HEARING EXAMINER: All right. Very
13 good.

14 MS. BENNETT: No. I looked --

15 THE HEARING EXAMINER: Okay. Very
16 good. All right. So we have our exhibits in front of
17 us. Do you want to give us a very, very brief
18 overview?

19 MS. BENNETT: Yes. Yes. So in this
20 case, Avant is seeking an order pooling uncommitted
21 mineral interests and approval of a non-standard
22 spacing unit as well as, to the extent necessary,
23 approval of an overlapping spacing unit.

24 And the exhibit packets contain the
25 same suite of exhibits that the Division is used to

1 seeing. Except that in this packet, because Avant is
2 seeking a non-standard unit, we've also included
3 several exhibits that relate only to a non-standard
4 unit application, which are the exhibits in Exhibit A-
5 4, the non-standard unit track map, and the list of
6 wells, and other information that's required for a
7 non-standard unit.

8 And then we've also included Exhibit D,
9 which is the affidavit of Shane Kelly, the reservoir
10 engineer. And he provides additional support for
11 Avant's request for a non-standard unit.

12 THE HEARING EXAMINER: So Ms. Bennett,
13 I see three experts here. I see Sophia Guerra, who
14 I'm familiar with. Has she been qualified?

15 MS. BENNETT: Yes, she has.

16 THE HEARING EXAMINER: Okay. John
17 Harper's name is also familiar. Has he been
18 qualified?

19 MS. BENNETT: Yes, he has.

20 THE HEARING EXAMINER: And I think
21 Shane Kelly, I know that name as well. Has he been
22 qualified?

23 MS. BENNETT: Yes, he has.

24 THE HEARING EXAMINER: All right,
25 great. So are you asking to admit these into

1 evidence?

2 MS. BENNETT: Yes, I am. I'd like to
3 admit or request that the exhibits in case 24722 be
4 admitted into the record.

5 THE HEARING EXAMINER: Okay. Are there
6 any objections? Well, it would be helpful if the
7 parties would turn on their microphone and just
8 announce yes or no.

9 MS. SHAHEEN: No objection.

10 THE HEARING EXAMINER: Thank you, Ms.
11 Shaheen.

12 MR. FELDEWERT: No objection, Mr.
13 Examiner.

14 THE HEARING EXAMINER: Thank you, Mr.
15 Feldewert. I know you're in New Orleans and
16 appreciate it.

17 Okay. Ms. Bennett, these exhibits are
18 admitted into evidence.

19 (24722 Exhibit A through Exhibit D were
20 marked for identification and received
21 into evidence.)

22 Let's see if Mr. Garcia has any
23 questions for your witnesses.

24 Mr. Garcia?

25 MR. GARCIA: No questions.

1 THE HEARING EXAMINER: Excellent.

2 Ms. Bennett, this case is taken under
3 advisement.

4 MS. BENNETT: Thank you very much.

5 THE HEARING EXAMINER: Thank you.

6 I am moving to line 24. This is Flat
7 Creek Resources, LLC compulsory pooling 24746, also
8 joined to 24747, 24748, and 24749.

9 MS. SHAHEEN: Thank you, Mr. Examiner.
10 Sharon Shaheen from the Santa Fe office of Spencer
11 Fain on behalf of the applicant.

12 THE HEARING EXAMINER: Thank you.

13 MR. RODRIGUEZ: Good morning. Michael
14 Rodriguez on behalf of Civitas Permian Operating LLC.

15 THE HEARING EXAMINER: Thank you.

16 MR. SAVAGE: Good morning, Mr.
17 Examiner. Darin Savage on behalf of Cimarex Energy.

18 THE HEARING EXAMINER: Thank you.

19 Were there objections from either
20 Civitas or Cimarex?

21 MR. SAVAGE: No objection.

22 THE HEARING EXAMINER: Okay. Thank
23 you. Just monitoring. All right. Have you reviewed
24 the exhibits?

25 MR. SAVAGE: Yes.

1 THE HEARING EXAMINER: Great. Are
2 there any objections to those coming into evidence?

3 MR. SAVAGE: No objection.

4 THE HEARING EXAMINER: Ms. Shaheen, is
5 it appropriate to present them all four at the same
6 time?

7 MS. SHAHEEN: Yes, it is.

8 THE HEARING EXAMINER: Please.

9 MS. SHAHEEN: Thank you. Collectively
10 in these applications, Flat Creek seeks to pool the
11 north half of Section 3 in Township 25 South, Range 26
12 East, and all of Section 34 in Township 24 South,
13 Range 26 East to drill four 1 1/2-mile Bone Spring
14 wells down to a depth of, I believe, 8,062 feet.

15 The exhibit index is PDF, page two. We
16 have the Self-Affirmed Statement of Landman, Mike
17 Gregory, and Geologist, Thomas M. Anderson, both of
18 whom have previously testified before the Division and
19 had their credentials accepted as a matter of record.

20 We also have my Self-Affirmed Statement
21 the sample notice letter was sent out October 11th of
22 2024, and notice was also published in October -- on
23 October 11th of 2024. Those are attached to my Self-
24 Affirmed Statement.

25 With that, I ask that the exhibits and

1 subexhibits be accepted into the record and that these
2 cases be taken under advisement.

3 THE HEARING EXAMINER: Are there any --
4 well, I've already asked if there's any objections,
5 but I'll ask again. Are there any objections to these
6 exhibits in these four cases?

7 MR. RODRIGUEZ: No objection.

8 MR. SAVAGE: No objection.

9 THE HEARING EXAMINER: Thank you.
10 Hearing no objection, these exhibits are admitted into
11 evidence.

12 (24746 Exhibit A, Exhibit B, and
13 Exhibit C were marked for
14 identification and received into
15 evidence.)

16 Mr. Garcia, do you have any questions
17 in these four cases?

18 MR. GARCIA: No questions.

19 THE HEARING EXAMINER: Taken under
20 advisement. Thank you, Ms. Shaheen.

21 MS. SHAHEEN: Thank you.

22 THE HEARING EXAMINER: Calling line 28.
23 This is Civitas Permian compulsory pooling application
24 24842.

25 MR. RODRIGUEZ: Good morning again.

1 Michael Rodriguez with the applicant, Civitas Permian
2 Operating LLC.

3 THE HEARING EXAMINER: Are there any
4 other parties that you know of, Mr. Rodriguez?

5 MR. RODRIGUEZ: Yes. I believe Ms.
6 Hardy represents -- oh, no. I'm sorry. That's in
7 another case that's coming up. So no other -- no
8 other parties.

9 THE HEARING EXAMINER: All right. Let
10 me pull up your application. So would you briefly go
11 over it and then tell me if your experts have been
12 admitted previously?

13 MR. RODRIGUEZ: Absolutely. Before I
14 get into that, I wanted to give a little background.
15 This case was originally set for October 10th, and
16 some exhibits were submitted on October 3rd.

17 After that submission, I realized that
18 the unlocatable parties -- there are two in this
19 case -- were not noticed. And so a continuance was
20 filed to this docket and a publication was published.
21 I'll get to the dates later in my presentation, and a
22 revised exhibit packet was submitted.

23 THE HEARING EXAMINER: So you have a
24 revised exhibit packet. And so the original exhibit
25 packet was October 9; is that correct?

1 MR. RODRIGUEZ: October 3rd.

2 THE HEARING EXAMINER: Third. I can't
3 tell by these pictures that I see here. Let me look
4 at October. I see a pre-hearing statement on the 3rd,
5 but I see an exhibit packet filed on -- that's a
6 motion for continuance. Hold on. What is this?

7 I see an exhibit index filed on the 3rd
8 as well. So you'd like us to remove this one?

9 MR. RODRIGUEZ: Please.

10 THE HEARING EXAMINER: Freya, would you
11 remove the exhibit index and 34-page PDF filed on
12 October 3rd?

13 MS. TSCHANTZ: Yes, I will.

14 THE HEARING EXAMINER: All right.
15 Thank you.

16 So now, Mr. Rodriguez, I see a notice
17 of amended exhibits. And let me get to the exhibit
18 index. Okay. I'm ready.

19 MR. RODRIGUEZ: Thank you. So this is
20 a compulsory pooling application within Lea County.
21 The experts in this case are Chad Matney, as the land
22 witness, and Shane Finegan, as the geologist witness.
23 Both of these witnesses have testified in front of the
24 Division in the previous cases and have been qualified
25 as experts in their respective disciplines.

1 The Exhibit C to this case contains my
2 notice testimony where it demonstrates that the notice
3 of hearing letters were sent out on September 13th.
4 The initial notice of hearing was published on
5 September 15th, and the subsequent notice of hearing
6 was published on October 9th, which captured the two
7 unlocatable owners who are Donald Woods and Nancy
8 Carolyn Haley, which were not included in the original
9 publication.

10 And at that point -- at this point, I
11 request that exhibits and related subexhibits be
12 admitted into the record and case be taken under
13 advisement.

14 THE HEARING EXAMINER: Are there any
15 objections? These exhibits are admitted into
16 evidence.

17 (24842 Exhibit A, Exhibit B, and
18 Exhibit C were marked for
19 identification and received into
20 evidence.)

21 Mr. Garcia, any questions on this case?

22 MR. GARCIA: No questions.

23 THE HEARING EXAMINER: This case is
24 taken under advisement. Thank you Mr. Rodriguez.

25 MR. RODRIGUEZ: Thank you.

1 THE HEARING EXAMINER: Item 29 on our
2 docket is BTA oil producers. They have an application
3 to amend an order number R22909. Case number 24853.
4 Entries of appearance, please?

