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

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING: Case Nos.: 25480,
25250 (joined cases 25254),
25254 (joined cases 25250),
25550, 25551, 25552, 25553,
25554, 25555, 25556, 25557,
25558, 25559, 25560, 25561,
25572, 25573, 25574 (joined
cases 25575), 25575 (joined
cases 25574), 25541 (joined
cases 25462, 25463, 25464,
25465, 25466, 25542), 25542
(joined cases 25462, 25463,
25464, 25465, 25466, 25541),
25462, 25463, 25464, 25465,
25466.

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HEARING

DAY 1

DATE: Tuesday, September 16, 2025
TIME: 8:08 a.m.
BEFORE: Hearing Examiner Gregory Chakalian
LOCATION: Wendell Chino Building
Pecos Hall
1220 South Saint Francis Drive
Santa Fe, NM 87505
REPORTED BY: Gerald Aragon
JOB NO.: 7511179

A P P E A R A N C E S

List of Attendees:

Gregory Chakalian, Hearing Examiner, New Mexico Oil
Conservation Division

Freya Tschantz, Law Clerk, New Mexico Oil Conservation
Division

Dana Hardy, Attorney, Hardy McLean LLC, on behalf of
Frontier Field Services, LLC; and Marathon Oil
Permian, LLC

Paula Vance, Attorney, Holland & Hart, LLC, on behalf
of Matador Resources Company

Jaclyn McLean (Jackie McLean), Attorney, Hardy McLean
LLC, on behalf of Permian Resources

Dean McClure, Technical Examiner, Energy, Minerals,
and Natural Resources Department

Darin Savage, Attorney, Abadie & Schill, P.C., on
behalf of Alpha Energy Partners, LLC

James Bruce (Jim Bruce), Attorney, representing
Mewbourne Oil Company

Sharon Shaheen, Attorney, Spencer Fane, LLP, on behalf
of Longfellow Energy, LP and Tumbler Operating
Partners LLC

Matthias Sayer, Attorney, Bradfute Sayer, on behalf of
EOG Resources

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Nicholas Weeks, Vice President, Tumbler Operating
Partners; Senior Vice President of Legal, Title, and
Regulatory at Stronghold Investment Management

Dylan Collins, Chief Executive Officer, Stronghold
Investment Management

Walt Baker, Vice President of Operations, Yukon
Partners and Tumbler Operating Partners

Chris Villarreal, Vice President of Investments and
Operations, Stronghold Investment Management

Beth Ryan, Attorney on behalf of ConocoPhillips and
Marathon Oil Permian

Stuart Gaston, Senior Landman, Longfellow Energy, LP

Jacob DeHamer, Senior Geologist, Longfellow Energy, LP

Sean Miller, Land Supervisor, ConocoPhillips

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

2 THE HEARING EXAMINER: -- 8:08 a.m. on
3 September 16, 2025. This is a special docket of the
4 Oil Conservation Division. Today we're hearing
5 approximately 26 cases, including some contested
6 cases.

7 My name is Gregory Chakalian. I'm the
8 hearing examiner. Today we have various technical
9 examiners, so I won't name them.

10 So I'll start with the first case.
11 This is case number 25480, Frontier Field. Entries of
12 appearance, please?

13 MS. HARDY: Good morning, Mr. Examiner.
14 Dana Hardy with Hardy McLean on behalf of Frontier
15 Field Services, LLC.

16 THE HEARING EXAMINER: Good morning. I
17 don't think there's any other parties, are there?

18 MS. HARDY: There are not.

19 THE HEARING EXAMINER: Okay. I've been
20 advised by the technical examiners that they've
21 reviewed the amended exhibits and that the case is
22 taken under advisement.

23 MS. HARDY: Great. Thank you.

24 THE HEARING EXAMINER: So thank you.
25 Let's move on to Matador Production.

1 This is 25250 and 25254. Entries, please?

2 Do we have Paula Vance with us? Maybe
3 we took Ms. Vance by surprise.

4 Let's go on to Permian Resources.
5 We'll come back to Matador. These are cases 25550,
6 51, 52, 53, 54, 55, 56, 57, 8, 9, 60, and 61.
7 Entries, please?

8 MS. MCLEAN: Yes. Jackie McLean with
9 Hardy McLean on behalf of Permian Resources.

10 THE HEARING EXAMINER: Thank you.

11 MS. MCLEAN: And there are no other
12 entries of appearance.

13 THE HEARING EXAMINER: And are we here
14 for amended exhibits?

15 MS. MCLEAN: No, this is the first
16 time, and this will be very short because all of these
17 cases are just asking for a one-year extension of time
18 to commence drilling the wells so that they can obtain
19 offset drilling results and determine optimal well
20 spacing.

21 So with that, I ask that the exhibits
22 be taken under advisement and the -- or sorry, the
23 exhibits be admitted into the record and the cases be
24 taken under advisement.

25 THE HEARING EXAMINER: Okay, thank you.

1 The amended -- well, no, not the amended -- the
2 exhibits are admitted without exception.

3 And I'll turn to Mr. McClure, who I
4 think is our technical examiner on these cases.

5 MR. MCCLURE: And, Mr. Hearing
6 Examiner, I don't have questions for the witnesses,
7 but I would like to make a request from Ms. McLean,
8 all these cases.

9 THE HEARING EXAMINER: Sure, go ahead.

10 MR. MCCLURE: If I can direct your
11 attention to the last page of each of the exhibit
12 packets with the notice of publication, it appears
13 that for each of these exhibit packets, they were,
14 like, scanned incorrectly or something where we're
15 missing a sliver of the left clipping, and then, you
16 know, a chunk of the right clipping. You see where
17 I'm referring to?

18 MS. MCLEAN: Yes. And we had some
19 serious difficulties with the Carlsbad Current-Argus
20 because the person that's in charge of the
21 publications had a family emergency.

22 And there was a lot of problems with
23 these publications, and this was the best that they
24 could put together for us.

25 I'm not sure if we could maybe get a

1 copy of the newspaper or something and add it on
2 there, but I think we're stuck with this affidavit,
3 unfortunately.

4 MR. MCCLURE: I guess if maybe we can
5 get a supplemental exhibit with a complete scan of the
6 clippings, I guess, and then just yourself saying that
7 it is the same clipping, I guess. Do you understand
8 what I'm saying?

9 MS. MCLEAN: Yes, I can just add a
10 paragraph into the affidavit that I submit saying that
11 I've reviewed the publication, and it's the same as,
12 you know, what is attested to in the Carlsbad Current-
13 Argus' affidavit.

14 MR. MCCLURE: Mr. Hearing Examiner, do
15 you think a statement from the attorneys could be
16 sufficient to take that into the record? Or was is
17 your thoughts on that?

18 THE HEARING EXAMINER: So then, I'm
19 looking at the last page right now myself, and I think
20 you said that the right column is cut off. I see
21 that. And then you said -- was there something else
22 that was cut off? Or was that it?

23 MR. MCCLURE: Yeah, the -- well, in the
24 middle of the page, the left clipping, it has a sliver
25 that's missing off of it where kind of the bottom half

1 of it is missing like a word on the right-hand side.

2 THE HEARING EXAMINER: Okay.

3 So, Ms. McLean, is it possible to --
4 does this appear online, as well?

5 MS. MCLEAN: The affidavit of
6 publication? No.

7 THE HEARING EXAMINER: Not the
8 affidavit. The actual publication. I don't mean
9 the --

10 MS. MCLEAN: Yes. Yes, you can access
11 it online.

12 THE HEARING EXAMINER: I thought so.
13 And so are you able to -- so is it -- so the affidavit
14 is complete?

15 MS. MCLEAN: Yes, the affidavit is
16 complete. It's just the copy.

17 THE HEARING EXAMINER: Right.

18 MS. MCLEAN: Because it was so long and
19 because it was done, you know, not by the person who
20 usually does it. But we -- I mean, you can easily
21 access it online.

22 THE HEARING EXAMINER: Okay.

23 MS. MCLEAN: And we had done so to make
24 sure that it did get published because we did have a
25 question about that at one point.

1 THE HEARING EXAMINER: Okay. So you're
2 saying that for all of these cases, you reviewed the
3 publication, and you find it complete?

4 MS. MCLEAN: Yes, that's correct.

5 THE HEARING EXAMINER: Okay. All
6 right.

7 I think for me -- Mr. McClure, for me,
8 that's good enough to have the attorney state on the
9 record that this notice is complete.

10 Now, are you able to print it from the
11 internet and submit it as a supplemental exhibit?

12 MS. MCLEAN: I could try or take a
13 screenshot or something.

14 THE HEARING EXAMINER: Right. Or
15 something.

16 Would that be good enough for you, Mr.
17 McClure?

18 MR. MCCLURE: Yes, it would be, Mr.
19 Hearing Examiner.

20 THE HEARING EXAMINER: All right.

21 So, Ms. McLean, I know you're in
22 hearing today, so why don't we leave the record open
23 in these cases. We don't need to come back on the
24 record to receive the supplement from you.

25 If you'll just file the screenshot or

1 whatever of the actual notice in these cases as a
2 supplement, maybe with a little paragraph saying that,
3 you know, you attest to the completeness of them, as
4 well, that would be good enough for me, and we can
5 take these cases under advisement.

6 MS. MCLEAN: Okay, thank you.

7 THE HEARING EXAMINER: All right, thank
8 you. So that means that the record will remain open
9 until five o'clock tomorrow afternoon.

10 MR. MCCLURE: Okay.

11 THE HEARING EXAMINER: Okay, very good.

12 MR. MCCLURE: Mr. Hearing Examiner?

13 THE HEARING EXAMINER: Yes, Mr.

14 McClure? Yes?

15 MR. MCCLURE: These are also the cases
16 that I don't know what our thoughts were in regards to
17 pre-hearing statements for them.

18 THE HEARING EXAMINER: Ah.

19 So, Ms. McLean --

20 That's a good question. So thank you,
21 Mr. McClure.

22 Ms. McLean, why were there no pre-
23 hearing statements submitted for these cases?

24 MS. MCLEAN: There definitely were.

25 THE HEARING EXAMINER: Oh, there were?

1 MS. MCLEAN: I mean, I submitted them
2 myself.

3 THE HEARING EXAMINER: Okay. All
4 right. So Ms. Tschantz looked, and she didn't have
5 anything in your queue.

6 MS. MCLEAN: Yeah, let me look.

7 THE HEARING EXAMINER: And we can come
8 back to these cases if you want to take a few minutes
9 and look. I'll call those other cases that I called
10 earlier, the Matador cases for Ms. Vance.

11 MS. MCLEAN: Okay.

12 THE HEARING EXAMINER: There we are.
13 There's Ms. Vance.

14 MS. MCLEAN: Okay.

15 MS. VANCE: Sorry, I was having
16 technical issues.

17 THE HEARING EXAMINER: Not a problem,
18 Ms. Vance. You want to enter an appearance on 25250
19 and 54?

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

24 MR. SAVAGE: Good morning, Mr. Hearing
25 Examiner. Good morning, Mr. Technical Examiner.

1 Darin Savage appearing on behalf of Alpha Energy
2 Partners, and we are just making an appearance and
3 monitoring at this point.

4 THE HEARING EXAMINER: Perfect. Thank
5 you, Mr. Savage.

6 Do we have anyone from ConocoPhillips
7 or from Mewbourne?

8 MR. BRUCE: Mr. Examiner, Jim Bruce
9 representing Mewbourne.

10 THE HEARING EXAMINER: Okay, thank you.
11 And your position, please?

12 MR. BRUCE: No objection to the case
13 proceeding by affidavit.

14 MS. RYAN: Good morning, Mr. Examiner.
15 Beth Ryan on behalf of ConocoPhillips and Marathon Oil
16 Permian. And we are not objecting to these
17 applications today.

18 THE HEARING EXAMINER: Okay, perfect.
19 Thank you, Ms. Ryan and Mr. Bruce.

20 Ms. Vance?

21 MS. VANCE: Yes. So we're just here to
22 -- because we made a correction to the compulsory
23 pooling checklist per Mr. McClure's request that the
24 line item for the primary product to be listed as gas.
25 And so we did that and refiled amended hearing

1 packets.

2 THE HEARING EXAMINER: Okay. So your
3 hearing packets are admitted without exception.

4 Mr. McClure, satisfactory at this
5 point?

6 MR. MCCLURE: Yes, Mr. Hearing
7 Examiner.

8 THE HEARING EXAMINER: Thank you.
9 We'll take these two cases under
10 advisement.

11 Let's return now to Ms. McLean.

12 MS. MCLEAN: Thank you.

13 THE HEARING EXAMINER: Thank you. Ms.
14 McLean, any idea what happened to the pre-hearing
15 statements?

16 MS. MCLEAN: It looks like -- so I'm --
17 I don't know what happened, but it looks like some of
18 them were rejected for some reason.

19 THE HEARING EXAMINER: You want to --

20 MS. MCLEAN: And it shows that I filed
21 it at 3:30 p.m., so I don't know what --

22 THE HEARING EXAMINER: 3:30 p.m. what
23 date?

24 MS. MCLEAN: On -- oh, no, I have to go
25 back into the --

1 THE HEARING EXAMINER: We can come
2 back. If you're not ready for a complete answer, we
3 can come back.

4 MS. MCLEAN: Well, I just -- it's
5 making me get back into this.

6 THE HEARING EXAMINER: Do you want a
7 few more minutes?

8 MS. MCLEAN: Yes. Because it -- I --
9 well, I just don't know how I can see exactly how
10 other than I submitted them, and then I don't -- you
11 know, then it kind of goes into the etherscare of the
12 OCD.

13 THE HEARING EXAMINER: Well, maybe Ms.
14 Tschantz -- what day did you submit them?

15 MS. MCLEAN: They would be the -- I
16 submitted them at the exact same time as the exhibits.

17 THE HEARING EXAMINER: Okay. So what
18 day is that?

19 MS. MCLEAN: I'm going to look and see
20 here. I'm just going to pull up a case. It would
21 have been on September 8th.

22 THE HEARING EXAMINER: Okay.

23 So, Ms. Tschantz, are you able to look
24 and see if they were rejected?

25 MS. TSCHANTZ: I'm looking now. I do

1 recall seeing something weird, some type of glitch,
2 so --

3 MS. MCLEAN: And we kept having some
4 glitches, especially with filings. And it would
5 say -- like, especially when I was filing a lot of
6 applications, and it would say, you know, "We can't
7 process at this time." And -- but then I would get a
8 receipt.

9 So I don't know exactly what was going
10 on, but I know for sure I filed everything because it
11 wasn't the typical day since they were going to be
12 heard today instead of last Thursday.

13 THE HEARING EXAMINER: I'm -- I
14 understand. My -- I guess, the concern that the
15 technical examiner and I have is that there's no pre-
16 hearing statement. We really can't hear the case
17 properly. It has to be submitted. So we have here
18 the --

19 Freya, do we have another docket coming
20 up later on September?

21 MS. TSCHANTZ: Yeah, September 30th.

22 THE HEARING EXAMINER: On the 30th. So
23 if you filed those pre-hearing statements today and
24 then you got a supplemental exhibit, it's not that
25 that's holding up the case for the publication, we

1 would foot the bill and continue them to the 30th.
2 But I don't see how we can hear them today without
3 pre-hearing statements.

4 MS. MCLEAN: If I filed them like right
5 now, and there's no other entries of appearance. And
6 it's pretty --

7 THE HEARING EXAMINER: It's the rule.

8 MS. MCLEAN: Yeah.

9 THE HEARING EXAMINER: My concern is
10 that the rule says that you have to do something a
11 certain number of days before the hearing, and that
12 hasn't been done. And I'm not saying it's your fault,
13 it just hasn't been done.

14 MS. MCLEAN: No, I understand. Yeah, I
15 mean, I know I did. It looks like in here, one of
16 them says that it was rejected, but that's the only
17 one I can see.

18 THE HEARING EXAMINER: Right.

19 MS. MCLEAN: And I don't know why it
20 would be rejected.

21 THE HEARING EXAMINER: It's the only
22 avenue I can see to have these move forward in an
23 expedited way without waiting until --

24 MS. MCLEAN: Yeah, that's fine.

25 THE HEARING EXAMINER: -- without

1 waiting until October 9th. If we had another docket
2 between now and then.

3 MS. MCLEAN: Yes, I believe there's one
4 on the 30th.

5 THE HEARING EXAMINER: Right. That's
6 what I'm saying.

7 MS. MCLEAN: Yeah.

8 THE HEARING EXAMINER: And then we can
9 put them on -- we'll put them on there ourselves.

10 MS. MCLEAN: Okay.

11 THE HEARING EXAMINER: So you don't
12 have to pay for that.

13 MS. MCLEAN: Okay.

14 THE HEARING EXAMINER: It's not your
15 fault it happened.

16 MS. MCLEAN: Okay, we can -- that's
17 fine. We can do that.

18 THE HEARING EXAMINER: It's fine?
19 Okay.

20 Freya, would you move these amendment
21 cases to the September 30th docket?

22 MS. TSCHANTZ: Yes.

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

25 So, Mr. McClure, thanks for bringing

1 that up.

2 All right. Okay, we're off the record
3 in the amendment cases for Permian Resources. They're
4 coming back on September 30 to cure the pre-hearing
5 statement issue and the notice publication cutoff
6 issue.

7 Let's go on to Longfellow Energy 25572.
8 Entries, please?

9 MS. SHAHEEN: Sharon Shaheen on behalf
10 of Longfellow Energy.

11 THE HEARING EXAMINER: I don't believe
12 there's any other parties.

13 MS. SHAHEEN: To my knowledge, no other
14 party has entered an appearance.

15 THE HEARING EXAMINER: Great. Go right
16 ahead.

17 MS. SHAHEEN: Thank you. In this
18 matter, Longfellow seeks to pool the south half of
19 Section 31, Township 16 South Range, 31 East in Eddy
20 County, New Mexico, to dedicate the following wells:
21 The Petty Federal Com 31CD006H well. I believe that's
22 all -- oh, and then the 2H well, as well, and 3H well,
23 and the 4H well, and the 5H well, and the 6H well, and
24 the 7H well, the 8H, the 9H.

25 We have the usual exhibits. Our

1 landman, Mr. Stuart Gaston, has not previously
2 testified before the division, but he should be
3 available to be qualified as an expert witness.

4 Likewise, our geologist, Mr. Jake
5 DeHamer, is also online to be qualified as an expert
6 witness.

7 We have the usual exhibits. Exhibit A
8 is Mr. Gaston's statement with the usual sub-exhibits.

9 (Longfellow Exhibit A through Exhibit
10 A-5 were marked for identification.)

11 Exhibit B is Mr. DeHamer's statement
12 with the usual sub-exhibits.

13 (Longfellow Exhibit B through Exhibit
14 B-5 were marked for identification.)

15 And my statement of notice is attached
16 as Exhibit C.

17 (Longfellow Exhibit C through Exhibit
18 C-4 were marked for identification.)

19 Notice was sent out by letter to all
20 interested parties August 21st, and the affidavit of
21 publication indicates that it was published on August
22 26, 2025.

23 I'm happy to answer any other
24 questions, and we'll move for admission of the
25 exhibits and ask that the case be taken under

1 advisement after my witnesses are qualified.

2 THE HEARING EXAMINER: Sounds good.
3 Thank you. Question on your notice. Did you take
4 into consideration the holiday on September 1st?

5 MS. SHAHEEN: We did. My assistant,
6 Callan [ph], did it that way.

7 THE HEARING EXAMINER: Perfect. Thank
8 you. Okay, your exhibits are admitted without
9 exception.

10 (Longfellow Exhibit A through Exhibit
11 A-5, Exhibit B through Exhibit B-5, and
12 Exhibit C through Exhibit C-4 were
13 received into evidence.)

14 Let's get the two witnesses on the
15 screen. I see one person on the screen, I'm not sure
16 -- ah, that's Mr. Stuart Gaston, Mr. Gaston. Ah, I
17 see Mr. Jacob DeHamer. Excellent.

18 Would you please both raise your right
19 hands?

20 WHEREUPON,

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

25 //

1 WHEREUPON,
2 JACOB DEHAMER,
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: All right.
7 Let's start with Mr. Gaston.

8 You can put your hand down, Mr.
9 DeHamer.

10 DIRECT EXAMINATION

11 BY MR. CHAKALIAN:

12 MR. CHAKALIAN: Would you spell your
13 name for the record?

14 MR. GASTON: Yes, sir. It is Stuart,
15 S-T-U-A-R-T; Gaston, G-A-S-T-O-N.

16 MR. CHAKALIAN: Thank you. And you're
17 seeking to be qualified as an expert in what field?

18 MR. GASTON: In land.

19 MR. CHAKALIAN: Land? Very good. Have
20 you been qualified as an expert in land matters before
21 other tribunals?

22 MR. GASTON: No, sir.

23 MR. CHAKALIAN: Okay, very good. Why
24 don't you give me a little bit about your education
25 and your work experience? Give me dates when you talk

1 about those, and try to be a little specific about
2 your responsibilities when it comes to your
3 experience, your work title, and that sort of thing.
4 So go ahead?

5 MR. GASTON: Yes, sir. Thank you. I
6 began my work in oil and gas in 2020 -- sorry, 2013,
7 May 2013, working for a company named Big Star Oil and
8 Gas in Midland, Texas, primarily focused in Howard
9 County.

10 I had worked at Big Star for
11 approximately three years before the company was sold
12 to Callon Petroleum. I then switched over to Callon
13 Petroleum in around 2016.

14 MR. CHAKALIAN: Can I stop you for a
15 moment? So when you --

16 MR. GASTON: Yes, sir.

17 MR. CHAKALIAN: So first let me hear
18 about your education. So what degree, and from where,
19 if you would start?

20 MR. GASTON: Yes, sir. So I graduated
21 from Texas Tech University in 2012 with an
22 undergraduate degree in business management. And
23 after some time, I went back to school and was
24 admitted to the working professionals program at Texas
25 Tech. And in 2007 -- sorry, 2017 achieved my master's

1 of business administration.

2 MR. CHAKALIAN: All right, excellent.
3 So when you were working for that first company, I
4 think you said it was called Big Star, what was your
5 responsibility there?

6 MR. GASTON: Yes, sir. So primarily
7 in-house land work, so everything from title
8 examination, to leasing, to forming units, drill prep,
9 drill curative. Kind of a small-shop operator, so we
10 kind of do everything.

11 MR. CHAKALIAN: Okay. And then the
12 next employer was who?

13 MR. GASTON: Callon Petroleum in
14 Midland, Texas. So at Callon, a little bit bigger
15 company, primarily did the exact same thing, just on a
16 little bit bigger scale. I worked the same asset and
17 with some foray into Midland County and a little due
18 diligence program in Delaware.

19 MR. CHAKALIAN: And what were your --
20 sorry. What were the dates you worked there?

21 MR. GASTON: From 2016 to 2019.

22 MR. CHAKALIAN: Okay. And then?

23 MR. GASTON: After Callon was a company
24 called Silver Creek Oil and Gas in Dallas, and I
25 worked there for approximately six months. The

1 primary focus there was kind of the same in-house land
2 stuff, just in different counties.

3 MR. CHAKALIAN: Okay. And now with
4 Longfellow, what is your title?

5 MR. GASTON: My title is senior
6 landman.

7 MR. CHAKALIAN: Okay. It's good enough
8 for me. You are recognized as an expert in petroleum
9 land matters before this division.

10 DIRECT EXAMINATION

11 BY MR. CHAKALIAN:

12 MR. CHAKALIAN: Now, let's go to Mr.
13 DeHamer. You heard what we went through. Would you
14 go through the same? But you have to unmute yourself
15 or else I can't qualify you.

16 MR. DEHAMER: You're right. My name is
17 Jacob DeHamer. Would you like me to spell it?

18 MR. CHAKALIAN: Yes, please.

19 MR. DEHAMER: J-A-C-O-B
20 D-E-capital H-A-M-E-R.

21 MR. CHAKALIAN: Okay. And what field
22 do you seek to be recognized as an expert?

23 MR. DEHAMER: Geology.

24 MR. CHAKALIAN: Your education?

25 MR. DEHAMER: I graduated from Calvin

1 College in 2006 with a bachelor of science in geology.
2 And from there went to Louisiana State University
3 where I graduated with a master's degree in applied
4 geology in 2010.

5 I've worked in the oil and gas industry
6 for various operators for close to 18 years, 17 years.
7 And I've been with Longfellow since 2022 in the
8 geology department working New Mexico and West Texas.

9 MR. CHAKALIAN: So what's
10 your -- instead of going through all of it, what's
11 your responsibilities at Longfellow?

12 MR. DEHAMER: At Longfellow, I'm
13 responsible for our -- the geology side of our New
14 Mexico operations, exploration, acquisitions and
15 development as well as other Lower 48 projects that we
16 have going on.

17 MR. CHAKALIAN: And how long have you
18 been with Longfellow?

19 MR. DEHAMER: Since May of 2022.

20 MR. CHAKALIAN: I see. And what's your
21 title there?

22 MR. DEHAMER: Senior geologist.

23 MR. CHAKALIAN: Okay, perfect. So
24 you're qualified before this division as a petroleum
25 geologist.

1 THE HEARING EXAMINER: Mr. McClure, any
2 questions for the two witnesses?

3 MR. MCCLURE: Mr. Hearing Examiner, I
4 do have a quick topic to ask the landman about.

5 THE HEARING EXAMINER: Okay.
6 Mr. Gaston?

7 MR. GASTON: Yes, sir.

8 THE HEARING EXAMINER: You're under
9 oath.

10 So, Mr. McClure, go ahead.

11 MR. MCCLURE: Okay, thank you, Mr.
12 Hearing Examiner.

13 DIRECT EXAMINATION

14 BY MR. MCCLURE:

15 MR. MCCLURE: Mr. Gaston, if I can draw
16 your attention to your summary of ownership? I
17 believe that's in your Exhibit A-3, page 40 of 135.

18 MR. GASTON: Sorry, bear with me, sir.

19 MS. SHAHEEN: I'm going share here --

20 MR. MCCLURE: Take your time -- oh.

21 MS. SHAHEEN: -- in a moment.

22 MR. GASTON: Thank you, Sharon.

23 MR. MCCLURE: And, Mr. Gaston, do you
24 see what Ms. Shaheen is sharing with us?

25 MR. GASTON: Yes, sir, I do.

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1 MR. MCCLURE: Can you describe very
2 briefly what you -- what the nature is of the
3 non-executive working interest owners on this table?

4 MR. GASTON: All right. Little bit of
5 a doozy here. So a non-executive working interest
6 owner, in this case, there was some leasehold interest
7 that was owned by a single company who had conveyed
8 out in a certain deed portions of this leasehold
9 interest, but retained the executive rights under that
10 leasehold, which truthfully, sir, I -- I hadn't seen
11 before.

12 But this was a -- a case that we -- we
13 looked at and said, Hey, how do we treat this like it
14 should be treated? Closest thing we could approximate
15 it to was maybe non-executive mineral ownership where
16 they are subject to another individual's executive
17 rights, whatever they decide to do with the leasehold
18 interests.

19 These -- these parties that are subject
20 to that single executive right owner are bound to
21 their decision. Similar to like kind of a -- a
22 remainderman. So, you know, a life estate or a
23 similar situation with that nature.

24 MR. MCCLURE: So then there's some sort
25 of agreement in place in which working interests

1 transfer to these different persons, but control of
2 the working interest was retained by the original
3 owner; is that correct?

4 MR. GASTON: That's how they styled the
5 assignment out with them, yes, sir.

6 MR. MCCLURE: Okay. So who is the
7 executive working interest owner, then --

8 MR. GASTON: Of those parties?

9 MR. MCCLURE: -- for the --

10 MR. GASTON: Yes, sir. Of those
11 parties, it would be TIG Properties.

12 MR. MCCLURE: Okay. Which you -- which
13 Longfellow is requesting the division of forced pool
14 in this case?

15 MR. GASTON: Yes.

16 MR. MCCLURE: So then, is Longfellow
17 asking the division to force pool those other interest
18 owners as a -- I guess, a part of that agreement,
19 then? Because they're the actual working interest
20 owners?

21 MR. GASTON: Well, they would be
22 subject to TIG Properties' election to either
23 participate or not participate for their election
24 during the forced pooling. To the same extent, TIG
25 Properties may be, you know, required to at least

1 inform their non-executive parties of -- of the forced
2 pooling, as well.

3 MR. MCCLURE: So then, whatever happens
4 to TIG happens to all of these persons, then; is that
5 correct?

6 MR. GASTON: Yes, sir. That would be
7 my understanding of the situation.

8 MR. MCCLURE: Okay. I have no further
9 questions.

10 However, I would like to draw Ms.
11 Shaheen's attention to your notice letter, Ms.
12 Shaheen, on page 83 of 135. You notice your website
13 that you have listed there?

14 MS. SHAHEEN: Yes. Is that incorrect?

15 MR. MCCLURE: Can you -- yes. Can you
16 please make a point to go into your templates and
17 correct that to the website that has been in place for
18 two or three years-plus now?

19 MS. SHAHEEN: Absolutely. Thank you
20 for that.

21 MR. MCCLURE: Okay. Thank you.

22 Thank you, Mr. Hearing Examiner. I
23 have no further questions or requests for this case.

24 THE HEARING EXAMINER: Thank you, Mr.
25 McClure. So we'll take this case under advisement.

1 MS. SHAHEEN: Thank you.

2 THE HEARING EXAMINER: Let's move on to
3 Mewbourne Oil. These are Mr. Bruce's cases, 25573,
4 74, 75.

5 MR. BRUCE: Yes, Mr. Examiner. Can you
6 hear me?

7 THE HEARING EXAMINER: Yes.

8 MR. BRUCE: Okay. My phone shuts off
9 or involuntarily terminates the mute or institutes the
10 mute clause on me, so I'm never sure.

11 Yes, in this matter, I've submitted an
12 exhibit packet, and I'll have a couple of comments at
13 the end.

14 But in this matter, Mewbourne seeks to
15 force pool the South Half South Half of Section 9 and
16 South Half South Half of Section 8, 22 South, 27 East
17 for purposes of drilling the Sandlot C527H well, which
18 is a Second Bone Spring Sand, and a -- the Sandlot
19 C557H well, which is a Third Bone Spring Carbonate
20 well.

21 I would note that the 557H well is
22 unorthodox, and Mewbourne is applying administratively
23 for approval of that location.

24 MR. MCCLURE: Mr. Bruce?

25 MR. BRUCE: Yes, sir?

1 MR. MCCLURE: If I can interrupt you
2 just for a second?

3 MR. BRUCE: Sure.

4 MR. MCCLURE: Mr. Hearing Examiner?

5 THE HEARING EXAMINER: Yes?

6 MR. MCCLURE: Unfortunately, these
7 three Mewbourne cases are ones that I did not have
8 time to review the exhibits for.

9 THE HEARING EXAMINER: Okay.

10 MR. MCCLURE: So I don't know if you
11 wanted Mr. Bruce to continue, or what your thoughts
12 was, I guess.

13 THE HEARING EXAMINER: Okay.

14 Mr. Bruce, not due to any situation
15 that you brought on, we'll have to move these cases to
16 the September 30th docket and hear them by affidavit
17 at that time after they've been reviewed.

18 MR. BRUCE: Okay.

19 MR. MCCLURE: I apologize, Mr. Bruce.
20 I just didn't have a chance for these ones.

21 MR. BRUCE: Well, and I -- Mr. McClure,
22 I was going to brag that at least on this one I
23 actually got a expandable cross section for you. But,
24 you know, small accomplishments.

25 Okay. And the second thing I was going

1 to say is the exhibits had to be revised, anyway,
2 because I did not receive any green cards or
3 affidavits of publication until last Thursday. So I
4 need to revise this accordingly.

5 And so you'll be seeing a different
6 color exhibit package, Mr. Reporter. So you can
7 probably deep six what you have.

8 But I would ask, since it's continued,
9 do I need to file continuance motions, Mr. Examiner?

10 THE HEARING EXAMINER: The answer would
11 have been no, except that obviously you need to add
12 evidence to the packet. But I'll still -- because
13 really, we did not review them by our own admission.

14 Ms. Tschantz, will you move these
15 three?

16 MS. TSCHANTZ: Yes.

17 THE HEARING EXAMINER: To September 30
18 at no cost to Mr. Bruce?

19 MS. TSCHANTZ: Yes.

20 THE HEARING EXAMINER: All right.

21 Okay, Mr. Bruce, we'll see you on the
22 30th. We'll put these toward the top of our docket.

23 MR. BRUCE: All right. Thank you, Mr.
24 Examiner.

25 THE HEARING EXAMINER: All right, thank

1 you. We're off the record in these cases.

2 Let's now move on to our contested
3 case. This is Marathon Oil vs. Tumbler. I'm going to
4 call the case numbers. This is 25541, 42, 254, 62,
5 63, 64, 65, and 66. Entries of appearances, please?

6 MS. SHAHEEN: Good morning. Sharon
7 Shaheen on behalf of Tumbler Operating.

8 MS. HARDY: Good morning. Dana Hardy
9 with Hardy McLean on behalf of Marathon Oil Permian,
10 LLC.

11 THE HEARING EXAMINER: Thank you.

12 MR. SAYER: Good morning, Mr. Hearing
13 Examiner. Matthias Sayer on behalf of EOG Resources.

14 THE HEARING EXAMINER: Thank you.

15 Mr. Sayer, what's your position?

16 MR. SAYER: We have no position. We're
17 just monitoring. Thank you, sir.

18 THE HEARING EXAMINER: Perfect, thank
19 you.

20 Okay. All right. It's my
21 understanding that there were some last-minute
22 exhibits filed. Is that by you, Ms. Hardy, or you,
23 Ms. Shaheen?

24 MS. HARDY: Mr. Examiner, we filed
25 rebuttal exhibits last evening, and I just, after this

1 hearing was scheduled to start, received some from Ms.
2 Shaheen.

3 THE HEARING EXAMINER: So both parties
4 have filed rebuttal exhibits?

5 MS. HARDY: Yes.

6 MS. SHAHEEN: That is correct.

7 THE HEARING EXAMINER: All right,
8 sounds good.

9 MS. HARDY: And we had also filed a
10 motion to exclude certain of their exhibits.

11 THE HEARING EXAMINER: Okay, perfect.
12 So let's -- why don't we hear that as a preliminary
13 matter when we get to it. Let me just clear up some
14 other things first.

15 Ms. Hardy, I know that there were some
16 amended applications filed in your two cases and that
17 you indicated Ms. Shaheen's position was that she
18 didn't oppose your filing them. That's what I saw in
19 the ME. Did you not put that?

20 MS. HARDY: I don't recall that. I
21 mean, the amended applications were filed before they
22 were noticed, so --

23 THE HEARING EXAMINER: Let me pull it
24 up. I know where I saw it, but I'll pull it up again,
25 anyway. Give me one minute. What is -- your case

1 number is 25541.

2 Ms. Shaheen, do you not remember this?

3 MS. SHAHEEN: I vaguely remember that
4 amended applications were filed. I don't recall a
5 discussion about them.

6 THE HEARING EXAMINER: Oh, okay. Maybe
7 I'm -- I've read something incorrectly, but let me
8 look. All right, 25541. Let's look at 41. And
9 here's the case file, and this could be an amended
10 application.

11 What date did you file? There's no
12 titles to any documents here.

13 MS. HARDY: August 6th.

14 THE HEARING EXAMINER: Thank you.
15 August 6th. And this is in 25541?

16 MS. HARDY: Yes.

17 THE HEARING EXAMINER: August 6th?

18 MS. HARDY: So --

19 THE HEARING EXAMINER: I don't have any
20 documents going back that far. The most recent
21 document I have is 8/14. Could that possibly be --
22 yes, that's a pre-hearing order and motion to amend.

23 MS. HARDY: We did file a motion to
24 amend the pre-hearing order, but I'm looking at the
25 case file, and our amended application filed August

1 6th of 2025 is posted.

2 THE HEARING EXAMINER: On, what date
3 did you post?

4 MS. HARDY: August 6th of 2025.

5 THE HEARING EXAMINER: There may be
6 something wrong with the system because I don't see it
7 at all.

8 MS. HARDY: Could be.

9 THE HEARING EXAMINER: I start --
10 literally I start out with the first document on 8/14.
11 I know it's impossible because you must have filed
12 something before that.