5 MS. HARDY: Dana Hardy on behalf of BTA
6 Oil Producers LLC.

7 THE HEARING EXAMINER: Good morning.

8 MS. HARDY: There are no other parties
9 I'm aware of.

10 THE HEARING EXAMINER: Thank you.
11 Please proceed.

12 MS. HARDY: Thank you. Mr. Examiner,
13 BTA seeks a one-year extension to drill the wells that
14 were authorized under order R-22909 due to gas
15 takeaway constraints.

16 This is the companion case to two cases
17 that were heard on the first docket last month, but
18 this one was continued to effect notice to one party.
19 So this is the first drilling extension for these
20 wells.

21 Our notice letters were sent on
22 September 16th and October 3rd. We did timely publish
23 on September 22nd. And our land witness, Adam
24 Davenport, has previously testified and been
25 recognized as an expert. So with that, I would

1 request that the exhibits be admitted, and that the
2 case be taken under advisement.

3 THE HEARING EXAMINER: Okay. Are there
4 any objections? Not hearing any, these exhibits are
5 admitted into evidence.

6 (24853 Exhibit A, Exhibit B, and
7 Exhibit C were marked for
8 identification and received into
9 evidence.)

10 Mr. Garcia, any questions on this case?

11 MR. GARCIA: No question.

12 THE HEARING EXAMINER: This case is
13 taken under advisement. Thank you, Ms. Hardy.

14 MS. HARDY: Thank you.

15 THE HEARING EXAMINER: Calling line 30
16 on our docket. This is Matador Production Company.
17 Well, at least that's what it says. Who knows what
18 they really are. Petition to amend order number R-
19 22395. Case number 24866.

20 MS. VANCE: Good morning, Mr. Hearing
21 Examiner. Paula Vance with the Santa Fe office of
22 Holland & Hart on behalf of Matador Production
23 Company.

24 THE HEARING EXAMINER: Thank you.
25 Please proceed. Oh, it looks like these are joint.

1 MS. VANCE: Yes. That's correct.

2 THE HEARING EXAMINER: 24867, 68, and
3 69. So please proceed.

4 MS. VANCE: Thank you, Mr. Hearing
5 Examiner. So Matador is asking for a one-year
6 extension. And in the hearing packet we have included
7 a copy of the extension applications, the original
8 pooling orders. We also included a statement from the
9 landman, Mr. David Johns, who has previously testified
10 before.

11 I would note we did include two updated
12 subexhibits in two of the cases, which are cases 24867
13 and 24869. And in each of those the update is Matador
14 leased one of the interests and acquired one of the
15 interests. So again, just an updated pooling exhibit
16 in those two cases.

17 THE HEARING EXAMINER: So when you say
18 updated pooling exhibit, do you mean that we should
19 remove the original exhibit packet in those two cases?

20 MS. VANCE: No. The -- let me look
21 just really quick. I think the way that they did it,
22 and we can look at it really quick -- let me bring
23 this up. So the parties that were previously pooled
24 remain pooled, and then this just updates to reflect
25 those two changes.

1 THE HEARING EXAMINER: So there's an
2 updated exhibit?

3 MS. VANCE: So it would be incorporated
4 under the order.

5 THE HEARING EXAMINER: I understand.
6 What I'm trying to get at is, is there -- did you
7 file -- when you updated this exhibit -- what exhibit
8 number is it?

9 MS. VANCE: It would be C-1.

10 THE HEARING EXAMINER: C-1. Thank you.
11 In both cases?

12 MS. VANCE: In both of those cases.
13 That's correct.

14 THE HEARING EXAMINER: So when you
15 updated exhibit C-1, did you file an amended exhibit
16 packet?

17 MS. VANCE: Not a full amended packet,
18 no. Typically, with these extension cases, when there
19 is an update to the pooling exhibit where something
20 has changed with the interest, we just provide an
21 updated pooling exhibit to reflect that change.

22 THE HEARING EXAMINER: Okay. I'll look
23 at that -- I'll look at it in a minute, and I'll
24 determine whether or not I'm going to ask you to file
25 an amended exhibit packet in both of those cases so

1 that we have one exhibit packet, and that the
2 technical examiner doesn't have to try to find another
3 exhibit that's not attached to the exhibit packet.
4 But so you were saying that your expert witness has
5 testified and was previously accepted as an expert?

6 MS. VANCE: That's correct.

7 THE HEARING EXAMINER: Okay. And I
8 have exhibits A, B, C, D, and E. Is that the extent
9 of your exhibits?

10 MS. VANCE: That is correct.

11 THE HEARING EXAMINER: Okay, good. And
12 in case number 66 and 68, there are no amendments to
13 those to that exhibit packet; is that correct?

14 MS. VANCE: Yes. That is correct.

15 THE HEARING EXAMINER: Okay. And the
16 good cause, what is the good cause?

17 MS. VANCE: That's explained in Mr.
18 Johns' statement. They are still -- they filed APDs
19 with the BLM, and they're still waiting on approval,
20 and again that's stated in his affidavit.

21 THE HEARING EXAMINER: Very good. And
22 your affidavit of publication, I don't have any dates
23 here that are easy for me to find. Did you timely
24 send out your notice and publish -- did you publish
25 notice, too?

1 MS. VANCE: Yes, we did. So that would
2 be Exhibit D, which is my Self-Affirmed Statement of
3 Notice with a copy of the notice letter, and that is
4 dated September 20, 2024. And then that's followed by
5 the Affidavit of Notice of Publication which was
6 timely published on September 24, 2024.

7 THE HEARING EXAMINER: Okay. Are there
8 any objections -- and are those dates the same --
9 those September dates the same for all four cases --

10 MS. VANCE: That's correct.

11 THE HEARING EXAMINER: -- in the
12 notice? Okay. Thank you.

13 Are there any objections to these
14 exhibits in these four cases?

15 Okay. Your exhibits are admitted in
16 all four cases.

17 (24866 Exhibit A through Exhibit E were
18 marked for identification and received
19 into evidence.)

20 I'll go to Mr. Garcia for any
21 questions.

22 MR. GARCIA: No questions.

23 THE HEARING EXAMINER: Thank you.
24 Before I -- so we will take under advisement 66 and 68
25 and let me look at --

1 MS. VANCE: And actually, Mr. Hearing
2 Examiner, I have a question, and it may be more for
3 Mr. Garcia.

4 THE HEARING EXAMINER: By all means, go
5 right ahead.

6 MS. VANCE: So I did notice, and I'm
7 sure most of us -- most of the other attorneys have
8 noticed, that in the pooling orders, paragraphs 21 and
9 22 have changed with regard to requests for an
10 extension, whereby you can file an application, and if
11 there's no objection then you don't have to appear for
12 hearing. It sounds like it's granted automatically.

13 These orders don't have that language
14 in there. And I am wondering, you know, to streamline
15 the administrative process, if it is possible to
16 incorporate that language into the extension order?

17 MR. GARCIA: For the time being -- we
18 haven't really discussed -- I guess no one's really
19 asked about it. Dylan Fuge, when he left, that was
20 his last notice to put out was to help the Hearings
21 Bureau expedite these extension requests. So his
22 mindset was, you know, the previous orders would still
23 come, and like we're doing today, request an extension
24 before a hearing.

25 MS. VANCE: Okay. So what I'm

1 understanding is we can't incorporate that language.
2 If we needed another extension we'll still have to
3 come to hearing for these.

4 MR. GARCIA: I would say for -- yes.
5 If it's something industries are curious about, it's
6 probably a broader question that Mr. Gerry would have
7 to handle, our acting director, because it would
8 affect hundreds of cases, not just these ones.

9 MS. VANCE: Okay. Thank you.

10 THE HEARING EXAMINER: So, Ms. Vance,
11 I'm now looking at specifically cases 24867 and 69 to
12 find your amended Exhibit C-1. I don't see it. I see
13 exhibit packet. Let's just look at 67 for a moment.
14 In 67, I see on the 24th of October you filed an 18-
15 page document. What am I missing?

16 MS. VANCE: If you go to page 12.

17 THE HEARING EXAMINER: All right. Hold
18 on.

19 MS. VANCE: And I believe that should
20 be the same page.

21 THE HEARING EXAMINER: Okay. I'm here
22 on page 12.

23 MS. VANCE: Yes. It's the same in both
24 hearing packets, but that essentially is the updated
25 pooling exhibit.

1 THE HEARING EXAMINER: Oh. Then you
2 didn't file something separately then?

3 MS. VANCE: I --

4 MR. GARCIA: Mr. Examiner, it's an
5 update from the original exhibits which originally
6 stood up the order.

7 THE HEARING EXAMINER: Now I
8 understand. Thank you. Thank you, Mr. Garcia

9 MR. GARCIA: And I have no objections
10 to the way Ms. Vance did it. It's pretty routine this
11 way just 'cause, I don't know, probably hundreds of
12 thousands of negotiations are made after the order so
13 we've never -- we didn't want to issue an order for
14 every JOA they signed post order.

15 THE HEARING EXAMINER: Of course, that
16 makes sense. But the -- Ms. Vance, the way you said
17 it in your presentation, it sounded like you filed an
18 exhibit packet, and then you filed an amended C-1.
19 That's what it sounded like to me.

20 MS. VANCE: I apologize. No. It's all
21 the same hearing packet.

22 THE HEARING EXAMINER: Then we take all
23 four cases under advisement, and thank you very much.

24 MS. VANCE: Thank you.

25 THE HEARING EXAMINER: Moving on to

1 item 34 on our docket. This is 24871 Marathon Oil
2 Permian's Application to Amend Order R-22673.

3 Entries of appearance, please?

4 MS. BENNETT: Good morning. Deana
5 Bennett on behalf of Marathon Oil Permian LLC.

6 THE HEARING EXAMINER: Good morning.

7 MS. BENNETT: And there are no other
8 parties in this case. And I intend to present it by
9 affidavit.

10 THE HEARING EXAMINER: Please proceed.

11 MS. BENNETT: Thank you. In this case,
12 Marathon is seeking an order amending its prior order
13 for the limited purpose of adding additional
14 overriding royalty interest owners. And I've included
15 in the materials the Self-Affirmed Statement of Mr.
16 Farley Duvall. He's previously testified before the
17 Division, and his credentials have been accepted as a
18 matter of record.

19 And in his Self-Affirmed Statement he
20 indicates that the reason that marathon is seeking to
21 reopen this case to add the overrides is that there
22 was a recent title update, and it revealed additional
23 overrides that weren't pooled in the first -- in the
24 first order.

25 And so that's the only reason we're

1 here is to pool additional overrides, and that's why
2 there's no proposal letters or any fees or cost
3 requested in this application, because these are just
4 overriding royalty interest owners.

5 I timely mailed and timely published.
6 I mailed and -- mailed on September 18th and did a
7 subsequent mailing on October 10th. And I published
8 on 9/24 and on 10/12. So with that, I would ask that
9 the exhibits in case 24871 be admitted into the record
10 and that the case be taken under advisement.

11 THE HEARING EXAMINER: Thank you, Ms.
12 Bennett.

13 Are there any objections?

14 Your exhibits are admitted into
15 evidence in case number 24871.

16 (24871 Exhibit A and Exhibit B were
17 marked for identification and received
18 into evidence.)

19 Mr. Garcia, do you have any questions?

20 MR. GARCIA: No questions. Ms. Bennett
21 answered it in her summary.

22 THE HEARING EXAMINER: Perfect. This
23 case is taken under advisement.

24 Thank you, Ms. Bennett.

25 MS. BENNETT: Thank you.

1 THE HEARING EXAMINER: Item 35 on our
2 docket. This is OXY USA's compulsory pooling case
3 24875.

4 MS. VANCE: Good morning again, Mr.
5 Hearing Examiner. Paula Vance with the Santa Fe
6 office of Holland & Hart on behalf of OXY.

7 THE HEARING EXAMINER: Thank you. Are
8 there any other parties that you know of?

9 MS. VANCE: No.

10 THE HEARING EXAMINER: Okay. Please
11 proceed.

12 MS. VANCE: Thank you. So in case
13 24875, OXY seeks an order approving a non-standard
14 1,280-acre, more or less, horizontal well spacing unit
15 in the Wolfcamp. And the pool code is WC TAC 025 G
16 TAC 09 S-223332-A, and that's upper Wolfcamp, and the
17 pool code is 98177. And that is underlying Sections
18 13 and 24 of Township 22 South, Range 32 East in Lea
19 County New Mexico. And pooling all of the uncommitted
20 mineral interest in that acreage.

21 And OXY seeks to dedicate that spacing
22 unit to the Tuna Nut 24 TAC 13 Fed Com 61 H well
23 through 65 H well, and 6-11 H through 6-13 H. And
24 that's a total of eight wells.

25 In this case, we've included a copy of

1 the application, provided the compulsory pooling
2 checklist, as well as the Self-Affirmed Statement of
3 landman Amber Delach, and geologist Jared Rountree,
4 both of whom have previously testified before the
5 Division and their credentials have been accepted as a
6 matter of record.

7 Ms. Delach's statement is Exhibit C.
8 And because we are requesting approval of a non-
9 standard spacing unit, we have included additional
10 exhibits in addition to the standard land exhibits.
11 That being a land plat that outlines the non-standard
12 spacing unit and the acreage surrounding which -- to
13 whom we provided notice.

14 And then a justification, a power -- a
15 few slides providing a justification for the approval
16 of the NSP, which is also addressed in her statement
17 in paragraphs 8 and 9. This is followed by Mr.
18 Rountree's statement, which is exhibit D.

19 Again, this includes all the standard
20 geology exhibits. And Mr. Rountree did not observe
21 any pinch --any faulting pinch-outs or other geologic
22 impediments in the horizontal drilling of these wells.

23 And then lastly is Exhibit E, which is
24 my Self-Affirmed Statement of Notice with the sample
25 letters that were timely mailed on October 11, 2024.

1 And then exhibit F, which is the Affidavit of Notice
2 of Publication, which was timely published on October
3 16, 2024.

4 Unless there are any questions, I would
5 ask that the exhibits and subexhibits be admitted into
6 the record, and that these cases be taken under
7 advisement at this time.

8 THE HEARING EXAMINER: Thank you.

9 Are there any objections?

10 Your exhibits are admitted into
11 evidence. I'm just counting days here. Okay.

12 (24875 Exhibit A through Exhibit F were
13 marked for identification and received
14 into evidence.)

15 Mr. Garcia, do you have any questions
16 on this case?

17 MR. GARCIA: No questions.

18 THE HEARING EXAMINER: Okay. This case
19 is taken under advisement.

20 MS. VANCE: Thank you.

21 THE HEARING EXAMINER: I move now to
22 item 36. This is V-F Petroleum's Application to Amend
23 Order R-22947 in case number 24877.

24 Entries of appearance?

25 MR. SAVAGE: Darin Savage with Abadie &

1 Schill appearing on behalf of V-F Petroleum
2 Incorporated, and this case would also include 37 on
3 that, which is related.

4 THE HEARING EXAMINER: Sorry. Oh, I
5 see You mean line 37. Okay. And that would be case
6 number 24876. I didn't show those joining, but okay.

7 MR. SAVAGE: Yes, sir.

8 THE HEARING EXAMINER: So, Mr. Savage,
9 are there any other parties that you know of in these
10 cases?

11 MR. SAVAGE: In case 77 -- 24877, I
12 believe that the COG has made an appearance.

13 MS. HATLEY: Mr. Examiner, if I may?

14 THE HEARING EXAMINER: Yes.

15 MS. HATLEY: Keri Hatley entering an
16 appearance on behalf of COG.

17 THE HEARING EXAMINER: Thank you. Did
18 you object?

19 MS. HATLEY: No. Monitoring only.

20 THE HEARING EXAMINER: On both cases or
21 just one?

22 MS. HATLEY: Just one. Just 24877.

23 THE HEARING EXAMINER: Thank you.

24 Mr. Savage, please proceed.

25 MR. SAVAGE: Thank you. In case 24876,

1 V-F Petroleum seeks to reopen case number 23780 and
2 amend order number R-22946 in order to request a one-
3 year extension of the well commencement deadline for
4 the pooled unit in the Bone Spring Formation
5 underlying the south half of Section 33, Township 18
6 South, Range 28 East, Eddy County, New Mexico, as it
7 pertains to the two Buchanan wells.

8 In Exhibit A of the hearing packet,
9 Landman, Mr. Jordan Shaw is V-F's expert witness. He
10 has not previously testified before the Division. He
11 graduated in 2013 from Texas Tech University with a
12 law degree and has been working for V-F for three
13 years in both land and legal matters. One-page resume
14 is attached to his statement for your review.

15 THE HEARING EXAMINER: Is he with us?

16 MR. SAVAGE: I believe he is.

17 MR. SHAW: Yes, sir.

18 THE HEARING EXAMINER: Okay, great.

19 Would you turn on your camera?

20 MR. SHAW: Absolutely.

21 THE HEARING EXAMINER: There you are.

22 Would you raise your right hand?

23 //

24 //

25 //

1 WHEREUPON,

2 JORDAN SHAW,

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

6 THE HEARING EXAMINER: Okay. Let's get
7 you qualified as an expert as a landman. That's what
8 you're seeking?

9 MR. SHAW: Yes, sir.

10 THE HEARING EXAMINER: Okay. Very
11 good. Would you give me some background in your
12 education first?

13 MR. SHAW: Yes, sir. I graduated in
14 2013 from Texas Tech University, School of Law with a
15 certificate in energy law. I entered the industry as
16 a landman prior to obtaining my actual bar degree.

17 Worked for ICA Energy principally in
18 matters of drafting legal documents, running title,
19 things of that nature. And then I went to RSP
20 Permian, which was a publicly-traded Midland-based
21 company where I principally ran the operations
22 division for the Midland-based assets, and then ended
23 up working with V-F Petroleum as a landman attorney.

24 THE HEARING EXAMINER: I see. So in
25 each of those three positions you perform the tasks of

1 a landman?

2 MR. SHAW: Yes.

3 THE HEARING EXAMINER: Sir. Okay. All
4 right, very good. So you are hereby qualified before
5 this Division as an expert in landman matters.

6 And, Mr. Savage, is this your witness
7 in both cases?

8 MR. SAVAGE: It is, yes, sir.

9 THE HEARING EXAMINER: Very good. And
10 what is the good cause to amend the order, Mr. Shaw?

11 MR. SHAW: Rig availability. We -- we
12 haven't been able to find a rig for one-off drilling.
13 And in this instance, it's only going to be four
14 wells. So once we're able to put together an actual
15 inventory of wells, then we'll be able to bring a rig
16 in.