13 MS. HARDY: So I see that.

14 THE HEARING EXAMINER: You do see that?
15 Okay.

16 MS. HARDY: But --

17 THE HEARING EXAMINER: And now Mr.
18 McClure is helping me in the background. So here we
19 have -- that's what -- at least he's always helping
20 me.

21 Thank you, Mr. McClure.

22 The amended application shows up on the
23 22nd. I don't know why. Not that you filed it on the
24 22nd, but in the imaging system. And it says here at
25 the end of your -- well, maybe you didn't. Maybe this

1 is not what you asked Ms. Shaheen her position. So,
2 okay.

3 Why did you file an amended
4 application?

5 MS. HARDY: So we corrected the well
6 numbers. There were changes in the well numbers
7 because the original numbers had been the ones
8 assigned by Marathon prior to the acquisition. And so
9 we updated the well numbers and the names. And then I
10 think a couple of the wells changed locations. I
11 don't remember exactly.

12 But we did this, we filed these amended
13 applications before the original applications were
14 even noticed. So we had them basically swapped out to
15 replace the original ones. And so these were the
16 applications that were noticed to the parties and
17 publicly noticed, including to Tumbler, 30 days before
18 the September docket, which would be the initial
19 docket they would have been set on.

20 THE HEARING EXAMINER: That makes total
21 sense, like you said. I think there was another
22 change made. If you look at line 4 of your amended
23 application, it says "Range 34 East." On previous --
24 on the previous, on the original application, it said
25 "24 East." That's what was noticed today. You don't

1 remember changing that 34?

2 MS. HARDY: I don't recall that.

3 THE HEARING EXAMINER: Okay. Well,
4 anyway, so we'll probably have to leave the -- we'll
5 probably have to re-notice at least one case.

6 Mr. McClure, how many cases are
7 affected by the 24 to 34 change?

8 MR. MCCLURE: I believe our notice
9 might have the 24 for both cases.

10 THE HEARING EXAMINER: Right.

11 MR. MCCLURE: I know the public notice
12 is incorrect for 25541, but it seems to be correct for
13 25542.

14 THE HEARING EXAMINER: Perfect. So it
15 affected that range, or affected public notice that
16 you published in one case, 41. So that'll have to be
17 redone. And it also affected our notice because we
18 must have grabbed the original application --

19 MS. HARDY: Notice?

20 THE HEARING EXAMINER: Description,
21 legal description, and put it in our public notice
22 that we post. So we'll have to post new notice for
23 both cases.

24 But that's fine because we'll have
25 other amendments and other requests for the parties at

1 the end of this contested hearing anyway. But we'll
2 have to notice it at least 20 days down the road, as
3 you know.

4 And you'll have to publish new notice
5 for one case, at least. That's your decision to look
6 at them and decide what's best for your client. I'm
7 not telling you what to do.

8 But I am saying that what we need to do
9 is notice them properly. Okay?

10 MS. HARDY: Okay.

11 THE HEARING EXAMINER: So we will end
12 up coming back on the record in at least 20 days,
13 maybe a few more days depending on what the parties
14 need for their exhibits. Okay? All right. So I
15 wanted to bring that up early off -- early on.

16 Now, Ms. Shaheen, you filed the
17 original Tumbler applications. They predated the
18 Marathon cases. Are you prepared to go first?

19 MS. SHAHEEN: Yes, we have conferred.

20 THE HEARING EXAMINER: Okay.

21 MS. SHAHEEN: And Tumbler has agreed to
22 go first.

23 THE HEARING EXAMINER: Perfect.

24 MS. SHAHEEN: That said, I would like
25 to talk about how we do this. I always feel like it's

1 a little convoluted with us going first and then
2 trying to do rebuttal at the same time. So what I
3 would propose is that Tumbler goes first, summarizing
4 its direct testimony, standing for cross, and we also
5 do redirect.

6 And then Marathon would then do the
7 same and present its rebuttal, and then Tumbler would
8 come back to present its rebuttal. And then Marathon
9 would have an opportunity for redirect. To me, that
10 makes the most sense.

11 THE HEARING EXAMINER: It's a logical
12 suggestion, but what we have done in the past that
13 seems to have worked, and I think it's a little bit
14 more -- it's easier on the witnesses instead of having
15 them come back for rebuttal, is just to do the whole
16 thing.

17 Each witness presents its direct and
18 rebuttal testimony in summary fashion, stands for
19 cross, redirect, et cetera, et cetera. And that way
20 witnesses who may want to fly out this evening and
21 maybe the rebuttal wouldn't come until tomorrow,
22 depending on how long things take, then at least
23 they're relieved of that extra burden.

24 MS. SHAHEEN: I understand that. And I
25 think that works fine so long as we have the

1 opportunity to do additional rebuttal, depending on
2 what Marathon's witnesses say.

3 THE HEARING EXAMINER: You'll have a
4 full and fair opportunity to present your cases
5 without question. That's my job.

6 MS. SHAHEEN: Thank you.

7 THE HEARING EXAMINER: Ms. Hardy,
8 anything on that?

9 MS. HARDY: I agree with our normal
10 process, which is what you just outlined.

11 THE HEARING EXAMINER: That's right.
12 You've been through it before. Right? Exactly.

13 Okay, so then, Tumbler is going to go
14 first. How many witnesses do you have?

15 MS. SHAHEEN: Four.

16 THE HEARING EXAMINER: You have four
17 witnesses? Okay. Would you tell me their names now?

18 MS. SHAHEEN: The first is our landman,
19 Nicholas Weeks.

20 THE HEARING EXAMINER: Weeks?

21 MS. SHAHEEN: Yes. W-E-E-K-S.

22 THE HEARING EXAMINER: Yeah, we'll get
23 them to spell. I'm just trying to write it down
24 phonetically. So that's your landman. Okay.

25 MS. SHAHEEN: The second is our

1 geologist, Dylan Collins.

2 THE HEARING EXAMINER: Collins. Okay.

3 MS. SHAHEEN: The third is our engineer
4 on -- petroleum engineer discussing operations and
5 facilities. And that is Walt Baker.

6 THE HEARING EXAMINER: Baker. And
7 last?

8 MS. SHAHEEN: Finally, we have Chris
9 Villarreal, who I will also refer to as Mr. V.

10 THE HEARING EXAMINER: Yeah.

11 MS. SHAHEEN: For convenience. He is
12 also a petroleum engineer, but his primary expertise
13 in this matter is planning and development.

14 THE HEARING EXAMINER: Have all four
15 been previously qualified before this division?

16 MS. SHAHEEN: No. Only Mr. Weeks.

17 THE HEARING EXAMINER: All right. So
18 we have Mr. Weeks is qualified, the other three need
19 to be qualified? Okay.

20 So you have submitted -- you submitted
21 original exhibits and rebuttal exhibits?

22 MS. SHAHEEN: That is correct.

23 THE HEARING EXAMINER: Okay. And
24 you've labeled them as such?

25 MS. SHAHEEN: I believe so.

1 THE HEARING EXAMINER: So the rebuttal
2 exhibits, are they in line with the original exhibits?
3 Or are they separate and then called the rebuttal
4 exhibits?

5 MS. SHAHEEN: They're separately called
6 rebuttal exhibits. But what I believe we did is
7 consecutively identified them as an exhibit. For
8 example, the landman rebuttal exhibit would be A-7.

9 THE HEARING EXAMINER: Okay. But it
10 would say Rebuttal A-7?

11 MS. SHAHEEN: I hope so. That's what I
12 hope my assistant did this morning. I didn't have a
13 chance to review it.

14 THE HEARING EXAMINER: That's fine. If
15 not that, I want to be very clear about what's
16 rebuttal. There is an objection to some of the
17 exhibits, so we'll need to deal with that objection
18 early on. But I wanted to know that they were
19 separately identified. Okay.

20 Now, so typically what we do is for
21 anything that is admitted into evidence, we just have
22 a summary by the witness. Generally about 15 minutes
23 has been more than enough for a witness to summarize.

24 If it's not been admitted, and if you
25 have to provide foundation, then it might take a

1 little time because there's a voir dire process that
2 the other party can, you know, challenge your
3 foundation, let's say. Okay?

4 MS. SHAHEEN: Uh-huh.

5 THE HEARING EXAMINER: All right. Is
6 there anything else? Are there any other preliminary
7 matters that you want to bring up before I go to Ms.
8 Hall [sic]?

9 MS. SHAHEEN: Not that come to mind.

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

12 MS. HARDY: Thank you, Mr. Examiner.
13 Would you like me to introduce our witnesses, or tell
14 you who they are? Is that the -- okay.

15 THE HEARING EXAMINER: Let's start with
16 your witnesses.

17 MS. HARDY: Sure. So our witnesses are
18 landman Sean Miller.

19 THE HEARING EXAMINER: Hold on. Has he
20 been qualified?

21 MS. HARDY: He has.

22 THE HEARING EXAMINER: Perfect.

23 MS. HARDY: And geologist Tyler
24 Patrick.

25 THE HEARING EXAMINER: Patrick. Has he

1 been qualified?

2 MS. HARDY: Yes, he has.

3 THE HEARING EXAMINER: All right, very
4 good. And those are your only two witnesses?

5 MS. HARDY: They are.

6 THE HEARING EXAMINER: Okay, very good.
7 If I'm not mistaken, and it may be a short opening
8 when it's your turn.

9 So, Ms. Shaheen, just plan on a brief
10 opening, like a one- to two-minute opening to explain
11 your case, what you think the evidence will show.
12 That's all I want to hear. Not argument, just what
13 you think the evidence will show and why we should
14 grant you approval of your applications.

15 Ms. Hardy, as part of your opening, I'd
16 like to understand what happened to Marathon's,
17 original compulsory pooling orders that seemed to have
18 been amended once and then evaporated, or whatever you
19 want to call it.

20 MS. HARDY: Sure.

21 THE HEARING EXAMINER: Okay. So we
22 have two witnesses. You have exhibits that you filed
23 along with the pre-hearing statement timely. And then
24 your rebuttal exhibits, are they marked as rebuttal
25 exhibits?

1 MS. HARDY: They are.

2 THE HEARING EXAMINER: All right,
3 excellent.

4 Ms. Shaneen, have you had a chance to
5 review Ms. Hardy's exhibits and rebuttal exhibits?

6 MS. SHAHEEN: I have reviewed her
7 exhibits. I have not reviewed the rebuttal exhibits,
8 but my client has.

9 THE HEARING EXAMINER: Oh.

10 MS. SHAHEEN: And I will be relying on
11 my client with respect to the rebuttal exhibits today,
12 if that's acceptable.

13 THE HEARING EXAMINER: Okay. So --

14 MS. SHAHEEN: So I don't forget any.

15 THE HEARING EXAMINER: Excellent. So
16 as a preliminary matter, do you stipulate to any of
17 the exhibits coming in as evidence?

18 MS. SHAHEEN: You're asking me with
19 respect to all of Marathon's exhibits?

20 THE HEARING EXAMINER: Yes?

21 MS. SHAHEEN: There's a caveat to that,
22 and I think it relates to our motion to Ms. Hardy's
23 motion to exclude our exhibits.

24 With respect to their rebuttal
25 exhibits, I did look at them briefly, and my take on

1 them is that they should have been presented in the
2 direct case. They are not actually true rebuttal
3 exhibits.

4 THE HEARING EXAMINER: So do you -- so
5 that's fine. So you object the rebuttal exhibits. Do
6 you stipulate to the original exhibits?

7 MS. SHAHEEN: I stipulate to their
8 admission.

9 THE HEARING EXAMINER: Perfect.

10 So, Ms. Hardy, your exhibits are
11 admitted into evidence except the rebuttal.

12 And so, Mr. Court Reporter, please keep
13 track of the exhibits.

14 THE REPORTER: Yes, sir.

15 THE HEARING EXAMINER: All right, very
16 good.

17 So, Ms. Hardy give me -- is it A, B, C,
18 D? What do you have for exhibits? I'm not looking at
19 it right now.

20 MS. HARDY: For our exhibits?

21 THE HEARING EXAMINER: Yes?

22 MS. HARDY: Our original exhibits we
23 have Exhibit A, which is a self-affirmed statement of
24 Sean Miller.

25 THE HEARING EXAMINER: Okay.

1 MS. HARDY: And his sub-exhibits A-1
2 through A-11.

3 (Marathon Exhibit A through Exhibit
4 A-11 were marked for identification.)

5 THE HEARING EXAMINER: Okay. So those
6 are admitted into evidence.

7 (Marathon Exhibit A through Exhibit
8 A-11 were received into evidence.)

9 MS. HARDY: Thank you. And for our
10 geologist, Tyler Patrick, we have Exhibit B and sub-
11 exhibits B-1 through B-4.

12 (Marathon Exhibit B through Exhibit B-4
13 were marked for identification.)

14 THE HEARING EXAMINER: Perfect. So
15 they're all -- so those are the exhibits that are
16 admitted into evidence through stipulation via Ms.
17 Shaheen. All right.

18 (Marathon Exhibit B through Exhibit B-4
19 were received into evidence.)

20 MS. HARDY: And then we have our notice
21 exhibits. We have Exhibit C and sub-exhibits C-1
22 through C-7.

23 (Marathon Exhibit C through Exhibit C-7
24 were marked for identification.)

25 THE HEARING EXAMINER: Okay, very good.

1 So those are admitted to evidence, as well, through
2 stipulation.

3 (Marathon Exhibit C through Exhibit C-7
4 were received into evidence.)

5 How are your rebuttal exhibits labeled?

6 MS. HARDY: They are labeled
7 sequentially. Let me pull them up.

8 THE HEARING EXAMINER: I think --

9 MS. HARDY: We have --

10 THE HEARING EXAMINER: -- Ms. Tschantz
11 is just admitting them now into the imaging system.

12 MS. HARDY: We have Exhibit A-12.

13 (Marathon Rebuttal Exhibit A-12 was
14 marked for identification.)

15 THE HEARING EXAMINER: Okay.

16 MS. HARDY: Which is Mr. Miller's
17 rebuttal exhibit.

18 THE HEARING EXAMINER: Okay.

19 MS. HARDY: And then we have Exhibits
20 B-5 through B-7.

21 (Marathon Rebuttal Exhibit B-5,
22 Rebuttal Exhibit B-6, and Rebuttal
23 Exhibit B-7 were marked for
24 identification.)

25 THE HEARING EXAMINER: Okay.

1 MS. HARDY: Which are three rebuttal
2 exhibits that Mr. Patrick will address.

3 THE HEARING EXAMINER: So we have four
4 exhibits that are not yet admitted into evidence that
5 you'll have to provide foundation for unless we get a
6 subsequent stipulation down the road.

7 MS. HARDY: Sure.

8 THE HEARING EXAMINER: Okay. Now, same
9 question to you, Ms. Hardy, for Ms. Shaheen's
10 exhibits. Which ones do you stipulate to?

11 MS. HARDY: Let me pull them up. And I
12 know what we object to.

13 THE HEARING EXAMINER: Let's start on a
14 positive note. Which ones do you would stipulate to?

15 MS. HARDY: Okay. Exhibit A-2, A-3,
16 A-4, and I believe A-5.

17 (Tumbler Exhibit A-2 through Exhibit
18 A-5 were marked for identification.)
19 Exhibit B and B-1 through B-5.

20 (Tumbler Exhibit B through Exhibit B-5
21 were marked for identification.)

22 THE HEARING EXAMINER: Okay.

23 MS. HARDY: Exhibit C and C-1 through
24 C-4.

25 //

1 (Tumbler Exhibits C through Exhibit C-4
2 were marked for identification.)

3 MS. HARDY: And then I do not stipulate
4 to Exhibit D or D-1 through D-14.

5 (Tumbler Exhibit D through Exhibit D-14
6 were marked for identification.)

7 THE HEARING EXAMINER: Are those the
8 rebuttal exhibits?

9 MS. HARDY: No, those are Mr.
10 Villarreal's exhibits.

11 THE HEARING EXAMINER: Who?

12 MS. HARDY: Mr. V. Villarreal.

13 THE HEARING EXAMINER: Oh. Mr.
14 Villarreal?

15 MS. HARDY: Yes.

16 THE HEARING EXAMINER: Is that how you
17 say it?

18 MR. VILLARREAL: However you want,
19 Villarreal, like, it works. V works.

20 THE HEARING EXAMINER: Okay. We're
21 going to say Villarreal.

22 MR. VILLARREAL: Works for me.

23 THE HEARING EXAMINER: So you're not --
24 okay.

25 So I want to make sure the court

1 reporter caught it?

2 THE REPORTER: Yes.

3 THE HEARING EXAMINER: Okay. So you've
4 got the A, B's, and C's, but the D'S, even though
5 they're not rebuttal, you don't stipulate to?

6 MS. HARDY: Correct.

7 THE HEARING EXAMINER: Okay, perfect.
8 And then what about the rebuttals? How -- which ones
9 are you objecting to now?

10 MS. HARDY: I just received them
11 moments ago.

12 THE HEARING EXAMINER: Yes.

13 MS. HARDY: And I think I'm objecting
14 to all of them.

15 THE HEARING EXAMINER: What are they
16 labeled is the question?

17 MS. HARDY: They are exhibits --
18 Tumbler Exhibits A-7, A-8, B-6, B-7, B-8, C-5, and D-
19 15.

20 (Tumbler Rebuttal Exhibit A-7 and
21 Rebuttal Exhibit A-8 were marked for
22 identification.)

23 (Tumbler Rebuttal Exhibit B-6, Rebuttal
24 Exhibit B-7, and Rebuttal Exhibit B-8
25 were marked for identification.)

1 (Tumbler Rebuttal Exhibit C-5 was
2 marked for identification.)

3 (Tumbler Rebuttal Exhibit D-15 was
4 marked for identification.)

5 THE HEARING EXAMINER: I see how you
6 did that. So you basically added on to your original
7 exhibit numbers as the rebuttal exhibits?

8 MS. SHAHEEN: That's correct.

9 THE HEARING EXAMINER: I understand.
10 Okay. So those are the objected ones. So --

11 MS. SHAHEEN: May I just clarify --

12 THE HEARING EXAMINER: Yes.

13 MS. SHAHEEN: -- with Ms. Hardy?

14 Because my understanding was the only
15 objection to Exhibit D was paragraph 7, and that the
16 rest of Exhibit D was not objected to. So that would
17 be my only clarification with the list that Ms. Hardy
18 gave you.

19 MS. HARDY: Well, page -- paragraph 7
20 is four pages of the affidavit. So I'm going to not
21 stipulate to any of it.

22 THE HEARING EXAMINER: Okay.

23 MS. HARDY: And we have objections to
24 several of his sub-exhibits, and some of those I --
25 there are certain ones we've addressed in our

1 objection, and then the others I will not stipulate
2 to. I can't.

3 THE HEARING EXAMINER: Okay. All
4 right. Okay. Is the basis foundation of your
5 objection? Or, I mean, loosely qualified, is it
6 foundation or what is it?

7 MS. HARDY: The exhibits and the
8 testimony include -- there are a lot of reasons for
9 the objection. They include false statements.

10 THE HEARING EXAMINER: Okay.

11 MS. HARDY: They lack foundation.
12 They're speculative, and they're irrelevant --

13 THE HEARING EXAMINER: Okay.

14 MS. HARDY: -- and beyond the witness's
15 expertise.

16 THE HEARING EXAMINER: All right.
17 That's a good list. All right, thank you. All right.
18 So we've admitted through stipulation certain exhibits
19 from Tumbler by Ms. Hardy. Now, we have a motion to
20 exclude. Now, does your motion to exclude exhibits,
21 is that -- which exhibits specifically does the motion
22 relate to?

23 MS. HARDY: The motion specifically
24 relates to Exhibit D, D-3, D-4, D-5, and D-9. And
25 then in Exhibit A, Mr. Weeks' affidavit, we object to

1 paragraph 28 of Exhibit A, which is his affidavit, and
2 then Exhibit A-1, which are the C-102s.

3 THE HEARING EXAMINER: So I'm a little
4 confused by the list you just gave me because it
5 sounds like we've admitted the A exhibits.

6 MS. HARDY: No. I agreed to admit A-2
7 through 5.

8 THE HEARING EXAMINER: Okay.

9 MS. HARDY: But Exhibit A, we have that
10 objection to at least to the one paragraph.

11 THE HEARING EXAMINER: Okay. Let me
12 start a new page here.

13 MS. HARDY: Okay.

14 THE HEARING EXAMINER: All right. So
15 hold on a second.

16 So, Ms. Shaheen, you objected to the
17 rebuttal exhibits only from Marathon?

18 MS. SHAHEEN: That is correct.

19 THE HEARING EXAMINER: Very good. I'm
20 just going to write this down.

21 Okay. Ms. Hardy, specifically -- I'm
22 sorry, you're going to have to go through this list
23 again for me. Which A exhibits are you -- I only want
24 to know which A exhibits you are objecting to?

25 MS. HARDY: Exhibit A.

1 THE HEARING EXAMINER: A itself?

2 MS. HARDY: Yes.

3 THE HEARING EXAMINER: Okay.

4 MS. HARDY: And A-1.

5 THE HEARING EXAMINER: And A-1?

6 MS. HARDY: Yes.

7 THE HEARING EXAMINER: All the other

8 A's except the Rebuttal Exhibit A, which is what?

9 What is the Rebuttal Exhibit A that --

10 MS. HARDY: The rebuttal exhibits --

11 THE HEARING EXAMINER: Just the A?

12 MS. HARDY: It's A-7 and A-8.

13 THE HEARING EXAMINER: All right. So

14 here's what I understand from you. You're objecting

15 to A, A-1, A-7, and A-8?

16 MS. HARDY: Yes.

17 THE HEARING EXAMINER: The other A's

18 all are in evidence?

19 MS. HARDY: Yes.

20 THE HEARING EXAMINER: Perfect. Can

21 you give me the B'S objecting to?

22 MS. HARDY: We do not object to the

23 B's.

24 THE HEARING EXAMINER: What about the

25 Rebuttal B?

1 MS. HARDY: Rebuttal B I do object to.

2 THE HEARING EXAMINER: Right. So with
3 -- what number is that one?

4 MS. HARDY: B-6, B-7, and B-8.

5 THE HEARING EXAMINER: All right. Hold
6 on. B-7 and B-8. Okay.

7 MS. HARDY: And B-6.

8 THE HEARING EXAMINER: B-6, 7, and 8.
9 Got it. And any C's? Are you objecting to any C's?

10 MS. HARDY: We object to Rebuttal
11 Exhibit C-5.

12 THE HEARING EXAMINER: Yes.

13 MS. HARDY: And then otherwise no.

14 THE HEARING EXAMINER: Okay. And then
15 D's? All the D's?

16 MS. HARDY: D's are where we have the
17 real problems. Yes.

18 THE HEARING EXAMINER: All the D's. So
19 can -- and so it's D, and then D-1 through what?

20 MS. HARDY: 15.

21 THE HEARING EXAMINER: Okay. And that
22 includes the rebuttal?

23 MS. HARDY: Correct.

24 THE HEARING EXAMINER: Perfect. Okay.
25 Now, your motion was not to all of these because you

1 hadn't seen the rebuttal exhibits when you filed your
2 motion. Right?

3 MS. HARDY: Right.

4 THE HEARING EXAMINER: Okay. So what
5 is the basis of your motion?

6 MS. HARDY: Would you like to hear?

7 THE HEARING EXAMINER: Yes.

8 MS. HARDY: I can give you my
9 presentation on the motion.

10 THE HEARING EXAMINER: Yes, please.
11 Yes.

12 MS. HARDY: Okay.

13 I want to start by saying that in
14 evaluating competing development plans, the division
15 is engaging in a serious technical fact-finding
16 process that impacts not only the operators appearing
17 before it, but the state of New Mexico. And as we all
18 know, the taxes and revenues from oil and gas
19 development are considerable for the state.

20 And this is a forum for serious
21 scientific and technical evidence presented under oath
22 just as it would be in a court of law. It's not a
23 forum for marketing presentations, hyperbole, and
24 emojis. And unfortunately, Tumbler's witnesses,
25 particularly Mr. Villarreal, seem to lack regard for

1 this process.

2 The first basis for exclusion, and I
3 can actually pull this up and show it, are really the
4 statements in Mr. Villarreal's testimony and exhibits
5 that are essentially false.

6 He has altered quotations that he
7 attributes to Marathon in his sworn testimony and
8 exhibits to materially change their meaning. And he's
9 done it more than once. He is arguing that Marathon
10 does not actually intend to develop these units.

11 And in support of that argument, on
12 page 8 of his testimony, which is page 218 of their
13 PDF, he has a quotation stating "The Goliath unit
14 won't be developed." And he attributes that quotation
15 to Marathon. He doesn't provide a citation for it,
16 but he's attributing it to Marathon.

17 And when you look at his Exhibit D-5,
18 which is page 229 of the PDF, you can see from the
19 quote, he's quoting Ms. Caroline Frederick at
20 Marathon. She actually states the Goliath unit won't
21 be developed in 2025. So he revised the quotation to
22 delete a material part of it that's important to this
23 case.

24 And this wasn't inadvertent because
25 he's done it multiple times. He does it again. I can

1 share my screen because I think it's helpful for the
2 commission to see it -- the division to see it.

3 So when you look here on page 229 of
4 his PDF, he states here, and this is one of the
5 exhibits we've moved to strike, he is attributing a
6 quote to Mr. Sean Miller, who is one of our witnesses
7 who you will hear from, in a March 31, 2025, email.

8 And he states "An understanding of that
9 situation and the fact we have such a large portfolio
10 of New Mexico inventory competing for capital is
11 needed to explain why COP is not developing the
12 project."

13 He's using that to argue that
14 ConocoPhillips is not going to develop these projects.
15 And he's saying that that is a quotation. And I have
16 the email here, when you pull up the actual email from
17 Mr. Miller, it states "An understanding of that
18 situation and the fact we have such a large portfolio
19 of New Mexico inventory competing for capital is
20 needed to explain why COP is not developing the
21 project this year."

22 So Mr. Villarreal is altering
23 quotations in his sworn testimony and exhibits. So
24 that's a reason that I think it's all unreliable and
25 needs to be excluded.

1 THE HEARING EXAMINER: So my --

2 And, Ms. Sheehan, I would come to you,
3 but what I'm proposing to Ms. Hardy is this.

4 Unlike a motion to suppress before a
5 trial where you are trying to exclude evidence that is
6 obtained in an unconstitutional fashion, here in this
7 administrative process, it seems to me another way of
8 doing this as -- and your motion's out there.

9 But what I'd like to do is you're
10 showing me information that I think could be done
11 during a voir dire of a witness. So I understand why
12 you have objected to the exhibits, that you find them
13 factually incorrect. And that's, of course, a good
14 reason to object to them.

15 But instead of going further with the
16 motion, unless there's some other basis that is so
17 procedurally unsound that it allows me to say, "I am
18 not going to accept these exhibits because whatever
19 that reason would be," why not when the witness is on
20 the witness stand ask to voir dire the witness, then
21 you can show me this information.

22 You could have -- you could call one of
23 your witnesses to testify and say it's not what --
24 whatever -- however you want to do it. You also give
25 Ms. Shaheen an opportunity to question her witness and

1 bring out maybe an alternative viewpoint, I don't
2 know.

3 But there it is. So that's the way I
4 would proceed -- I would suggest proceeding. How do
5 you feel about that?

6 MS. HARDY: Well, Mr. Examiner, I
7 understand that we do have other reasons for the
8 exclusions.

9 THE HEARING EXAMINER: You do? Okay.
10 What are they?

11 MS. HARDY: I think that Mr. Weeks and
12 Mr. Villarreal include speculative information that
13 they really don't have any evidentiary basis for. And
14 also, their qualifications. It's outside the scope of
15 their expertise. And I think that is important to the
16 division in evaluating evidence.

17 Mr. Villarreal talks about
18 ConocoPhillips corporate reorganization, capital
19 spending. He has a number of speculative statements
20 about how he thinks that may impact New Mexico.

21 It's really not in his expertise as an
22 engineer to be opining on corporate matters like that.
23 And the information is also irrelevant and is going to
24 waste time to go through it.

25 For example, he has slides on

1 ConocoPhillips' consultant, making corporate
2 recommendations on corporate reorganization. There's
3 no information anywhere in the record that any of this
4 has an impact on these wells that are proposed to be
5 drilled in Lea County, New Mexico, by Marathon and
6 ConocoPhillips. So it's a waste of time, and it's
7 irrelevant.

8 THE HEARING EXAMINER: So, Ms. Hardy, I
9 could understand if you're trying to exclude him as a
10 witness all together. But if we're going -- but if
11 that's not the case and we're going to have Mr.
12 Villarreal testify at some point during this
13 proceeding, I would think that at that point before --
14 I mean, nothing's been admitted.

15 So you could at that point voir dire
16 you're the witness and then bring out the concerns for
17 each of these, let Ms. Shaheen deal with those, see
18 how I rule on those, and go forward.

19 But I understand your -- the basis.
20 Does that sound like that's a good way forward?

21 MS. HARDY: Yes, that would be
22 acceptable.

23 THE HEARING EXAMINER: I mean, because
24 it doesn't sound like something I could rule on at
25 this moment here with finality. I think it's better

1 to hear from the witness, hear from you, hear from Ms.
2 Shaheen, and then make a determination for each of the
3 concerns you have.

4 MS. HARDY: Understood.

5 THE HEARING EXAMINER: Is that okay?

6 MS. HARDY: Yes.

7 THE HEARING EXAMINER: All right.

8 Ms. Shaheen, did you have anything that
9 you wanted to say?

10 MS. SHAHEEN: Well, I had five pages of
11 argument, single spaced, that may not be necessary in
12 light of how you're handling this. I would just
13 briefly say that we're entitled to full and fair
14 presentation of our case.

15 I'm ready to address all of the
16 criticisms that Ms. Hardy has made. I believe that
17 the testimony and the exhibits go to weight and not
18 admissibility, especially because we're in an
19 administrative proceeding.

20 THE HEARING EXAMINER: Thank you. So
21 let me just remind both parties how I view the rules
22 of evidence because ultimately you are really talking
23 about the rules of evidence here, as is, I think there
24 has been quite a long history of applying the rules of
25 evidence in a relaxed fashion in the administrative

1 forum.

2 They can be used as reference, but the
3 -- and I'll consider all arguments, and I do all the
4 time. But the rules that I use the most are whether
5 something is relevant and whether something is
6 reliable. So when it comes to relevance and
7 reliability, you know, some of Ms. Hardy's arguments
8 do touch on relevance and reliability.

9 And if she can show me that this
10 witness, let's say, is talking outside of his field of
11 experience, then of course, it becomes so unreliable
12 that unless it's lay witness opinion and is somehow
13 qualified under lay witness opinion, then it would be
14 outside the expertise of the witness.

15 We do have to qualify your witnesses.

16 So this would be a good point, Ms.
17 Hardy. We're going to be qualifying witnesses. It'd
18 be a very good point for you to bring out as much as
19 you want me to understand about their expertise.

20 And then later when they're testifying
21 about their exhibits and on the witness stand, we can
22 then go into each exhibit where you feel it may go
23 outside, and Ms. Shaheen can make arguments obviously
24 about how it's not outside and how it really only is
25 the weight of the exhibits.

1 But good points. They're all good
2 points.

3 I would like to take a five-minute
4 break before we begin. And I think what we'll do is
5 if you'll have your witnesses come up to the witness
6 stand.

7 MS. SHAHEEN: All of them?

8 THE HEARING EXAMINER: We'll get them
9 sworn in. Yes, as a group. We'll get them sworn in,
10 and then we will go through their expertise, and then
11 at that point, Ms. Hardy will have an ample
12 opportunity.

13 So let's take a five-minute break. It
14 is now -- I have no idea what time it is.

15 It is now 10:06. We'll come back on
16 the record at 10:10, four minutes from now. Thank
17 you.

18 (Off the record.)

19 THE HEARING EXAMINER: All right, we're
20 back on the record. It is 10:12 a.m.

21 Let's have the four Tumbler witnesses
22 come down to the witness stand and turn on the
23 microphone.

24 Yes, Ms. McLean?

25 MS. MCLEAN: We have one more

1 procedural matter that we wanted to --

2 THE HEARING EXAMINER: Related to --

3 MS. MCLEAN: Yes.

4 THE HEARING EXAMINER: Go right ahead.

5 MS. MCLEAN: We would like to move for
6 a directed verdict based on the evidence that's been
7 admitted into the record at this point.

8 THE HEARING EXAMINER: All right.

9 And, Ms. Shaheen, you know what they're
10 talking about; right? A directed verdict?

11 MS. SHAHEEN: Yes, it's -- I won't use
12 any adjectives. But when am I going to do the opening
13 statement?

14 THE HEARING EXAMINER: Well, I'm just
15 asking you, do you know what it means? I know that
16 you're not a trial attorney. Do you know what a
17 directed verdict is?

18 MS. SHAHEEN: Yes.

19 THE HEARING EXAMINER: Okay, good.

20 Ms. McLean?

21 MS. MCLEAN: Yes, thank you.

22 And this shouldn't come as a surprise
23 because it was addressed in our pre-hearing statement,
24 this topic. But Marathon moves for a decision on the
25 evidence as it's been admitted so far based on the

1 fact that working interest control is a controlling
2 factor in awarding operations in a competing
3 development case.

4 And I take to Order R10731B for that.
5 And the commission has to find working interest
6 control as not simply working interest ownership, but
7 also interest that support a particular operator.

8 And in Longfellow Energy Order Number
9 R21834, the division found that the exact criteria for
10 what triggers this is not exactly clear, but when
11 there's only a 7 or 12 percent interest in ownership,
12 that's when it's not clear.

13 However, in Matador Production, they
14 found that there was a clear difference between
15 competing parties when Matador had 62.5 percent
16 working interest control, and Flat Creek had 37.5
17 percent working interest.

18 Similarly, in a COG case, it was 96
19 percent and 39 percent. And in a Mewbourne Oil Order
20 R14518, it was 74 percent to 24 percent.

21 Here there's a 31 percent difference in
22 ownership interest. No party has disagreed. Tumbler
23 has agreed with what Marathon has presented. They are
24 coming with less than 9 percent interest ownership.
25 People don't go to regular compulsory pooling cases

1 with that percentage of ownership.

2 Here, there is a clear difference that
3 is the overriding consideration before the division.
4 And we believe that Marathon should be awarded
5 operatorship of these spacing units.

6 THE HEARING EXAMINER: So to make sure
7 I understand what you're saying is, because of the
8 difference in working interest ownership, we shouldn't
9 even hear this case?

10 MS. MCLEAN: That's correct.

11 THE HEARING EXAMINER: All right.
12 Ms. Shaheen?

13 MS. SHAHEEN: Thank you.

14 Marathon misconstrues the orders
15 completely. There are seven factors which I can
16 identify, if you like.

17 THE HEARING EXAMINER: I know what they
18 are.

19 MS. SHAHEEN: And --

20 THE HEARING EXAMINER: Thank you.

21 MS. SHAHEEN: And only one of those
22 relates to working interest control. And in fact,
23 that is one of the lesser factors that is considered.

24 In our Order Number R-10731-B, it
25 expressly states that OCD's first task is to determine

1 which development plan "will most efficiently develop
2 the subject acreage, prevent waste, and protect
3 correlative rights. Only if there are no significant
4 differences between the development plans would OCD
5 look to other facts and in particular working interest
6 control."

7 Here we have a number -- four witnesses
8 who are going to testify about the differences in the
9 development plans. And in addition, they'll be
10 testifying extensively about the good faith
11 communications, or lack of good faith, I should say,
12 with respect to Marathon.

13 So those are just a couple of the
14 factors. Other -- the most important consideration in
15 awarding operations to competing interest owners is
16 geologic evidence as it relates to well location and
17 recovery of oil and gas and associated risk. This is
18 the same order. We have extensive testimony to
19 present on that front, as well.

20 And again, the good faith factor is
21 another one that we'll be presenting evidence on.
22 Also, whether the operators can act -- who can act
23 most prudently.

24 So anyway, there are a number of
25 factors that we will be presenting evidence on,

1 including engineering, which I will note for the
2 record, Marathon has provided no evidence, no
3 engineering evidence in support of its development
4 plan.