17 THE HEARING EXAMINER: Mr. Garcia, do
18 you have any questions for this witness?

19 MR. GARCIA: No questions.

20 THE HEARING EXAMINER: Okay. Mr.
21 Savage, let's get your exhibits admitted into evidence
22 in both cases. What is the date of your notice
23 letter?

24 MR. SAVAGE: I know that notice was
25 timely. I'd have to look up the date specifically,

1 but -- and --

2 THE HEARING EXAMINER: I'm always going
3 to ask these questions.

4 MR. SAVAGE: I should write that
5 down --

6 THE HEARING EXAMINER: Yes.

7 MR. SAVAGE: -- on my cheat sheet;
8 right?

9 THE HEARING EXAMINER: And then I'm
10 going to ask you the date of publication.

11 MR. SAVAGE: Okay. So the notice
12 letter is dated October 10, 2024.

13 THE HEARING EXAMINER: Okay.

14 MR. SAVAGE: And the publication date
15 is coming up. Just a minute. It is October 17, 2024.

16 THE HEARING EXAMINER: So by my
17 calculations, the notice letters have to be mailed at
18 least 20 days before the hearing; is that right?

19 MR. SAVAGE: Yes, sir.

20 THE HEARING EXAMINER: All right. And
21 you said the 10th; didn't you?

22 MR. SAVAGE: Tenth.

23 THE HEARING EXAMINER: So 10 plus 20 is
24 the 30th. So we're good there. I guess my concern
25 would be, though, the date of publication. You said

1 it was what date?

2 MR. SAVAGE: October 17th.

3 THE HEARING EXAMINER: Because I just
4 calculated this a moment ago for someone who published
5 on the 16th, and I thought today would've been that
6 tenth business day. But let me look.

7 So we have the 18th. That's one, two,
8 three, four, five, six, seven, eight, nine. Today is
9 the tenth day. Okay. Today's the tenth day. And
10 there's no objection. So Mr. Garcia has no questions
11 for your witness.

12 Mr. Garcia, do you have any questions
13 for Mr. Savage?

14 MR. GARCIA: No questions.

15 THE HEARING EXAMINER: Very good.

16 So we'll take these two cases under
17 advisement, Mr. Savage.

18 MR. SAVAGE: And thank you very much.

19 THE HEARING EXAMINER: Thank you very
20 much.

21 Thank you, Mr. Shaw.

22 MR. SHAW: Thank you.

23 THE HEARING EXAMINER: Okay. Let's go
24 to line 38 on our docket. This is joined with another
25 line 39. These are COG Operating compulsory pooling

1 cases 24884, 24885. Entries?

2 MS. VANCE: Yes. Good morning again,
3 Mr. Hearing Examiner. Paula Vance with the Santa Fe
4 office of Holland & Hart on behalf of the applicant,
5 COG Operating Company.

6 THE HEARING EXAMINER: Thank you. No
7 other party, Ms. Vance, that you know of?

8 MS. VANCE: Not that I'm aware of, no.

9 THE HEARING EXAMINER: Please proceed.

10 MS. VANCE: Thank you, Mr. Hearing
11 Examiner. So in both of these cases, COG is pooling
12 acreage all in Township 23 South, Range 32 East, and
13 that's Lea County, New Mexico.

14 Specifically, in case 24484, COG is
15 seeking to pool a standard 640-acre, more or less,
16 horizontal well spacing unit comprised of the Bone
17 Spring Formation, and that's the Diamondtail Bone
18 Spring. And the pool code is 17644, and that's in the
19 east half of Sections 22 and 27.

20 And then dedicate that to the Avion --
21 Avion Fed Com 501H through the 503H. And I would note
22 that the 502H is a proximity well allowing for the
23 enlarged spacing.

24 And then in case 24485, it's the same
25 acreage, that east half of Sections 22 and 27, but it

1 is in the Wolfcamp formation, and that's the
2 Diamondtail Wolfcamp, and the pool code is 17645. And
3 then dedicate that to the Avion Fed Com 701H through
4 704H. And in that set the 702H is a proximity well
5 allowing for that enlarged spacing.

6 So in this case we have included a copy
7 of the application, the compulsory pooling checklist,
8 as well as the Self-Affirmed Statement of Landman
9 Michael Monju, and Geologist Ben Breyman, both of whom
10 have previously testified before the Division and
11 their credentials have been accepted as a matter of
12 record.

13 And Mr. Monju's statement is Exhibit C,
14 includes all the standard land exhibits. And then Mr.
15 Breyman's statement is Exhibit D and includes all the
16 standard geology exhibits. Mr. Breyman did not
17 observe any faulting pinch-outs or other geologic
18 impediments to the horizontal drilling of these wells.

19 And then lastly is Exhibit E, which
20 includes my Self-Affirmed Statement of Notice with
21 sample letters that were timely mailed on October 11th
22 of 2024.

23 And then that's followed by Exhibit F,
24 which is the Affidavit of Notice of Publication, which
25 was timely published on October 17th of 2024, which we

1 just determined was timely.

2 Unless there are any questions, I would
3 ask that all exhibits and subexhibits be admitted into
4 the record and that these cases be taken under
5 advisement by the Division at this time.

6 THE HEARING EXAMINER: Are there any
7 objections?

8 Your exhibits are admitted to evidence
9 in both cases.

10 (24884 Exhibit A through Exhibit F were
11 marked for identification and received
12 into evidence.)

13 (24885 Exhibit A through Exhibit F were
14 marked for identification and received
15 into evidence.)

16 Mr. Garcia?

17 MR. GARCIA: No questions.

18 THE HEARING EXAMINER: Your cases are
19 taken under advisement.

20 MS. VANCE: Thank you.

21 THE HEARING EXAMINER: Moving on to
22 line 40, this is Civitas Permian's compulsory pooling
23 application 24887. Entries?

24 MR. RODRIGUEZ: Good morning, Michael
25 Rodriguez on behalf of the applicant, Civitas Permian

1 Operating.

2 MS. HARDY: Dana Hardy with Hinkle
3 Shanor on behalf of 3R Operating.

4 THE HEARING EXAMINER: Did you object?

5 MS. HARDY: I did not object.

6 THE HEARING EXAMINER: Are you just
7 monitoring?

8 MS. HARDY: Just monitoring.

9 THE HEARING EXAMINER: Have you had a
10 chance to look at the exhibits?

11 MS. HARDY: I have, and I have no
12 objection.

13 THE HEARING EXAMINER: Perfect.

14 Is this consolidated with any other
15 case?

16 MR. RODRIGUEZ: No, it's not.

17 THE HEARING EXAMINER: Okay, please
18 proceed.

19 MR. RODRIGUEZ: This is a compulsory
20 pooling application within the Wolfcamp formation in
21 Eddy County. The land and geologist witnesses have
22 previously testified before the Division, and they're
23 qualified as experts in their respective disciplines.

24 Notice of hearing letters were sent out
25 on October 9th, and notice of hearing was published on

1 October 12th demonstrating that notice has been -- was
2 made timely. And therefore, I request that the
3 exhibits be admitted into the record and the case be
4 taken under advisement.

5 THE HEARING EXAMINER: Perfect. Any
6 objections?

7 MS. HARDY: No objection.

8 THE HEARING EXAMINER: Thank you. Your
9 exhibits are admitted into evidence.

10 (24887 Exhibit A, Exhibit B, Exhibit C
11 were marked for identification and
12 received into evidence.)

13 Mr. Garcia, any questions?

14 MR. GARCIA: No questions.

15 THE HEARING EXAMINER: This case is
16 taken under advisement.

17 MR. RODRIGUEZ: Thank you.

18 THE HEARING EXAMINER: Thank you, Mr.
19 Rodriguez. I'm calling Permian Resources Operating
20 LLC's compulsory pooling application. This is item 41
21 on our docket 24889. Entries, please?

22 MS. HARDY: Dana Hardy with Hanner with
23 Hinkle Shanor on behalf of Permian Resources
24 Operating.

25 MS. HATLEY: And Keri Hatley

1 representing COG Operating.

2 THE HEARING EXAMINER: Ms. Hatley, you
3 know I'm going to ask you are there any objections

4 MS. HATLEY: There are not.

5 THE HEARING EXAMINER: Okay. And you
6 had a chance to review the exhibits?

7 MS. HATLEY: We did.

8 THE HEARING EXAMINER: Perfect.

9 Ms. Hardy?

10 MS. HARDY: Thank you, Mr. Examiner.

11 Permian Resources seeks to pool interests in the Bone
12 Spring formation underlying a 640-acre standard
13 horizontal spacing unit, and will dedicate the unit to
14 the English Buffalo 26 35 Fed Com 121H and 122H wells.
15 Our land and geology witnesses have previously
16 testified before the Division and been recognized as
17 experts in their respective fields.

18 Our hearing notice letter is at page
19 PDF 33. It was timely sent on October 9, 2024, and
20 was received by the two parties who we were seeking to
21 pool.

22 We initially sought to pool
23 ConocoPhillips and an agreement has been reached so we
24 are no longer seeking to pool their interest. We are
25 only pooling PBEX.

1 So with that, I would request the
2 exhibits be admitted and that the case be taken under
3 advisement.

4 THE HEARING EXAMINER: I heard that
5 there is no objection from Ms. Hatley. So these
6 exhibits are admitted into evidence.

7 (24889 Exhibit A, Exhibit B, and
8 Exhibit C were marked for
9 identification and received into
10 evidence.)

11 THE HEARING EXAMINER: And when you say
12 an agreement has been reached with COG, you mean a
13 joint operating agreement?

14 MS. HARDY: Correct.

15 THE HEARING EXAMINER: Okay. Very
16 good.

17 Mr. Garcia, are there any questions in
18 this case?

19 MR. GARCIA: No questions.

20 THE HEARING EXAMINER: Okay. This case
21 is taken under advisement.

22 MS. HARDY: Thank you.

23 THE HEARING EXAMINER: Moving on to
24 item 42. This is Permian Resources. Well, it looks
25 like it was joint. Well, it looks like it is joint.

1 Excuse me. So I'm calling two cases on behalf of
2 Permian Resource Operating LLC, both compulsory
3 pooling cases, 24890, 24891. Entries please?

4 MS. HARDY: Dana Hardy on behalf of
5 Permian Resources Operating.

6 MS. HATLEY: And Keri Hatley
7 representing both Burlington Resources and COG
8 Operating.

9 THE HEARING EXAMINER: Burlington
10 Resources and COG. Okay. Thank you. And the
11 question to you is the same.

12 MS. HATLEY: It's my understanding that
13 Permian Resources has filed a motion to dismiss for
14 this?

15 MS. HARDY: That's correct, Mr.
16 Examiner. We filed a motion to dismiss these two
17 applications yesterday afternoon since an agreement
18 was reached between COG and Permian Resources. And
19 COG was the only party we were seeking to pool.

20 THE HEARING EXAMINER: Let me see if
21 Freya has received those motions or motion to dismiss
22 two cases.

23 MS. HARDY: Correct.

24 MS. TSCHANTZ: I'm checking right now.

25 THE HEARING EXAMINER: Thank you.

1 Because I know I didn't sign an order dismissing it,
2 that's why I'm asking the question.

3 MS. HARDY: Right.

4 THE HEARING EXAMINER: Just to make
5 sure we got it.

6 MS. HARDY: Yes.

7 THE HEARING EXAMINER: That's going to
8 leave us with just one more case. Is that yours, Ms.
9 Vance?

10 MS. VANCE: Yes.

11 THE HEARING EXAMINER: I thought it
12 was. And are there any other parties in that case,
13 Ms. Vance?

14 MS. VANCE: No.

15 THE HEARING EXAMINER: Okay. Fine. So
16 let's clear this up first.

17 MS. TSCHANTZ: Yes. Mr. Hearing
18 Examiner, it looks like they have been accepted in the
19 queue, and the orders are being drafted.

20 THE HEARING EXAMINER: Perfect. We'll
21 get an order out right away. And thank you. Have a
22 good morning, Ms. Hardy, Ms. Hatley.

23 MS. HATLEY: Thank you.

24 THE HEARING EXAMINER: And Mr.
25 Rodriguez, you're not part of this last case; are you?

1 Wait, that may not be Mr. Rodriguez.

2 MS. HATLEY: Mr. Baskus [ph].

3 THE HEARING EXAMINER: Oh, Mr. Baskus
4 [ph]. Very good. Okay.

5 Thank you, Ms. Hardy.

6 MS. HARDY: Thank you.

7 THE HEARING EXAMINER: I need my
8 glasses on. Okay. So we're going to move on now to
9 our last case on our docket. This is case number
10 24897. It is XTO Permian Operating's application to
11 contract a gas pool and reassign to an oil pool.
12 Entries of appearance?

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

16 THE HEARING EXAMINER: And Ms. Vance,
17 are there any other parties that you know of?

18 MS. VANCE: No. There are not.

19 THE HEARING EXAMINER: Okay. Very
20 good. Why don't you give us a little -- a little
21 overview, because I know there's been some discussions
22 back and forth.

23 MS. VANCE: Yes. I actually was going
24 to just ask if I can go ahead and give you some
25 diagrams, because I think it's easier to just walk

1 through. And I can also pull these up onto Teams and
2 share them if that's okay.

3 THE HEARING EXAMINER: Are these
4 diagrams in your exhibit packet?

5 MS. VANCE: They are not. I was
6 after --

7 THE HEARING EXAMINER: That's fine.

8 MS. VANCE: -- after some discussion
9 with the examiners with Mr. McClure and Mr. Garcia, I
10 just -- I think it would be easier to --

11 THE HEARING EXAMINER: Sure.

12 MS. VANCE: -- and this is after I had
13 already filed our hearing packets.

14 THE HEARING EXAMINER: Why don't we --
15 so these will be for demonstrative -- at least at this
16 point only. Let's get your exhibits admitted first
17 into this case, file 24897.

18 (24897 Exhibit A through Exhibit E were
19 marked for identification and received
20 into evidence.)

21 So very briefly, would you just review
22 what you filed?

23 MS. VANCE: Absolutely. So in this
24 case, as you've stated, XTO is seeking to contract a
25 gas pool out of acreage within the James Ranch Unit

1 and then reassign that acreage to an oil pool.

2 And in the hearing -- in the hearing
3 packet, we have included a statement from Landman
4 Joshua Prasatik. And he has previously testified
5 before the Division, and his credentials have been
6 accepted.

7 And in his exhibit packet, we've
8 included a copy of the -- of the unit order that was
9 recently issued. They did an expansion. We've also
10 included a unit location map as well as a unit area
11 depicting where we provided notice in this case.

12 And then we have also included a
13 statement from Cole Bondo who is the reservoir
14 engineer. He has not previously testified, and we did
15 include a copy of his resume if you'd like to stop
16 now.

17 THE HEARING EXAMINER: I would. Do you
18 have both witnesses available?

19 MS. VANCE: Yes.

20 THE HEARING EXAMINER: Okay. I'm
21 anticipating we're going to have questions for them.
22 So can we get both of them on the screen?

23 MS. VANCE: And I see both of them
24 there.

25 THE HEARING EXAMINER: I see Mr. Bondo.

1 And I'm waiting for Mr. Prasatik. Perfect. Would you
2 both state and spell your names for the record.

3 First, Mr. Bondo?

4 MR. BONDO: Yes. Cole Bondo. C-O-L-E
5 B-O-N-D-O.

6 THE HEARING EXAMINER: Thank you.

7 MR. PRASATIK: Joshua Prasatik.

8 J-O-S-H-U-A P-R-A-S-A-T-I-K.

9 THE HEARING EXAMINER: Would you both
10 raise your right hands, please?

11 WHEREUPON,

12 COLE BONDO,

13 called as a witness and having been first duly sworn
14 to tell the truth, the whole truth, and nothing but
15 the truth, was examined and testified as follows:

16 WHEREUPON,

17 JOSHUA PRASATIK,

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

21 THE HEARING EXAMINER: Okay. Very
22 good.

23 Mr. Prasatik, if I'm not mistaken,
24 you've been qualified as a landman expert before the
25 Division?

1 MR. PRASATIK: Yes, sir.

2 THE HEARING EXAMINER: Perfect.

3 Mr. Bondo, instead of my -- instead of
4 my reviewing your resume on my computer, why don't you
5 tell me what your education background is to qualify
6 you -- just your education as a reservoir engineer?

7 MR. BONDO: Yeah. No problem. I have
8 a bachelor's degree in petroleum engineering from
9 Pennsylvania State University.

10 THE HEARING EXAMINER: Okay. And then,
11 and when was that earned?

12 MR. BONDO: I graduated in 2016.

13 THE HEARING EXAMINER: '16. Okay. So
14 since 2016, what work have you done in the field as a
15 reservoir engineer?

16 MR. BONDO: Yes. Specifically over the
17 last three years, I've been a reservoir engineer over
18 the James Ranch Unit, which we're discussing today.
19 I've included -- or I forecast the GORs accurately for
20 reserves reporting for the SEC and for volume modeling
21 for the new well proposals.

22 I received approval to develop around
23 75 new wells since I've been in this role, including
24 these Apache wells that we're discussing today.

25 THE HEARING EXAMINER: What is your

1 title at XTO?

2 MR. BONDO: Reservoir Engineer.

3 THE HEARING EXAMINER: Okay. All
4 right. Mr. Bono, you are hereby qualified as an
5 expert in reservoir engineer before this Division. So
6 thank you.

7 So stay on the screen because Mr.
8 Garcia, the technical examiner, may have questions for
9 both of you.

10 Ms. Vance, you wanted to pull up a map
11 was it or a diagram?

12 MS. VANCE: Yes. That's correct. I
13 think for the benefit of the hearing examiner, like I
14 said, Mr. McClure and Mr. Garcia are familiar with
15 this application, but I think walking through it with
16 you might be helpful.

17 THE HEARING EXAMINER: I'm going to
18 take a five-minute break while you get your diagram up
19 on the screen. And we will continue at that time.
20 Thank you. We're off the record.

21 (Off the record.)

22 THE HEARING EXAMINER: It is 10:59 a.m.
23 We are back on the record.

24 Ms. Vance?

25 MS. VANCE: Thank you. So first, I'll

1 just start by going over -- we've got this diagram in
2 here. As I already mentioned, it's included in the
3 hearing packet, which is just a general overview and
4 outline of the James Ranch Unit.