5 So with that, I believe the motion for
6 directed verdict should be denied.

7 THE HEARING EXAMINER: So what I'm
8 understanding from you, Ms. Shaheen, is that the
9 division takes a more holistic approach to granting a
10 compulsory pooling application, that ownership is one
11 factor, but it could be outweighed by the other
12 factors?

13 MS. SHAHEEN: That is correct.

14 THE HEARING EXAMINER: All right. Let
15 me take a few minutes and talk to Mr. McLane.

16 MS. SHAHEEN: Mr. McClure?

17 THE HEARING EXAMINER: What -- exactly.
18 I'm glad you -- let me take a few minutes to talk to
19 Mr. McClure offline, and I'll come back. I'll take
20 five minutes. Thank you.

21 MS. SHAHEEN: Thank you.

22 (Discussion held off the record.)

23 THE HEARING EXAMINER: It is 10:24 a.m.
24 I've had an opportunity to confer with the technical
25 examiner. This is a legal question, so it falls

1 mostly on my shoulders to make a decision here about
2 this.

3 Typically, directed verdicts come at
4 the close of the state's case. Of course, this is not
5 a criminal trial, it's an administrative hearing. So
6 I'm going to convert the directed verdict motion into
7 a motion to dismiss, basically, or a motion for
8 involuntary dismissal. I think that's more applicable
9 to the administrative forum.

10 The question that a directed -- a
11 motion to dismiss raises since there is no jury here,
12 since the technical team and myself are the arbiters
13 of the evidence is, is there no scenario that Tumbler
14 can prevail?

15 That's really what the motion to
16 dismiss is saying, is that Tumbler cannot meet its
17 burden of persuasion in this case through its burden
18 of proof. But its burden of persuasion ultimately is,
19 is what does not shift the burden of persuasion is
20 that Tumbler seeks to have the division approve its
21 applications.

22 And from my understanding of the orders
23 that the commission has that have been cited today and
24 that have been handed down over the years, is that
25 there are seven factors to consider in granting a

1 compulsory pooling order.

2 And from my research, I have not seen
3 where one factor so overwhelms the other factors that
4 the other six factors cannot weigh in favor and
5 ultimately win the day.

6 So because of that, because we haven't
7 heard all of the evidence, so I'm going to deny the
8 motion to dismiss.

9 So let's get your witnesses up to the
10 podium, please, and get them sworn in and get them
11 qualified. And this might take some time.

12 The podium's over here, gentlemen,
13 where the microphone is. Will you turn it on by
14 pressing I think the right button so that it lights up
15 green? There we go. Thank you.

16 Okay. So as a group, I'm going to
17 swear you in as a group, and then we'll go through one
18 at a time. Okay?

19 So would you all raise your right hands
20 please? Perfect.

21 WHEREUPON,

22 NICHOLAS WEEKS,
23 called as a witness and having been first duly sworn
24 to tell the truth, the whole truth, and nothing but
25 the truth, was examined and testified as follows:

1 WHEREUPON,
2 DYLAN COLLINS,
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 WHEREUPON,
7 WALT BAKER,
8 called as a witness and having been first duly sworn
9 to tell the truth, the whole truth, and nothing but
10 the truth, was examined and testified as follows:

11 WHEREUPON,
12 CHRISTOPHER VILLARREAL,
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 THE HEARING EXAMINER: Thank you.

17 DIRECT EXAMINATION

18 BY MR. CHAKALIAN:

19 MR. CHAKALIAN: Since you're closest,
20 would you state and spell your name into the
21 microphone?

22 MR. WEEKS: Nicholas Weeks.

23 N-I-C-H-O-L-A-S W-E-E-K-S.

24 MR. CHAKALIAN: And, Mr. Weeks, you are
25 -- and what is your job title?

1 MR. WEEKS: I am a vice president at
2 Tumbler Operating Partners and a senior vice president
3 of land -- sorry, of legal, title, and regulatory for
4 Stronghold Investment Management.

5 MR. CHAKALIAN: Okay. Have you been
6 qualified as a petroleum landman before this division
7 yet?

8 MR. WEEKS: Yes, sir.

9 MR. CHAKALIAN: Very good. Excellent.
10 So, Mr. Weeks, please have a seat.

11 MR. WEEKS: Thank you.

12 DIRECT EXAMINATION

13 BY MR. CHAKALIAN:

14 MR. CHAKALIAN: Okay. What is your
15 name?

16 MR. COLLINS: Dylan Collins.

17 MR. CHAKALIAN: Collins?

18 MR. COLLINS: D-Y-L-A-N C-O-L-L-I-N-S.

19 MR. CHAKALIAN: Okay. And you're
20 seeking to be recognized as an expert before this
21 division in what field?

22 MR. COLLINS: Geology and sub-service
23 development.

24 MR. CHAKALIAN: Geology and -- would
25 geology be --

1 MR. COLLINS: That's fine, yes.

2 MR. CHAKALIAN: Okay, very good. All
3 right. So why don't you sit down there --

4 MR. COLLINS: Yes.

5 MR. CHAKALIAN: -- for a moment. And
6 let's go through --

7 THE HEARING EXAMINER: Actually, you
8 two gentlemen, I don't know how long this is going to
9 take. Usually this is a simple deal, but if we have a
10 party challenging the qualifications of an expert, it
11 could take a little longer. Have a seat somewhere
12 where you can come back up in just a moment.

13 MR. COLLINS: Yes, sir.

14 THE HEARING EXAMINER: Thank you.

15 BY MR. CHAKALIAN:

16 MR. CHAKALIAN: Mr. Collins, what I'd
17 like to hear from you, and since there might be a
18 challenge, please be somewhat detailed --

19 MR. COLLINS: Sure.

20 MR. CHAKALIAN: -- into your education.
21 Let's start with your education. What degrees have
22 you obtained?

23 MR. COLLINS: Yes. So in the back half
24 of my ten years in the Marine Corps, I earned a degree
25 in engineering and geology from San Diego State

1 University. I graduated summa cum laude and number
2 one in my class.

3 After I was honorably discharged from
4 the Marine Corps, I attended the University of Texas
5 at Dallas. I earned a master's of science in
6 paleomagnetism and structural geology, or more
7 generally, geosciences and geophysics.

8 MR. CHAKALIAN: And what years were
9 those?

10 MR. COLLINS: So I attended -- or I
11 graduated from San Diego State University in 2009. I
12 graduated from the University of Texas at Dallas in
13 2013.

14 MR. CHAKALIAN: Okay, perfect. Okay.
15 And what work experience do you have that goes toward
16 petroleum geology?

17 MR. COLLINS: So just before I
18 graduated from the University of Texas at Dallas, I
19 was hired by Pioneer Natural Resources. I worked
20 directly in development, subsurface development and
21 planning. So I was feeding -- or I was filling out
22 rig lines, development for pioneer's rig schedule for
23 -- for large areas of development in the Permian
24 Basin.

25 I worked regional geology, done full

1 basin mapping. I've done seismic interpretation,
2 geosediment remodeling among other things.

3 MR. CHAKALIAN: What time period are we
4 talking about?

5 MR. COLLINS: So 2012 to 2018.

6 MR. CHAKALIAN: Okay.

7 MR. COLLINS: I was -- I was the
8 beneficiary of Pioneer's very, very extensive mandate
9 to do science and research and figure out how we
10 develop shale. So it was a very, very active, very,
11 very stimulating time scientifically. And, you know,
12 I learned a lot.

13 MR. CHAKALIAN: And what was your title
14 at Pioneer?

15 MR. COLLINS: I was a geologist, a
16 senior geologist. I've gone through a couple of ranks
17 of geology.

18 MR. CHAKALIAN: Okay. And then in
19 2018, you left Pioneer?

20 MR. COLLINS: 2018, I left Pioneer. I
21 came to work for Stronghold Investment Management. I
22 was a senior geologist there. I worked on all of
23 Stronghold's operational business ventures and non-
24 operational business ventures across the Lower 48
25 doing geology.

1 In 2020, I was promoted to director,
2 and so I oversaw all subsurface matters, engineering,
3 operations, and geology. And in 2022, I was appointed
4 to lead one of our operational businesses as the chief
5 executive officer.

6 MR. CHAKALIAN: Stronghold is related
7 to Tumbler?

8 MR. COLLINS: Stronghold is the parent
9 company for multiple operational companies and non-
10 operational companies. Tumbler is one of them.
11 Yukon's another one of them. I still carry both roles
12 at Stronghold, Tumbler -- or three roles, Stronghold,
13 Tumbler, and Yukon.

14 THE HEARING EXAMINER: Okay.

15 Ms. Hardy, is there a challenge to this
16 gentleman's expertise in geology?

17 MS. HARDY: Not in geology.

18 THE HEARING EXAMINER: Perfect. Is it
19 -- okay. That's all I was going to qualify him as an
20 expert in is geology.

21 MS. HARDY: Understood.

22 THE HEARING EXAMINER: Okay. Very
23 good. So, Mr. Collins, you are hereby recognized as
24 an expert in geology. That's what I've heard, and
25 that's what we're extending today.

1 So when you testify, if you testify
2 within that expertise, then there's that. If you go
3 outside that expertise, that's where it becomes a
4 little bit different. Okay? All right.

5 MR. COLLINS: Understood.

6 THE HEARING EXAMINER: So thank you,
7 Mr. Collins.

8 Mr. -- is it Barker?

9 MR. BAKER: Baker.

10 THE HEARING EXAMINER: Baker. Thank
11 you.

12 MR. BAKER: Yes, sir.

13 DIRECT EXAMINATION

14 BY MR. CHAKALIAN:

15 MR. CHAKALIAN: Okay. Mr. Baker,
16 please have a seat.

17 MR. BAKER: Thank you.

18 MR. CHAKALIAN: What field of expertise
19 do you seek to be qualified in?

20 MR. BAKER: Petroleum engineering,
21 operations, and facilities, sir.

22 MR. CHAKALIAN: So does petroleum --

23 MR. BAKER: What --

24 MR. CHAKALIAN: So petroleum
25 engineering, does that -- is that like an umbrella for

1 other things?

2 MR. BAKER: Yes, sir.

3 MR. CHAKALIAN: What?

4 MR. BAKER: I'm not to be -- I'm not
5 going to be speaking on planning and development or
6 reservoir engineering. I'll speak -- I'll be
7 specifically speaking to operations, the management of
8 operations of oil and gas, and facilities, as well.

9 MR. CHAKALIAN: So operations and
10 facilities?

11 MR. BAKER: Yes, sir.

12 MR. CHAKALIAN: Okay. So you heard
13 what I asked Mr. Collins. Just give me a rundown on
14 the education and the work experience.

15 MR. BAKER: Yes, sir. So after getting
16 out of Coast Guard seven years, I attended Colorado
17 School of Mines. I earned a master's of science and
18 bachelor's of science in petroleum engineering.

19 I left Colorado School of Mines in 2017
20 and took a job with Matador Resources.

21 MR. CHAKALIAN: Who?

22 MR. BAKER: Matador.

23 MR. CHAKALIAN: Matador?

24 MR. BAKER: Resources.

25 MR. CHAKALIAN: Thank you.

1 MR. BAKER: Yes, sir. While at Matador
2 from 2017 to late 2023, I drilled, completed, and
3 participated in operations in the field and in the
4 office several hundred wells in Lea County, New
5 Mexico, and Eddy County, New Mexico.

6 Eventually I was promoted to vice
7 president and asset manager where I oversaw
8 development at a high level, you know, as far as you
9 know, well placements, pad placements, facility
10 placements, you know, marketing agreements, and things
11 like that.

12 Once I left Matador in 2023, I
13 eventually took a -- a position with Stronghold -- or
14 Yukon and Tumbler, which is a subsidiary of
15 Stronghold, as we've just discussed, as a vice
16 president of operations, where I manage all
17 operations, production, completions, drilling, and the
18 construction of facilities.

19 And -- and that's my experience. And I
20 -- I didn't mention. Just recently, and it's not on
21 my resume, I've also provided expert testimony, or I
22 served as an expert for the City of Carlsbad for --
23 for projects that are -- are being drilled into the
24 city limits over the summer.

25 THE HEARING EXAMINER: Ms. Hardy, any

1 challenge to this expertise?

2 MS. HARDY: Not -- no, not with respect
3 to petroleum engineering and facilities, which is --

4 THE HEARING EXAMINER: And operations?

5 MS. HARDY: And operations. Correct.

6 THE HEARING EXAMINER: Okay, perfect.

7 So, Mr. Baker, thank you. This
8 division recognizes you in the field of petroleum
9 engineering, specifically operations and facilities.
10 Thank you very much.

11 MR. BAKER: Thank you.

12 THE HEARING EXAMINER: And now, Mr.
13 Villarreal? You might take a little longer.

14 MR. VILLARREAL: Yeah, I brought some
15 water just in case.

16 THE HEARING EXAMINER: I anticipate
17 you'll need it.

18 DIRECT EXAMINATION

19 BY MR. CHAKALIAN:

20 MR. CHAKALIAN: All right. So I remind
21 you, you're still under oath. What field of expertise
22 do you seek to be qualified in?

23 MR. VILLARREAL: Petroleum engineering,
24 planning, and development.

25 MR. CHAKALIAN: Planning and

1 development?

2 MR. VILLARREAL: Yeah. And with
3 respect, so planning, development, so reservoir
4 engineering, as well.

5 MR. CHAKALIAN: And reservoir
6 engineering?

7 MR. VILLARREAL: Yeah.

8 MR. CHAKALIAN: How does reservoir
9 engineering interact with petroleum engineering?

10 MR. VILLARREAL: It's a subset of
11 petroleum engineering, yes.

12 MR. CHAKALIAN: A subset? Okay. All
13 right. Okay, very good. So why don't you go through
14 what you've heard the other gentleman talking about?

15 MR. VILLARREAL: Education and then --

16 MR. CHAKALIAN: Yes, please.

17 MR. VILLARREAL: -- experience? Okay.
18 So I earned my undergraduate in civil engineering from
19 United States Military Academy at West Point. Had to
20 do five years as an entry officer from Georgia,
21 Washington, and Afghanistan.

22 Got out of the army in 2014, enrolled
23 at Texas A&M, started a master of science in petroleum
24 engineering. My thesis was measuring source rock
25 overpressure on the Delaware Basin and its relation to

1 carriage and maturity.

2 After my first year at A&M, I went to
3 Matador and began working at Matador. Finished my
4 degree there in 2016 while working full-time.

5 For education-wise, graduated about two
6 years later. Earned my professional engineering
7 license in petroleum, State of Texas. Then went on
8 about a year or two after, started a master -- or
9 master of business administration from Rice
10 University. That was on the weekends. That was 2019
11 to 2021.

12 During that time, or I guess also just
13 prior to that, had a petroleum land management
14 certificate from Midland College, as well. And that
15 is the education.

16 MR. CHAKALIAN: Okay. Work experience?

17 MR. VILLARREAL: So work experience.
18 So following the Army, did the -- or started at
19 Matador, started doing petrophysics, and then the
20 field operations rotation. That was approximately two
21 years, then moved in to the recompletions team lead.
22 So that was looking at some of the legacy well bores,
23 managing the team there.

24 That was evaluating the reservoirs and
25 looking for behind-pipe potential. Then, you know,

1 assessing the impacts of, you know, the regulatory and
2 the lease side, and if we could move up hole. And
3 then planning, executing the operations to go do the
4 recompletions.

5 Then moved on to manage the South
6 Texas, North Louisiana, and all of their non-operated
7 assets. Executed -- or planned, executed a drilling
8 program in South Texas. That was their first time
9 going back to South Texas to drill wells in a handful
10 of years.

11 Then finished my last about two and a
12 half, three years while I was at Matador as the West
13 Texas asset manager. So the vice president over West
14 Texas. That was overseeing all of the planning, all
15 of the development, and all of the operations within
16 West Texas.

17 So planning the drill schedule,
18 managing the P&L within the business unit, all the
19 land trades, all the operations, the marketing,
20 anything that's going on in the West Texas assets.

21 And then --

22 MR. CHAKALIAN: And now with
23 Stronghold?

24 MR. VILLARREAL: No. So I -- I left --
25 I left Matador, then I joined Bain & Company.

1 MR. CHAKALIAN: Who?

2 MR. VILLARREAL: Bain & Company.

3 They're a -- a consulting firm. They're peers with
4 Boston Consulting Group and McKinsey. So worked in
5 their energy and natural resources group as well as
6 their private equity group. My primary focus was
7 energy natural resources, ENR.

8 I worked with one of the major oil
9 company there based in Houston looking -- redoing
10 their capital allocation decisions, their operation
11 models, looking at their OpEx spend and how to reduce
12 OpEx. Primary focus for these initiatives was in
13 their Permian Basin business unit as well as in the
14 South American unit.

15 Then also spent time looking within
16 their midstream, and then, you know, same -- same
17 focus there specifically, you know, OP models, how to
18 increase their return on capital employed and capital
19 allocations.

20 Then I left there beginning of 2024 and
21 started with Stronghold in beginning of 2025. At
22 Stronghold, I'm the executive vice president of
23 investments and operations. So I -- let me get water
24 real quick.

25 So at Stronghold, I manage all of their

1 investments, operations, oversee all of the
2 evaluations, technical modeling of all the oil and gas
3 investments, all the offers that go out, manage all
4 the valuations of all of the assets, as well as
5 managing just the -- I guess the corporate operations.

6 So from the land teams, the investment
7 teams, HR, IT, our India office. And then also vice
8 president of Tumbler, as well.

9 THE HEARING EXAMINER: Okay.

10 MR. VILLARREAL: That is me.

11 THE HEARING EXAMINER: Ms. Hardy?

12 MS. HARDY: I do not object to Mr.
13 Villarreal being qualified as an expert in petroleum
14 engineering.

15 THE HEARING EXAMINER: Great.

16 Mr. Villarreal, this division
17 recognizes you as a expert in petroleum engineering.

18 And also, I did hear evidence of -- I
19 wrote it down, I can't read my writing -- reservoir
20 engineering, as well?

21 MR. VILLARREAL: Yes.

22 THE HEARING EXAMINER: All right.

23 Ms. Hardy, do you challenge reservoir
24 engineering?

25 MS. HARDY: I do not.

1 THE HEARING EXAMINER: Okay, very good.
2 So those are the two areas of expertise.

3 I know one's under the other, as you
4 say, but still, I want to be clear about it.

5 MR. VILLARREAL: Okay.

6 THE HEARING EXAMINER: All right.

7 Now --

8 MS. SHAHEEN: Mr. Examiner?

9 THE HEARING EXAMINER: Yes.

10 MS. SHAHEEN: We also want to make sure
11 that his qualification as a petroleum engineer and
12 reservoir engineering includes planning and
13 development of oil and gas --

14 THE HEARING EXAMINER: Yes.

15 MS. SHAHEEN: -- assets and proposals,
16 that kind of thing.

17 THE HEARING EXAMINER: Definitely.

18 MS. SHAHEEN: Thank you.

19 THE HEARING EXAMINER: Definitely.

20 I've heard enough evidence to show that.

21 Okay. Mr. Villarreal, why don't you
22 take a seat. I don't know who Ms. Shaheen is going to
23 call first.

24 MS. SHAHEEN: Mr. Weeks will be our
25 first witness.

1 THE HEARING EXAMINER: Mr. Weeks.

2 MS. SHAHEEN: And I do have notebooks
3 for folks. Might be helpful, especially for the
4 witness.

5 THE HEARING EXAMINER: Sure.

6 MS. SHAHEEN: And I have one for you.

7 THE HEARING EXAMINER: Great.

8 MS. SHAHEEN: And Mr. McClure, although
9 he may be in Albuquerque.

10 THE HEARING EXAMINER: Mr. McClure is
11 actually in Hobbs.

12 MS. SHAHEEN: Okay.

13 THE HEARING EXAMINER: I'll take one of
14 the notebooks. Thank you.

15 MS. SHAHEEN: Okay.

16 THE HEARING EXAMINER: Ms. Hardy, do
17 you have a notebook? I don't know if you want one,
18 but --

19 MS. HARDY: I have one.

20 THE HEARING EXAMINER: -- she's given
21 me something, and you might want to know what she's
22 giving me.

23 MS. HARDY: Sure.

24 THE HEARING EXAMINER: Does this
25 notebook also have, Ms. Shaheen, your rebuttal

1 exhibits that are not entered?

2 MS. SHAHEEN: Oh, it does not, but I do
3 have them.

4 THE HEARING EXAMINER: That's okay.
5 No, I'd rather not have those, sort of what I was
6 getting at.

7 MS. SHAHEEN: Oh, okay.

8 THE HEARING EXAMINER: It's not been
9 entered, so I really don't want to see that yet until
10 we get that.

11 MS. SHAHEEN: Well, there's quite a bit
12 here that has not been entered in the notebook.

13 THE HEARING EXAMINER: But I have a
14 list of what's not been entered here.

15 MS. SHAHEEN: Oh, okay.

16 THE HEARING EXAMINER: So thank you. I
17 appreciate it.

18 All right, now. Okay, Mr. Weeks, I
19 remind you that you're under oath, and the microphone
20 is on. So please speak clearly into it.

21 Ms. Shaheen, go right ahead. Now, did
22 you want to do a short opening?

23 MS. SHAHEEN: I can, if you like. I've
24 got some of my short opening in response to the motion
25 for directed verdict.

1 THE HEARING EXAMINER: Right. Why
2 don't you take a minute and just explain to us why we
3 should approve your applications?

4 MS. SHAHEEN: Okay.

5 We discussed the seven factors before.
6 We believe that consideration of those factors reveals
7 that Tumbler's applications are superior and should be
8 approved as will be established today at hearing.

9 Tumbler's disciplined plan and proven
10 team ensure responsible operations, while Marathon's
11 lack of preparedness and corporate instability
12 threatened development.

13 We'll present testimony establishing
14 that operations are led by a team of experienced
15 engineers, geologists, and land professionals with a
16 strong track record of safely and efficiently
17 developing wells in the Delaware Basin.

18 Tumbler is actively pushing for timely
19 development of the acreage, and its cost estimates are
20 grounded in current vendor pricing, consistent with
21 peer operators, ensuring that its plan is both
22 reliable and economically sound.

23 In contrast, Marathon will be shown to
24 have submitted proposals that reflect a lack of
25 preparedness, including repeated AFE revisions, errors

1 in well designs, and communications revealing no firm
2 commitment to drill. Testimony will further
3 demonstrate that Marathon has characterized these
4 wells as discretionary with no development planned
5 until at least 2027.

6 Corporate restructuring and significant
7 layoffs compound these concerns, showing that
8 Marathon's capital allocation and corporate priorities
9 will continue to outweigh its obligation to protect
10 correlative rights if its applications are approved.

11 Third, Marathon's underspaced Wolfcamp
12 A and failure to co-develop the Bone Spring will
13 result in preventable waste. Both parties seek to
14 develop the Bone Spring in the Wolfcamp Formations.
15 The primary difference in the competing development
16 plans is the density and scope of the wells proposed.

17 Tumbler will present evidence showing
18 that efficient recovery requires co-developing the
19 Bone Spring and Wolfcamp intervals at proper spacing
20 to avoid interference such as parent-child
21 relationships and maximize reserves.

22 Tumbler will also present studies and
23 expert analysis demonstrating that Marathon's plan,
24 which relies on ultra-wide spacing in the Wolfcamp A
25 by bypassing the Third Bone Spring Sand, effectively

1 abandoning additional productive benches, leaving oil
2 in the ground.

3 These studies show that Marathon's
4 proposed approach leaves behind millions of barrels of
5 oil equivalent that could otherwise be recovered
6 through proper co-development, thereby causing waste.

7 Finally, Tumbler engaged in repeated
8 discussions, while Marathon refused to substantially
9 or substantively negotiate. Tumbler will present
10 testimony showing that it consistently sought to
11 engage Marathon in meaningful discussions to advance
12 development of the acreage.

13 These efforts included outreach for
14 meetings, proposals for joint operations, and attempts
15 to find creative paths forward. Most recently,
16 Tumbler's representatives flew down to Midland to meet
17 directly with Marathon, without success.

18 Marathon has refused to substantively
19 engage in negotiations. Testimony will demonstrate
20 that Marathon declined meeting invitations, rejected
21 proposals without counter-offers, and ultimately
22 showed no genuine intent to collaborate.

23 In short, Tumbler clearly outperforms
24 Marathon on each factor relevant to considering the
25 competing development proposals. Tumbler's

1 applications should therefore be approved and
2 Marathon's applications denied.

3 THE HEARING EXAMINER: Thank you, Ms.
4 Shaheen.

5 Are you ready to be begin?

6 MR. WEEKS: If I may, I have a copy of
7 Marathon's exhibits.

8 MS. SHAHEEN: Oh.

9 THE HEARING EXAMINER: Mr. Weeks, would
10 you show that book to Ms. Hardy before you put it
11 behind the -- I just want her to know what you have.
12 And is the other book still there?

13 MR. WEEKS: It's --

14 THE HEARING EXAMINER: Could -- Ms.
15 Shaheen, could you take the other -- is the other book
16 important?

17 MS. SHAHEEN: He might need it to
18 rebut.

19 THE HEARING EXAMINER: Mr. --
20 Thank you.

21 Mr. Weeks, if you look at an exhibit to
22 refresh your memory or to, you know, whatever you want
23 to do, please let us know what you're doing.

24 MR. WEEKS: Yes, sir. I -- I will do
25 my best.

1 THE HEARING EXAMINER: Thank you.

2 Ms. Shaheen?

3 MS. SHAHEEN: Thank you.

4 DIRECT EXAMINATION

5 BY MS. SHAHEEN:

6 MS. SHAHEEN: Mr. Weeks, you prepared
7 the land exhibits for Tumbler; is that right?

8 MR. WEEKS: Yes, ma'am.

9 MS. SHAHEEN: Should we walk through
10 those quickly to summarize for the hearing examiners?

11 MR. WEEKS: Certainly.

12 MS. SHAHEEN: And I can -- if it'd be
13 helpful, I can share my screen. Or would you
14 prefer --

15 THE HEARING EXAMINER: If we need to.
16 If we're talking about a specific one, then by all
17 means, share the screen. But otherwise, we all have
18 these great books in front of us. We don't
19 necessarily need to have it, unless your witness does.

20 MS. SHAHEEN: Well, he has it.

21 THE HEARING EXAMINER: Great.

22 MS. SHAHEEN: And I'll just need to get
23 my notebook --

24 THE HEARING EXAMINER: Okay.

25 MS. SHAHEEN: -- here. And perhaps I

1 should address the objection to Mr. Weeks' --

2 THE HEARING EXAMINER: I would think
3 so.

4 MS. SHAHEEN: -- statement first off.

5 My understanding from the motion to --
6 from the objections is that their objection goes to
7 the fact that we filed amended exhibits a couple of
8 days after the deadline for filing exhibits.

9 The only difference in Mr. Weeks'
10 exhibits was we added a plat for the Wolfcamp non-
11 standard spacing unit, which indicates the surrounding
12 offset operators.

13 That plat is essentially the same, as
14 it provides the same information that Conoco's similar
15 plat provides -- excuse me, Marathon's similar plat
16 provides in its exhibits that were filed.

17 So that is the only change to Mr.
18 Weeks' statement is that he refers to Exhibit A-6,
19 which is the plat for the proposed non-standard
20 spacing unit. There are no other changes. I believe
21 there may be one typo, and Mr. Weeks will correct me
22 if I'm wrong there, if there was a typo.

23 THE HEARING EXAMINER: So, Ms. Shaheen,
24 I have an objection to four of Mr. Weeks' exhibits.
25 There's A, A-1, A-7, and A-8.

1 Now, what I would recommend both
2 parties doing is when you have your witness on the
3 witness stand, have them adopt their written testimony
4 and exhibits under oath, make any corrections
5 necessary, and then deal with the objections, if any,
6 at that time, one at a time.

7 Because I'm not sure which exhibit
8 you're even talking about right now. So let's go
9 through the steps.

10 MS. SHAHEEN: Okay.

11 THE HEARING EXAMINER: Go right ahead.

12 BY MS. SHAHEEN:

13 MS. SHAHEEN: Mr. Weeks, do you adopt
14 your statement in Exhibit A as your testimony here
15 today?

16 MR. WEEKS: I do.

17 MS. SHAHEEN: And do you have any --
18 and that being the Amended Exhibit A, do you have any
19 corrections to that Amended Exhibit A?

20 MR. WEEKS: Not that I can recall at
21 this moment.

22 MS. SHAHEEN: And is it correct that
23 the only difference between the original Exhibit A
24 filed on Wednesday morning and the exhibit -- and the
25 Amended Exhibit A filed on Friday, the only difference

1 is the addition of paragraph -- now paragraph 19,
2 which states Exhibit A-6 is a plat of the proposed
3 non-standard proration unit showing the affected
4 parties who received notice? Is that the only change
5 to your Exhibit A, your statement?

6 MR. WEEKS: I believe that is correct.

7 MS. SHAHEEN: Should I have him
8 summarize his testimony in this statement now?

9 THE HEARING EXAMINER: Not yet because
10 A is not admitted into evidence right now.

11 MS. SHAHEEN: Okay.

12 THE HEARING EXAMINER: So I don't think
13 it's proper to summarize it yet.

14 MS. SHAHEEN: Okay.

15 THE HEARING EXAMINER: Let's go to Ms.
16 Hardy.

17 Ms. Hardy, you challenged Exhibit A?

18 MS. HARDY: Yes.

19 MR. WEEKS: Very good. So here's your
20 witness. Why don't you voir dire him so you're --
21 just to be clear, can you state what is the objection?
22 What specifically is the objection to, since I have it
23 in front of me now, Exhibit A?

24 MS. HARDY: Okay, so there are a
25 couple. Ms. Shaheen reminded me, we had objected to

1 Tumbler's amended exhibits that they filed late on
2 Friday, and that amendment included the plat that she
3 is referencing of the notice to offsets interest
4 owners for the non-standard spacing unit.

5 And we objected to the amended exhibits
6 and that exhibit because it just wasn't timely. It
7 was due to be filed by Wednesday at 9 a.m., and it was
8 filed Friday night. So yes, ConocoPhillips Marathon
9 filed the same exhibit, but we filed ours timely.

10 So there was no reason given for the
11 late filing, and so we objected to the admitted
12 exhibits on that basis. And then we have a
13 substantive objection to the paragraph of Mr. Weeks'
14 affidavit where he's speculating about whether
15 ConocoPhillips will actually drill these wells.

16 THE HEARING EXAMINER: Okay. So what
17 part of the -- so I don't have the original Exhibit A
18 in front of me.

19 So, Ms. Shaheen, specifically what
20 paragraph number and where was this exhibit revised?
21 Just A now?

22 MS. SHAHEEN: Paragraph 19 --

23 THE HEARING EXAMINER: 19?

24 MS. SHAHEEN: -- was added.

25 THE HEARING EXAMINER: Added. Hold on,

1 let me get there.

2 And, Ms. Hardy, if you think
3 differently, please let me know. Okay?

4 So we have paragraph 19 was added. Go
5 ahead?

6 MS. SHAHEEN: That's the only
7 difference.

8 THE HEARING EXAMINER: Ms. Hardy, do
9 you agree?

10 MS. HARDY: That seems to be correct.

11 THE HEARING EXAMINER: Okay. So
12 exhibit -- and paragraph 19 says "Exhibit A-6 is a
13 plat of the proposed non-standard unit showing the
14 effective parties who received notice." And why did
15 you add that?

16 MS. SHAHEEN: To support our request
17 for the non-standard proration unit for the Wolfcamp
18 wells.

19 THE HEARING EXAMINER: Are those
20 normally done administratively?

21 MS. SHAHEEN: The non-standard -- yes,
22 approval of the non-standard probation unit is usually
23 done administratively. And if we did get forced
24 pooling orders, we may move administratively, or we
25 may ask that the division in this particular

1 proceeding approve that non-standard spacing unit.

2 We did ask for that in our Wolfcamp
3 application for both approval of the non-standard
4 spacing unit and for compulsory pooling.

5 THE HEARING EXAMINER: So what's the
6 basis of the objection to include Exhibit A-6?

7 MS. HARDY: It was not timely filed --

8 THE HEARING EXAMINER: It was not
9 timely filed.

10 MS. HARDY: -- in accordance with the
11 pre-hearing order.

12 THE HEARING EXAMINER: Okay.

13 And your response, Ms. Shaheen?

14 MS. SHAHEEN: My response is that
15 amended exhibits are routinely filed at the division,
16 that I think it's to help to assist the division in
17 getting the information that is necessary to consider
18 what is before the division.

19 I don't know that I recall anyone ever
20 objecting to amended exhibits, particularly when it's
21 simply one exhibit, non-controversial exhibit, that
22 was added.

23 I also note that Ms. --

24 THE HEARING EXAMINER: Hardy.

25 MS. SHAHEEN: -- that Marathon, Ms.

1 Hardy, filed their rebuttal exhibits -- their so-
2 called rebuttal exhibits, which actually should have
3 been provided in their case in chief by 9 a.m. on
4 Wednesday -- last Wednesday morning, those exhibits --
5 if those exhibits are to be allowed, this one
6 certainly should be allowed because those are
7 substantive exhibits which we have not really had the
8 opportunity to fully comprehend. There's been no
9 surprise to Marathon here.

10 THE HEARING EXAMINER: Okay. All
11 right. So the objection specifically is not timely.
12 That's the objection here is that this paragraph 19,
13 which is the only part that's objected to --

14 MS. HARDY: No.

15 THE HEARING EXAMINER: No?

16 MS. HARDY: We objected to the
17 paragraph where Mr. Weeks is talking about speculating
18 on --

19 THE HEARING EXAMINER: What paragraph
20 number is it?

21 MS. HARDY: Well, paragraphs have
22 changed because this was added. So --

23 MS. SHAHEEN: 28.

24 MS. HARDY: 28.

25 THE HEARING EXAMINER: Oh. Okay,

1 great.

2 MS. HARDY: In this amended portion.

3 THE HEARING EXAMINER: So 28. So you
4 are objecting to two paragraphs, 19 and 28; is that
5 correct?

6 MS. HARDY: That's correct.

7 THE HEARING EXAMINER: All right. So
8 now, let's just deal with 19, the objection here. The
9 objection is timeliness. Now, I haven't heard -- I
10 understand that you've never heard before of an
11 objection, but there is one now to the timeliness of
12 this modification of the -- that this should have been
13 timely filed, the paragraph 19 should be timely filed
14 along with exhibit A-6.

15 There's an objection. I haven't heard
16 a legal response that allows me to override the rules
17 here.

18 MS. SHAHEEN: The response is there's
19 no surprise to Marathon, there's no prejudice to
20 Marathon with the addition of paragraph 19, and the
21 plat reflects the same information that is reflected
22 in Marathon's exhibits.

23 THE HEARING EXAMINER: Ms. Hardy?

24 MS. HARDY: The pre-hearing order is
25 clear that exhibits were due to be filed by last

1 Wednesday at 9 a.m. Direct exhibits. Or that a
2 motion would be filed. I think if you're --

3 THE HEARING EXAMINER: No, I'm not. I
4 have everything I need.

5 MS. HARDY: I understand.

6 THE HEARING EXAMINER: Thank you. I'm
7 just thinking about --

8 Ms. Shaheen, typically one would argue
9 prejudice in a situation like this. So I hear your
10 argument. But it is in direct violation of the pre-
11 hearing order, and I do expect the parties to comply.

12 So I'm going to sustain the objection
13 on paragraph 19. When you do revise, and I'm sure
14 there's going to be revisions to these exhibits as we
15 go through these -- this hearing. So please remove
16 paragraph 19 in Exhibit A-6 from your final packet
17 that you submit.

18 Okay. Now let's go on to number 28.
19 What is the objection to 28?

20 MS. HARDY: The objection to 28 is that
21 Mr. Weeks is speculating about Marathon's financial
22 thresholds for drilling wells. He's talking about
23 their capital guidance does not appear to support
24 near-term or mid-term development of these wells. And
25 I think that's --

1 THE HEARING EXAMINER: What sentence
2 are you quoting from here?

3 MS. HARDY: So if you look at the --
4 it's at the bottom of page 9.

5 THE HEARING EXAMINER: This pattern?

6 MS. HARDY: Yes, that's part of it,
7 yes.

8 THE HEARING EXAMINER: And their --

9 MS. HARDY: Lack of capital --

10 THE HEARING EXAMINER: -- capital
11 guidance?

12 MS. HARDY: Yes.

13 THE HEARING EXAMINER: Let's get some
14 testimony on this.

15 Ms. Shaheen?

16 MS. SHAHEEN: So if I understand
17 correctly, Ms. Hardy is objecting to the entirety of
18 paragraph 28. And so I believe that --

19 THE HEARING EXAMINER: I think the
20 objection is speculation. So why don't you ask your
21 witness some questions to provide some foundation for
22 paragraph 28, and then we'll have Ms. Hardy do the
23 same on cross, and then we'll make a decision on 28.

24 MS. SHAHEEN: Well, I think that
25 paragraph 28 is supported by Exhibit A-5, which is 70

1 entries of communications between Tumbler and
2 Marathon.

3 THE HEARING EXAMINER: Well, I -- okay,
4 thank you for that assertion. But let's get the
5 witness who is under oath --

6 MS. SHAHEEN: Okay.

7 THE HEARING EXAMINER: -- to testify to
8 the foundation of 28. It is his expert testimony
9 which he's adopted under oath, and there's no
10 corrections to it as far as I understand. So why
11 don't you ask about 28?

12 MS. SHAHEEN: Okay.

13 BY MS. SHAHEEN:

14 MS. SHAHEEN: Mr. Weeks, can you
15 summarize the substance of your testimony in paragraph
16 28 and identify what you've considered in forming your
17 opinion in this regard?

18 MR. WEEKS: Certainly. Pardon me as I
19 flip to --

20 MS. SHAHEEN: It's page 53--

21 MR. WEEKS: -- page 9 --

22 MS. SHAHEEN: -- of 328.

23 MR. WEEKS: Perfect. Thank you.

24 The summary of paragraph 28 relates to
25 a series of communications that have occurred with

1 Marathon over the course of more than 18 months
2 regarding the plans for development of the acreage at
3 issue in this case.

4 Consistently, Marathon has established
5 a pattern of not providing a specific -- a specific
6 drill-by date for the wells that they have proposed in
7 this case. They have referred to -- in their drill
8 schedule, they've indicated that those wells will --
9 are discretionary, which shows that they are not --
10 they are not required to be drilled.

11 The communication also indicates that
12 they continue to move the wells back on the schedule
13 throughout -- throughout the period of time from 2024
14 through to today. We have seen that consistent
15 progress.

16 And when asked -- when we asked
17 Marathon about why these wells are having a difficult
18 time finding a place on the drill schedule, Marathon
19 has an email that I believe I referred to in my
20 Exhibit A-5, where on March 18, 2025 -- sorry, March
21 19th of 2025, in response to an email from March 18th,
22 Marathon indicated that the reason that the wells
23 weren't on the drill schedule did not have anything to
24 do with rig availability.

25 Following up on March 28th, Marathon --

1 we asked why is Marathon unwilling to pursue the
2 project given permits in hand and pooling orders that
3 are set to expire in less than two months, and with us
4 -- with Tumbler reiterating that we are willing to
5 discuss any avenue to see these lands get developed.

6 Marathon indicated that the reason that
7 the wells are not on the drill schedule is "We have
8 such a large portfolio of New Mexico inventory
9 competing for capital." And then "Why -- or why COP
10 is not developing" -- sorry -- "inventory competing
11 for capital is why COP is not developing this project
12 this year." Capital guidance and capital focus are
13 the cause of the delays.

14 And based on those communications with
15 Marathon and the lack of any additional information
16 being proffered, we identified that Marathon's delay
17 is caused by a -- there is a significant concern for
18 Marathon, that Marathon will continue to delay the
19 development of this project.

20 MS. SHAHEEN: And, Mr. Examiner, if I
21 may just note for the record. I know we're -- the
22 discretionary application of the rules of evidence,
23 but Rule 11-703 specifically allows an expert to base
24 an opinion on facts or data that the expert has been
25 made aware of or personally observed, including email

1 communications.

2 And the communications need not be
3 admitted or admissible if experts in the particular
4 field would reasonably rely on those kinds of facts or
5 data in forming an opinion.

6 THE HEARING EXAMINER: Thank you, Ms.
7 Shaheen.

8 And I'm going to go to you in a moment,
9 Ms. Hardy.

10 I have a question for the witness.

11 The table here talks about
12 communications between Tumbler. I think this is at
13 the top of the -- it says here "Communications between
14 Tumbler operating partners and David 36-24 working
15 interest owners."

16 A question for you. Are you one of the
17 Tumbler operating partners that was having this
18 communication?

19 MR. WEEKS: I was -- I had
20 communications, but later on in the life of the
21 project.

22 THE HEARING EXAMINER: So whose
23 communications are these relying on?

24 MR. WEEKS: These communications are
25 largely from emails between Chris Villarreal and

1 various land personnel at Marathon or Kristin Wilpitz
2 who is a landman for Tumbler and other various
3 personnel at Marathon.

4 THE HEARING EXAMINER: Okay. And how
5 did you obtain these communications?

6 MR. WEEKS: I reviewed the emails that
7 had been sent. We keep a log of communications.

8 THE HEARING EXAMINER: Okay.

9 Ms. Hardy?

10 MS. HARDY: Mr. Examiner, I still
11 object.

12 THE HEARING EXAMINER: If you want to
13 ask the witness any questions?

14 MS. HARDY: Sure.

15 DIRECT EXAMINATION

16 BY MS. HARDY:

17 MS. HARDY: Hello, Mr. Weeks.

18 MR. WEEKS: Hello.

19 MS. HARDY: You weren't a party to
20 these communications yourself; were you?

21 MR. WEEKS: I was not a party to the
22 communications themselves.

23 MS. HARDY: Okay. And you've never
24 worked for -- well, you don't work for ConocoPhillips
25 or Marathon; correct?

1 MR. WEEKS: I do not.

2 MS. HARDY: And you don't have any
3 information regarding their capital project
4 guidelines; do you?

5 MR. WEEKS: The only information I have
6 regarding their capital project guidelines is what has
7 been communicated to me either by Conoco's landmen or
8 communicated to Tumbler through Conoco's landmen -- or
9 Marathon's landmen, or other statements that have been
10 made in public.

11 MS. HARDY: And you don't have any
12 knowledge -- or do you have any knowledge regarding
13 what it means to have a discretionary project as
14 defined by Marathon?

15 MR. WEEKS: On September 3rd of 2025, I
16 had -- I personally had a discussion with land
17 personnel from -- from Marathon, that was Sean Miller.
18 And in that phone call, Sean identified the wells as
19 discretionary, as in, not -- not needing to be drilled
20 at this time, and that his land department had to
21 effectively lobby his asset team to add the wells to
22 the drill schedule.

23 MS. HARDY: Okay. And I understand
24 that that's hearsay, but my question was you don't
25 have any understanding, do you, of what it means to

1 have a discretionary project as defined by Marathon?

2 MR. WEEKS: Only what Sean Miller
3 communicated to me in that phone call.

4 MS. HARDY: Okay. And I'm looking at
5 your table here of communications that you're relying
6 on in support of this testimony. And that is, it's
7 your exhibit page. It's A-8, I believe; right? It's
8 hard for me -- I can't see that. It's cut off.

9 MS. SHAHEEN: It's A-5.

10 MS. HARDY: A-5, okay.

11 BY MS. HARDY:

12 MS. HARDY: And Marathon was acquired
13 by ConocoPhillips in November of 2024; is that your
14 understanding?

15 MR. WEEKS: No, that's not my
16 understanding. My understanding is that Marathon
17 merged into ConocoPhillips as a wholly owned
18 subsidiary with personnel continuing on into
19 ConocoPhillips and that Marathon continues to exist
20 today.

21 MS. HARDY: You're not aware that there
22 was an acquisition of Marathon by ConocoPhillips?

23 MR. WEEKS: I'm aware that there was a
24 merger.

25 MS. HARDY: Okay. That's your

1 understanding?

2 MR. WEEKS: That is correct.

3 MS. HARDY: Okay. And the
4 communications included in your log here almost --
5 let's see, up to November of 2024, are prior to that
6 transaction; correct? Whatever you want to call it?

7 MR. WEEKS: Yes. Those communications
8 occurred prior to the consummation of the merger.

9 MS. HARDY: Okay.

10 I maintain my objection --

11 THE HEARING EXAMINER: Okay.

12 MS. HARDY: -- to his paragraph 28
13 being hearsay.

14 THE HEARING EXAMINER: Okay. I find
15 enough basis for this statement -- for this expert
16 statement, based on the testimony, based on the
17 exhibit, I don't find that Mr. Weeks, not being in the
18 chain of emails as they were originally sent, as a
19 problem.

20 I think he reviewed emails. There's no
21 allegation that the emails have been changed in any
22 way, that they're not authentic. He also had, you
23 know, in-person discussions with personnel recently.

24 So I find that this paragraph 28 for
25 the -- in the administrative forum is relevant and

1 reliable enough to consider.

2 Now, whatever weight the division wants
3 to put on this statement is the choice of the
4 division. And your objection is noted, but I overrule
5 that objection as to paragraph 28. So that may
6 remain.

7 Now, for the rest of paragraph -- sorry
8 for the rest of Exhibit A, because we do have other
9 exhibits under Mr. Weeks' submission that we need to
10 deal with, but for this Exhibit A, it's admitted into
11 evidence except for paragraph 19, which has to be
12 removed.

13 And that Exhibit A-6 has to be removed
14 from the consideration unless the door is opened down
15 the line later. But for now, that's how it stands.

16 Is there any other summation that you
17 want Mr. Weeks to give to his expert -- I mean, do you
18 want him to state what his expert opinion is at this
19 point?

20 MS. SHAHEEN: It would be helpful.

21 DIRECT EXAMINATION

22 BY MS. SHAHEEN:

23 MS. SHAHEEN: Mr. Weeks, could you
24 highlight or point out the highlights of your
25 testimony in Exhibit A?

1 MR. WEEKS: Yes.

2 MS. SHAHEEN: I would in particular ask
3 that you talk about your statement in paragraph 27
4 first?

5 MR. WEEKS: Certainly.

6 MS. SHAHEEN: And that's page 53 of
7 328.

8 MR. WEEKS: Thank you. I believe what
9 I would highlight for the majority of my statement is
10 that Tumbler -- Marathon has had these assets for
11 quite a few years. They have made some progress
12 towards development of this project.

13 However, they have failed to execute on
14 a development plan and have consistently pushed
15 development timelines down the road and have yet to
16 provide a definitive date on when they intended to
17 develop the projects.

18 Tumbler acquired the asset two years
19 after Marathon had acquired its -- its initial
20 interest in the asset, and Marathon -- or Tumbler was
21 happy to -- happy to own the asset at those times when
22 Marathon was showing progress in developing the -- the
23 project.

24 However, they -- it has become clear
25 based on their communications and based on their

1 actions that it is not -- it is -- what has become
2 less clear is their development timeline.

3 And so Marathon in the interest of
4 protecting correlative rights and preventing waste --
5 sorry, Tumbler in the interest of protecting
6 correlative rights and preventing waste took it upon
7 itself after communications with Marathon to seek to
8 have these assets developed for the benefit of all of
9 the stakeholders and not just -- and no longer to be
10 prevented from develop -- to keep this acreage from
11 not being developed.

12 MS. SHAHEEN: Is it fair to say that
13 Tumbler filed its applications because Marathon sat on
14 its hands since it acquired its interest, and that
15 Tumbler had originally elected to participate in
16 Marathon's wells, but Marathon allowed its pooling
17 orders to expire; isn't that right?

18 MS. HARDY: I object to the question.
19 Ms. Shaheen is testifying, and it's leading of a
20 direct witness.

21 MR. WEEKS: Sustained.

22 Could you rephrase your question?

23 MS. SHAHEEN: Yes.

24 BY MS. SHAHEEN:

25 Can you describe Tumbler's

1 communications with Marathon when it first proposed
2 these wells?

3 MR. WEEKS: Certainly. Tumbler
4 initiated conversations with Marathon to identify
5 methods to work together with Marathon to see that the
6 wells get developed and that the development is
7 timely, offering a number of different collaborative
8 opportunities to see them developed, including various
9 trades or divestitures or acquisitions to incentivize
10 the development of these.

11 Marathon proposed the wells under its
12 prior pooling order to Tumbler, and Tumbler elected to
13 participate in those wells and attempted to negotiate
14 a joint operating agreement with Marathon.

15 But in January it became fairly clear
16 that Marathon was no longer seeking to develop these
17 wells in a timeframe that would protect the
18 correlative rights and prevent waste.

19 And then -- or, and then when the
20 pooling orders were -- it was apparent that Marathon
21 was going to allow the pooling orders to expire,
22 Tumbler proposed its David wells.

23 MS. SHAHEEN: So it your understanding
24 that the only reason Marathon proposed the
25 applications that are before the division now are

1 because Tumbler proposed to develop that acreage?

2 MS. HARDY: I object to the question.
3 It calls for speculation as to why Marathon filed its
4 applications.

5 MS. SHAHEEN: I'm just asking for Mr.
6 Weeks' understanding.

7 MR. WEEKS: I --

8 THE HEARING EXAMINER: Hold on. I
9 haven't rule on the objection. There is an objection.
10 If you hear an objection, you have to stop.

11 I do think, Ms. Shaheen that -- so I'm
12 going to grant the objection because I do think -- or
13 sustain the objection because I do think it asks for a
14 conclusion that is beyond this person's knowledge
15 base. I believe that at this point, he'd be
16 stretching the term "expert" to that.

17 So either rephrase the question or move
18 on to another area because we have a bunch of exhibits
19 that are not admitted that we need to deal with.

20 MS. SHAHEEN: That's true. I think Mr.
21 Weeks can rely on his direct written statement at this
22 point.

23 THE HEARING EXAMINER: So I think we
24 need to deal with Exhibit A-1 next.

25 MS. SHAHEEN: A-1. Yes, I

1 understand --

2 THE HEARING EXAMINER: What is the --

3 I'm sorry to interrupt you.

4 What is the objection to A-1? I didn't

5 -- I'm not clear on that.

6 MS. HARDY: Exhibit A-1 is the C-102s.

7 THE HEARING EXAMINER: Yes.

8 MS. HARDY: And none of them are signed
9 by the company or by a surveyor.

10 THE HEARING EXAMINER: Okay.

11 MS. HARDY: And OCD has required
12 signatures on C-102s that are submitted in pooling
13 cases.

14 THE HEARING EXAMINER: Pretty clear and
15 straightforward.

16 Ms. Shaheen?

17 BY MS. SHAHEEN:

18 MS. SHAHEEN: Mr. Weeks, can you tell
19 us why these C-102s are not signed?

20 MR. WEEKS: Certainly. Calling your
21 attention to the bottom left corner of the C-102s, I
22 believe that there is a certification statement that
23 indicates that a person signing this C-102 must own an
24 interest in every quarter-quarter section that is
25 sought to be drilled across; or in the absence of that

1 must have reached voluntary joinder with a party that
2 owns in those quarter-quarter sections where the
3 signatory does not own; or failing that, an order must
4 have been issued -- a cooling order must have been
5 issued in the case.

6 Tumbler does not own a -- a working
7 interest in section 36, and therefore, to sign the
8 certification would -- well, it would be a lie.

9 THE HEARING EXAMINER: Okay. What
10 about the other conditions? You mentioned three or
11 four conditions, but you only mentioned one that you
12 don't have?

13 MR. WEEKS: Oh, as far as the
14 certification statement? Or --

15 THE HEARING EXAMINER: You just went
16 through a list of reasons --

17 MR. WEEKS: Correct. And -- sorry,
18 yes.

19 THE HEARING EXAMINER: Yes.

20 MR. WEEKS: All right. Thank you. To
21 conclude that -- or to continue that thought, we have
22 not signed an operating -- EOG has not signed an
23 operating agreement with either party in this case.

24 THE HEARING EXAMINER: Okay.

25 MR. WEEKS: And Marathon has not signed

1 Tumbler's operating agreement. EOG and Marathon are
2 the only parties that own working interest in section
3 36. And as far as -- and so we don't currently own --
4 Tumbler doesn't currently own an interest.

5 No party that owns an interest has
6 executed an operating agreement with Tumbler, and we
7 are seeking the pooling order in this case today so
8 that we might execute that certification statement.

9 THE HEARING EXAMINER: Okay.

10 So, Ms. Hardy, your objection is that
11 they're not signed. The witness has explained why
12 he's unable -- or why Tumbler is unable to sign them.
13 What's your objection?

14 MS. HARDY: My objection is that in
15 compulsory pooling cases, OCD has required operators
16 to sign a certification on draft C-102s, even if
17 they're not filed. It's correct that when they're
18 filed, you have to have an interest in every tract to
19 certify them.

20 But that's been OCDs practice, and in
21 fact, cases have been continued because C-102s weren't
22 signed. So that's been OCD's practice.

23 THE HEARING EXAMINER: Ms. Shaheen?

24 MS. SHAHEEN: There's no regulation and
25 no guidance to my knowledge that requires signature of

1 a certification when you would be falsely certifying
2 the C-102. And it -- that said, if the division wants
3 us to file signed C-102s, we can certainly do that
4 prior to the time you take this case under advisement.

5 THE HEARING EXAMINER: Okay. All
6 right. Let me take a few minutes to discuss this with
7 Mr. McClure and see how he wants to proceed.

8 Let's take a five-minute break, and
9 we'll be back on the record. It's 11:22 now. Thank
10 you.

11 (Off the record.)

12 THE HEARING EXAMINER: All right.
13 We're back on the record. We were considering the
14 admission of Exhibit A-1 into evidence, and after
15 consulting with Mr. McClure, we agree that it would be
16 a problem for Tumbler to sign these as they stand now.

17 But otherwise, we don't hear that
18 they're not accurate. We don't hear that they're not
19 relevant or reliable. So we're going to admit Exhibit
20 A-1 into evidence.

21 (Tumbler Exhibit A-1 was received into
22 evidence.)

23 So the objection is overruled.

24 Let's go on to A-7, which is not in
25 evidence at this time.

1 MS. SHAHEEN: And that is a rebuttal
2 exhibit, which I haven't looked at yet.

3 THE HEARING EXAMINER: I'm confused.
4 What do you mean, you haven't looked -- it's your
5 exhibit.

6 MS. SHAHEEN: It is, but those -- these
7 were finalized this morning, and I can take a look
8 now. Exhibit A-7.

9 THE HEARING EXAMINER: Yeah, we need to
10 be prepared for each witness to be able to deal with
11 their direct and rebuttal.

12 What is the objection to A-7? Let's
13 start there.

14 MS. HARDY: Well, these exhibits aren't
15 actually labeled.

16 THE HEARING EXAMINER: Do I have a
17 copy, Ms. Shaheen, of A-7?

18 MS. SHAHEEN: You asked me not to pass
19 them out.

20 THE HEARING EXAMINER: I did. But now
21 at this point, I need to see it.

22 MS. SHAHEEN: You're ready for that?
23 Okay.

24 THE HEARING EXAMINER: Ms. -- and I
25 want Ms. Hardy to take a quick peek at what you're

1 going give me so I know that it's what she is
2 expecting it to be.

3 MS. SHAHEEN: Yes. I have the same.
4 This is yours.

5 MS. HARDY: Okay.

6 MS. SHAHEEN: And this is his.
7 And I'm going to give that to Mr. Weeks
8 to look at.

9 THE HEARING EXAMINER: That's fine
10 because you -- yeah.

11 So, Ms. Hardy, first I want to know, is
12 this the Exhibit A-7, or this packet, is this what you
13 received? This is -- this looks authentic to you?

14 MS. HARDY: Yes.

15 THE HEARING EXAMINER: Okay. Very
16 good.

17 So A-7, let me look at it now that I
18 have a copy.

19 How many pages is -- Mr. Weeks, how
20 many -- you prepared A-7; didn't you?

21 MR. WEEKS: That is correct.

22 THE HEARING EXAMINER: How many pages
23 is A-7?

24 MR. WEEKS: One moment as I flip to it.

25 THE HEARING EXAMINER: Okay. Were you

1 handed a copy of this?

2 MR. WEEKS: Yes, sir, I was.

3 THE HEARING EXAMINER: All right.

4 MR. WEEKS: Yes, sir. A-7 is one page.

5 THE HEARING EXAMINER: Oh, it's one
6 page? So it's just this diagram?

7 MR. WEEKS: It is.

8 THE HEARING EXAMINER: All right.

9 And, Ms. Shaheen, if this does get
10 admitted, please mark it.

11 MS. SHAHEEN: We will do that

12 THE HEARING EXAMINER: As Rebuttal A-7.

13 MS. SHAHEEN: Yes.

14 THE HEARING EXAMINER: Just to be
15 clear. Okay.

16 So, okay. So what's the objection?

17 I'm sorry, Ms. --

18 MS. HARDY: Well, I'm trying to figure
19 out. So the exhibits are not labeled.

20 THE HEARING EXAMINER: Right.

21 MS. HARDY: So I'm trying to figure out
22 what page -- what Exhibit A-7 is.

23 THE HEARING EXAMINER: You want to
24 share this on your screen now?

25 MS. HARDY: Sure.

1 THE HEARING EXAMINER: So we can all
2 see what you are calling Rebuttal A-7?

3 MS. SHAHEEN: And we will have Mr.
4 Weeks confirm that.

5 THE HEARING EXAMINER: Yes, of course,
6 off this.

7 MS. SHAHEEN: Okay.

8 THE HEARING EXAMINER: Okay. That's
9 what I show.

10 MS. SHAHEEN: Mr. Weeks, is this
11 Exhibit -- Rebuttal Exhibit A-7?

12 MR. WEEKS: I don't believe so.

13 MS. SHAHEEN: Oh, okay.

14 MR. WEEKS: The rebuttal to Exhibit A-7
15 is titled "Rebuttal to MRO Exhibit A39 and 40
16 Documentation Contradicts MRO's Assertion of Good
17 Faith Negotiation."

18 THE HEARING EXAMINER: Do we have a
19 page number?

20 MR. WEEKS: I do. It's page 2.

21 THE HEARING EXAMINER: Page 2 of 20?

22 MR. WEEKS: Yeah.

23 MS. HARDY: I believe it's --

24 MS. SHAHEEN: I think it's page 86 of
25 the packet.

1 THE HEARING EXAMINER: 86. Thank you.
2 I don't know how you know, but thank you.

3 MS. SHAHEEN: Here we go.

4 MR. WEEKS: Yeah.

5 THE HEARING EXAMINER: I don't have --
6 I don't know how to find page 86.

7 MS. SHAHEEN: In your hard copy, it's
8 going to be about eight pages from the back.

9 THE HEARING EXAMINER: Eight pages from
10 the back? Okay.

11 MS. SHAHEEN: And these are double-
12 sided pages, of course.

13 THE HEARING EXAMINER: Will you put it
14 on the screen? Or is it on the screen now? That's on
15 the screen?

16 MS. SHAHEEN: This is on the screen
17 now.

18 THE HEARING EXAMINER: Thank you.

19 MS. SHAHEEN: This is A-7

20 THE HEARING EXAMINER: So this is A-7,
21 then?

22 MR. WEEKS: Correct.

23 THE HEARING EXAMINER: We're going to
24 have to do a better job at the exhibits. It's too
25 chaotic not to know what to look at, especially

1 because A-7 is -- anyway, okay.

2 MS. SHAHEEN: We can have them --

3 THE HEARING EXAMINER: Yes, of course.

4 MS. SHAHEEN: -- labeled over the lunch
5 break.

6 THE HEARING EXAMINER: Yes, that'd be
7 wonderful.

8 MS. SHAHEEN: Okay.

9 THE HEARING EXAMINER: Okay, so let's
10 talk about this document. What is the objection --
11 now that we know what document we're looking at, what
12 is the objection?

13 MS. HARDY: The objection is that it's
14 -- it contains hearsay commentary. It's not a
15 complete statement of these communications. It's
16 misleading for that reason.

17 THE HEARING EXAMINER: Okay. Let's
18 have some testimony.

19 MS. HARDY: It's --

20 THE HEARING EXAMINER: You've heard the
21 objection that it's misleading because it's not
22 complete, it's incomplete. These quotations are just,
23 you know, nitpicked, taken out of context, let's say.
24 And that it's also -- it contains hearsay, which we
25 all know is admissible at an administrative hearing

1 depending on the reliability. Right?

2 I think what Ms. Hardy is getting at,
3 and correct me if I'm wrong, is that this is
4 unreliable the way it's presented here, it's
5 misleading.

6 So go ahead and --

7 MS. SHAHEEN: Well I would say that
8 this is Mr. Weeks' opinion.

9 THE HEARING EXAMINER: Well, go ahead
10 and question your witnesses.

11 MS. SHAHEEN: Oh, you want me to ask?

12 THE HEARING EXAMINER: I don't want
13 hear your -- I just want to hear --

14 MS. SHAHEEN: You don't want to hear my
15 legal argument?

16 THE HEARING EXAMINER: No, I don't. I
17 want hear from the witness.

18 MS. SHAHEEN: Okay.

19 BY MS. SHAHEEN:

20 MS. SHAHEEN: Mr. Weeks, can you tell
21 the hearing examiners the basis for this Exhibit A-
22 7 -- Rebuttal Exhibit A-7?

23 THE HEARING EXAMINER: Certainly. In
24 his self -- sorry -- self-affirmed statement, Mr.
25 Miller indicated that Marathon had attempted multiple

1 -- had made multiple attempts to engage in trade
2 discussions with Tumbler.

3 After reviewing this -- the
4 communications between Tumbler and Marathon, the
5 record of those communications reflects that, in fact,
6 Marathon did not engage in good faith negotiations
7 with Tumbler for finding an alternative to
8 participation in -- in trade negotiations or any other
9 type of -- of means to resolve this without having to
10 go through a forced pooled hearing.

11 And so I reviewed those summary of
12 communications, and from the emails, which we can
13 produce if necessary, we highlighted specific portions
14 of those emails that are on topic and relevant to the
15 consideration of good faith negotiation.

16 Specifically, in April, Chris
17 Villarreal approached Marathon and indicated that it
18 was interested in talking about trades with Marathon
19 and finding a way to -- finding a path forward. We --
20 and we indicated we were interested in discussing that
21 and offered to visit Marathon at their office.

22 Sean and Marathon responded and asked
23 if there were any trades that we had that Tumbler had
24 in mind. And then Chris responded back to Sean and
25 Caroline that we -- with a series of categories of

1 positions that we would be interested in making a
2 trade for.

3 And those included categorizations of
4 types of reservoir class, for instance, producing
5 wells or wells that are in near-term development.
6 Alternatively, he offered up the -- the concept of or
7 a preference for certain operators for which Tumbler
8 will be willing to trade into a position and out of
9 the David acreage, and finally, identify specific
10 areas that Tumbler would be interested in making a
11 trade for with Conoco.

12 The response? There was no response
13 for five days regarding the potential trade. And the
14 response on the 9th was that -- from Sean that he
15 understands that the non-op interests would be of
16 interest, but his team and he don't have time to go
17 through our various portfolio to put a trade schedule
18 together for your consideration in his testimony in
19 the chronology -- Marathon's chronology of contacts I
20 just characterized as Chris responded, naming a few
21 general areas that Tumbler would consider trading for.

22 MRO responded, stating that COP would
23 evaluate the trade possibility if Tumbler sent a trade
24 proposal with specifics.

25 Without knowing ConocoPhillips'

1 ownership interest in these areas that we would be
2 interested in, I don't know how we would add
3 specifics. Additionally, Conoco -- sorry, Marathon
4 was aware of Tumbler's ownership position in the David
5 acreage.

6 So I'm unclear. It does not appear
7 that there was good faith negotiation on behalf of
8 Marathon as declared in their exhibit -- the land
9 exhibit.

10 MS. SHAHEEN: And these communications
11 again are reflected in the requisite chronology of
12 contacts that is attached to your exhibit -- your
13 statement, Exhibit A, attached as Exhibit A-5; isn't
14 that correct?

15 MR. WEEKS: That is correct.

16 THE HEARING EXAMINER: Ms. Hardy?

17 MS. HARDY: Well, Mr. Examiner, these
18 are excerpts that are taken out of context. So it's
19 misleading as an exhibit, and I object.

20 THE HEARING EXAMINER: Okay.

21 So there is a rule of completeness, Ms.
22 Shaheen. I don't know if Ms. Hardy -- if it benefits
23 her position to admit these emails into evidence, but
24 is that a possibility to --

25 MS. SHAHEEN: Absolutely. And we're

1 more than willing to provide the emails as exhibits,
2 as well.

3 THE HEARING EXAMINER: So these are
4 emails that you reviewed, but these are emails mostly
5 to Mr. Villarreal, who is raising his hand in the
6 audience.

7 I wonder -- and don't we have Mr.
8 Miller, as well, here? I thought so. Yeah, there's
9 Mr. Miller. So we have both parties who were involved
10 in these, and they can be questioned about their
11 involvement.

12 But I see enough evidence to admit this
13 Rebuttal Exhibit A-7. The division can give it
14 whatever weight it so chooses, especially because we
15 can also hear from Mr. Villarreal and Mr. Miller who
16 were communicating back and forth.

17 So, Ms. Shaheen, Ms. Hardy, you have
18 that opportunity down the road, but this exhibit is
19 admitted into evidence.

20 (Tumbler Rebuttal Exhibit A-7 was
21 received into evidence.)

22 Let's go on to A-8.

23 MS. SHAHEEN: Oh, I did not mean to be
24 sharing this. Sorry.

25 THE HEARING EXAMINER: What -- I need

1 to know what I'm looking at, though. Where is A-8?

2 MS. SHAHEEN: Yes.

3 Mr. Weeks, can you direct us to A-8?

4 MR. WEEKS: Certainly. I don't know
5 which page number it is in the packet, but it's titled
6 "Rebuttal to MRO Exhibit A Number 44."

7 THE HEARING EXAMINER: 44 or 41?

8 MR. WEEKS: Number 44. "MRO's
9 development will not be timely."

10 MS. SHAHEEN: Can you describe --

11 THE HEARING EXAMINER: Can you show it
12 on the screen? Or are you showing it? Oh, you are?

13 MS. SHAHEEN: Yes.

14 THE HEARING EXAMINER: So, Ms. Shaheen,
15 you handed me a packet of information, but I don't see
16 this in the packet. What page would it be on?

17 MS. SHAHEEN: This is about three pages
18 from the back.

19 THE HEARING EXAMINER: Perfect. Thank
20 you. I found it now. Thank you. So this is A-8.
21 Excellent. Go right ahead.

22 BY MS. SHAHEEN:

23 MS. SHAHEEN: Mr. Weeks, can you
24 explain to the hearing examiner the information
25 contained in Rebuttal Exhibit A-7?

1 THE HEARING EXAMINER: And, Mr. Weeks,
2 before you do that --

3 What is the objection to A-8? So I
4 know what the basis is.

5 MS. HARDY: I'm just looking at it.

6 THE HEARING EXAMINER: Right, I
7 understand.

8 MS. HARDY: Because I just received it.
9 I don't understand what it's trying to show. I don't
10 think there's a basis for this sort of speculation on
11 pooling orders, and I don't think it's actually
12 rebutting anything.

13 THE HEARING EXAMINER: Okay.

14 MS. HARDY: I think this could have
15 been submitted as a direct exhibit --

16 THE HEARING EXAMINER: All right.

17 MS. HARDY: -- if they wanted to argue
18 about timing and the deadlines on the pooling orders.

19 THE HEARING EXAMINER: I understand.

20 So, Ms. Shaheen, first of all, let's
21 find out what is this rebutting? Because to be a
22 proper rebuttal exhibit, we need to know what you were
23 surprised by in the original exhibit packet that this
24 is rebutting. So can we start with that?

25 MS. SHAHEEN: Yes. This is the

1 rebuttal to Marathon Exhibit A, paragraph 44.

2 THE HEARING EXAMINER: Okay.

3 MS. SHAHEEN: Which is basically
4 Marathon's timeline, its purported timeline for the
5 development that's -- we're rebutting that statement.

6 THE HEARING EXAMINER: Okay. All
7 right. And now what is it showing? Let's find out
8 from the witness.

9 MS. SHAHEEN: Okay.

10 THE HEARING EXAMINER: Yeah.

11 BY MS. SHAHEEN:

12 MS. SHAHEEN: Mr. Weeks, can you
13 describe to the hearing examiners what this Rebuttal
14 Exhibit A-7 [sic] shows?

15 MR. WEEKS: Certainly. The rebuttal to
16 -- to Marathon's A-44 -- Exhibit A-44 shows the -- a
17 timeline of Marathon's -- the history of the
18 development of this project by Marathon.

19 And it indicates -- it indicates a
20 series of communications from -- or statements on
21 Marathon's -- Marathon's own pooling exhibits that
22 appear to indicate that Marathon's -- Marathon has
23 stated that its development of the asset will be
24 timely.

25 However, in its timeline provided to

1 the division and provided to Tumbler, it seems to
2 indicate that Marathon does not intend to spud the
3 wells, its Goliath wells prior to the potential
4 expiration of a new pooling order being issued, which
5 is contrary to, I believe, the paragraph 20 of the
6 standard pooling order form which states that, I
7 believe, all wells must be spud within one year of the
8 execution of the pooling order by the -- I believe by
9 the commission.

10 For instance, in its chronology,
11 Marathon has indicated that it's not going to spud
12 these wells -- spud its first well until 2027. If the
13 order is issued prior to the end of the year in Q4 of
14 2025, that new pooling order would expire prior to
15 Marathon spudding its first well, and certainly prior
16 -- I would assume prior to Marathon spudding all of
17 its wells.

18 THE HEARING EXAMINER: I'm looking for
19 paragraph 44 in Marathon's Exhibit A.

20 Ms. Hardy, would you pull that up? So
21 -- because what I see here doesn't comport. I haven't
22 seen it before until -- paragraph 44 for Mr. Miller.
23 I suspect that it's --

24 MS. HARDY: Yes.

25 THE HEARING EXAMINER: Thank you. My

1 paragraph 44 is a conclusion paragraph.

2 MS. HARDY: Yes.

3 THE HEARING EXAMINER: It doesn't have
4 anything about dates in it, though.

5 MS. HARDY: It doesn't.

6 THE HEARING EXAMINER: But that's not
7 the question, so don't answer. Yeah, let's just look
8 at paragraph 44 first.

9 MS. HARDY: Can I share?

10 THE HEARING EXAMINER: Yes, please.

11 MS. HARDY: I'll stop.

12 THE HEARING EXAMINER: Thank you.

13 MS. HARDY: Oops.

14 THE HEARING EXAMINER: I think it's
15 page 14, Ms. Hardy, but I'm guessing. Is that it?

16 MS. HARDY: It is.

17 THE HEARING EXAMINER: So, Ms. Shaheen,
18 what -- I'll let you read this paragraph.

19 MS. SHAHEEN: Yes. Did you have a
20 question for me?

21 THE HEARING EXAMINER: I do.

22 MS. SHAHEEN: Okay.

23 THE HEARING EXAMINER: My question is,
24 how is this Exhibit A a rebuttal to paragraph 44?

25 MS. SHAHEEN: Well, I believe it's

1 because Mr. Miller represents that Marathon's
2 development plan will allow for prudent and timely
3 development of wells in the unit. And what we're
4 illustrating here in this rebuttal exhibit is that
5 it's not timely.

6 Because if, hypothetically speaking,
7 Marathon received approval of its applications, say
8 they came out in Q1 of 2025. In other testimony Mr.
9 Miller has stated that they're not going to be
10 developing these wells until 2027.

11 So they're not developing until a
12 hypothetical forced pooling order will have already
13 expired. So clearly their development is not going to
14 be timely. I think that's the summation of what we're
15 trying to say in the Rebuttal Exhibit A-7.

16 THE HEARING EXAMINER: Ms. Hardy?

17 MS. HARDY: And I think Ms. Shaheen
18 keyed on the key term here. It's hypothetical. Mr.
19 Weeks has -- does not know when the division will
20 issue a pooling order in these cases and does not know
21 when it would become final.