5 And then the acreage that we're going
6 to be discussing today is actually outlined here. It
7 is section -- it's the east half of Section 13, and
8 that would be Township 22 South, 30 East.

9 And you'll see in this diagram there's
10 a one-mile outline which we provided notice to the
11 interest owners in that area. So why we're here is
12 because this particular acreage, this east half of 13
13 is -- the pool was dedicated under an order, and that
14 order is R TAC 11220. And I've got a copy of it here
15 with me.

16 And this is the only place where this
17 pool exists. I did want to make note of that. So in
18 our particular application, again we're -- we were
19 asking to dedicate to a -- dedicate to an oil pool.

20 There's one other diagram, and I'm
21 happy -- I have a printout of it. I'm happy to
22 provide that to the Hearing Examiner. Otherwise, I
23 will pull it up right here.

24 THE HEARING EXAMINER: Are you seeking
25 to have this admitted into evidence?

1 MS. VANCE: Yes.

2 THE HEARING EXAMINER: Okay.

3 MS. VANCE: We can go ahead and do
4 that.

5 THE HEARING EXAMINER: Have you marked
6 it as an exhibit?

7 MS. VANCE: No. Not yet.

8 THE HEARING EXAMINER: Okay. So what
9 we'll do is, since you are requesting this to be
10 admitted into evidence, first I'll ask are there any
11 objections to this exhibit? Not hearing any, how will
12 you mark this exhibit?

13 MS. VANCE: I think it would be
14 appropriate to just outline this Section 13, which is
15 the pool in question right here. And you know, I mean
16 I don't know if it's just to the benefit of the
17 examiners when they're reviewing this.

18 I do know -- or the technical
19 examiners, they have this available to them. But you
20 know, for purposes of explaining this, if we need to
21 provide this into evidence, you know, I'd like --

22 THE HEARING EXAMINER: Well, I'm not --
23 this is not my case, it's your case. And I asked you
24 if you wanted -- if you were seeking to admit this
25 diagram into evidence, and you said yes. So is the

1 answer still yes?

2 MS. VANCE: Yes.

3 THE HEARING EXAMINER: Okay. Great.
4 How are you going to mark it? It's exhibit what?

5 MS. VANCE: I will mark it as Exhibit
6 C-4 which will go under the landman --

7 THE HEARING EXAMINER: Hold on. C-4
8 under landman exhibits?

9 MS. VANCE: Yes.

10 THE HEARING EXAMINER: Fine. And then
11 I would assume that Mr. Prasatik -- is that how you
12 say it?

13 MR. PRASATIK: Yes, sir.

14 THE HEARING EXAMINER: Good. That
15 you're familiar with this diagram?

16 MR. PRASATIK: Yes, sir.

17 THE HEARING EXAMINER: Did you create
18 this diagram?

19 MR. PRASATIK: I did not. It was
20 provided by the NMOCD.

21 THE HEARING EXAMINER: This was
22 provided by the New Mexico Oil Conservation Division?

23 MR. PRASATIK: Yes, sir.

24 THE HEARING EXAMINER: How was this
25 provided to you?

1 MR. PRASATIK: Via email.

2 THE HEARING EXAMINER: From who?

3 MR. PRASATIK: I -- it was -- I believe
4 it was from Dean --

5 THE HEARING EXAMINER: Okay,

6 MS. VANCE: Mr. McClure.

7 THE HEARING EXAMINER: Okay. All
8 right. Sounds good. So, Ms. Vance, I'm going to
9 direct you to file an amended exhibit packet including
10 Exhibit C- 4, which is now admitted into evidence.

11 (24897 Exhibit C-4 was marked for
12 identification and received into
13 evidence.)

14 THE HEARING EXAMINER: And we'll, of
15 course, leave the record open for you to do that. And
16 when we receive it then we'll close the record in this
17 case. Okay. So you're showing us this exhibit for
18 what purpose?

19 MS. VANCE: So initially in our
20 hearing -- in our hearing -- or application and based
21 off of discussion with the technical examiners -- so
22 XTO is developing this area, and they are -- I'm
23 sorry. sorry. I'm not sure what's going on there.

24 So originally in the application we
25 asked to dedicate this particular acreage to this oil

1 pool down here.

2 THE HEARING EXAMINER: And when you say
3 this particular, since the record can't pick up --

4 MS. VANCE: Sure.

5 THE HEARING EXAMINER: -- describe it.
6 What color is it in Exhibit C-4? What are you talking
7 about?

8 MS. VANCE: Okay. So this east half of
9 Section 13, which is color coded in orange, this is,
10 again, the only place where this Los Medanos's
11 Wolfcamp North gas pool exists under the order that I
12 previously described.

13 And the request in the application was
14 to actually contract this pool out of the James Ranch
15 Unit and then rededicate it to this oil pool that is
16 down here, which is the Los Medanos's Wolfcamp South
17 pool.

18 THE HEARING EXAMINER: And what
19 sections is that in?

20 MS. VANCE: And that would be -- I mean
21 I believe it covers a greater area than what's shown
22 right here, but you can see it would be Sections 31,
23 36, 35, 34. And that is, I believe, in the same
24 township and range which I previously described, which
25 was --

1 THE HEARING EXAMINER: I got it.

2 MS. VANCE: Okay.

3 THE HEARING EXAMINER: Okay. So back
4 to -- back to the diagram here. So it includes those
5 sections and colored green, yellow, and blue?

6 MS. VANCE: Yes. That's my
7 understanding. That this pool covers this entire area
8 and that color coding for the technical examiners is
9 for other, you know, purposes. I'm not sure what the
10 color coding for them is, but just that this pool
11 exists in this area down to the south.

12 THE HEARING EXAMINER: And, Mr.
13 Prasatik, until you -- until we call on you again, can
14 you mute your microphone? I'm picking up
15 interference.

16 MR. PRASATIK: Yes, sir.

17 THE HEARING EXAMINER: Thank you.
18 Okay. Ms. Vance?

19 MS. VANCE: So again, initially in the
20 application we wanted to dedicate this east half of 13
21 to this pool down here. And as the reservoir
22 engineer, Mr. Bondo will discuss reasons for
23 dedicating it to the -- to an oil pool is based off of
24 the production, which shows that it is more oil than
25 it would be gas.

1 However, after filing the application
2 and in discussion with Mr. McClure and Mr. Garcia, we
3 came to understand that in order to dedicate this east
4 half of 13 to this pool, that it would have to be
5 connected through the acreage, which we did not put
6 request for in the application. We just requested
7 this east half of 13.

8 That being said, after further
9 discussion with Mr. Garcia and Mr. McClure, since this
10 is the only area that this -- that this pool exists,
11 we then requested that instead we just dedicate it to
12 a new oil pool. And this will allow for XTO to
13 continue its development.

14 Currently, there are -- XTO is
15 developing this area and has submitted permitting.
16 And so there's a time sensitivity to this. And under
17 the requirements -- under the notice requirements for
18 requesting a special pool change, we have actually,
19 with this application, met all of those requirements.

20 THE HEARING EXAMINER: So just so I
21 understand. This is just for me. I'm not speaking
22 for Mr. Garcia. Since you -- since you've been
23 advised that you cannot join the orange area with the
24 area below as a pool -- as an oil pool, you are
25 seeking to create a discreet pool, an oil pool just in

1 the orange area?

2 MS. VANCE: That's correct.

3 THE HEARING EXAMINER: Just in the 320
4 acres, the east half of Section 13?

5 MS. VANCE: Correct.

6 THE HEARING EXAMINER: Okay. I just
7 wanted to make sure I understood what you were saying.

8 MS. VANCE: And this will allow for
9 continued development in this area. It's our
10 understanding in talking with Mr. McClure -- you'll
11 see down here again, you know, where I'm pointing with
12 my, with my cursor.

13 THE HEARING EXAMINER: Yes.

14 MS. VANCE: This is a gas pool. This
15 is a gas pool. All of this acreage in between where
16 the east half of 13 and this south acreage is is all
17 gas pool.

18 THE HEARING EXAMINER: I see.

19 MS. VANCE: However, it's our
20 understanding that the Division will -- as XTO is
21 continuing to develop that they can on a well-by-well
22 basis, dedicate the wells to the oil pool that they
23 would like to.

24 THE HEARING EXAMINER: I have a --

25 MS. VANCE: However, the unique part is

1 that this east half of Section 13 is under an order,
2 and so we had to come to hearing to seek a change for
3 it.

4 THE HEARING EXAMINER: And in one
5 sentence, what does the order say?

6 MS. VANCE: That we are seeking?

7 THE HEARING EXAMINER: No. No. No.
8 You said that this orange area is under an existing
9 order. An order saying what?

10 MS. VANCE: That it's dedicated to this
11 Los Medanos's Wolfcamp North gas pool.

12 THE HEARING EXAMINER: Fine. Okay. I
13 understand that. So if you're changing your
14 application, does that then change the notice
15 requirements?

16 MS. VANCE: I don't believe that it
17 does, because essentially we were asking for a
18 specific oil pool, but we're still requesting for an
19 oil pool.

20 THE HEARING EXAMINER: Okay.

21 MS. VANCE: We have provided notice to
22 that one-mile surrounding area and to the operators
23 within Section 13. And I've had discussions with
24 mister -- I'm going to apologize. I have a hard time
25 pronouncing my client's name. Mr. Prasatik.