22 There could be a de novo hearing. The
23 division may take -- it typically does take longer to
24 issue orders to contested cases than in other cases.
25 He -- there is no way that Tumbler can say with any

1 degree of reasonable certainty when a pooling order
2 will be issued in this case.

3 MS. SHAHEEN: Well --

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

6 Ms. Shaheen? Which -- so that brings
7 up another question in my mind. Which pooling order
8 is this witness referring to when he says that it
9 won't be timely or prudently developed?

10 In other words, it was my understanding
11 that Marathon had a pooling order -- I think I brought
12 this up at the beginning of the hearing -- that
13 Marathon had a pooling order. It got an amendment.

14 That amendment I think is gone now, or
15 is not extended, or whatever it may be. I'm not clear
16 from this exhibit what he's referring to.

17 MS. SHAHEEN: You mean the Rebuttal
18 Exhibit A-7?

19 THE HEARING EXAMINER: Yes. Yes.

20 MS. SHAHEEN: Okay. Can I pull it up
21 again?

22 THE HEARING EXAMINER: Yes.

23 MS. SHAHEEN: Okay.

24 THE HEARING EXAMINER: Please.

25 MS. SHAHEEN: So if the timeline begins

1 over in 2023 --

2 THE HEARING EXAMINER: Right.

3 MS. SHAHEEN: -- first indicates when
4 the pre-merger announcement occurred, then it --

5 THE HEARING EXAMINER: And below it, it
6 says "pooling orders."

7 MS. SHAHEEN: "Pooling orders."

8 THE HEARING EXAMINER: You see?

9 MS. SHAHEEN: Right. And pooling
10 orders -- I need to ask Mr. --

11 THE HEARING EXAMINER: Go ahead.

12 MS. SHAHEEN: -- Weeks.

13 THE HEARING EXAMINER: No, please.

14 BY MS. SHAHEEN:

15 MS. SHAHEEN: Mr. Weeks, what is the
16 reference to pooling orders there right below the
17 timeline on -- at 2023?

18 MR. WEEKS: Certainly. In this
19 timeline, what we are indicating is that the --
20 Marathon had pooling orders previously issued from
21 2023. In May of 2024, those pooling orders were
22 extended for a year, and ultimately, Marathon allowed
23 those pooling orders to expire in May of 2025.

24 In August, Marathon files its
25 application for compulsory pooling, which -- at the

1 end of which I assume a new set of pooling orders will
2 be issued to a party. If those pooling orders are
3 issued in favor of Marathon's development plan, they
4 will have an expiration date.

5 Paragraph 20 of the standard pooling
6 order form states that an operator will commence the
7 drilling of all wells listed under the pooling order
8 prior to the expiration of one year. Tumbler's
9 statements in its record indicate that it does not
10 intend to commence development until sometime in 2027
11 prior to permits expiring.

12 The assumption is made that when those
13 pooling orders are issued, they will be issued
14 sometime in this -- in this example in Q4 of 2025. It
15 may not be until Q1 of 2026 -- or sorry, 2026. We
16 don't know.

17 We -- what we do know is that Marathon
18 will have to drill or commence drilling of 17 wells in
19 order to timely develop the asset under the terms of
20 the pooling order that will be issued in this case
21 should they be issued in favor of Marathon.

22 And so that second set of pooling
23 orders, that estimated new pooling order, is in
24 reference to any pooling orders that may come out of
25 this contested hearing.

1 THE HEARING EXAMINER: Okay. And then
2 you have a quote at the bottom of the box. Do -- I
3 don't remember you testifying about that.

4 MR. WEEKS: I'm sorry. I did not. It
5 is, I believe, in Marathon's Exhibits A, number 39,
6 Marathon has indicated that it is unreasonable for
7 Tumbler to request that all of the Goliath wells be
8 drilled and completed within 2026. And that comes --
9 so the -- it is unreasonable to expect that
10 development will occur in 2026.

11 THE HEARING EXAMINER: Okay.

12 MR. WEEKS: Which would be the
13 timeframe covered by the pooling order.

14 THE HEARING EXAMINER: Okay.

15 I've heard enough evidence, and
16 testimony, and argument about Exhibit A-8. I don't
17 find it helpful. I don't find it reliable. I'm not
18 admitting A-8 into evidence, so that is excluded.

19 MR. WEEKS: Okay.

20 THE HEARING EXAMINER: I believe those
21 are all the exhibits under -- that come in by this
22 witness, Ms. Shaheen. So --

23 MS. SHAHEEN: Is that correct, Mr.
24 Weeks?

25 MR. WEEKS: As far as the rebuttal

1 exhibits, that is correct.

2 THE HEARING EXAMINER: Well, all the
3 exhibits?

4 MR. WEEKS: Yes, A-1 through A-5.

5 THE HEARING EXAMINER: Correct.

6 MR. WEEKS: Yes.

7 THE HEARING EXAMINER: Yes. So just to
8 be clear, A-2, 3, and 4 and 5 were admitted through
9 stipulation. A and A-1 have been admitted over
10 objection. So has A-7. So the only exhibit that has
11 not been admitted from this witness, Ms. Shaheen, is
12 number A-8.

13 MS. SHAHEEN: Okay.

14 THE HEARING EXAMINER: And I believe
15 there's a paragraph in A that needs to be changed, and
16 I believe I forgot the number. Maybe 19.

17 MS. SHAHEEN: Yes.

18 THE HEARING EXAMINER: I know we have
19 it. But anyway, are there any other questions that
20 you want this witness to summarize -- now that we have
21 all this evidence in, are there any other summary
22 questions that you want this witness to answer before
23 I turn him over to cross-examination?

24 MS. SHAHEEN: I think there's probably
25 additional rebuttal that I haven't gotten to.

1 THE HEARING EXAMINER: Okay.

2 MS. SHAHEEN: But if I'm allowed to
3 come back with rebuttal after we've heard Marathon's
4 witnesses, we can cover it then.

5 THE HEARING EXAMINER: Okay. As long
6 as -- Ms. Shaheen, as long as you're able to convince
7 me that there was some surprise that occurred that
8 requires rebuttal, then of course, you have a full and
9 fair opportunity to rebut the case. So are you ready
10 to turn this witness over for cross-examination?

11 MS. SHAHEEN: Let me just follow up on
12 a couple of things.

13 THE HEARING EXAMINER: Okay.

14 MS. HARDY: Ms. Shaheen, you're sharing
15 your screen.

16 MR. WEEKS: You're sharing --

17 MS. SHAHEEN: Oh, shoot, sorry. Okay.

18 THE HEARING EXAMINER: Let me make a
19 statement before I forget. Mr. McClure brings up a
20 very good point. I did not admit A-6 which was the
21 exhibit that went to that paragraph 19, or I think
22 it's 19 or is it nine? I don't remember.

23 Okay, so there are actually two
24 exhibits that have not been admitted. It's A-6 and A-
25 8. And a correction is needed for A. I just wanted

1 to be very clear.

2 MS. SHAHEEN: Thank you. Yes, thank
3 you.

4 THE HEARING EXAMINER: And, Mr. Court
5 Reporter, you're keeping track of that; right?

6 THE REPORTER: Uh-huh.

7 THE HEARING EXAMINER: Thank you.

8 Okay. So, Ms. Shaheen, you were
9 speaking and I interrupted you.

10 MS. SHAHEEN: Yes.

11 BY MS. SHAHEEN:

12 MS. SHAHEEN: Mr. Weeks, we were
13 speaking earlier about why Tumbler -- excuse me, why
14 Marathon filed its applications in this matter. And
15 have you reviewed Mr. Miller's chronology of contacts?
16 And if you could turn to that, I believe it is Exhibit
17 -- oh did I lose it already -- Exhibit A-11, page 115
18 of 243 in Marathon's exhibits.

19 MR. WEEKS: I'm there.

20 MS. SHAHEEN: And looking at the third
21 entry here, it's an email relating to EOG Resources. It
22 appears -- well, does this email relate to Marathon's
23 reasoning for submitting its applications that are at
24 issue before the division now? And if you need a minute
25 to take a look, please do.

1 MR. WEEKS: Thank you. Yes. In the
2 chronology of contacts in the email exchanges between
3 Marathon and EOG, it does provide some information
4 regarding the rationale and the timing of proposals
5 sent by both Marathon and EOG.

6 MS. SHAHEEN: And what does it say?

7 MR. WEEKS: It says that Lacey [ph]
8 reached out notifying MRO that EOG wants to protect
9 its acreage from Tumbler's proposed development and it
10 -- it would be sending out counter proposals in the
11 next two days.

12 MS. SHAHEEN: And EOG ultimately
13 decided not to file competing proposals, is that
14 correct?

15 MR. WEEKS: That is correct. MRO
16 responded stating that MRO would also like to avoid a
17 contested hearing with EOG and that MRO would consider
18 an offer, but with what MRO also needs to defend its
19 position and will be sending proposals for the Goliath
20 unit.

21 And on -- it's not on this chronology
22 of contacts. I'm not certain why. I believe it's
23 probably the mailed column, 7/9/2025 is when Marathon
24 mailed its proposals -- its Goliath proposals only
25 after Tumbler had mailed its -- and in response to

1 Tumbler's mailing of its David proposals to both
2 Marathon and DOG and remainder -- remaining parties.

3 MS. SHAHEEN: Turning to paragraph 12
4 of Mr. Miller's testimony, and this is on page 10 of
5 241, I believe. Wait a minute -- yes. Paragraph 14.

6 MR. WEEKS: In the exhibits for case
7 25542?

8 MS. SHAHEEN: Yes, I -- that's the one
9 that I'm looking at. Or the Bone Spring application.
10 I think. So 25541, actually, page 10 of 241.

11 MR. WEEKS: Okay.

12 MS. SHAHEEN: In paragraph 14, Mr.
13 Miller represents that Tumbler has only been an
14 operator in New Mexico since 2025. Do you see that?

15 MR. WEEKS: I do.

16 MS. SHAHEEN: And do you have testimony
17 that rebuts Mr. Miller's testimony there?

18 MR. WEEKS: I'm -- yes. I'm not
19 certain exactly what Mr. Miller is referring to when
20 he says "has only been an operator in New Mexico since
21 2025." Tumbler, I believe, received its OGRID number
22 from the NMOCDD back in 2019 and has been bonded with
23 the state since.

24 MS. SHAHEEN: And Mr. Miller also
25 represents that Tumbler has never drilled any wells in

1 New Mexico. Isn't it true that there are employees,
2 staff members, representatives of Stronghold and --
3 that are working on Tumbler matters who have drilled
4 wells in New Mexico?

5 MR. WEEKS: Yes, that is accurate.

6 MS. SHAHEEN: From a land perspective,
7 how does Tumbler's development differ from Marathon's?

8 MR. WEEKS: Our development includes a
9 -- 14 additional wells that Marathon has not proposed
10 in its development plan. We are proposing wells that
11 will target the upper Avalon, the Third Bone Spring
12 Carbonate or Harkey Mills Sand, and the Third Bone
13 Spring Sand. And those were included in the proposals
14 that Kristin Wilpitz mailed out to the various
15 parties.

16 MS. SHAHEEN: And if we turn to -- and
17 here I've got to find it again -- if we turn to
18 Marathon's tract ownership exhibits, and I believe
19 these are pages 84, 85 -- pages 83, 84 85 in the
20 Wolfcamp package. Do you have that handy?

21 MR. WEEKS: I do.

22 MS. SHAHEEN: And do you see their
23 tract ownership here? They have -- how many tracts
24 are indicated?

25 THE HEARING EXAMINER: They have

1 indicated that there are two tracts.

2 MS. SHAHEEN: And is that your
3 conclusion as a land expert that there are only two
4 tracts?

5 MR. WEEKS: No, that's inaccurate.
6 They have identified sections 24 and 25 as being a
7 single tract of common ownership, and that section 36
8 is a separate single track of common ownership.

9 The record title available in the
10 county courthouse has indicate that there is a
11 difference in overriding royalty interest between
12 sections 24 and 25.

13 Additionally, in section 25, there is a
14 difference in working interest ownership, as well.
15 The north half of section 25 has -- has the same
16 owners but a reduced working interest ownership as the
17 south half of 20 -- sorry -- the south half of 25 has
18 two additional working interest owners in it that do
19 not own in the north half of section 25.

20 For instance, they have identified Puma
21 Mineral Partners LLC as owning throughout section 25,
22 and that is inaccurate. The assignment into Puma
23 Minerals -- Puma Mineral Partners was limited to the
24 south half of that section.

25 MS. SHAHEEN: Have you reviewed the

1 APDs that -- the BLM APDs that Marathon has?

2 MR. WEEKS: I have reviewed them to --
3 to a limited extent, yes.

4 MS. SHAHEEN: Do you have an opinion on
5 the consistency between the APDs and the C-102s that
6 Marathon has submitted in its exhibits?

7 MR. WEEKS: Yeah, It -- if you would
8 bear with me as I turn towards the C-102s. It appears
9 that Marathon's C-102s are inaccurate with respect to
10 the size of the number of tracts or the -- the acreage
11 for the tracts in the south half, I guess technically
12 the lots that make up the south half of the north half
13 of section 36.

14 MS. SHAHEEN: And just for the record,
15 we're talking about Exhibit A-3, page -- beginning at
16 page 29 of 241 in the 25541 matter, the Bone Spring
17 matter?

18 MR. WEEKS: That is -- that is correct.
19 Thank you.

20 MS. SHAHEEN: To sum up, do you have
21 more testimony about the C-102s?

22 MR. WEEKS: I would only also point out
23 that they -- there isn't a surveyor certification on
24 their C-102s, either.

25 MS. SHAHEEN: And to sum up your

1 testimony, in your expert opinion as a petroleum land
2 expert, will Tumbler's proposed development best
3 protect correlative rights and prevent waste?

4 MR. WEEKS: Yes. Tumbler's development
5 plan will prevent waste and protect the correlative
6 rights of the various stakeholders.

7 MS. SHAHEEN: And is that -- one of the
8 reasons because Tumbler proposes to timely develop
9 this acreage?

10 MR. WEEKS: Correct. Tumbler intends
11 to -- once a pooling order is issued in its favor,
12 Tumbler intends to submit the APD -- execute C-102s,
13 submit the APDs necessary to develop the wells, and we
14 are working with a number of contractors including
15 Permits West, who will help facilitate having those
16 permits approved at a rapid pace.

17 MS. SHAHEEN: Thank you, Mr. Weeks.

18 I'll pass the witness with the
19 understanding that if there are surprises in
20 Marathon's testimony of its witnesses, we will be
21 allowed to rebut that testimony.

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

24 Ms. Hardy, it is 12:07. I figured
25 you'd want to think about your cross-examination maybe

1 over lunch. How much time would you like for lunch?

2 MS. HARDY: I think if we could come
3 back at 1:15, that would be sufficient.

4 THE HEARING EXAMINER: 1:15.

5 Ms. Shaheen, how are you on 1:15?

6 MS. SHAHEEN: If we could say 1:30 so
7 we could get the rebuttal exhibits properly labeled?

8 THE HEARING EXAMINER: Ah. Properly
9 labeled. That would be nice. Yes, thank you.

10 MS. SHAHEEN: Especially because I'm
11 not sure if my assistant's going to be around over the
12 lunch hour.

13 THE HEARING EXAMINER: All right.

14 MS. HARDY: That's fine.

15 THE HEARING EXAMINER: This -- so this
16 is taking longer than normal, and that's fine. We're
17 here to get the full picture here so we can make an
18 informed decision.

19 Where are the Tumbler witnesses? Were
20 they planning on leaving this afternoon?

21 UNKNOWN SPEAKER: We have no plans. We
22 have a flight today or tomorrow.

23 THE HEARING EXAMINER: Oh, good. So
24 you're covered.

25 UNKNOWN SPEAKER: So we can stay as

1 long as we need.

2 THE HEARING EXAMINER: So you have a
3 place to stay overnight, if necessary? That's what I
4 wanted to know. All right, good.

5 So, Ms. Shaheen, this is most likely
6 going to go into two days, but that shouldn't be a
7 surprise at this point.

8 And your witnesses, Ms. Hardy?

9 MS. HARDY: They are available.

10 THE HEARING EXAMINER: They are
11 available? Thank you. But where are they planning on
12 going back to when this is over?

13 MS. HARDY: I believe they will go back
14 to Midland.

15 THE HEARING EXAMINER: Oh, Midland? Is
16 that --

17 MS. HARDY: Tomorrow.

18 THE HEARING EXAMINER: -- accurate?

19 MS. HARDY: Yes.

20 THE HEARING EXAMINER: Okay. Are there
21 two or three people? I see three people sitting there
22 that I don't recognize, so.

23 MS. HARDY: We have two --

24 THE HEARING EXAMINER: There are
25 three --

1 MS. HARDY: We have two witnesses

2 THE HEARING EXAMINER: And someone
3 else?

4 MS. HARDY: And one helper.

5 THE HEARING EXAMINER: And a helper.

6 MS. HARDY: A very critical helper.

7 THE HEARING EXAMINER: Yeah, that's
8 absolutely good.

9 So we'll come back -- so, Ms. Shaheen,
10 I understand that -- I want to try to be timely with
11 this, so I'm going to say we're going to come back at
12 1:15. You give your assistant instructions getting
13 these exhibits properly marked is good, but it's not
14 critical at this moment. I really want to keep this
15 moving to the best of my ability.

16 MS. SHAHEEN: Understood.

17 THE HEARING EXAMINER: Okay.

18 So with that said, we'll be back at
19 1:15 for -- and you are still on the witness stand at
20 1:15. Thank you very much.

21 We're off the record.

22 (Off the record.)

23 THE HEARING EXAMINER: It is almost
24 1:15 in the afternoon. We're back on the record. Mr.
25 McClure and I are presiding over this hearing. We

1 have Mr. Weeks on the witness stand, and we have Ms.
2 Hardy cross examining.

3 Ms. Hardy, are you ready?

4 MS. HARDY: Yes, I am. Thank you.

5 THE HEARING EXAMINER: Please proceed.

6 CROSS-EXAMINATION

7 BY MS. HARDY:

8 MS. HARDY: Good afternoon, Mr. Weeks.

9 MR. WEEKS: Good afternoon.

10 MS. HARDY: You're a vice president of
11 Tumbler operating; correct?

12 MR. WEEKS: That's correct.

13 MS. HARDY: And Tumbler does not
14 currently operate any wells in New Mexico; does it?

15 MR. WEEKS: That's correct.

16 MS. HARDY: And it does not have any
17 approved APDs in New Mexico; correct?

18 MR. WEEKS: Yes.

19 MS. HARDY: Okay. And Tumbler doesn't
20 currently have any facilities registered with OCD that
21 it operates in New Mexico; correct?

22 MR. WEEKS: Yes.

23 MS. HARDY: And Tumbler isn't running
24 any rigs at New Mexico; is it?

25 MR. WEEKS: No, it is not.

1 MS. HARDY: Okay. Your affidavit
2 states that you've worked on New Mexico oil and gas
3 matters since 2015; is that correct?

4 MR. WEEKS: That's accurate.

5 MS. HARDY: And you're familiar with
6 the factors OCD considers in competing pooling cases;
7 aren't you?

8 MR. WEEKS: The seven factors?

9 MS. HARDY: Yes?

10 MR. WEEKS: I probably need to have
11 them in front of me, but yes.

12 MS. HARDY: Okay. I'll go ahead and
13 share my screen, and hopefully I've got the right
14 thing here. Okay.

15 And this I will represent to you and I
16 will show you is Tumbler's pre-hearing statement.
17 Have you seen this document previously?

18 MR. WEEKS: Without having reviewed the
19 entire thing that you're displaying the screen, I
20 would -- yes.

21 MS. HARDY: Okay. And I'm just
22 scrolling down. It lists the seven factors that are
23 considered by the division in pooling cases; doesn't
24 it?

25 MR. WEEKS: It does.

1 MS. HARDY: Okay. And it states that
2 the factors basically weigh in Tumbler's favor. Is
3 that your understanding of Tumbler's position?

4 MR. WEEKS: That's accurate.

5 MS. HARDY: Okay. And I'd like to show
6 you paragraph 25 of your affidavit, which I can pull
7 up. Okay. And this is -- I will show you your
8 affidavit in this case, which has been marked as
9 Exhibit A. Okay?

10 And if we look at paragraph 25 -- sorry
11 for the scrolling -- actually, it's paragraph 26. You
12 state that title shows that Tumbler controls
13 approximately 9 percent of the working interest in its
14 proposed units; correct?

15 MR. WEEKS: Yes.

16 MS. HARDY: And Marathon holds
17 approximately 43 percent; correct?

18 MR. WEEKS: That is correct.

19 MS. HARDY: Okay. And that's also
20 shown on your plat exhibits; correct? I can pull them
21 up if you would like. So it looks like these are your
22 plats marked as Exhibit A-2; correct?

23 MR. WEEKS: Those are the plats marked
24 as Exhibit A-2, yes.

25 MS. HARDY: Okay. And then you have

1 marked as Exhibit A-3 the recapitulation of interest
2 for each case; right?

3 UNKNOWN SPEAKER: Yeah, that's --

4 MR. WEEKS: Sorry, I thought I heard
5 something.

6 MS. HARDY: That's -- I think someone
7 wasn't muted online.

8 So your recapitulations are marked as
9 Exhibit A-3, and they show the working interest owners
10 in the proposed units; right?

11 MR. WEEKS: It shows the working
12 interest owners seeking -- that we are seeking to pool
13 in the proposed units. That is correct.

14 MS. HARDY: Right. And it identifies
15 Tumbler's interest up here as 8.94 percent; right?
16 Roughly?

17 MR. WEEKS: Yes.

18 MS. HARDY: Okay. And then Marathon's
19 interest is shown down here at 43.44 percent,
20 approximately; right?

21 MR. WEEKS: Yes.

22 MS. HARDY: Okay. And so to be clear
23 about what this means for purposes of the division,
24 about 90 percent of the working interests have not
25 signed on to Tumbler's development; correct?

1 MR. WEEKS: 88 percent. Correct.

2 MS. HARDY: Okay. And Marathon owns
3 about 34 percent more interest in this acreage than
4 Tumbler; doesn't it?

5 MR. WEEKS: That is correct.

6 MS. HARDY: Okay. So the working
7 interest controlled factor does not weigh in Tumbler's
8 favor; does it?

9 MR. WEEKS: The working interest
10 control factor does not weigh in Tumbler's. Marathon
11 has more working interest than Tumbler does. That is
12 accurate.

13 MS. HARDY: Okay. And since Tumbler
14 only owns about 9 percent of the working interest, it
15 would only pay 9 percent of the cost for developing
16 the acreage; correct?

17 MR. WEEKS: That is correct.

18 MS. HARDY: And the other working
19 interest owners would pay approximately 90 percent of
20 the cost; right?

21 MR. WEEKS: That Is also correct.

22 MS. HARDY: Okay. And it's your
23 position in this case that Tumbler should be allowed
24 to proceed with its development when it only owns 9
25 percent of interest and is only paying 9 percent of

1 the cost; fair?

2 MR. WEEKS: Absolutely.

3 MS. HARDY: Okay. And one question for
4 you on your plats, and I'm asking you this because you
5 mentioned Marathon's plats as -- and you were sort of
6 disputing or quibbling that they didn't break up the
7 ownership interests.

8 And my question is this. Are these
9 separate leases in the tracts that you're showing?

10 MR. WEEKS: In the exhibit that you're
11 showing, which is marked as -- is this A-3?

12 MS. HARDY: Yes.

13 MR. WEEKS: Perfect. Page 125 of 30 --
14 of 328. The -- what we are showing is a number of
15 different things. We break up the tracts by working
16 interest ownership within -- common working interest
17 ownership within a geographical area.

18 We also identify the separate BLM or
19 state leases that cover each one of those tracts.
20 Tracts 1 and 2 are both covered by the same -- sorry,
21 tracts 1, 2, and 3 are all covered by the same BLM
22 lease. But the ownership interest in each of those
23 tracts is different.

24 MS. HARDY: Understood. So you're
25 showing or you're -- there's a difference between the

1 leases and the ownership interest?

2 MR. WEEKS: Yes. There's a difference
3 between leases and ownership interest.

4 MS. HARDY: And those are different
5 ways of depicting a unit recapitulation; correct?

6 MR. WEEKS: Yes, there are -- there is
7 another way to depict recapitulation.

8 MS. HARDY: Okay. And I wanted to look
9 at paragraph 26 of your affidavit. Okay, and now it's
10 actually 27. And the way I understand that paragraph
11 is that you're stating that Marathon has delayed this
12 development; correct?

13 MR. WEEKS: I'm stating that in the
14 eight years that Marathon has owned a -- an interest
15 of better -- or an interest in this acreage, it has
16 yet to develop a well despite it having APDs for
17 developing 17 wells and a valid pooling order wherein
18 they were identified as the operator of this
19 development unit.

20 MS. HARDY: We talked earlier, though,
21 and you're aware that Marathon was acquired by
22 ConocoPhillips in November 2024; correct?

23 MR. WEEKS: I'm aware that Marathon
24 continues as a wholly owned subsidiary of
25 ConocoPhillips since November of 2024.

1 MS. HARDY: And that's not my question.
2 You're not answering my question. My question is, you
3 are aware, aren't you, that Marathon was acquired by
4 ConocoPhillips in November of 2024?

5 MR. WEEKS: Yes.

6 MS. HARDY: Okay. And you don't
7 mention that in your affidavit here in this paragraph;
8 do you?

9 MR. WEEKS: I don't, because Marathon
10 continues to be Marathon.

11 MS. HARDY: And if you would just
12 answer my question, this is going to go a lot faster.
13 Isn't it prudent for an operator that acquires another
14 company to thoroughly evaluate development plans of
15 the entity it acquired before proceeding?

16 MR. WEEKS: Absolutely.

17 MS. HARDY: Okay. And here in
18 paragraph 28, you're talking again about the timing of
19 the developments. And again, you don't mention the
20 acquisition that occurred in November of 2024; do you?

21 MR. WEEKS: I don't.

22 MS. HARDY: Okay. And you state that
23 no definitive spud date has been provided; correct?

24 MR. WEEKS: That is accurate.

25 MS. HARDY: Okay. But the pooling

1 order that's issued in this case will include timing
2 requirements on spudding and completion; right?

3 MR. WEEKS: That is correct.

4 MS. HARDY: Marathon has permits for
5 all 17 of its wells; right?

6 MR. WEEKS: Merit -- excuse me, I'm
7 sorry. Marathon has permits for 17 wells. That is
8 correct.

9 MS. HARDY: Okay. And those are
10 federal permits that were obtained from the BLM;
11 right?

12 MR. WEEKS: That is correct.

13 MS. HARDY: It typically takes a
14 minimum of six months to get a federal APD; doesn't
15 it?

16 MR. WEEKS: It can take anywhere
17 between four months to six and beyond. That is
18 correct.

19 MS. HARDY: And a BLM permit costs
20 about \$12,000 per permit; right?

21 MR. WEEKS: That is correct.

22 MS. HARDY: Tumbler does not have
23 permits for any of its 31 wells; does it?

24 MR. WEEKS: It does not.

25 MS. HARDY: Okay. So even if Tumbler

1 obtained a pooling order from the division, it would
2 then need to begin the process of applying for federal
3 APDs; correct?

4 MR. WEEKS: That is correct.

5 MS. HARDY: Okay. And well plats have
6 to be surveyed before an operator can apply for
7 permits; correct?

8 MR. WEEKS: That is correct.

9 MS. HARDY: And Tumbler hasn't obtained
10 surveys for its wells; has it?

11 MR. WEEKS: We have not obtained
12 surveys for its wells yet, correct.

13 MS. HARDY: Okay. And do you know if
14 Marathon has obtained surveys for its wells?

15 MR. WEEKS: Are you talking -- I know
16 that Marathon has surveys. The C-102s attached to its
17 exhibits in this pooling case do not match the C-102s
18 attached to its permits that has been -- that have
19 been filed with the NMOCD. So I'm not sure to
20 which -- to which plats are you referring?

21 MS. HARDY: Sure. The plats that are
22 filed with the OCD include surveys; right?

23 MR. WEEKS: The plats that are filed --
24 the plats that are filed with the OCD in -- in which,
25 in the hearing, or for the permits?

1 MS. HARDY: For the permits?

2 MR. WEEKS: They do include surveys.
3 That is correct.

4 MS. HARDY: Okay. So Marathon has
5 permits for its wells and surveys completed, but
6 Tumbler does not; right?

7 MR. WEEKS: That is correct.

8 MS. HARDY: Okay. And let's look at
9 your well proposals, which are in your -- I believe
10 it's Exhibit A-5. Okay. And is this Tumbler's April
11 25, 2025, well proposal?

12 MR. WEEKS: That appears to be correct.

13 MS. HARDY: Okay.

14 MS. SHAHEEN: Excuse me. Just for the
15 record, I think it's A-4.

16 MS. HARDY: That could be. It looks
17 like it's not marked, so it's -- I'm not sure.

18 MS. SHAHEEN: Yeah, the sample well
19 proposal letter and AFEs are Exhibit A-4.

20 MS. HARDY: Okay.

21 BY MS. HARDY:

22 MS. HARDY: So referring to A-4, that
23 is your -- that is Tumbler's April 25, 2025, well
24 proposal; right?

25 MR. WEEKS: Yes.

1 MS. HARDY: Okay. And then let me just
2 apologize for scrolling here. Let's see. Okay. And
3 then the document I'm showing on the screen is part of
4 that same exhibit, and this is a May 14, 2025,
5 correction letter to the proposal; right?

6 MR. WEEKS: That's correct. We
7 clarified a typo.

8 MS. HARDY: Uh-huh. And it was the
9 difference between the last take point being from the
10 east line versus the -- from the west line, which was
11 a typo in the first proposal; right?

12 MR. WEEKS: That's correct.

13 MS. HARDY: Okay. And then Tumbler
14 sent a second proposal correction on September 8,
15 2025; right?

16 MR. WEEKS: That's correct.

17 MS. HARDY: Okay. And in this one,
18 there had been an error on the township and range;
19 right?

20 MR. WEEKS: For the -- there was an
21 error for the bottom hole location in the township and
22 range. That is correct.

23 MS. HARDY: Okay. And looking back at
24 paragraph 29 of your affidavit, you're talking here
25 about negotiations between Tumbler and Marathon;

1 right?

2 MR. WEEKS: That is right, yes.

3 MS. HARDY: Okay. And you reference a
4 number of communications here, and I think we covered
5 this a little bit earlier in the hearing to some
6 degree, but you're referencing email communications
7 with Marathon representatives; correct?

8 MR. WEEKS: Yes.

9 MS. HARDY: Okay. And I'd like to look
10 at the email here that is referenced in your paragraph
11 29A. And you're stating here that -- and I'm reading
12 the second sentence of that paragraph -- "For example,
13 after TOP submitted one trade concept, Marathon
14 responded that it didn't 'have the time to go through
15 our various portfolio to put a trade schedule together
16 for your consideration.'"

17 Did I read that correctly?

18 MR. WEEKS: You did.

19 MS. HARDY: Okay. And just to be
20 clear, you weren't a party to these email
21 communications; right?

22 MR. WEEKS: I was not.

23 MS. HARDY: Okay. I just have to get
24 to the right document. Okay. And I've put up here on
25 the screen an April 9th email from Sean Miller to

1 Chris Villarreal. And is this the email that you're
2 referencing in your affidavit?

3 MR. WEEKS: I'm sorry, could you scroll
4 down a little bit so I can see the prior emails?

5 MS. HARDY: Sure. It's a long email
6 thread. And I guess my question really is your
7 affidavit's referencing an email from Mr. Miller
8 stating that Marathon, you've quoted it, basically
9 didn't have time to put together a trade proposal for
10 you; right?

11 MR. WEEKS: Yes.

12 MS. HARDY: Okay. And so is this the
13 email that you're referencing?

14 MR. WEEKS: Yes, it is.

15 MS. HARDY: Okay. And it actually --
16 it says "I can understand our non-op positions would
17 be of interest. However, my team and I don't have the
18 time to go through our various portfolio to put a
19 trade schedule together for your consideration."
20 That's the part you quote; right?

21 MR. WEEKS: I believe so, yes.

22 MS. HARDY: Okay. And then it goes on
23 to state "If Stronghold wants to pitch a trade deal,
24 please send in an offer with the specifics to the
25 interest. In all candor, our non-op budget is

1 considerable.

2 "We value our narrow-term non-op
3 positions with good operators such as the ones you
4 listed, which is to say a trade would have to be
5 rather attractive to consider. But you never know
6 until you propose."

7 Is that what the email actually -- the
8 entire text of the email?

9 MR. WEEKS: That is the entire text of
10 the email.

11 MS. HARDY: Okay, thank you.

12 And I'd like to move the admission of
13 this email as Marathon Cross-Exhibit 1.

14 THE HEARING EXAMINER: Okay.
15 Any objections?

16 MS. SHAHEEN: Not so long as it
17 includes the entire email chain.

18 THE HEARING EXAMINER: Okay. Ms.
19 Hardy?

20 MS. HARDY: That's fine.

21 THE HEARING EXAMINER: Okay. So I
22 would like to be able to keep track of this. So you
23 are offering -- how are you going to mark this

24 MS. HARDY: Marathon Cross-Exhibit 1.
25 If that's acceptable.

1 THE HEARING EXAMINER: Hold on. And
2 how many pages will it be?

3 MS. HARDY: It is five pages.

4 THE HEARING EXAMINER: Okay, thank you.
5 (Exhibit Marathon Cross-Exhibit 1 was
6 marked for identification.)

7 MS. SHAHEEN: And may I ask whether it
8 includes the entirety of the email chain, including
9 the emails that were exchanged after this email?
10 Because I don't see that that is included here.

11 MS. HARDY: No, it's not. And it's the
12 email that Mr. Weeks referenced in his affidavit.
13 He's referencing this specific email.

14 MS. SHAHEEN: Okay. So I would just
15 request that we be allowed to --

16 THE HEARING EXAMINER: This is the --

17 MS. SHAHEEN: -- offer any subsequent
18 emails that relate to this email chain.

19 THE HEARING EXAMINER: You mean subject
20 to an objection that's sustained? Yes, of course.
21 And this is from Mr. Villarreal, who's going to
22 testify, so you can question him about this and his
23 subsequent emails that you are asking about.

24 And if you want to admit them as
25 evidence based on this new exhibit, then go ahead and

1 ask at that time.

2 MS. SHAHEEN: So I can't ask Mr. Weeks
3 to do that? I mean, this is -- as the landman expert,
4 he has reviewed all of the communications and offered
5 as an exhibit, Exhibit A-5, which has not been
6 objected to. And so it seems to me, I should also be
7 able to do that through Mr. Weeks, as well.

8 THE HEARING EXAMINER: Well, we have a
9 better witness here in the house with us. It's the
10 man who actually wrote the email and had this exchange
11 with the other company. Why not do it with him? I
12 mean, if he wasn't here, I would say it makes sense.
13 But we have him here.

14 MS. SHAHEEN: I guess we will see how
15 their objections to Mr. Villarreal's exhibits pan out
16 before we determine how that plays out.

17 THE HEARING EXAMINER: So this exhibit
18 is admitted.

19 (Exhibit Marathon Cross-Exhibit 1 was
20 received into evidence.)

21 MS. HARDY: Thank you.

22 BY MS. HARDY:

23 MS. HARDY: Okay. And, Mr. Weeks, you
24 reference an email here in paragraph 29B, as well.
25 And here you're referring to a March 2024 email;

1 correct?

2 MR. WEEKS: That is correct.

3 MS. HARDY: Okay. And that was prior
4 to Conoco's acquisition of Marathon; right?

5 MR. WEEKS: I believe that that is a
6 typo as to "March 2024." I believe that should be
7 "March 2025."

8 MS. HARDY: Okay. And you haven't
9 provided that email anywhere; have you?

10 MR. WEEKS: We have not provided that
11 email as an exhibit yet.

12 MS. HARDY: So sitting here with you on
13 the stand, I don't have anything to look at, and
14 neither does the division to determine whether those
15 statements were accurate; right?

16 MR. WEEKS: I'm sorry, could you repeat
17 that question?

18 MS. HARDY: Sure. If we don't have the
19 email and I don't -- there's no way to confirm that
20 those statements are correct; right?

21 MR. WEEKS: I believe we could pull up
22 the email. I believe your client also has the email.

23 THE HEARING EXAMINER: So do we have a
24 copy of this email that you're referring to, Ms.
25 Hardy?

1 MS. HARDY: Well, it's dated March
2 2024, so I don't have any emails from March 2024.

3 THE HEARING EXAMINER: Does someone
4 have them?

5 MS. HARDY: So he's saying now that
6 it's March 2025.

7 MR. WEEKS: It is, yeah. There's a
8 typo in my statement. It should have been March 2025.

9 THE HEARING EXAMINER: So, Ms. Shaheen,
10 will you make a note of that typo and correct it when
11 you resubmit the exhibits?

12 MS. SHAHEEN: Yes, I will correct the
13 typo, and I will also introduce into evidence the
14 email that's in question.

15 THE HEARING EXAMINER: I think at this
16 point it's probably best.

17 MS. SHAHEEN: Okay.

18 MS. HARDY: Okay.

19 THE HEARING EXAMINER: So since you
20 wanted to before, let's do it now. Do you have
21 anything?

22 MS. SHAHEEN: Oh, do it right now?

23 THE HEARING EXAMINER: I think so. Do
24 you have it?

25 MS. SHAHEEN: I need to find it before

1 I can do that and I'll --

2 THE HEARING EXAMINER: Okay. Do one of
3 your witnesses have it, do you think?

4 MS. SHAHEEN: I'll have to look. So I
5 can do that with Mr. Weeks on redirect, or I can do
6 that with Mr. Villarreal.

7 THE HEARING EXAMINER: So, Ms. Hardy,
8 let me make sure I understand what's going on while
9 Ms. Shaheen and her client try to find this email from
10 March of '25.

11 You're questioning this witness about
12 an exchange he had -- or no, not he had -- an exchange
13 that Mr. Villarreal had with whom?

14 MS. HARDY: Well, I don't know that
15 from his affidavit, which is part of the problem.

16 THE HEARING EXAMINER: Does the witness
17 know?

18 MR. WEEKS: Caroline Frederick, I
19 believe is -- it's Caroline Frederick and possibly
20 also Sean Miller.

21 THE HEARING EXAMINER: Okay. Now, I
22 know that we have Mr. Miller in the room with us. Is
23 it possible for you to get a copy of this email?

24 MS. HARDY: Now that I know who it is
25 from and the date, yes, I think so.

1 THE HEARING EXAMINER: Okay. I think
2 so, too. It shouldn't be all that hard. And where
3 are you going with this is the next question?

4 MS. HARDY: Well, my point was that
5 this email was before Conoco acquired Marathon. So
6 the fact that this communication was made by
7 apparently, or allegedly by a representative of
8 Marathon prior to an acquisition that's no longer
9 involved, I don't think it is helpful to Tumbler. I
10 think it hurts Tumbler's position. But --

11 THE HEARING EXAMINER: I see. But when
12 you say, "no longer involved," I thought the testimony
13 prior was that there was -- correct me if I'm wrong --
14 some sort of a merger where Marathon stayed as a
15 separate entity and those individuals are still
16 around. So I'm confused by what you just said.

17 MS. HARDY: Yes, so there was both my
18 understanding, and I'm not an expert on these
19 corporate transactions by any means, is that there was
20 a merger and an acquisition, components of both, but
21 that the individuals who would have been involved in
22 this development who worked with Marathon,
23 particularly on the land side, are not involved and
24 are not continued to be employed by ConocoPhillips.

25 So there's a new ConocoPhillips team

1 that has taken over these assets and this development.

2 THE HEARING EXAMINER: All right.

3 And, Mr. McClure, I just am speaking to
4 you directly. This is not evidence, what the attorney
5 is telling me, but I'm just trying to get some
6 orientation here, and I appreciate Ms. Hardy helping
7 me here.

8 So do you have a date for this? That
9 basically you're saying that certain people are not in
10 the picture anymore as of what date?

11 MS. HARDY: The date of the transaction
12 was November 2024.

13 THE HEARING EXAMINER: So this March
14 date matters?

15 MS. HARDY: Exactly.

16 THE HEARING EXAMINER: Okay. All
17 right, I understand.

18 And, Ms. Shaheen, did you acquire this
19 email?

20 MS. SHAHEEN: I am looking now to
21 see --

22 MR. WEEKS: I just sent it to you.

23 MS. SHAHEEN: Right, but I haven't
24 gotten an email from you, but I have another email.

25 MR. WEEKS: I'll try and --

1 THE HEARING EXAMINER: So, Ms. Hardy,
2 can we wait just a minute or two while Ms. Shaheen
3 obtains this email so she can put it on the screen, we
4 can get it marked. Sounds like it'll be your exhibit
5 again?

6 MS. HARDY: Yes.

7 THE HEARING EXAMINER: Don't you think?

8 MS. HARDY: And I think I have the
9 email, as well, but it will take me a minute to find
10 it, now that I know what it is.

11 THE HEARING EXAMINER: Okay. All
12 right.

13 MS. SHAHEEN: I think I have the email.

14 THE HEARING EXAMINER: Okay.

15 MS. SHAHEEN: And I can share and --

16 THE HEARING EXAMINER: All right.
17 Would you, please?

18 MS. SHAHEEN: -- we can see if someone
19 can confirm that this is the email. Okay. It looks
20 like I got kicked off of the Teams meeting. Okay.

21 THE HEARING EXAMINER: So I'm not sure
22 what we're looking at. You want to tell me?

23 MS. SHAHEEN: This is a March 11th
24 email with Ms. Caroline Frederick, and I think we will
25 need to ask Mr. Weeks if this is the email, the March

1 2025 email that he's referencing in paragraph 29.

2 MR. WEEKS: I'm --

3 THE HEARING EXAMINER: Okay, hold on.

4 Don't ask that yet.

5 So, Ms. Hardy, this is now your
6 witness, you're cross-examining. We have something on
7 the screen. Can you lay a foundation with your
8 witness about this?

9 MS. HARDY: It's Ms. Shaheen's witness;
10 right?

11 THE HEARING EXAMINER: It's your
12 witness now.

13 MS. HARDY: But now? Okay. Yes, I can
14 do it.

15 THE HEARING EXAMINER: For purposes of
16 the -- I don't want to --

17 MS. HARDY: Yes.

18 THE HEARING EXAMINER: -- I don't want
19 to pass him around.

20 MS. HARDY: Yes. And I guess I need to
21 see the entirety of the -- well, let me ask this.

22 BY MS. HARDY:

23 MS. HARDY: Mr. Weeks, you have a
24 statement here in paragraph 29B of your affidavit, and
25 this is a quote: "Marathon's landman stated 'We don't

1 need Tumbler's help to drill our wells.'"

2 And then you have it again there. I
3 think's an error, "'We don't need Tumbler's help to
4 drill our wells.'" And --

5 MS. SHAHEEN: Sorry, I'm just --

6 BY MS. HARDY:

7 MS. HARDY: -- I don't know where those
8 quotations are coming from. I've never seen an email
9 where Marathon has stated that. So I want to know
10 what -- where you're getting that information from?

11 MR. WEEKS: Can -- there is an email
12 that states that. Whether this is the email or not,
13 I'm not certain. Can we perhaps scroll through the
14 email to see?

15 MS. SHAHEEN: I'm not finding that
16 statement in this email.

17 MR. WEEKS: Then this is -- this is not
18 the correct email.

19 MS. SHAHEEN: Okay.

20 THE HEARING EXAMINER: But we do have
21 this email up. It was in -- at request of Ms. Harvey
22 to get this email. So do you want to continue about
23 this email, and then we can deal with some other email
24 after this?

25 MS. HARDY: Yes.

1 If Ms. Shaheen could scroll up?

2 BY MS. HARDY:

3 MS. HARDY: Your affidavit is
4 mentioning a March -- and as you said, you think it's
5 an error, that it should be March 2025, and it's an
6 email from Ms. Frederick; right?

7 MR. WEEKS: I believe that to be
8 correct.

9 MS. HARDY: Okay. And then this is an
10 email that Ms. Shaheen has put on the screen, March
11 11, 2025, from Ms. Frederick to Mr. Villarreal stating
12 "Good morning, Chris. Absolutely. The team is very
13 much concerned with maintaining production on the
14 Madera wells. As to the rig situation, let me talk to
15 the asset team and verify whether availability is an
16 issue and if that is something we'd be interested in."
17 Correct?

18 MR. WEEKS: Yes, that's correct.

19 MS. HARDY: Okay.

20 And then, Ms. Shaheen, if you could
21 scroll up?

22 MS. SHAHEEN: Okay.

23 MS. HARDY: And there's an email from
24 Mr. Villarreal to Ms. Frederick.

25 Okay. And then if you can scroll up?

1 Okay. And can you scroll up a little
2 bit more, Ms. Shaheen? Thank you.

3 BY MS. HARDY:

4 MS. HARDY: So this is the email that I
5 have seen, and it's dated March 19, 2025, from Ms.
6 Frederick to Mr. Villarreal regarding rig
7 availability.

8 And it says "Good morning, Chris. Rig
9 availability isn't an issue for this project. We
10 intend to drill these wells ourselves and won't be
11 needing external assistance. Really appreciate
12 Tumbler's willingness to collaborate, but we're
13 confident in our current approach and timeline. I'd
14 love to better understand your perspective. Besides
15 the leasehold concern, what's driving the urgency
16 around Goliath for Tumbler? Thanks so much."

17 Did I read that correctly?

18 MR. WEEKS: You did.

19 MS. HARDY: Okay. And is that the
20 email you think you were referencing?

21 MR. WEEKS: Yes, it is.

22 MS. HARDY: Okay. And so it doesn't
23 say "We don't need Tumbler's help to drill our wells";
24 does.

25 MR. WEEKS: It does not.

1 MS. HARDY: Okay. So that's an
2 incorrect quotation that you --

3 MR. WEEKS: I misquoted. That's
4 correct.

5 MS. HARDY: Okay, thank you.

6 MS. SHAHEEN: I'm going to object
7 because I don't know that that's an accurate portrayal
8 of what this email says that Ms. Hardy is stating.

9 THE HEARING EXAMINER: Okay. Well, the
10 question was asked and answered, and there was no
11 objection. Now there's -- on redirect, if you want to

12 MS. SHAHEEN: Okay.

13 THE HEARING EXAMINER: -- discuss this
14 with your witness, you're more than welcome to. But
15 at this point the objection is a little late. It's
16 already been answered, so --

17 MS. SHAHEEN: We'll come back to it.
18 Thank you.

19 THE HEARING EXAMINER: -- overruled.
20 But you have an opportunity to clean this up if you
21 need to.

22 MS. SHAHEEN: Thank you.

23 THE HEARING EXAMINER: Now, before we
24 continue with this line of questioning, is this the
25 email you wanted?

1 MS. HARDY: Yes, it is.

2 THE HEARING EXAMINER: Okay, good. Do
3 you want to introduce it into evidence and mark it?

4 MS. HARDY: Sure, I would mark it as
5 Marathon Cross-Exhibit 2.

6 (Exhibit Marathon Cross Exhibit 2 was
7 marked for identification.)

8 THE HEARING EXAMINER: Okay. And how
9 are you going to differentiate it from what -- I mean,
10 I know there's 1 and 2. I got that. But what makes
11 it different? Is it --

12 MS. HARDY: It's a March 19, 2025,
13 email from Ms. Frederick to Mr. Villarreal.

14 THE HEARING EXAMINER: So this is a
15 3/19 email, and the other email was a what? Yeah,
16 take your time.

17 MS. HARDY: April 9, 2025.

18 THE HEARING EXAMINER: April 9th? So a
19 month later or two weeks later. Okay. I'm with you
20 now.

21 MS. SHAHEEN: And again, subject to the
22 rule of completeness that we can have the entire email
23 chain included in the exhibit.

24 THE HEARING EXAMINER: Yes, I've
25 already said that multiple times, Ms. Shaheen, so we

1 don't have to keep going over that again.

2 MS. SHAHEEN: I don't have --

3 THE HEARING EXAMINER: You just make a
4 motion to a request to admit it, and it'll be
5 considered.

6 So, Ms. Hardy, so the -- it is admitted
7 into evidence, both of your cross-examination
8 exhibits.

9 (Exhibit Marathon Cross Exhibit 2 was
10 received into evidence.)

11 Do you have more questions based on
12 this?

13 MS. HARDY: Not based on that email.

14 THE HEARING EXAMINER: And please
15 continue.

16 MS. HARDY: Okay.

17 If I could go back to sharing, Ms.
18 Shaheen?

19 BY MS. HARDY:

20 MS. HARDY: Okay. I wanted to look at
21 your summary of communications. Okay. And this is
22 your Exhibit A-5, I believe. It's a little difficult
23 for me to read. Actually, I think it's A-6.

24 Is this your summary of communications

25 MS. SHAHEEN: For the record, A-5.

1 MS. HARDY: Is it A-5?

2 THE HEARING EXAMINER: It is.

3 MS. SHAHEEN: Yes.

4 MS. HARDY: Okay. I think I got them
5 wrong because I couldn't read the headings due to the
6 page numbers from OCD.

7 MS. SHAHEEN: Yeah, if you look at the
8 index, you'll see that it's A-5.

9 MS. HARDY: Right. Okay.

10 BY MS. HARDY:

11 MS. HARDY: So this is your
12 communication summary; correct?

13 MR. WEEKS: Correct.

14 MS. HARDY: Okay. And looking at this
15 here, well, it starts in February of 2024; correct?

16 MR. WEEKS: Correct.

17 MS. HARDY: Okay. And it goes through
18 many, many, many entries here. And this section of
19 this summary is all the communications between
20 Marathon and Tumbler; right?

21 MR. WEEKS: I don't know that it is
22 absolutely every single communication between Marathon
23 and Tumbler.

24 MS. HARDY: I understand. Let me
25 clarify that question.

1 What I was trying to get at is that all
2 of these entries deal with communications between
3 Marathon and Tumbler?

4 MR. WEEKS: I believe that there may be
5 some actions in there, as well.

6 MS. HARDY: Okay. What -- let me
7 clarify. You've got other sections of this
8 communications log that apply to other parties;
9 correct?

10 MR. WEEKS: That's correct.

11 MS. HARDY: Okay. So these pages --
12 let me count them -- one, two, three -- three pages of
13 single-spaced entries deal with interactions between
14 Tumbler and Marathon; right?

15 MR. WEEKS: Yes.

16 MS. HARDY: Okay. So there has been a
17 lot of back and forth between Tumbler and Marathon
18 since February of 2024; right?

19 MR. WEEKS: There has been, yes. Quite
20 a bit of communication.

21 MS. HARDY: Okay. And I haven't
22 counted up these entries. Have you?

23 MR. WEEKS: I don't know that I've
24 personally counted them, but I believe it's somewhere
25 close to 70.

1 MS. HARDY: Okay, thank you.

2 And is Mr. Villarreal going to cover
3 questions regarding the AFEs, or are you addressing
4 those as part of the well proposals?

5 MS. SHAHEEN: I believe Mr. Baker will
6 be addressing AFEs.

7 MS. HARDY: Okay, thank you.

8 Okay. Those are all of my questions.
9 Thank you.

10 THE HEARING EXAMINER: All right.

11 Let's go to Mr. McClure.

12 I can't hear you, Mr. McClure. No.
13 Could it be that your microphone is -- maybe in the
14 settings, the microphone is not correct? No? Do you
15 want to call in?

16 Oh. There is someone who says that
17 they can hear you. It's just that we can't hear you
18 in the room.

19 Ms. Tschantz?

20 MS. TSCHANTZ: Something may have
21 gotten bumped.

22 Can you try it now, Dean?

23 MR. MCCLURE: Yeah. Can you hear me
24 now?

25 THE HEARING EXAMINER: Yes. Thank you.

1 MR. MCCLURE: Okay.

2 Now, thank you, Mr. Hearing Examiner.

3 DIRECT EXAMINATION

4 BY MR. MCCLURE:

5 MR. MCCLURE: Mr. Baker -- oh, Mr.
6 Weeks, excuse me. Can I draw your attention to your
7 exhibits page 125 of 328? Let me actually get them
8 open my own self.

9 THE HEARING EXAMINER: Ms. Hardy, do
10 you -- oh wait, no.

11 MS. HARDY: I can --

12 THE HEARING EXAMINER: Ms. Shaheen,
13 would you share?

14 MS. SHAHEEN: I'm going to. I just
15 need to make sure I have it here.

16 BY MR. MCCLURE:

17 MR. MCCLURE: Now, this should be your
18 summary of ownership, your unit recalculation?

19 MS. SHAHEEN: I am sorry, Mr. McClure.
20 Could you give me the page number again?

21 MR. MCCLURE: 125, please, Ms. Shaheen.
22 It should be your unit recalculation.

23 MS. SHAHEEN: Is this the right
24 exhibit?

25 MR. MCCLURE: Yes, ma'am.

1 MS. SHAHEEN: Oops. Okay.

2 MR. MCCLURE: Ms. --

3 MS. SHAHEEN: Sorry.

4 BY MR. MCCLURE:

5 MR. MCCLURE: So, Mr. Weeks, on here
6 where you referenced 3 percent voluntary joinder; you
7 see where I'm referring to?

8 MR. WEEKS: I do.

9 MR. MCCLURE: Which persons is that 3
10 percent referring to?

11 MR. WEEKS: If you refer back to page
12 120 of 328, you will see a list of owners. We have
13 reached voluntary joinder with Luce Incorporated, The
14 three Hambler -- or sorry, Hamlin Miners Trusts. I
15 believe those are the parties. Oh, and Puma. Puma
16 Mineral Partners LLC.

17 MR. MCCLURE: All over there in tract
18 3?

19 MR. WEEKS: Correct.

20 MR. MCCLURE: When you say you reached
21 joinder with them, what are you referring to?

22 MR. WEEKS: They have signed our joint
23 operating agreement.

24 MR. MCCLURE: Okay. Now, on that page
25 is a fine one for my next question.

1 If we could put that back up, please,
2 Ms. Shaheen?

3 BY MR. MCCLURE:

4 MR. MCCLURE: On here, you have
5 referenced the four different tracts. Do you see what
6 I'm referring to?

7 MR. WEEKS: Yes, sir. I do.

8 MR. MCCLURE: Each one of these tracts,
9 would it be accurate to say that they're a set of
10 identical ownership, or a set of areas of identical
11 ownership?

12 MR. WEEKS: Yes, I think common
13 ownership is the defining factor for each of these
14 tracts.

15 MR. MCCLURE: All of the email chains
16 between Marathon/Conoco and Tumbler, are you in
17 possession of all those email chains?

18 MR. WEEKS: I believe so, yes.

19 MR. MCCLURE: If I were to ask you to
20 provide the division with each and every single one of
21 those email chains, do you understand what I'm asking
22 for?

23 MR. WEEKS: I believe I do, yes.

24 MR. MCCLURE: If the division were to
25 issue an order for pooling this unit for Tumbler, when

1 would Tumbler be able to drill the wells?

2 MR. WEEKS: We anticipate that we would
3 commence drilling operations within six months of
4 those orders being issued. And we anticipate that we
5 would complete the commencement of the -- sorry.

6 We would commence drilling operations
7 prior to the expiration of one year from when those
8 orders were issued, the anticipated for spud being
9 within six months. And we anticipate we would
10 complete the drilling and completion of those wells
11 within the timeline of the second year of that order.

12 MR. MCCLURE: How many wells is Tumbler
13 proposing --

14 MR. WEEKS: We're proposing --

15 MR. MCCLURE: -- between all these
16 units?

17 MR. WEEKS: Sorry. We're proposing 31
18 wells.

19 MR. MCCLURE: So you would proceed --
20 you would presume that Tumbler would have all 31 wells
21 drilled before a year is out after an order will be
22 issued?

23 MR. WEEKS: I'm sorry. I want to make
24 sure that we're -- I'm clear. We will --

25 MR. MCCLURE: Are you asking me to re-

1 asked my question? If an order were to be issued for
2 Tumbler, would it be able to drill all 31 wells within
3 the first year?

4 MR. WEEKS: I believe that we would be
5 finishing up -- or mid -- we'd be mid-drill on a
6 second batch of wells by the end of the first year, we
7 would have commenced all of the wells, and we would
8 complete them and they would be turned in line within
9 the second year.

10 MR. MCCLURE: Okay. So then you would
11 be proposing to commence drilling on a second batch of
12 wells in the second year?

13 MR. WEEKS: No, maybe it's -- maybe
14 I -- would you like me to walk through sort of like
15 the development timeline? Would that be helpful?

16 MR. MCCLURE: Very briefly, please do
17 so.

18 MR. WEEKS: Yes, sir. Our intention is
19 to commence drilling within the first six months of a
20 batch of wells after having received the BLM -- BLM
21 APDs.

22 Once we have finished drilling the
23 first batch of wells, we will commence development and
24 drilling of the second batch of wells, and we
25 anticipate that each one of that second batch of wells

1 will have drilling commenced on it within the first
2 year of the execution of the order.

3 We would complete the drilling of that
4 second batch of wells within the second year, and all
5 wells would be completed and turned in line by the end
6 of the second year.

7 MR. MCCLURE: So let me re-ask my
8 question and make sure we're all on the same page.
9 You're saying that you would commence drilling on all
10 wells before the first year is up?

11 MR. WEEKS: Correct.

12 MR. MCCLURE: Is that correct?

13 MR. WEEKS: Yes, sir.

14 MR. MCCLURE: Okay. And that timeline
15 is considering six months for approval of APDs from
16 the BLM; is that correct?

17 MR. WEEKS: That is correct.

18 MR. MCCLURE: In your experience
19 submitting APDs to the BLM in the state of New Mexico,
20 have you seen where it's taken longer than six months
21 to get approval?

22 MR. WEEKS: Yes, I have.

23 MR. MCCLURE: I have no more questions
24 for this witness.

25 Thank you, Mr. Weeks.

1 Thank you Mr. Hearing Examiner.

2 THE HEARING EXAMINER: Ms. Shaheen,
3 redirect?

4 MS. SHAHEEN: Thank you. I do have one
5 question for Mr. McClure, if I may?

6 THE HEARING EXAMINER: I'm not sure
7 that it's proper for you to ask the technical examiner
8 a question. Why don't you ask me first?

9 MS. SHAHEEN: Okay. Because he asked
10 whether we would be able to produce all the emails if
11 that was requested by the division.

12 THE HEARING EXAMINER: Uh-huh.

13 MS. SHAHEEN: And so my question was
14 going to be do you want us to produce all those
15 emails?

16 THE HEARING EXAMINER: Let's wait until
17 the end of the hearing, maybe tomorrow, and then he'll
18 have a list of things if he wants that the parties
19 submit as an amended exhibit packet. And if he wants
20 them, I think he'll at that point advise the parties
21 of it, so.

22 MS. SHAHEEN: Okay. So any chance I
23 could have five minutes --

24 THE HEARING EXAMINER: Yes. Sure.

25 MS. SHAHEEN: -- to prepare for

1 redirect? Thank you.

2 THE HEARING EXAMINER: And -- do you
3 mind the redirect?

4 All right. We're off the record for
5 five minutes. We'll come back at 2:10. Thank you.
6 (Off the record.)

7 THE HEARING EXAMINER: We are back on
8 the record, and it's 2:10 p.m.

9 Ms. Shaheen, redirect?

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

11 First, we'd like to start by looking at
12 the emails that Ms. Hardy asked Mr. Weeks about. So I
13 would share what I believe is Cross-Exhibit 1.

14 And please correct me if I've got that
15 wrong.

16 RE-DIRECT EXAMINATION

17 BY MS. SHAHEEN:

18 MS. SHAHEEN: Mr. Weeks, can you
19 confirm that this is the email chain that was
20 identified as Marathon's Cross-Exhibit 1?

21 MR. WEEKS: I believe that to be
22 correct.

23 MS. SHAHEEN: And this is the first
24 email in that email chain; is that correct? The March
25 28th --

1 MR. WEEKS: I believe so.

2 MS. SHAHEEN: -- 2025?

3 MR. WEEKS: Yes, ma'am.

4 MS. SHAHEEN: And this email is from
5 Mr. Villarreal to Mr. Miller; is that correct?

6 MR. WEEKS: Yes, that is correct.

7 MS. SHAHEEN: And this is he's offering
8 to discuss further the future of the Goliath wells; is
9 that right?

10 MR. WEEKS: Yes, that's accurate.

11 MS. SHAHEEN: And then, this next email
12 dated March 31, 2025, is Mr. Miller's response to Mr.
13 Villarreal?

14 MR. WEEKS: That's correct.

15 MS. SHAHEEN: And can you sum up what
16 Mr. Miller's response was?

17 MR. WEEKS: Mr. Miller's response was
18 that Conoco was having a -- it was taking Conoco a
19 while -- or sorry, Marathon a while to get its drill
20 schedule in order when it merged its drill schedule
21 and drill schedule projects together with legacy
22 projects that were already on their drill schedule.

23 MS. SHAHEEN: And here down in the
24 second paragraph, Mr. Miller asked Mr. Villarreal to
25 send his development proposals or his proposals for

1 some sort of resolution; is that right?

2 MR. WEEKS: Yes, that is correct.

3 MS. SHAHEEN: And then, Mr. Villarreal
4 replies with a proposed starting point for discussions
5 on resolving the issues; is that correct? Would that
6 be fair to say?

7 MR. WEEKS: I would say that this is
8 another attempt to start discussions with Marathon in
9 -- in this regard. And in this email, Christopher
10 suggests that a -- potentially a trade could be a
11 solution so that Conoco -- so that Marathon's working
12 interest could be increased.

13 MS. SHAHEEN: And then Mr. Miller asked
14 whether there are any tracts in mind; is that correct?

15 MR. WEEKS: That's correct.

16 MS. SHAHEEN: And Mr. Villarreal
17 responds?

18 MR. WEEKS: Correct. Mr. Villarreal
19 responds and not only identifies three different
20 tracts that -- that Tumbler would be interested in
21 trading into for its position, it also identified some
22 other areas or metrics by which Conoco -- or sorry,
23 Marathon could evaluate its ownership in order to
24 execute a trade.

25 MS. SHAHEEN: And he asked Mr. Miller

1 if he has any other options that he would like
2 considered; correct?

3 MR. WEEKS: That is correct.

4 MS. SHAHEEN: And subsequently, it
5 appears that Mr. Miller didn't provide a response; is
6 that correct?

7 MR. WEEKS: That's correct. Up until
8 Tuesday, April 8th, no response. Chris had his email
9 to Sean again to prompt the discussion.

10 MS. SHAHEEN: And then can you
11 summarize Mr. Miller's response here in his email of
12 April 9th?

13 MR. WEEKS: I would summarize it as --
14 I can summarize it. They don't appear to have the
15 time to -- or to expend the effort to review their
16 interests in the tracts that Tumbler had proposed as
17 potential trade opportunities and instead asks that we
18 propose additional specifics of Marathon's interests
19 in those areas.

20 MS. SHAHEEN: Do you know whether there
21 were -- here's the final email in this particular
22 email chain. What was Mr. Villarreal's response to
23 Mr. Miller?

24 MR. WEEKS: Mr. Villarreal's response
25 to Mr. Miller was that it doesn't appear -- we're not

1 -- well, since the pooling orders are going to expire
2 and we want to see these -- this acreage developed, we
3 are sending proposals for Tumbler to develop this
4 acreage.

5 MS. SHAHEEN: Turning now to what I
6 believe is Cross-Exhibit 2, is this the email chain
7 that you discussed with Ms. Hardy that was identified
8 as Cross-Exhibit 2?

9 MR. WEEKS: I believe so. Could you
10 scroll down a little bit?

11 MS. SHAHEEN: Actually, this is --

12 MR. WEEKS: No, I don't believe this is
13 it.

14 MS. SHAHEEN: -- this is not it. Okay,
15 let's try this one here. Does this look familiar? Is
16 this the one that you were talking about with Ms.
17 Hardy?

18 MR. WEEKS: Correct. This -- this
19 appears to be Cross-Exhibit 2, or the email chain that
20 is the subject of the Cross-Exhibit 2.

21 MS. SHAHEEN: And this is the one where
22 you were discussing whether you're quote
23 accurately -- whether you had accurately quoted this
24 particular email. Do you recall that testimony?

25 MR. WEEKS: I do recall that testimony.

1 MS. SHAHEEN: And how do you -- can you
2 read this into the record, please?

3 MR. WEEKS: Certainly. I believe this
4 is from Caroline Frederick to Chris Villarreal, and it
5 says "Good morning, Chris. Rig availability isn't an
6 issue for this project. We intend to drill these
7 wells ourselves, and we won't be needing external
8 assistance.

9 "Really appreciate Tumbler's
10 willingness to collaborate, but we're confident in our
11 approach and timeline. I'd love to better understand
12 your perspective besides the leasehold concern.
13 What's driving the urgency around Goliath for Tumbler?
14 Thanks so much."

15 MS. SHAHEEN: And so would it be fair
16 to say if you were to summarize this, that Marathon is
17 telling Tumbler "We don't want your help"; is that
18 correct?

19 MS. HARDY: I object. I think the
20 email speaks for itself.

21 MR. WEEKS: Sustained.

22 BY MS. SHAHEEN:

23 MS. SHAHEEN: And at that point, Mr.
24 Villarreal responded by offering to meet together, to
25 meet with Marathon in Midland; is that right?

1 MR. WEEKS: That is correct.

2 MS. SHAHEEN: And there was no response
3 to that email; is that right?

4 MS. HARDY: Object. I don't think that
5 evidence is in the record.

6 MS. SHAHEEN: Well, let's --

7 THE HEARING EXAMINER: Well, I can
8 overrule that because it's a question to the witness.

9 MS. HARDY: Okay.

10 THE HEARING EXAMINER: So he can answer
11 it.

12 MR. WEEKS: Could you ask the question
13 again?

14 BY MS. SHAHEEN:

15 MS. SHAHEEN: Yes. So here is the
16 email from Mr. Villarreal to Ms. Fredericks, and he
17 asked her about a time to meet in Midland. And the
18 next email in this chain is again Mr. Villarreal
19 following up with Ms. Frederick; is that correct?

20 MR. WEEKS: That's correct.

21 MS. HARDY: Ms. Shaheen, could you
22 scroll up so we can see the date?

23 MS. SHAHEEN: Yes. And that was on
24 March 25th of 2025.

25 MS. HARDY: So is that -- just, can you

1 scroll down for one minute? I just want to see the --

2 MS. SHAHEEN: Okay.

3 MS. HARDY: Thank you.

4 THE HEARING EXAMINER: So what's the
5 question to the witness?

6 BY MS. SHAHEEN:

7 MS. SHAHEEN: The question was, did --
8 the following email, Mr. Villarreal had to follow up
9 again because he received no response from Ms.
10 Frederick; is that correct?

11 MR. WEEKS: Correct.

12 THE HEARING EXAMINER: Ms. Shaheen?

13 MS. SHAHEEN: Uh-huh?

14 THE HEARING EXAMINER: We have Mr.
15 Villarreal here. I would think that this sort of --
16 this kind of -- these questions are better asked to
17 this witness because he would know everything that
18 went back and forth.

19 To ask this witness what he knows about
20 those communications I think is not the most reliable
21 source. So can we move on from this subject now?

22 MS. SHAHEEN: Sure. I mean, I'm only
23 asking him because Ms. Hardy asked him about that.

24 THE HEARING EXAMINER: And you've done
25 that, and we've covered this closely. So can we move

1 on now?

2 MS. SHAHEEN: Yes.

3 THE HEARING EXAMINER: Thank you.

4 BY MS. SHAHEEN:

5 MS. SHAHEEN: Ms. Hardy asked you some
6 questions about the acquisition of Marathon by Conoco.
7 Do you recall that testimony?

8 MR. WEEKS: I do.

9 MS. SHAHEEN: And she appeared to
10 suggest that this acquisition by Conoco is why
11 Marathon has not followed through on its proposals.
12 Do you agree?

13 MR. WEEKS: I agree.

14 MS. SHAHEEN: And in your experience,
15 when should a prudent operator review development
16 plans for a company that it is acquiring?

17 MS. HARDY: I'm going to object as,
18 well, being outside the scope of his testimony as a
19 landman.

20 THE HEARING EXAMINER: Well, let's see.
21 We know that it's within the scope of the cross-
22 examination question. You did ask him this question
23 earlier, so I'm going to allow the question.

24 So would you answer it?

25 MR. WEEKS: Yes. Could I get it posed

1 a second time, please?

2 BY MS. SHAHEEN:

3 MS. SHAHEEN: Yes. In your experience,
4 when should a prudent operator, in this case Conoco,
5 review the development plans that have been proposed
6 by the entity it's acquiring, in this case, Marathon?

7 MR. WEEKS: In this case, it's a
8 somewhat more nuanced discussion on that topic.
9 Marathon merged into Conoco, and personnel continued
10 on -- the land personnel for Marathon were continued
11 to be employees even after the merger occurred.

12 And those employees were after the fact
13 either let go, terminated, or -- or left of their own
14 accord. And so I would say that Marathon has
15 continued in existence through that -- that period of
16 time.

17 Additionally, I believe that a prudent
18 operator prior to making an offer on a 22 and a half
19 billion dollar company would have done some due
20 diligence about how it's going to integrate those
21 assets and those systems into its portfolio for a
22 seamless transition, is what I would say.

23 And so as far as time goes, I would --
24 I would estimate a minimum of nine months of due
25 diligence would have been done.

1 MS. HARDY: Mr. Examiner, I move to
2 strike all of that testimony. I think Mr. Weeks --
3 there is -- he's absolutely not an expert on corporate
4 mergers and acquisitions. He has no knowledge of the
5 employees who stayed or left Marathon when it was
6 acquired. This is way outside the scope of his
7 testimony as a petroleum landman for Tumbler.

8 THE HEARING EXAMINER: Ms. Shaheen?

9 MS. SHAHEEN: Yes, I believe Ms. Hardy
10 opened the door in this testimony. She asked about
11 the acquisition of Marathon by Conoco, and I'm just
12 asking, when you have an -- she assumed that Mr. Weeks
13 could testify about the acquisition, and now I'm
14 asking a follow-up question about that acquisition.

15 MS. HARDY: No.

16 THE HEARING EXAMINER: Okay, hold on.

17 MS. HARDY: Oh, yeah.

18 THE HEARING EXAMINER: Now, you have
19 the right to cross-examine this witness based on what
20 he just said.

21 MS. HARDY: Okay.

22 THE HEARING EXAMINER: But I agree that
23 you did open the door to this testimony. Whether it
24 went further than you had hoped it would go is a
25 different situation.

1 You can show how this information is --
2 I'm not saying it is -- less than reliable on your
3 cross-examination, and then we'll give it the weight
4 that we deem that it's worth. I'm sorry --

5 Thank you.

6 Did you catch that or not?

7 THE REPORTER: [No audible response.]

8 THE HEARING EXAMINER: You caught it?
9 Good. I don't have to go over that again.

10 So the objection is denied, but you'll
11 have your opportunity on cross, and I understand where
12 you're coming from. But this -- the question was
13 asked and answered, and it stands for what it stands
14 for.

15 Is there a follow-up, Ms. Shaheen? Or
16 are you done with your re-direct?

17 MS. SHAHEEN: The only other thing I
18 was hoping to do is to clarify the typo in paragraph
19 29A of Mr. Weeks' testimony -- excuse me, 29B where it
20 refers to a March 2024 email.

21 And I believe that the reference is
22 actually to a March 2025 email with Ms. Fredericks,
23 which has been identified as Marathon Cross-Exhibit 2,
24 if I'm correct. If everyone agrees?