1 THE HEARING EXAMINER: Okay.

2 MS. VANCE: Sorry.

3 THE HEARING EXAMINER: I understand.

4 MS. VANCE: That we've had discussions
5 that they have provided notice according to the
6 requirements under Part 4.

7 THE HEARING EXAMINER: So you're saying
8 that someone who has an interest in that area, a
9 working interest in that area, no matter what type of
10 interest they have in that area, your switching from a
11 request to the Division to designate that orange area
12 with the southern areas -- which, you know, that's not
13 going to happen -- would not change the notice
14 requirement to just asking for the Division to
15 designate that as a oil -- a discreet oil pool. Okay.
16 All right. Well --

17 MS. VANCE: I can just to --

18 THE HEARING EXAMINER: Yes.

19 MS. VANCE: In Mr. Prasatik's statement
20 and in the application, we did point to the correct
21 notice requirement, which is under 19.15.4.12A(4)(b).

22 THE HEARING EXAMINER: Yes.

23 MS. VANCE: Mr. Garcia and I did touch
24 base on that yesterday. And it requires that an
25 applicant provide notice to the Division-designated

1 operators in the pool as well as a one-mile radius.
2 And we did that. And so, you know, that's also stated
3 in his statement as well.

4 THE HEARING EXAMINER: And what is the
5 content of the notice that's required at that point?

6 MS. VANCE: I -- I'm sorry --

7 THE HEARING EXAMINER: Under rule --
8 under rule (4)(b), which you just cited, what does it
9 require you -- what sort of notice do you need to
10 give?

11 MS. VANCE: As far as I know, it's
12 similar to what we do in all other cases.

13 THE HEARING EXAMINER: Which is what?

14 MS. VANCE: Which is a description of
15 the area in question along with what we are
16 requesting, what relief we are requesting from the
17 Division.

18 THE HEARING EXAMINER: So you're saying
19 then that notice is sufficient as long as you provide
20 a legal land description and what you are requesting?

21 MS. VANCE: That's correct. Within the
22 timeframe -- I believe that's the same timeframe, the
23 20 days, and then the 10 business days would apply as
24 well.

25 THE HEARING EXAMINER: So then, in

1 other cases that I've dealt with over the past year
2 and several months, I've heard about the material
3 change rule that we have here that you need to file a
4 new application if there's a material change to your
5 application. Have you heard of that?

6 MS. VANCE: I have.

7 THE HEARING EXAMINER: You have. Okay.
8 And what does that mean to you?

9 MS. VANCE: Material change. An
10 example of that would be if you're changing the
11 spacing of a unit that you're requesting, or if you
12 have a different pool.

13 But in this case, you know, I kind of
14 see what the hearing examiner might be hinting at.
15 But we're moving from an oil pool to an oil pool.

16 THE HEARING EXAMINER: Okay.

17 MS. VANCE: There's -- in the cases
18 where I've seen it where it might be a material
19 change, the Division may have assigned an area to an
20 oil pool. But come to find out it's actually a gas
21 pool.

22 THE HEARING EXAMINER: Okay. All
23 right. Okay. We've admitted your exhibits. I've
24 directed you to file an amended exhibit packet. Let's
25 now turn to Mr. Garcia to have his questions.

1 Mr. Garcia?

2 MR. GARCIA: I have no technical
3 questions as far as, like -- because we discussed
4 about how the pools can be expanded without
5 connection, because the pools are unique --

6 The request has changed to delete the
7 orange pool, create a new pool. And to me the biggest
8 question is, is that -- which is probably more a legal
9 question.

10 I know I talked to some of my
11 counterparts and reviewed the case more in depth last
12 night. And a lot of my counterparts within OCD viewed
13 this as a very major change, in the engineering staff.
14 That's about where I stand on this case. So sorry. I
15 thought my camera was on, too.

16 THE HEARING EXAMINER: Yeah. That's
17 okay, Mr. Garcia.

18 So, Ms. Vance, without a legal
19 briefing, let's say, the Division seems to feel as
20 though a new application, a new notice, would be
21 required to change your application from what you
22 originally wanted to what you're asking for now. How
23 do you feel about that?

24 MR. GARCIA: Mr. Examiner?

25 MS. VANCE: Can you --

1 THE HEARING EXAMINER: Yes?

2 MR. GARCIA: While she thinks on that.
3 I believe we probably need a lot more exhibits, too.
4 Because this order is established as a gas pool and
5 the exhibits currently don't discuss the well that
6 established the gas pool. It's GOR. It just talks
7 about new wells.

8 We would need a lot more findings of
9 fact to issue and order on why the history of the
10 reservoir has changed from, you know, mechanisms, and
11 driving force, and GORs, et cetera. I don't think we
12 saw any of that in the exhibits.

13 THE HEARING EXAMINER: Okay. All
14 right. I understand.

15 So, Ms. Vance?

16 MS. VANCE: Can you ask the question
17 one more time? I'm sorry, Mr. Hearing Examiner.

18 THE HEARING EXAMINER: I don't think it
19 was necessarily a question. I think -- I think --
20 well, I'll phrase it as a -- no. I'm not going to
21 phrase it as a question.

22 As you can -- as you've heard from Mr.
23 Garcia, there's two issues here. Number one is
24 notice, number two is evidence. Mr. Garcia is
25 suggesting to your client that they file a new

1 application and re-notice that application for another
2 hearing by affidavit or whatever. Another hearing.
3 And your take on that?

4 MS. VANCE: So my -- I did hear Mr.
5 Garcia say that this was a major change. And I'd like
6 to understand that, because that's not very clear to
7 me. I don't view this as a major change that we're
8 going from one oil pool to another.

9 And certainly if there's additional
10 exhibits, we're happy to take a list of additional
11 exhibits that the examiners would like and provide
12 that, and answer any questions that the examiners do
13 have.

14 But I don't see this as a material
15 change unless that can be better defined from the
16 Division's perspective. That would be helpful.

17 THE HEARING EXAMINER: I understand.
18 And, and as Mr. Garcia is not a witness, he's not
19 answering questions.

20 MS. VANCE: Understood.

21 THE HEARING EXAMINER: Nor does he give
22 out legal advice. I would suggest -- and this is just
23 a suggestion. This is not me telling you what to do.
24 But if you feel as though you have a legal argument
25 that is going to convince the Division that it's not a

1 material change, then I would submit that as a
2 brief --

3 MS. VANCE: Yes.

4 THE HEARING EXAMINER: -- citing
5 authority. However, I think Mr. Garcia is giving you
6 a heads up that it would be difficult for the Division
7 to approve this based on the notice that was given to
8 the original application.

9 MS. VANCE: Understood. I'm happy to
10 submit a brief and explain why we have met the notice
11 requirements and why there's -- you know, we should
12 move forward with this application.

13 THE HEARING EXAMINER: I also wonder --
14 now I am asking you this question. How long would it
15 take? Since it sounds like there is a bunch of
16 evidence that's missing in this packet that needs to
17 be pulled together.

18 And I'm sure Mr. Garcia can tell your
19 witnesses what he wants to see based on this new
20 application or this -- you call it a revised
21 application -- or maybe it will be a new application.
22 That's -- that's a legal question.

23 So how long -- if you did have to -- if
24 you knew that this was going to be denied, let's just
25 say, the way it is proposed now, because you know that

1 you can't have this unit that is separate from the
2 other unit, that you can't join them in some way that
3 you originally thought you might be able to. How long
4 would it take to draft the new application and go
5 through the process?

6 MS. VANCE: I think we would be
7 prepared to file an application for the next available
8 docket, which I understand the filing would be on
9 Tuesday. But again, I would have to confer with my
10 client to understand, you know, how they would like to
11 proceed based on what we've learned at the hearing
12 today.

13 THE HEARING EXAMINER: But let's just
14 say we're going down that road. So if you filed
15 something on Tuesday, when would we hear it?

16 MS. VANCE: That would be at the -- I
17 believe that's the December 5th docket.

18 THE HEARING EXAMINER: Right. So this
19 might delay you a month.

20 MS. VANCE: This would delay us a
21 month. And again, there is a time sensitivity here
22 because --

23 THE HEARING EXAMINER: What is that?

24 MS. VANCE: XTO is currently developing
25 this area, so.

1 THE HEARING EXAMINER: Okay. That's
2 the extent that you'll tell us what the time
3 constraint is, it's currently developing?

4 MS. VANCE: I wouldn't want to speak to
5 specifics. I would prefer to confer with my client on
6 that.

7 THE HEARING EXAMINER: Okay, fine. All
8 right. Okay. So at the most, if you had to file a
9 new application, if this would delay you about a
10 month. Okay.

11 Mr. Garcia, what evidence do you want
12 to see that was not in the packet?

13 MR. GARCIA: Engineering would request
14 a history of the Apache 13 Federal Number 1 well, API
15 number 30-015-27434. I believe it is the one that
16 established this gas pool -- record.

17 MS. VANCE: Can you repeat that?

18 THE HEARING EXAMINER: Can you repeat
19 it, Mr. Garcia? The Apache thing?

20 MR. GARCIA: Yeah. API 30-015-27434.
21 It's the Apache 13 Federal Number 1. It's the well --
22 I believe that established this as a gas pool with a
23 very high GOR ratio -- you know, mechanisms of it.
24 What has changed in its life. I believe it's an older
25 well. I understand geology -- more change. I just

1 can't assume that -- I have to have findings of fact
2 to reference.