25 MR. WEEKS: [No audible response.]

1 THE HEARING EXAMINER: Is that a yes?
2 You're nodding.

3 MR. WEEKS: Sorry, I was waiting for a
4 question.

5 THE HEARING EXAMINER: That was the
6 question.

7 MR. WEEKS: That is correct.

8 MS. SHAHEEN: Thank you. I have no
9 further questions at this time.

10 THE HEARING EXAMINER: Thank you. Re-
11 cross?

12 MS. HARDY: Yes, thank you.

13 RE-CROSS EXAMINATION

14 BY MS. HARDY:

15 MS. HARDY: Mr. Weeks, you do not work
16 -- you have not worked for Marathon at any time; have
17 you?

18 MR. WEEKS: I have not.

19 MS. HARDY: And you have not worked for
20 ConocoPhillips at any time; have you?

21 MR. WEEKS: No, I have not.

22 MS. HARDY: You're not a consultant for
23 ConocoPhillips?

24 MR. WEEKS: I am not.

25 MS. HARDY: And you weren't a

1 consultant for Marathon; correct?

2 MR. WEEKS: That is correct.

3 MS. HARDY: And you weren't involved in
4 any due diligence for the acquisition by
5 ConocoPhillips of Marathon; were you?

6 MR. WEEKS: No, I wasn't.

7 MS. HARDY: And you don't have personal
8 knowledge of employees who left or stayed at Marathon
9 after it was acquired; do you?

10 MR. WEEKS: No, that's -- that's not
11 accurate.

12 MS. HARDY: You have -- do you have
13 specific information on the number of employees who
14 were retained, in what areas they worked, and who they
15 were?

16 MR. WEEKS: Do I have specific
17 information on the number of employees that were
18 retained, who they were, and say that last part again?

19 THE HEARING EXAMINER: That's a
20 compound question, so if you could --

21 MS. HARDY: Well, yeah, sure. I will
22 break it up.

23 Well, you certainly don't have any
24 information in your testimony on employees who were or
25 weren't retained following the acquisition; do you?

1 MR. WEEKS: I do not have anything in
2 my testimony about which employees were retained and
3 which were not.

4 MS. HARDY: And you weren't involved in
5 the discussions with the land team at all, were you,
6 at ConocoPhillips or Marathon?

7 MS. SHAHEEN: Objection, vague.

8 MS. HARDY: Well, all of the
9 communications we've been talking about here were
10 actually between Mr. Villarreal and Marathon; right?

11 MR. WEEKS: No, that's not --

12 THE HEARING EXAMINER: There's an
13 objection. Whenever there's an objection, you have to
14 wait --

15 MR. WEEKS: Sorry. Thank you --

16 THE HEARING EXAMINER: -- for a ruling
17 so that we can deal with it evidentially.

18 So the objection was vague?

19 MS. SHAHEEN: Yes. And Ms. Hardy might
20 have cleared it up after I objected when she said, "at
21 Marathon."

22 THE HEARING EXAMINER: Right. I think
23 she did.

24 MS. SHAHEEN: Oh. Okay.

25 THE HEARING EXAMINER: So I sustain the

1 objection, but she rephrased.

2 So please rephrase. But you have.

3 So please answer the rephrased
4 question.

5 MR. WEEKS: It's not accurate. I have
6 had communications with the employees at Marathon.

7 BY MS. HARDY:

8 MS. HARDY: Okay. And had you
9 communicated with employees at Marathon regarding this
10 development before the acquisition?

11 MR. WEEKS: I have not.

12 MS. HARDY: Okay. And so you don't
13 know if they're the same people or not; do you?

14 MR. WEEKS: Sorry, could you say that
15 one more time?

16 MS. HARDY: You don't know whether the
17 same land team is working on this matter now as prior
18 to the acquisition; right?

19 MR. WEEKS: I know that the same
20 land -- well, I know that members of the land team
21 that had previously been working on this project for
22 Marathon no longer work on this project for Marathon.

23 MS. HARDY: Thank you.

24 MR. WEEKS: And -- sorry.

25 MS. HARDY: And you haven't reviewed

1 any of ConocoPhillips's documents or plans regarding
2 the integration of Marathon's assets; right?

3 MR. WEEKS: I have not.

4 MS. HARDY: Okay. Those are all of my
5 questions. Thank you.

6 THE HEARING EXAMINER: Okay.

7 Mr. McClure, did the redirect or the
8 recross bring up any further questions for you?

9 MR. MCCLURE: No, it did not, Mr.
10 Hearing Examiner.

11 THE HEARING EXAMINER: All right.
12 Ms. Shaheen, may this witness be
13 excused?

14 MS. SHAHEEN: Yes.

15 THE HEARING EXAMINER: Thank you, Mr.
16 Weeks.

17 MR. WEEKS: Thank you.

18 THE HEARING EXAMINER: You're welcome.
19 Who's the second witness?

20 MS. SHAHEEN: Our geologist, Mr. Dylan
21 Collins.

22 THE HEARING EXAMINER: Mr. Collins, I
23 remind you, you are under oath.

24 MR. COLLINS: Understood.

25 THE HEARING EXAMINER: Ms. Shaheen?

1 MS. SHAHEEN: Thank you.

2 THE HEARING EXAMINER: I will remind
3 you that B-6, 7, and 8 are not admitted through
4 stipulation. Go right ahead.

5 MR. COLLINS: Was there another set of
6 exhibits that were supposed to be here that the --

7 MS. SHAHEEN: The -- do you have the
8 Tumbler's exhibits up there?

9 MR. COLLINS: I do.

10 MS. SHAHEEN: Okay. And you're looking
11 for the Marathon exhibits?

12 MR. COLLINS: I have those.

13 MS. SHAHEEN: You have those?

14 THE HEARING EXAMINER: There was
15 another set of exhibits that --

16 MS. SHAHEEN: Oh, the rebuttal
17 exhibits.

18 MR. COLLINS: The rebuttal exhibits, I
19 think maybe Mr. Weeks took them. They're not here.
20 Do you want me -- can I go get them?

21 THE HEARING EXAMINER: Yes. Do you
22 mind just showing them to Ms. Hardy before you get
23 them?

24 MS. HARDY: Thank you.

25 THE HEARING EXAMINER: All right, Ms.

1 Shaheen. Go right ahead.

2 DIRECT EXAMINATION

3 BY MS. SHAHEEN:

4 MS. SHAHEEN: Mr. Collins, do you see
5 here your revised self-affirmed statement?

6 MR. COLLINS: I see it. Sorry.

7 MS. SHAHEEN: I believe it's page 179?

8 MR. COLLINS: Yes.

9 MS. SHAHEEN: And do you affirm that
10 this is your true and accurate testimony today?

11 MR. COLLINS: Yes, I do.

12 MS. SHAHEEN: Do you have any
13 corrections to this testimony today?

14 MR. COLLINS: The thing that I would
15 like to correct is I said the affirmation sentence
16 twice at the end of my statement.

17 MS. SHAHEEN: Okay. So you would get
18 penalized twice for perjury if you're --

19 MR. COLLINS: Yes.

20 MS. SHAHEEN: -- perjuring yourself
21 today. Okay.

22 And if I understand correctly, this
23 exhibit has been stipulated to --

24 THE HEARING EXAMINER: What exhibit
25 number is it? I know what --

1 MS. SHAHEEN: Exhibit B.

2 THE HEARING EXAMINER: It has been,
3 yes.

4 MS. SHAHEEN: And the attachments
5 thereto, B-1, B-2, B-3, and B-4; is that correct?

6 THE HEARING EXAMINER: Yes.

7 MS. SHAHEEN: So I don't need to move
8 them into evidence?

9 THE HEARING EXAMINER: No, they're in
10 evidence already.

11 MS. SHAHEEN: Oh, okay.

12 MS. HARDY: Wait, can I ask a -- I'm
13 confused because the B-1 that I have that was filed is
14 not -- does not include -- that looked like that, was
15 that an AFE?

16 MR. COLLINS: What's on the screen?

17 MS. SHAHEEN: It's B-1. That's the
18 regional located map. Let me pull that up and see.

19 MS. HARDY: That's what I have as B-1.

20 MS. SHAHEEN: Yes.

21 THE HEARING EXAMINER: Yes.

22 MS. SHAHEEN: Okay. Yeah.

23 THE HEARING EXAMINER: Is there an
24 objection?

25 MS. HARDY: No, but I thought Ms.

1 Shaheen was showing an AFE.

2 THE HEARING EXAMINER: Okay.

3 MS. HARDY: And I don't see that as
4 part of this witness's exhibits. So I was confused.

5 BY MS. SHAHEEN:

6 MS. SHAHEEN: One thing I do want to
7 note for the record, and that is in this revised
8 statement, Mr. Collins, do you recall what was changed
9 in your revised statement?

10 MR. COLLINS: Yes, I do. There was a
11 typo between the columns of TBD and MD on the -- one
12 of the lists. So they were corrected in this one.

13 MS. SHAHEEN: And that would be in
14 paragraph --

15 MR. COLLINS: Paragraph 12.

16 MS. SHAHEEN: Paragraph 12? So you're
17 saying that the exhibits that were submitted on
18 Wednesday, this was actually submitted again as an
19 amended exhibit on Friday, and the TBD was --

20 MR. COLLINS: They were swapped.

21 MS. SHAHEEN: -- swapped with the MD?

22 MR. COLLINS: Yes.

23 MS. SHAHEEN: Okay. I wanted to make
24 that clear for the record because I told Ms. Hardy
25 something different.

1 THE HEARING EXAMINER: Okay. I
2 understand. So in other words -- in other words, TBD
3 is -- would be in the second column and MD would be in
4 the first column?

5 MR. COLLINS: That's what the -- sorry
6 -- the original submission, yes, TBD was on the right
7 and MD was on the left, and that was incorrect.

8 THE HEARING EXAMINER: So in other
9 words, the data hasn't changed, just the column
10 heading changed?

11 MR. COLLINS: Just the column headings.

12 THE HEARING EXAMINER: Okay, thank you.

13 BY MS. SHAHEEN:

14 MS. SHAHEEN: Let's briefly walk
15 through your exhibit, and you can summarize the
16 highlights here?

17 MR. COLLINS: Sure. So first exhibit,
18 just a locator map to give everybody orientations to
19 where they are to major basinal features in the
20 Northern Delaware Basin.

21 B-2 is a series of structural maps.
22 They are all the way from the Avalon down through
23 Wolfcamp B, along with offset wells and a -- and a
24 well log that's on section for reference. On the well
25 logs, there are dots in the depth tracts that

1 represent Tumbler's chosen landing points.

2 There's also -- on each of those maps,
3 there's a cross-section annotation that leads to
4 Exhibit B-3. So the annotations on the previous maps,
5 structural maps, and the annotations on Exhibit B-3
6 are the same annotations. They represent the same
7 wells that are selected for this cross-section. And
8 this is a cross-section that -- that is typical for
9 this area.

10 And what we can see here is that we are
11 in the deepest portion of the Northern Delaware Basin.
12 Structurally, there's a slight bowl fracture in the
13 structure of nearly all the formations.

14 MS. SHAHEEN: And going back to your --
15 so we have your subsurface maps through the Wolfcamp
16 A, through the Wolfcamp B?

17 MR. COLLINS: Yes.

18 MS. SHAHEEN: And then the cross-
19 section here?

20 MR. COLLINS: Yes.

21 MS. SHAHEEN: And Tumbler proposes to
22 drill south to north; is that correct?

23 MR. COLLINS: Yes.

24 MS. SHAHEEN: Is there a preferred
25 orientation here?

1 MR. COLLINS: So yes, it -- it's, you
2 know, pretty evident that operators have chosen this
3 north-south direction because the evidence suggests
4 that regional horizontal stresses are maximum in an
5 east-west direction, and you have to align your well
6 bores perpendicular to that maximum horizontal stress
7 direction to invite fractures to grow away from the
8 well bore.

9 So if you were to drill the other
10 direction, if you were to drill east-west, the
11 fractures would still grow in any stress direction
12 because of the regional stresses, and that would be
13 parallel with the well boring and you would not reach
14 very much reservoir at all.

15 MS. SHAHEEN: From a geology
16 perspective, how does Tumbler's development differ
17 from Marathon's?

18 MR. COLLINS: So we choose to develop
19 all good rock nearly simultaneously, as you've heard
20 in other testimony. We choose two different batches,
21 and I'll let our operations engineer say why, but we
22 choose in two different batches.

23 But geologically, the first batch we
24 would co-develop the Third Bone Sand, the Wolfcamp A,
25 and the Wolfcamp B all together. The reason we would

1 do this is because there are no meaningful fracture
2 stimulation barriers in the rock.

3 So if you were to go ahead and place
4 wells in the Wolfcamp A, the Wolfcamp B and you would
5 fracture stimulate these wells, there would -- there
6 is -- there is no rock impediment to keep them apart.
7 So you're only going to keep them apart either through
8 distance, or through completing them together and
9 distance.

10 MS. SHAHEEN: And have you reviewed the
11 rebuttal exhibits that have been offered by Marathon?
12 I believe -- let's see which ones they are -- that
13 relate to geology.

14 MR. COLLINS: Yes, I -- I've reviewed
15 those exhibits.

16 THE HEARING EXAMINER: Now, before you
17 continue, they're not in evidence.

18 MS. SHAHEEN: That's right.

19 MR. COLLINS: Just reminding you,
20 they're not in evidence.

21 MS. SHAHEEN: And it gets a little
22 convoluted because we do have some -- I mean, we have
23 objected to those exhibits --

24 THE HEARING EXAMINER: Correct.

25 MS. SHAHEEN: -- because we believe

1 they should have been part of the direct case.

2 THE HEARING EXAMINER: Right.

3 MS. SHAHEEN: At the same time we do
4 have surrebuttal to that. If it is considered
5 rebuttal, we do have surrebuttal to that.

6 THE HEARING EXAMINER: Right.

7 MS. SHAHEEN: And so if you would like,
8 we can address that now. It may be better for us to
9 address it after Mr. Patrick, I believe, is it?

10 THE HEARING EXAMINER: Well, they're
11 not in evidence. Is the -- let's just stick to the
12 crux here.

13 MS. SHAHEEN: Right.

14 THE HEARING EXAMINER: They're not in
15 evidence. So by sitting here and talking about them,
16 I don't think it's proper. You've objected to them,
17 that's fine. But I think we have to wait until Ms.
18 Hardy makes her case and shows us that they are proper
19 rebuttal before we would consider admitting them over
20 your objection. But you can't have your cake and eat
21 it, too.

22 MS. SHAHEEN: Right. And I don't
23 really want that. I just want to make sure that we
24 don't miss our opportunity to respond to their
25 proposed geology rebuttal exhibits.

1 THE HEARING EXAMINER: Sure. It just
2 seemed like you were addressing it, which is why I
3 stopped you.

4 MS. SHAHEEN: Okay.

5 THE HEARING EXAMINER: Okay. So --

6 MS. SHAHEEN: I think we're on the same
7 page.

8 THE HEARING EXAMINER: -- why don't you
9 continued without talking about those rebuttal
10 exhibits for now.

11 MR. COLLINS: By the way, can I --

12 BY MS. SHAHEEN:

13 MS. SHAHEEN: Can you summarize --

14 MR. COLLINS: Sorry. By the way, can I
15 go back to finishing the differences between the
16 development? I'm sorry, I didn't complete that.

17 MS. SHAHEEN: Oh, I'm sorry, I cut you
18 off. My bad.

19 MR. COLLINS: Maybe I slowed down.

20 So the other differences are we choose
21 what I think to be a more proper spacing for the shale
22 lead intervals, which would be the Wolfcamp A and
23 Wolfcamp B, which is spacing at 880 feet between wells
24 in the same interval. And that creates the six wells
25 per section, the Wolfcamp A, and then when you stagger

1 in the Wolfcamp B, that makes five.

2 And then further, we believe the
3 correct spacing for the Sandy intervals is four wells
4 per section. That would be the -- the Second Bone
5 Sand and the First Bone Sand, both of which are
6 different from the Marathon proposals. It -- it shows
7 three and six, three in the Second Bone Sand, six in
8 the First Bone Sand.

9 And then obviously, we propose wells in
10 the Avalon, which is also, in our view, very high
11 quality rock. So --

12 MS. SHAHEEN: And so turning back to
13 your statement in paragraph 11, and let me pull that
14 back up here. This is page 181.

15 MR. COLLINS: I see it.

16 MS. SHAHEEN: Paragraph 11, you
17 summarized your opinions based on your review of
18 Marathon's geology exhibits. Can you --

19 MR. COLLINS: Yeah, so --

20 MS. SHAHEEN: -- explain to the hearing
21 examiner?

22 MR. COLLINS: Yeah, so some of this I
23 just said previously, we think that four wells per
24 section of Wolfcamp A is inadequate to develop that
25 resource. We think that if you do not co-develop the

1 Third Bone Sand with the Wolfcamp A, you're going to
2 harm the future potential wells in the Third Bone
3 Sand.

4 So we think they need to be developed
5 together through the parent-child effect. I think
6 that three wells in the Second Bone Sand is not enough
7 to efficiently develop that resource, and in the
8 opposite direction, I think that six wells in the
9 First Bone Spring Sand is -- is too dense because it's
10 a more sandy interval with higher permeabilities.

11 MS. SHAHEEN: And in short, in your
12 opinion, will Tumbler's proposed development best
13 protect correlative rights and prevent waste?

14 MR. COLLINS: Absolutely.

15 MS. SHAHEEN: I pass the witness.

16 THE HEARING EXAMINER: Thank you.

17 Ms. Hardy?

18 MS. HARDY: Thank you.

19 I just have a few questions

20 THE HEARING EXAMINER: Before you do,
21 I'm sorry, I have to clarify something. So now you
22 know that B-6, 7, and 8 are not admitted. You know
23 that. Were those in some way rebutting evidence
24 that's not in evidence now? I see. Are those the
25 rebuttal to the rebuttals?

1 MS. HARDY: They are.

2 THE HEARING EXAMINER: They are? Okay,
3 so then they're still -- they're not admitted,
4 rebuttals not admitted. I just wanted to clear that
5 up, Ms. Hardy.

6 MS. HARDY: Okay, thank you.

7 CROSS-EXAMINATION

8 BY MS. HARDY:

9 MS. HARDY: Good afternoon.

10 MR. COLLINS: Good afternoon.

11 MS. HARDY: Let me just pull up your
12 testimony. I just have a couple of questions for you.
13 Mr. Collins, I've put up on the screen here your
14 resume that's attached to your testimony.

15 MR. COLLINS: I see it.

16 MS. HARDY: Okay. And you show that
17 you are currently the CEO of Yukon Exploration
18 Operating; correct?

19 MR. COLLINS: Yes.

20 MS. HARDY: Okay. And Yukon
21 Exploration focuses on the Midland Basin in Texas;
22 right?

23 MR. COLLINS: Yes.

24 MS. HARDY: Okay. And your resume also
25 states that you're the petrotechnical director for

1 Stronghold Investment Management; right?

2 MR. COLLINS: Yes.

3 MS. HARDY: And Stronghold is an
4 investment company; correct?

5 MR. COLLINS: Yes.

6 MS. HARDY: Okay.

7 MR. COLLINS: And investment manager,
8 yes.

9 MS. HARDY: Okay. And with respect to
10 geology, wouldn't you agree that it can vary
11 significantly over 15 miles, particularly in this
12 area?

13 MR. COLLINS: Sure. It depends on --
14 on -- and correlation lines, of course.

15 MS. HARDY: Yeah.

16 MR. COLLINS: In this area, it depends
17 on which interval you're talking about.

18 MS. HARDY: And with respect to
19 Tumbler's proposed Avalon wells, your testimony and
20 exhibits don't include any discussion of H2S; do they?

21 MR. COLLINS: No.

22 MS. HARDY: Okay. Have you evaluated
23 whether the Avalon produces high levels of H2S in this
24 area?

25 MR. COLLINS: I have evaluated.

1 MS. HARDY: Okay. But you didn't
2 include that in your discussion; correct?

3 MR. COLLINS: No, I did not.

4 MS. HARDY: Okay. And the Third Bone
5 Spring has a very high water cut in this area; doesn't
6 it?

7 MR. COLLINS: Can you define "very
8 high"?

9 MS. HARDY: More than 70 percent?

10 MR. COLLINS: I think we have a
11 different definition of "very high," but sure.

12 MS. HARDY: And I think, if I'm
13 recalling correctly, your testimony or Tumbler's
14 exhibits say it's at least 70 percent; right?

15 MR. COLLINS: Yeah, 70 percent. Sure.

16 MS. HARDY: 70 percent? Okay. And
17 when there is a high water cut, that reduces,
18 obviously, the amount of oil that's produced by the
19 wells; right?

20 MR. COLLINS: That's not true.

21 MS. HARDY: Well, let me ask it -- let
22 me rephrase it. You have to produce a lot of water to
23 get the oil when there is more water; right?

24 MR. COLLINS: That's pretty self-
25 evident. Yes.

1 MS. HARDY: Okay, thank you. Those are
2 all my questions. Thank you.

3 MR. COLLINS: Thank you.

4 Mr. McClure?

5 MR. MCCLURE: Thank you, Mr. Hearing
6 Examiner.

7 DIRECT EXAMINATION

8 BY MR. MCCLURE:

9 MR. MCCLURE: Mr. Collins, if I can
10 direct your attention to your gun barrel diagram.
11 It's on page 199 of 328.

12 MR. COLLINS: Yes, I'm getting there.
13 I'm here.

14 MR. MCCLURE: When you referenced the
15 two different batches, is that -- is those batches
16 separated by formation?

17 MR. COLLINS: Yes.

18 MR. MCCLURE: Or horizon might be the
19 better way to say it?

20 MR. COLLINS: Yes. I would recommend
21 that the batches are drilled Wolfcamp A, B, and Third
22 Bone Sand together and then the subsequent batch to be
23 further up hole or shallower.

24 MR. MCCLURE: And you may have
25 testified earlier, but -- and I may have missed it.

1 Did you reference that there is no frack barrier
2 between the Third Bone Spring Carbonate and the Second
3 Bone Spring?

4 MR. COLLINS: No, I did not say that.
5 I was referencing the Wolfcamp A and the Third Bone
6 Spring Sand. If -- maybe I misspoke and --

7 THE HEARING EXAMINER: No, that's what
8 you said.

9 BY MR. MCCLURE:

10 MR. MCCLURE: Yeah, it sounds right. I
11 just -- I was just confirming I wasn't quite sure.

12 MR. COLLINS: Sure.

13 MR. MCCLURE: I did hear the Third Bone
14 Spring and Wolfcamp A. So to confirm, you believe
15 there is a frack barrier between the Second Bone
16 Spring and the Third Bone Spring Carbonate?

17 MR. COLLINS: I think that the
18 competency of the frack barrier, yeah, between the
19 Third Bone Sand and the Second Bone Sand, absolutely
20 that's -- that is a very competent frack barrier in
21 the log. You can see in the gamma ray, the lithology
22 log indicate, yes.

23 MR. MCCLURE: Okay. So comparing
24 Marathon's proposed units to Tumbler's proposed units,
25 which horizons could not be drilled after Marathon's

1 units were drilled out?

2 MR. COLLINS: Third Bone Sand, Third
3 Bone Carb -- or sorry, can be --

4 MR. MCCLURE: Now, why do you --

5 MR. COLLINS: I sorry. They can be.
6 They -- I think that they -- that the potential for
7 the wells' productivity would be damaged based on the
8 parent-child effect.

9 MR. MCCLURE: And that -- is that
10 accurate for the Third Bone Spring Sand?

11 MR. COLLINS: Yes. I think especially
12 for the Third Bone Spring Sand because of the Wolfcamp
13 A.

14 MR. MCCLURE: But you believe it to
15 also be the case for the Third Bone Spring Carbonate?

16 MR. COLLINS: And the Second Bone
17 Spring Sand. So if you were to come in, if you were
18 to say you can do the Third Bone Carb after the
19 Wolfcamp development, I would say yes.

20 But if they were to do this full 17-
21 well development, I think that there would be parent-
22 child effects in the Third Bone Sand from Wolfcamp A
23 and in the Third Bone Carb from the Second Bone Sand.

24 MR. MCCLURE: And is that despite there
25 being a good frack barrier between the Third Bone

1 Spring Carbonate and Second Bone Spring?

2 MR. COLLINS: So the target for --
3 sorry, hopefully I'm answering your question here.
4 The target for the Third Bone Carb is in the Harky
5 Mills Sand, roughly around 11,570. There was only a
6 couple hundred feet between that and the Second Bone
7 Sand.

8 Now, I -- I cannot say for certainty
9 that there would be absolutely a strong parent-child
10 effect, but there's strong evidence everywhere in the
11 Permian Basin that that's a high risk factor with that
12 kind of closeness.

13 MR. MCCLURE: If I can draw your
14 attention to one page up, that's your cross section on
15 page 198 of 328?

16 MR. COLLINS: I'm here.

17 MR. MCCLURE: If I were to ask you to
18 amend this exhibit to include the API number for each
19 of those wells on that cross-section, do you
20 understand what I'm asking for?

21 MR. COLLINS: Yes, I do.

22 MR. MCCLURE: Okay, thank you. No more
23 questions.

24 THE HEARING EXAMINER: Thank you.

25 MR. MCCLURE: Thank you, Mr. Collin.

1 Thank you, Mr. Hearing Examiner.
2 MR. COLLINS: Thank you.
3 THE HEARING EXAMINER: Ms. Shaheen, any
4 redirect for this?
5 MS. SHAHEEN: No, thank you.
6 THE HEARING EXAMINER: Thank you, sir.
7 Your third witness?
8 MS. SHAHEEN: Mr. Walt Baker.
9 THE HEARING EXAMINER: I remind you,
10 you're under oath.
11 MR. BAKER: Yes, sir.
12 THE HEARING EXAMINER: Thank you.
13 MR. BAKER: Can I sit?
14 THE HEARING EXAMINER: Please.
15 MR. BAKER: Thank you.
16 THE HEARING EXAMINER: And, Ms.
17 Shaheen, I remind you that C-5 is not admitted.
18 MS. SHAHEEN: C5. And that is the
19 rebuttal?
20 THE HEARING EXAMINER: I don't know
21 what it is. It's your exhibit.
22 MS. SHAHEEN: It's a rebuttal exhibit.
23 THE HEARING EXAMINER: Yes.
24 MS. SHAHEEN: Okay.
25 THE HEARING EXAMINER: It is. Did you

1 want to -- I mean, it's part of the packet that you
2 handed me, C-5.

3 MS. SHAHEEN: Right.

4 THE HEARING EXAMINER: -- your -- it
5 says "rebuttal to MRO Exhibit A Number 41." I don't
6 know what the "41" stands for, but that's what it says
7 here on your packet.

8 MS. SHAHEEN: I suggest that we go
9 through Mr. Baker's --

10 THE HEARING EXAMINER: Sure.

11 MS. SHAHEEN: -- statement and the
12 exhibits that have been admitted.

13 THE HEARING EXAMINER: Sure.

14 MS. SHAHEEN: And then perhaps Ms.
15 Hardy can elaborate on why she's objecting to --

16 THE HEARING EXAMINER: Okay, fine.

17 MS. SHAHEEN: If that works for you?

18 THE HEARING EXAMINER: Sure.

19 MS. SHAHEEN: Okay.

20 THE HEARING EXAMINER: And your -- if
21 this rebuttal exhibit is not based on, like -- Mr.
22 Collins' exhibits were based on inadmissible evidence
23 for now. If it's not based on that, then maybe you
24 can get it in.

25 MS. SHAHEEN: Okay, sounds good.

1 THE HEARING EXAMINER: So go ahead.

2 DIRECT EXAMINATION

3 BY MS. SHAHEEN:

4 MS. SHAHEEN: Turning now to Mr.
5 Baker's self-affirmed statement, page 202 of 328.

6 Mr. Baker, do you accept your written
7 self-affirmed statement here as your true and accurate
8 statement of the facts that you testified to in this
9 hearing today?

10 MR. BAKER: Yes, ma'am.

11 MS. SHAHEEN: And do you have any
12 changes to that statement at this time?

13 MR. BAKER: No, ma'am.

14 MS. SHAHEEN: You've prepared the
15 facilities engineering exhibits for Tumbler; is that
16 right?

17 MR. BAKER: That's correct.

18 MS. SHAHEEN: Let's take a look at
19 first Exhibit C-1?

20 MR. BAKER: Yes ma'am.

21 MS. SHAHEEN: And that is not stamped.
22 210. Can you summarize for the hearing examiners
23 Exhibit 210 -- excuse me, Exhibit C-1?

24 MR. BAKER: Yes, ma'am. So this is
25 just a general pad location and layout, and its

1 proximity to the local produced water, oil, and gas
2 lines for marketing purposes.

3 So essentially the -- what we're trying
4 to communicate is that we're going to be using four
5 pads to drill our 31 wells off of and produce our --
6 or enjoin OUR production from two battery pads that'll
7 be centrally located between the two drilling pads.
8 And we've got plenty of pipeline in the area to get
9 our product to market.

10 MS. SHAHEEN: How does this compare to
11 Marathon's proposed surface facilities?

12 MR. BAKER: Marathon's proposed a
13 single -- a single central tank battery and two well
14 pads, which is essentially 45 percent reduction in
15 service -- 47 percent versus our proposals.

16 But I -- I should just comment that
17 that also is taken into effect that they're drilling
18 17 wells, and we plan to drill 31 wells. And so our
19 plans of having two facility -- or tank battery pads
20 at that well number, we believe as a prudent operator
21 that it gives us -- it gives us redundancy as far as
22 our -- our total production and our total volumes in
23 the event that there is an interruption on each
24 battery for maintenance, or otherwise, total
25 production or a hundred percent of our production

1 won't be shut in.

2 And as far as the four well pads with
3 our 31 wells, it gives us a little bit more protection
4 on anti-collision as far as our proximity between the
5 well bores.

6 MS. SHAHEEN: And have you done the
7 calculation to have the pad-to well-to-battery ratio?

8 MR. BAKER: So I -- what I did was I
9 just took a percentage. So, you know, essentially our
10 disturbance if we're taking, you know, what -- what
11 Marathon has produced in their exhibits, like I
12 mentioned, it's about a 47 percent reduction in
13 surface disturbance just between the battery pads and
14 the well pads.

15 However, we'll be -- we'll be drilling
16 45 percent more wells, you know. And as far as
17 production forecast, it's a similar delta, similar
18 difference, so.

19 MS. SHAHEEN: What is your opinion on
20 Marathon's proposal to use existing facilities?

21 MR. BAKER: I don't have much of an
22 opinion on their existing facilities, given that I
23 don't really have that much information as far as what
24 they provided and what they're using for existing
25 facilities.

1 What I can comment on is that them
2 drilling 17 -- only 17 wells and using essential tank
3 battery makes sense to me.

4 MS. SHAHEEN: Is it fair to say that
5 you can't really evaluate Marathon's assertion that
6 it's going to use existing facilities because they
7 haven't provided the information that's necessary to
8 evaluate that proposal?

9 MR. BAKER: Yes, ma'am.

10 MS. SHAHEEN: Turning now to the next
11 exhibit, which is C-2. Can you describe Exhibit C-2
12 to --

13 MR. BAKER: Yes, ma'am.

14 MS. SHAHEEN: -- the hearing examiners?

15 MR. BAKER: So this is just a map.
16 It's -- you know, it's demonstrating that we have the
17 ability. So we have a commitment that we'd like to
18 use a majority of recycled water to produce water for
19 our -- our frack operations on all 31 wells.

20 And I just wanted to demonstrate that
21 the area is ripe for the ability to do that. We've
22 got at least five recycling facilities in the near
23 five-mile buffer and plenty of SWDs, and a -- and a
24 Solaris trunk line that's very nearby to our -- our
25 pads.

1 So it gives us the ability to produce
2 or recycle on the fly if we need to near pad as well
3 as do offsite recycling in the -- in the farther
4 distance.

5 MS. SHAHEEN: Turning now to Exhibit C-
6 3, can you describe this exhibit and the following
7 exhibit, which are similar, to the hearing examiners?

8 MR. BAKER: Yes, ma'am. So this is the
9 Bone Spring spacing unit. There's four for each --
10 you know, one for each slot. And it just speaks to,
11 you know, how we are planning to co-mingle or apply
12 for co-mingling with the BLM.

13 And so the plan is our facilities will
14 be equipped with well test and meters -- or well test
15 separators and meters for each well, and we plan to
16 co-mingle all the Bone Spring wells together as well
17 as the Wolfcamp, which you'll see -- I apologize,
18 you'll see that in that the next exhibit.

19 MS. SHAHEEN: And this is a similar
20 exhibit, but with respect to the Wolfcamp; is that
21 right?

22 MR. BAKER: Yes, ma'am.

23 MS. SHAHEEN: C-4?

24 MR. BAKER: Yes, ma'am.

25 MS. SHAHEEN: Okay. And you've

1 reviewed Marathon's exhibits with respect to its
2 proposed facilities; right?

3 MR. BAKER: Yes, ma'am.

4 MS. SHAHEEN: But again, they didn't
5 provide any engineering support for their proposed
6 facilities; did they?

7 MR. BAKER: No, ma'am. As far as I
8 know, it's surface disturbance and location and
9 layout.

10 MS. SHAHEEN: Were you able to
11 determine how Tumbler's wellbore design compares to
12 Marathon's?

13 MR. BAKER: If comparing to the
14 original APDs, yes, and it's -- and it's similar. I
15 think the only difference between ours and -- and
16 Marathon's, if those APDs are still going to be used
17 by -- by Marathon to this day, would be that we plan
18 on just drilling the -- a consistent size hole in our
19 intermediate section via 9 and seven-eighths.

20 Whereas, it looks like on the APDs for
21 Marathon, they slimmed down to an 8 and three-quarter
22 at some point in the -- in that intermediate section.
23 But as far as casing setting points and -- and the
24 hole sizes from there, relatively similar.

25 One note to -- to add, you know, H2S

1 was -- was previously mentioned. We plan to use sour
2 service tested production casing, specifically P110
3 MS2 rated.

4 So what that means is it's essentially
5 that -- that those tubulars are tested to the NACE
6 Chart in Region 2, which has been what's been
7 recommended for this area by our partners in the
8 midstream area where they're obviously seeing a lot of
9 the gas come back and -- and doing the -- the majority
10 of the -- the testing in the area, as well as offset
11 operators that we've talked to, as well.

12 So we'll have -- we'll have that across
13 the board in all targets just to hedge our risks as
14 far as any -- any issues in casing integrity.

15 MS. SHAHEEN: And have you considered
16 H2S handling plans?

17 MR. BAKER: Yes, ma'am.

18 MS. SHAHEEN: Can you describe that to
19 us?

20 MR. BAKER: Yes, ma'am. So as far as
21 operations go, we will -- we'll have an H2S, you know,
22 plan for drilling, frack, and production.

23 On the production side, there are
24 several different available treatments as far as H2S
25 scavengers go. So if in the event that we -- we see

1 and produce H2S, we'll -- we'll set up a onsite
2 scavenger system to -- to allow us to -- to get our --
3 our gas to -- to market without being severely
4 punished.

5 MS. SHAHEEN: Have you forecast a
6 comparison of volumes that would be produced by
7 Tumbler and by Marathon and their respective
8 developments?

9 MR. BAKER: Yes, ma'am. I've just run
10 sensitivities off of, you know, what our type curves
11 and forecasts are and looked at a few different
12 timings, and so, you know, depending on how quickly
13 we're able to get the wells online.

14 You know, Mr. Weeks spoke to about a
15 six-month period and the -- and the two different
16 phases. Initial monthly average production is roughly
17 30 to 40 percent higher than what we would expect if
18 we were going to drill Marathon's development.

19 MS. SHAHEEN: In paragraphs 26 to 28 of
20 Marathon's Exhibit A, Marathon suggests that they will
21 be more protective of the surface. Do you agree?

22 MR. BAKER: I do not.

23 MS. SHAHEEN: Why is that?

24 MR. BAKER: Well, I should -- maybe I
25 should back up. I think if -- if the total mission is

1 to protect the surface, then I would agree that
2 Marathon is protecting the surface. But if the total
3 mission and totality is to produce the most oil versus
4 surface to service, I would say that Tumbler's
5 approach is -- is the best.

6 MS. SHAHEEN: So is it fair to say that
7 Tumbler would produce more oil with a comparable
8 surface footprint?

9 MR. BAKER: Yes, ma'am.

10 MS. HARDY: I -- well, I was going to
11 object to that question.

12 MR. BAKER: Well, I --

13 MS. HARDY: He answered before I could.
14 I think that he doesn't cover production estimates in
15 his testimony. That's addressed by Mr. Villarreal.
16 And I know he is been testifying about it. I didn't
17 get my objection into the prior question. But that's
18 not within the scope of his testimony on direct.