3 THE HEARING EXAMINER: So Mr. Garcia --

4 MR. GARCIA: That would be one request.

5 THE HEARING EXAMINER: Mr. Garcia, you
6 said a history. How much of a history are you looking
7 for?

8 MR. GARCIA: Basically, you know,
9 what's changed with the reservoir since this well was
10 established as a gas well. I forgot what the GOR on
11 it was, but it was extremely high. And why this --
12 why this reservoir is no longer a gas reservoir and
13 why it's deemed an oil reservoir.

14 Because it changes all of our spacing
15 and setback requirements and our statutes and rules
16 require a -- justification on why it changes. We also
17 need -- on the horizontal wells, they provided GORs of
18 three horizontal wells.

19 Locations of those horizontal wells
20 from a bird's eye view, and also a cross-sectional
21 view where the landing points in this formation --
22 where are the landing points of those wells in
23 relation to the original vertical well.

24 You know, discussion was -- in the gas
25 cap and these horizontal wells are lower set, et

1 cetera, et cetera. That's probably what we're looking
2 for.

3 THE HEARING EXAMINER: Okay. All
4 right. Mr. Garcia, I think you've outlined what you
5 need evidence-wise and the problems you're having with
6 the notice based on the original application and now
7 the - - how that application has morphed since it was
8 filed.

9 Ms. Vance, how do you want to proceed?

10 MS. VANCE: Well, I would like to
11 confer with my client. But you know, I would like to
12 keep the option of writing a legal brief to, you know,
13 make the argument that we have met the notice, that
14 there's no issue here, and we can move forward. And
15 then, you know, obviously provide these supplemental
16 exhibits for review of the tech -- by the technical
17 examiners.

18 THE HEARING EXAMINER: Okay. Sounds
19 good. So let's set a deadline --

20 MS. VANCE: Sure.

21 THE HEARING EXAMINER: -- for both.
22 The deadline for the exhibits is more lax than the
23 deadline for your brief. When would you file that
24 brief?

25 MS. VANCE: I think I'd like at least

1 ten days, if that's okay.

2 THE HEARING EXAMINER: Okay.

3 MS. VANCE: I don't anticipate needing
4 that much time, but if I can --

5 THE HEARING EXAMINER: What's the date?

6 MS. VANCE: I believe that puts me at
7 the 4th.

8 THE HEARING EXAMINER: November 4th.

9 MS. VANCE: No. I'm sorry. I'm
10 looking at -- I'm not giving myself ten days. Can I
11 have until the 11th?

12 THE HEARING EXAMINER: You can have any
13 day you want.

14 MS. VANCE: Okay.

15 THE HEARING EXAMINER: So November
16 11th?

17 MS. VANCE: Yes.

18 THE HEARING EXAMINER: Okay. In the
19 meantime, are you going to file another application
20 just in case your brief doesn't convince anyone?

21 MS. VANCE: I will go ahead and confer
22 with my client on that.

23 THE HEARING EXAMINER: All right.

24 Okay. Sounds good. So we have a brief November 11th.
25 How long do you need to file this additional evidence?

1 MS. VANCE: I -- again, I'm not sure
2 what time Mr. Bondo would need to put that
3 supplemental --

4 THE HEARING EXAMINER: Let's ask him.

5 MS. VANCE: Yeah.

6 THE HEARING EXAMINER: Mr. Bondo, how
7 long would it take for you to give us the engineering
8 history of the Apache 12 well and the horizontal well
9 GOR locations from a bird's eye view and a cross-
10 sectional view?

11 MR. BONDO: About a week.

12 THE HEARING EXAMINER: So, Ms. Vance,
13 do you want to set a date?

14 MS. VANCE: Sure. Can we go ahead and
15 have until the 11th for that as well --

16 THE HEARING EXAMINER: Perfect.

17 MS. VANCE: -- just in case there's --

18 THE HEARING EXAMINER: That's perfect.

19 MS. VANCE: -- we need to do any
20 adjustments?

21 THE HEARING EXAMINER: So when you --
22 when you file your amended exhibit packet to include
23 this additional evidence and your exhibit C-4, we'll
24 just say that your amended exhibit packet is due on
25 the 11th of November by the close of business and you

1 know how to amend it now?

2 MS. VANCE: Correct. Yes, I do.

3 THE HEARING EXAMINER: And how -- do
4 you think you will -- will they be more C exhibits or
5 will they be -- are Mr. Bondo's Cs? I forgot.

6 MS. VANCE: No. His are Ds.

7 THE HEARING EXAMINER: D. So we'll
8 have some additional D exhibits, and we'll have your
9 C-4 as amendments?

10 MS. VANCE: Yes.

11 THE HEARING EXAMINER: Will you put a
12 cover letter on that?

13 MS. VANCE: Of course.

14 THE HEARING EXAMINER: Thank you.
15 Okay. Mr. Garcia, is there anything else? You've
16 heard what they're going to do.

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

18 Paula, I know we talked off the record
19 a few -- whenever we talked. XTO also is developing
20 30,000, plus or minus, acres here, and you guys are
21 wanting to change that acreage, each APD. You can
22 also do that through hearing, because pools are only
23 officially created through a hearing order. APDs
24 can't create pools. Just as a reminder.

25 THE HEARING EXAMINER: Ms. Vance, do

1 you have any follow up questions to that?

2 MS. VANCE: No. Can you please say
3 that again, and I believe Mr. Prasatik may have
4 something.

5 MR. PRASATIK: So I think what we were
6 referring to there is back to the map Ms. Vance was
7 showing with all the green and yellow acreage. My
8 understanding from talking to the Division is that
9 those pools were assigned by the Division, not by
10 hearing.

11 And so what we're doing is going well-
12 by-well and showing that the wells we're drilling are
13 Wolfcamp oil wells, and therefore, belong to -- so
14 those -- those -- the ones we were talking about
15 changing well-by-well were not set by hearing.

16 MR. GARCIA: Correct. I guess what
17 my -- and I don't mean this as advice. It would be
18 easier for one hearing order to cross 30,000 acres
19 than a change of plans for however many wells you guys
20 are going to have in 30,000 acres.

21 Because if -- are approved, you'll have
22 to submit a change of plans justifying the pool
23 change. So it might be easier on a few parties. I
24 don't know how many wells he's got in this area.

25 MR. PRASATIK: Well, we -- we tried --

1 we'd like to change them now. But we were told we had
2 to be within a mile of an existing pool, so that's --
3 that's why we were going to do it well-by-well, which
4 was tough for me to understand.

5 'Cause it was -- it -- it sounded like
6 it was set by the Division just kind of without a
7 hearing, like you said. So, you know, what was the
8 justification for how they were set in the first
9 place? I guess is part of the question.

10 MR. GARCIA: Yeah --

11 THE HEARING EXAMINER: Yeah. That's
12 what I was going to say, Mr. Garcia. Thank you. So
13 this is -- that's -- that's an off the record
14 conversation between you and Mr. Garcia or whoever he
15 assigns to deal with that question.

16 But we're here just to take relevant
17 evidence, relevant and reliable evidence toward your
18 application.

19 So is there anything else, Ms. Vance?

20 MS. VANCE: I don't believe so.

21 THE HEARING EXAMINER: All right. You
22 have all the information you need?

23 MR. BONDO: Excuse me?

24 THE HEARING EXAMINER: Yes, Mr. Bondo?

25 MR. BONDO: May I ask Mr. Garcia

1 clarifying question?

2 THE HEARING EXAMINER: Maybe. It
3 depends on the question. Why don't you ask me the
4 question? Let's see if it's allowable.

5 MR. BONDO: Okay. I was just seeking
6 some clarification on what Mr. Garcia recommended as
7 evidence for changing the reservoir from what it is
8 deemed as.

9 THE HEARING EXAMINER: By all means.
10 You can definitely ask Mr. Garcia because you're
11 trying to clarify what evidence he still wants?

12 MR. BONDO: Correct.

13 THE HEARING EXAMINER: Yes. Go ahead.

14 MR. BONDO: So in a landing zone
15 change, essentially in a wells that we're going to be
16 developing moving forward, first, the well that set
17 that pool as a gas pool, would that suffice as what
18 has changed, like, within the reservoir or what has
19 changed, like, about the reservoir as the landing zone
20 change; does that suffice?

21 MR. GARCIA: Landing zone change would
22 help? Keep in mind our pools tend to be formation
23 thick. I believe we're at the -- we're in the
24 Wolfcamp. I don't know thickness there, but you know,
25 overall, the Wolfcamp into this area is oil, because

1 of these reasons.

2 Here's landing zones, they used to be
3 gas driven. Now it's changed over 30 years. It is
4 this driven. Basically, whatever evidence you could
5 convince someone it's an oil pool. OCD has a lot
6 public questions when we do things like this that
7 come. What is our justification on why we changed it,
8 is what I need.

9 MR. BONDO: Okay. Understood. Thank
10 you very much.

11 THE HEARING EXAMINER: Okay.

12 Ms. Vance, is there anything further?

13 MS. VANCE: I don't believe so.

14 THE HEARING EXAMINER: All right. All
15 right. Then we are off the record in this case.

16 It's not taken under advisement, as you
17 understand, and we'll wait for your filings and maybe
18 your new application.

19 MS. VANCE: Okay. Thank you.

20 THE HEARING EXAMINER: Thank you.
21 We're off the record altogether.

22 (Whereupon, at 11:29 a.m., the
23 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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I, DIANA ROBERSON, 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.

Diana Roberson

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