19 THE HEARING EXAMINER: Ms. Shaheen?

20 MS. SHAHEEN: Well, similar to my
21 objection that was late, I believe Ms. Hardy's
22 objection was late, and that testimony is already in
23 the record.

24 MS. HARDY: Well, then, I object to
25 this question.

1 THE HEARING EXAMINER: Has he answered
2 this question yet?

3 MS. HARDY: Not yet.

4 THE HEARING EXAMINER: Not yet.

5 MS. SHAHEEN: Which question are we
6 objecting to?

7 THE HEARING EXAMINER: Ms. Hardy?

8 MS. HARDY: On producing more oil.

9 MS. SHAHEEN: With a comparable surface
10 footprint?

11 MS. HARDY: Yes, with less -- or, I
12 don't recall the questions. It involved increased
13 production based on the service facilities.

14 MR. BAKER: I did speak earlier as far
15 as the well count. I'm sorry.

16 THE HEARING EXAMINER: This is -- it's
17 a legal matter, it's not an evidentiary matter at the
18 moment.

19 Do you -- Mr. Court Reporter, do you
20 want to repeat the question that was asked that was
21 objected to?

22 THE REPORTER: Yes. Give me just one
23 moment, please.

24 (The reporter repeated the record as
25 requested.)

1 THE HEARING EXAMINER: And that is what
2 you objected to, and there's been no answer to it;
3 right? No?

4 THE REPORTER: No.

5 THE HEARING EXAMINER: The answer's no?
6 Okay.

7 So, Ms. Shaheen, that was the question
8 that you asked, and the objection is that it's outside
9 the scope of this witness's expert -- area of
10 expertise.

11 Is that correct?

12 MS. HARDY: That's correct. And I also
13 think it's incorrect that the surface facilities are
14 comparable because he's testified that Tumbler's
15 operations would involve significantly more surface
16 facilities. So I think --

17 MS. SHAHEEN: I object that Ms. Hardy
18 is testifying into the record. I don't believe -- I
19 think she's misstating Mr. Baker's testimony.

20 THE HEARING EXAMINER: Okay. Well,
21 what she says is not evidence. We all know that. So
22 you don't have to worry about that.

23 But the basis of the objection is that
24 it's outside his scope. So what's your rebuttal or
25 what's your response to that?

1 MS. SHAHEEN: And I apologize because
2 my client was talking to me when the court reporter
3 read back the question. So could I ask you to read
4 back the question, again?

5 THE REPORTER: Sure thing. One more,
6 please.

7 (The reporter repeated the record as
8 requested.)

9 THE HEARING EXAMINER: That was --

10 MS. SHAHEEN: And if I understand --

11 THE HEARING EXAMINER: That was your
12 question?

13 MS. SHAHEEN: Yes. And the objection
14 is that he's -- it's outside the scope of his
15 testimony to talk about?

16 THE HEARING EXAMINER: No, outside the
17 scope of his expertise.

18 MS. SHAHEEN: Expertise.

19 THE HEARING EXAMINER: Am I getting
20 that right?

21 MS. HARDY: I think it's both. I think
22 it's outside his expertise and his written testimony.

23 THE HEARING EXAMINER: Scope of his
24 written testimony? Okay.

25 So there's two bases for the objection

1 MS. SHAHEEN: And it's -- that's -- and
2 I just want to make sure I understand what is outside
3 the scope? Are you saying that producing more oil,
4 him opining on producing more oil is outside the
5 scope?

6 MS. HARDY: Yes. He doesn't address
7 that in his direct, and he's not a reservoir engineer.
8 BY MS. SHAHEEN:

9 MS. SHAHEEN: Is it -- isn't it true,
10 Mr. Baker --

11 THE HEARING EXAMINER: Well, wait.
12 What are you doing now? Are you --

13 MS. SHAHEEN: Oh, I'm asking a
14 different -- I'm asking the question in a different
15 way. Can I do that?

16 THE HEARING EXAMINER: Sure. I can
17 sustain the objection. I was just waiting for a legal
18 response from you so I can make it a thing. But if
19 you want rephrase, I'll sustain the objection. So
20 rephrase, please.

21 MS. SHAHEEN: Okay, thank you.

22 BY MS. SHAHEEN:

23 MS. SHAHEEN: Isn't it true, Mr. Baker,
24 that in determining what is necessary for the
25 batteries, the battery or the batteries, you have to

1 confer with reservoir engineering about the estimated
2 production of oil?

3 MR. BAKER: Absolutely, yes, ma'am.

4 MS. SHAHEEN: Okay. So in determining
5 -- so you're aware of what has been forecast with
6 respect to oil production with Tumbler's proposed
7 development; is that correct?

8 MR. BAKER: Yes, ma'am. I didn't
9 generate the forecast. I'm just using those --

10 MS. SHAHEEN: But you used that to
11 determine that there were two tank batteries that were
12 necessary?

13 MR. BAKER: Yes, ma'am.

14 MS. SHAHEEN: And you used that to
15 consider what other surface facilities are required?

16 MR. BAKER: That's correct.

17 MS. SHAHEEN: Okay. And is it your
18 understanding based on that -- based on conferring
19 with reservoir engineering, that the facilities that
20 you have planned will produce a -- will result in a
21 comparable surface footprint from the amount of oil
22 that will be produced by Tumbler's development?

23 MR. BAKER: Yes, ma'am.

24 MS. SHAHEEN: Now, you've also taken a
25 look at the AFEs; is that right?

1 MR. BAKER: That's correct.

2 MS. SHAHEEN: You've looked at
3 Marathon's AFEs and tried to compare them to Tumblers
4 AFEs; is that right?

5 MR. BAKER: That's correct.

6 MS. SHAHEEN: What opinions did you
7 reach in light of your comparison?

8 MS. HARDY: And I'm going to object to
9 this line of questions, as well. I don't see any
10 information at all unless, I'm missing it, I don't see
11 anything in his direct testimony about AFEs.

12 THE HEARING EXAMINER: Okay.

13 Ms. Shaheen? Outside the scope.

14 MS. SHAHEEN: Outside the scope of his
15 direct testimony?

16 THE HEARING EXAMINER: Yes.

17 MS. SHAHEEN: This brings us to the
18 rebuttal exhibit.

19 THE HEARING EXAMINER: Okay, well
20 they're not in evidence yet, so do you want to try to
21 admit them?

22 MS. SHAHEEN: I just need to make sure
23 I'm looking at the right exhibit. Maybe what I'd like
24 to do first is turn to --

25 THE HEARING EXAMINER: I still have to

1 deal with the objection, so --

2 MS. SHAHEEN: All right.

3 THE HEARING EXAMINER: -- do you have a
4 response to the objection? Or should I just sustain
5 it and you're going to move on?

6 MS. SHAHEEN: I -- what I'd like to do
7 is turn to -- can I get five minutes so I can make
8 sure I know where --

9 THE HEARING EXAMINER: It's getting
10 kind of late in the day for the five minutes.

11 MS. SHAHEEN: Is it?

12 THE HEARING EXAMINER: It's 3:12 now.
13 So I'd rather deal with the objection, and if there's
14 a real good reason to have a break, then we will. But
15 can we deal with the objection now?

16 You were asking a question that Ms.
17 Hardy objected to as outside the scope of the direct
18 testimony. I think you're trying to say, well, it's
19 in the scope of his rebuttal. Is that not right?

20 MS. SHAHEEN: That's part of it. I
21 mean, I think in considering the facilities, Mr. Baker
22 looked at the AFEs and tried to compare the cost of
23 the facilities.

24 THE HEARING EXAMINER: Well, do you
25 have another witness that looked at the AFEs? Would

1 Mr. Villarreal have looked at the AFEs?

2 MS. SHAHEEN: The AFEs were attached to
3 well proposal that was attached to Mr. Weeks'
4 testimony, but only the engineers really can testify
5 as to the cost. There was no need for Mr. Baker to
6 testify to our costs of AFEs without comparing them to
7 Marathon's AFEs, which were, of course, attached to
8 their exhibits.

9 THE HEARING EXAMINER: Right.

10 MS. SHAHEEN: Which is why it's
11 effectively rebuttal.

12 THE HEARING EXAMINER: Right.

13 MS. SHAHEEN: And I believe it is
14 within the scope of his expertise as a facilities and
15 operations engineer.

16 THE HEARING EXAMINER: That wasn't the
17 objection. It wasn't that it was outside the scope of
18 his expertise. It was outside the scope of the
19 direct. As Ms. Hardy said, she reviewed the
20 testimony, and there's nowhere in there about AFEs.

21 But if AFEs are a proper venue for
22 rebuttal, then maybe now since he's here, maybe now
23 you want to try to get the rebuttal exhibit in?
24 That's all I said before.

25 MS. SHAHEEN: Yes, yes, that would be

1 great. It's just --

2 THE HEARING EXAMINER: Okay.

3 MS. SHAHEEN: -- I wanted to turn to
4 the paragraph 41, and I need to -- I'm not sure which
5 paragraph 41 this rebuttal exhibit pertains to.

6 THE HEARING EXAMINER: It looks like
7 you have a helper.

8 MS. SHAHEEN: Have some help? That's
9 what I need, some helping hands. Okay.

10 THE HEARING EXAMINER: So I'm going to
11 sustain the objection because the question is outside
12 the scope of the direct, because that's what we have
13 in evidence.

14 MS. SHAHEEN: Okay.

15 THE HEARING EXAMINER: Now, do you want
16 to try to get the rebuttal exhibit in?

17 MS. SHAHEEN: Absolutely.

18 THE HEARING EXAMINER: Go right ahead.

19 MS. SHAHEEN: I just have to find it.

20 THE HEARING EXAMINER: Yes.

21 MS. SHAHEEN: Okay.

22 THE HEARING EXAMINER: Yes, and since
23 it's not marked, I'll need help, too.

24 MS. SHAHEEN: Okay. So I believe --

25 THE HEARING EXAMINER: Where is it in

1 the packet?

2 MS. SHAHEEN: Where is it in the
3 packet?

4 THE HEARING EXAMINER: Yes?

5 MS. SHAHEEN: It is about six, seven
6 pages from the back.

7 THE HEARING EXAMINER: I see a lot of
8 EOG Resources documents here. So I guess it's after
9 that. What does it look like? Can you put it on is
10 this it here?

11 MS. SHAHEEN: Yes.

12 THE HEARING EXAMINER: I thought I've
13 seen this before. Didn't --

14 MS. SHAHEEN: I think we were
15 accidentally looking at it --

16 THE HEARING EXAMINER: Oh, no wonder.

17 MS. SHAHEEN: -- before when we were
18 looking for the response to paragraph 44.

19 MS. HARDY: It's toward the end of the
20 rebuttal packet.

21 THE HEARING EXAMINER: Thank you.

22 MS. SHAHEEN: Yes, about seven pages
23 from the end.

24 THE HEARING EXAMINER: Not mine. So
25 it's -- mine's a little different, it seems, because

1 it's not seven pages. But I'll find it. Give me a
2 minute.

3 MS. SHAHEEN: Okay.

4 THE HEARING EXAMINER: Okay, I have it
5 here. So this is your C-5, you said?

6 MS. SHAHEEN: This is C-5. Correct.

7 THE HEARING EXAMINER: C-5. Okay. All
8 right, go ahead and lay a foundation for it.

9 MS. SHAHEEN: Okay. So this is the
10 rebuttal to Marathon's Exhibit A, which is their well
11 proposal, I believe, paragraph 41. But let's take a
12 look at it.

13 THE HEARING EXAMINER: And I think
14 Marathons A is admitted to evidence.

15 Right, Ms. Hardy?

16 MS. HARDY: Correct.

17 THE HEARING EXAMINER: Okay.

18 MS. SHAHEEN: Yes, paragraph 41.

19 BY MS. SHAHEEN:

20 MS. SHAHEEN: Do you have that in front
21 of you, Mr. Baker?

22 MR. BAKER: Yes, ma'am.

23 MS. SHAHEEN: Could you read into the
24 record Mr. Miller's paragraph 41?

25 MR. BAKER: Yes, ma'am. "The estimated

1 costs of Marathon's proposed wells are fair and
2 reasonable and are comparable to the cost of other
3 wells of similar depth and length drilled in Lea
4 County."

5 MS. SHAHEEN: And you have looked at
6 the AFEs of Marathon; is that correct?

7 MR. BAKER: That is correct. Yes,
8 ma'am.

9 MS. SHAHEEN: And this rebuttal exhibit
10 has been prepared in light of your review of
11 Marathon's AFEs; is that correct?

12 MR. BAKER: That is -- that is correct,
13 yes, ma'am.

14 MS. SHAHEEN: And as a facilities and
15 operations engineer, you deal with AFEs on a regular
16 basis; is that correct?

17 MR. BAKER: I create AFEs on a regular
18 basis, yes, ma'am.

19 THE HEARING EXAMINER: So are you --

20 MS. SHAHEEN: So I move the admission
21 of Rebuttal Exhibit C-5.

22 THE HEARING EXAMINER: Ms. Hardy?

23 MS. HARDY: I object.

24 THE HEARING EXAMINER: Okay.

25 MS. HARDY: Well costs are always an

1 issue in a competing pooling case, and Tumbler had
2 Marathon's AFEs well before we filed hearing exhibits,
3 just as we had theirs. And if they had concerns
4 regarding AFEs, that is an issue for direct testimony
5 that should have been addressed in direct.

6 They knew well costs were an issue. It
7 is not arising as a surprise in response to Mr.
8 Miller's statement.

9 THE HEARING EXAMINER: Ms. Shaheen?

10 MS. SHAHEEN: If I understand
11 correctly, Marathon made at least two changes to its
12 well proposals and some of their ag fees were
13 incomplete or incorrect, and there were changes made
14 to their AFEs.

15 And I believe Mr. Baker has looked at
16 all of those AFEs and compared them to what was
17 attached to Marathon's exhibits, which by the way did
18 not include their -- all of their well proposals.
19 They only included their last well proposal.

20 THE HEARING EXAMINER: So, Ms. Hardy,
21 in response, Ms. Shaheen is saying that he didn't have
22 a complete picture to look at when he was reviewing
23 until he got your exhibit packet.

24 MS. HARDY: That cannot be correct
25 because Tumbler had the AFEs. In fact, Mr.

1 Villarreal's testimony makes a big issue of them
2 receiving multiple sets of AFEs. So they had them,
3 they knew about them. If they had criticisms of them,
4 they should have been raised in direct testimony.

5 MS. SHAHEEN: May I --

6 THE HEARING EXAMINER: Ms. -- in just a
7 moment. Let me just think through this for a moment.

8 So Ms. Hardy is saying that while it's
9 true there were iterations of the AFEs along the way,
10 your witnesses had the AFEs along the way and that it
11 wasn't a surprise. So what's your response to that?

12 MS. SHAHEEN: My response is, I feel
13 like it's disingenuous for us to have all of this
14 information about the AFEs in the record and not allow
15 testimony from a witness who can compare the two in
16 his area of expertise.

17 And because the information is already
18 in the record and before the division, I think it
19 makes sense to allow a witness to assist the division
20 by interpreting that information.

21 THE HEARING EXAMINER: When you say,
22 "it's -- the AFEs are already in the record," are you
23 saying that they're part of the exhibit packet that
24 Marathon filed?

25 MS. SHAHEEN: Yes.

1 THE HEARING EXAMINER: They are?

2 MS. SHAHEEN: Along with the AFEs that
3 we filed. So Mr. McClure can himself go and look at
4 the AFEs, and all I'm doing is asking Mr. Baker to
5 give his opinion, having reviewed all of the AFEs, to
6 compare the two sets of AFEs.

7 THE HEARING EXAMINER: And so, Ms.
8 Shaheen, if you could counsel your client not to
9 interrupt while we're having discussions, it would be
10 helpful.

11 MS. SHAHEEN: Absolutely.

12 THE HEARING EXAMINER: Because it keeps
13 taking your attention away from what we're doing, and
14 it's not the first time.

15 MS. SHAHEEN: And --

16 THE HEARING EXAMINER: The -- hold on,
17 Ms. Shaheen. The objection is to the exhibit as a
18 rebuttal exhibit. Now, what I'm trying to decide here
19 is can you ask your witness questions about the AFEs
20 without relying on a rebuttal exhibit? Because as we
21 said, they're in evidence, and it's within his scope
22 of expertise.

23 So based on what I've heard so far, I
24 agree with Ms. Hardy that this is not a surprise to
25 where a rebuttal exhibit is properly admitted.

1 However, I think if you ask the
2 question and there's an objection as to comparing the
3 AFEs from this expert witness, then we'll deal with
4 that objection separately.

5 So I'm sustaining the objection to this
6 exhibit, but that doesn't mean you can't ask your
7 witness questions about the AFEs.

8 MS. SHAHEEN: Okay. So I would just
9 say that the exhibit is in direct rebuttal to
10 paragraph 41.

11 THE HEARING EXAMINER: Uh-huh. And
12 paragraph 41, you've already read it so you don't need
13 to read it again. Can you bring it up on the screen?
14 Could someone bring it up?

15 MS. HARDY: I can. Which -- you like?

16 MS. SHAHEEN: It's in your notebook.
17 Page 13 of 241 in the Marathon --

18 THE HEARING EXAMINER: Okay. All
19 right. Hold on. What is it again?

20 MS. SHAHEEN: Page 13 of 241 in the
21 Marathon notebook.

22 THE HEARING EXAMINER: 13 and 241?

23 MS. SHAHEEN: No, 13 of 241.

24 THE HEARING EXAMINER: Oh, 13 of 241.

25 MS. SHAHEEN: In the first exhibit

1 package, which is 25541.

2 THE HEARING EXAMINER: I don't have
3 that open here. I have your book here of 320-
4 something. So I don't have the --

5 MS. SHAHEEN: You don't have the
6 Marathon?

7 THE HEARING EXAMINER: I don't have the
8 Marathon in front of me.

9 Ms. Hardy, I don't think you gave me
10 one. Did you?

11 MS. HARDY: I didn't, but I can.

12 THE HEARING EXAMINER: Oh, you have
13 one, too?

14 MS. SHAHEEN: I think I have --

15 THE HEARING EXAMINER: I didn't know
16 you had one.

17 MS. SHAHEEN: I think I have it right
18 here.

19 THE HEARING EXAMINER: Okay.

20 And, Ms. Hardy, if you do have one, I
21 would like it for -- if it's for me to keep.

22 MS. HARDY: Yes.

23 THE HEARING EXAMINER: If it's a
24 loaner, I don't want it.

25 41?

1 Thank you. This is -- is this your
2 loaner?

3 MS. HARDY: No, we have --

4 THE HEARING EXAMINER: You have one?

5 MS. SHAHEEN: This is -- I have it on
6 the screen now.

7 THE HEARING EXAMINER: Okay, so here's
8 paragraph 41. "The estimated cost of Marathon's
9 proposals are fair and reasonable and are comparable
10 to the cost of other wells of similar depth and length
11 drilled in Lea County."

12 So you're saying that this is a
13 rebuttal to this paragraph, which you only saw when
14 this was filed.

15 Ms. Hardy, why is this not a surprise?

16 MS. HARDY: Well, Mr. Villarreal deals
17 with AFE cost in his direct.

18 THE HEARING EXAMINER: Okay.

19 MS. HARDY: And he provides exhibits on
20 them and testimony.

21 THE HEARING EXAMINER: Okay.

22 MS. HARDY: So clearly they knew that
23 the AFEs were an issue.

24 THE HEARING EXAMINER: Uh-huh.

25 MS. HARDY: And so I feel like this is

1 coming back after the fact, after they realized they
2 didn't have the right testimony and are trying to fix
3 that.

4 MS. SHAHEEN: I'll object to Ms. Hardy
5 testifying on the record.

6 MS. HARDY: It's my objection. I'm not
7 testifying.

8 THE HEARING EXAMINER: Exactly. She's
9 not testifying, Ms. Shaheen. We already went over
10 this.

11 Okay. So, Ms. Shaheen, what you're
12 saying is this fair and reasonable, that the cost of
13 fair and reasonable is a surprise?

14 MS. SHAHEEN: We're just saying that
15 this was filed with their exhibits, including their
16 AFEs, and we are now responding to their exhibits and
17 their representation that their AFEs are fair and
18 reasonable and comparable to the cost of other wells
19 of similar depth and length.

20 And Mr. -- in light of that testimony
21 that was filed, Mr. Baker has looked at the AFEs
22 closely and compared them. And I'm just asking -- I'm
23 happy just to ask him. If we don't want the exhibit,
24 fine. We'll just ask -- I'll just ask him the
25 question.

1 THE HEARING EXAMINER: Yeah, I'm going
2 to -- now that I see the language of 41, I'm going to
3 stand by my ruling, which is, this is not -- that's
4 not a -- it's not a proper rebuttal exhibit. So C-5
5 does not come in. It's not -- it's excluded.

6 However, I've already given you an
7 opportunity to ask your questions about the AFEs, and
8 we'll see if we get an objection and what we're going
9 to do.

10 MS. SHAHEEN: Okay.

11 BY MS. SHAHEEN:

12 MS. SHAHEEN: Mr. Baker, have you
13 compared the AFEs?

14 MR. BAKER: Yes, ma'am.

15 MS. SHAHEEN: And what is your opinion
16 of Marathon's AFEs?

17 MR. BAKER: My opinion is that I
18 believe Marathon's AFEs are extremely vague and
19 unspecific, and total gross CapEx is lower than what I
20 would expect as far as drilling a two and a half mile
21 lateral at comparable TBDs in this area.

22 MS. SHAHEEN: And did you compare these
23 AFEs that were attached to the exhibits -- Marathon's
24 exhibits, did you compare those AFEs to the AFEs that
25 were submitted in October of 2024 when Marathon

1 proposed the wells under the forced pooling orders?

2 MR. BAKER: I did, yes, ma'am.

3 MS. SHAHEEN: And what is the
4 difference between those two sets of Marathon's AFEs?

5 MR. BAKER: It's roughly a 30 percent
6 reduction in CapEx.

7 MS. SHAHEEN: So --

8 MR. BAKER: Between the two. So the
9 new AFEs being 30 percent lower, 29.8 percent lower
10 than the -- the previous.

11 MS. SHAHEEN: And --

12 THE HEARING EXAMINER: Can you speak a
13 little louder so the microphone picks you up?

14 MR. BAKER: Yes, sir.

15 THE HEARING EXAMINER: I'm just
16 cautioning you.

17 MS. SHAHEEN: And so does that make
18 sense to you that costs for drilling these proposed
19 wells would be 30 percent less a year later?

20 MR. BAKER: Not in my opinion.

21 MS. HARDY: Object to the form and the
22 foundation.

23 THE HEARING EXAMINER: What's the
24 objection?

25 MS. HARDY: Well, I think it's

1 misleading.

2 THE HEARING EXAMINER: Why?

3 MS. HARDY: And argumentative.

4 THE HEARING EXAMINER: Why?

5 MS. HARDY: It's also a leading
6 question on direct.

7 THE HEARING EXAMINER: There's been
8 many of those, and they haven't been objected to
9 until, you know, here and there. But why is the form
10 a problem?

11 MS. HARDY: Well, it's asking him to
12 comment on the reasons that Marathon's well cost
13 changed when he doesn't have any information on that.

14 THE HEARING EXAMINER: So why don't we
15 provide a little more -- if this witness knows more
16 about why he's advancing this opinion, which is sort
17 of coming out of the blue, it would be helpful to
18 understand how -- why he thinks this.

19 So I'm going to sustain that objection.
20 So that answer unfortunately has to be stricken.

21 And I know you're not going to really
22 do it, Mr. Court Reporter, but I'm saying it anyway.

23 So why don't you provide some
24 foundation for that answer, if you have it?

25 BY MS. SHAHEEN:

1 MS. SHAHEEN: Okay. So you testified
2 previously that you create AFEs on a regular basis;
3 correct?

4 MR. BAKER: Yes, ma'am.

5 MS. SHAHEEN: So you're aware of the
6 cost of drilling wells; is that right?

7 MR. BAKER: That's correct.

8 MS. SHAHEEN: And you're well -- and
9 you're aware of how costs change from year to year in
10 terms of drilling wells; is that right?

11 MR. BAKER: That is correct.

12 MS. SHAHEEN: And in terms of building
13 facilities; correct?

14 MR. BAKER: That is correct.

15 MS. SHAHEEN: And so would you expect
16 that AFEs, the costs for drilling wells, the same
17 wells that were previously proposed a year ago, would
18 you expect those costs to decrease by 30 percent a
19 year later?

20 MR. BAKER: In my opinion, in my
21 experience, I have not seen that unless there was some
22 sort of black swan event in the market like COVID, for
23 example, where you would see something like that.

24 MS. SHAHEEN: And has there been any
25 kind of black swan event that you're aware of in the

1 last year?

2 MR. BAKER: Not to my -- not to my
3 knowledge, and I haven't observed those types of
4 discounts in my experience in -- at Yukon and Tumbler.

5 MS. SHAHEEN: And in your review of
6 Marathon's testimony, did you find any justification
7 for a 30 percent decrease in the AFEs for the drilling
8 costs in this matter?

9 MR. BAKER: No, ma'am. The -- the AFEs
10 are extremely unspecific, and it's -- it's extremely
11 difficult to find where that cost savings is -- is
12 being enjoyed.

13 MS. SHAHEEN: I have no further
14 questions.

15 THE HEARING EXAMINER: Ms. Shaheen, you
16 asked the witness about comparing to -- was it October
17 of '24, I think, AFEs?

18 MS. SHAHEEN: Yes.

19 THE HEARING EXAMINER: What is the date
20 of the new AFEs that you were using to compare with
21 last year's?

22 MR. BAKER: June 2025, sir.

23 THE HEARING EXAMINER: Thank you. And
24 that's after the merger?

25 MR. BAKER: That's correct.

1 THE HEARING EXAMINER: I'm going to
2 call it a merger.

3 Okay. All right. Ms. Hardy? Is it
4 not your turn?

5 MS. HARDY: Is it my turn?

6 MS. SHAHEEN: I passed --

7 MS. HARDY: Oh, okay.

8 MS. SHAHEEN: I passed the witness.

9 THE HEARING EXAMINER: I thought I lost
10 my way. I thought it was time to re-cross-
11 examination.

12 MS. HARDY: Maybe I've lost my track.

13 MS. SHAHEEN: If you have no questions,
14 we're fine with that.

15 MS. HARDY: I do. I do have questions.

16 THE HEARING EXAMINER: I'll bet you
17 are.

18 MS. HARDY: Okay. Let me make sure
19 I've got the right thing here.

20 CROSS-EXAMINATION

21 BY MS. HARDY:

22 MS. HARDY: Mr. Baker?

23 MR. BAKER: Yes, ma'am?

24 MS. HARDY: Tumbler does not currently
25 have any surface infrastructure in this area; correct?

1 MR. BAKER: Yes, ma'am.

2 MS. HARDY: And actually, I was going
3 to pull up your testimony. Let me get there. Okay.
4 I've got here your testimony pulled up, which is
5 Exhibit C. And here you are talking about -- and I am
6 looking at paragraph 1 of your affidavit, and you're
7 comparing the surface facilities between Marathon and
8 Tumbler's proposals; right?

9 MR. BAKER: Yes, ma'am.

10 MS. HARDY: Okay. And actually, here,
11 I think you're just providing Tumbler's?

12 MR. BAKER: I'm actually just
13 describing the surface disturbance in this first part.

14 MS. HARDY: Right.

15 MR. BAKER: Yeah, that's right.

16 MS. HARDY: Okay. And so Tumbler's
17 plan impacts 37.84 acres of total surface disturbance;
18 right?

19 MR. BAKER: That is correct.

20 MS. HARDY: Okay. And Tumbler will
21 have four well pads versus Marathon's two; correct?

22 MR. BAKER: Yes, ma'am.

23 MS. HARDY: Okay. And so you don't
24 dispute, and I don't think you do, that Marathon's
25 development involves, I think you said earlier, a 45

1 percent less surface impact than Tumbler's?

2 MR. BAKER: That's correct.

3 MS. HARDY: Okay. And your exhibits on
4 water infrastructure -- well, let me ask this first.

5 You said several times when you were
6 testifying, "We have pipelines in the area." And by,
7 "we," you weren't referring to Tumbler; were you?

8 MR. BAKER: No, ma'am.

9 MS. HARDY: Okay.

10 MR. BAKER: No.

11 MS. HARDY: You were saying that there
12 are pipelines in the area?

13 MR. BAKER: That's correct.

14 MS. HARDY: Okay. And that's true for
15 water --

16 MR. BAKER: Oil, gas.

17 MS. HARDY: -- oil -- okay.

18 MR. BAKER: Yes, ma'am.

19 MS. HARDY: All of the takeaway that
20 you would need?

21 MR. BAKER: That's correct.

22 MS. HARDY: Okay.

23 MR. BAKER: That's correct.

24 MS. HARDY: Okay. And Marathon does
25 have operations in adjacent areas; correct?

1 MR. BAKER: Yes.

2 MS. HARDY: Okay. So it would make
3 sense for them to use surface facilities that they
4 have available that exist for adjacent areas; right?

5 MR. BAKER: It just -- it just depends.
6 It -- yeah, it just depends if it's applicable.

7 MS. HARDY: Okay. Regarding the AFEs
8 that you were just questioned about, and I think the
9 hearing examiner asked you a question about this fact,
10 so you were talking about AFEs changing between
11 October 2024 and then the more recent AFEs that I
12 think are June or July of 2025?

13 MR. BAKER: June of 2025.

14 MS. HARDY: Okay. And those are
15 Marathon's AFEs that were sent in October 2024?

16 MR. BAKER: That's correct.

17 MS. HARDY: And then Marathon's AFEs
18 that were sent in June of 2025; correct?

19 MR. BAKER: Yes.

20 MS. HARDY: Okay. And we've talked
21 about it today, and I know you've been here listening,
22 and I'm sure you're aware that ConocoPhillips acquired
23 Marathon in November of 2024; right?

24 MR. BAKER: I -- I don't have a comment
25 for -- yes. Yeah.

1 MS. HARDY: Okay.

2 MR. BAKER: That's fine. I mean, yeah.

3 MS. HARDY: So the October 2024 AFEs
4 were sent prior to an acquisition by ConocoPhillips;
5 correct?

6 MR. BAKER: That's correct, yes, ma'am.

7 MS. HARDY: Okay. And generally
8 speaking, economies of scale can result in reduced
9 cost; right?

10 MR. BAKER: Absolutely.

11 MS. HARDY: Okay. And when an operator
12 has existing infrastructure in an area, that can
13 reduce costs; correct?

14 MR. BAKER: Yes, ma'am.

15 MS. HARDY: Okay. And here, Tumbler
16 plans to use four well pads, and Marathon will use
17 two; right?

18 MR. BAKER: Yes, ma'am.

19 MS. HARDY: And presumably -- well, is
20 it -- let me ask it this way. Is it fair to assume
21 that lowers costs?

22 MR. BAKER: No.

23 MS. HARDY: Going from four well pads
24 to two doesn't make --

25 MR. BAKER: Not if -- well, I should

1 say a normalized cost or a total cost, two different
2 things. So if you're looking at a total cost per
3 well, and you just mentioned the scales of operation,
4 so if I'm scaling up my operation for a unit from 17
5 to 31, then my cost normalized will be lower,
6 typically.

7 MS. HARDY: Just looking through my
8 notes. So to be clear, you are raising issues with
9 Marathon's AFEs because they are lower -- they're
10 lower than Tumbler's; correct? We all agree?

11 MR. BAKER: That's correct.

12 MS. HARDY: Okay. And do you have any
13 knowledge of how well costs work under a pooling
14 order?

15 MR. BAKER: Yes, ma'am.

16 MS. HARDY: Okay. So if costs ended up
17 being higher for a pooled unit, working interest
18 owners can object; right?

19 MR. BAKER: Yes, ma'am.

20 MS. HARDY: And they can argue that the
21 costs are higher than they were in the AFEs; right?

22 MR. BAKER: Yes, ma'am.

23 MS. HARDY: Okay. Those are all of my
24 questions. Thank you.

25 MR. BAKER: Mr. McClure?

1 MR. MCCLURE: I have no questions. Mr.
2 Hearing Examiner.

3 THE HEARING EXAMINER: Redirect?

4 MS. SHAHEEN: A little bit, please.

5 RE-DIRECT EXAMINATION

6 BY MS. SHAHEEN:

7 MS. SHAHEEN: Ms. Hardy asked you
8 whether Marathon facilities already existing in the
9 area would reduce well cost; did she not?

10 MR. BAKER: I believe so.

11 MS. SHAHEEN: But those facilities, to
12 the extent they exist, they existed when those October
13 2024 AFEs were issued; correct?

14 MS. HARDY: Objection. Lack of
15 foundation. I don't think he would know whether --
16 what facilities existed and who they were operated by.

17 BY MS. SHAHEEN:

18 MS. SHAHEEN: If you know, do you know
19 whether or not --

20 THE HEARING EXAMINER: Hold on.

21 MS. SHAHEEN: Okay.

22 THE HEARING EXAMINER: Again.

23 MS. SHAHEEN: Oh, sorry.

24 THE HEARING EXAMINER: We have to get
25 this system down here with objections.

1 MS. SHAHEEN: Okay.

2 THE HEARING EXAMINER: I mean, the
3 witnesses have learned not to answer when there's an
4 objection, but -- so there's a lack of foundation for
5 this question. So what information are you trying to
6 elicit from the witness?

7 MS. SHAHEEN: Well, I'm referring
8 specifically to the information that Ms. Hardy already
9 elicited from.

10 THE HEARING EXAMINER: Okay.

11 MS. SHAHEEN: He's already testified to
12 this. So I'm not sure what foundation needs to be
13 testified --

14 THE HEARING EXAMINER: It would help me
15 to --

16 MS. SHAHEEN: -- delayed.

17 MR. BAKER: It would help me if you
18 told me what question did Ms. Hardy ask that she got
19 an answer to, which is what?

20 MS. SHAHEEN: Yes. Ms. Hardy asked
21 whether facilities existing in the area for Marathon
22 would result in less costs to the -- for the AFEs.

23 MR. BAKER: And you remember asking
24 that question?

25 MS. HARDY: Yes. But they're two

1 different companies.

2 THE HEARING EXAMINER: Right. I
3 understand. I'm with you. I get it.

4 MS. HARDY: Yes.

5 THE HEARING EXAMINER: I get that we
6 have Tumbler and Marathon here.

7 Okay. So she asked that question, and
8 now, what's your question?

9 MS. SHAHEEN: Well, actually, I have --
10 I need to ask a clarification of Ms. Hardy because
11 what I understand her to say -- be saying is that
12 Marathon and Conoco are two different companies.

13 Is that what your position is?

14 THE HEARING EXAMINER: Well, we have --
15 no, we can't do that.

16 MS. SHAHEEN: Okay.

17 THE HEARING EXAMINER: What we can do
18 is we have a question, we have an answer from the
19 witness. Now, if this is your witness, you're on
20 redirect. If you're trying to clarify something that
21 the witness may have misunderstood or whatever, you
22 have the ability to do that now.

23 But there's an objection to the
24 question you just asked as lack of foundation. So
25 either you tell me why there's a foundation here. I

1 understand that you said Ms. Hardy asked you this
2 before.

3 MS. SHAHEEN: Uh-huh.

4 THE HEARING EXAMINER: That's not
5 necessarily -- I understand that it's a branch off
6 that. So what is your new question? Ask me.

7 MS. SHAHEEN: Ask you?

8 THE HEARING EXAMINER: Yeah. I'm not
9 answering it, but tell me what the question is because
10 I forgot what it was. That should be obvious at this
11 point.

12 MS. SHAHEEN: Well, I'm trying to
13 address the testimony that Ms. Hardy elicited with
14 respect to less costs --

15 THE HEARING EXAMINER: Right.

16 MS. SHAHEEN: -- resulting from
17 Marathon having facilities in the area.

18 THE HEARING EXAMINER: Okay. So I
19 think you can get that answer by laying some
20 foundation. Ask a few other questions to build up to
21 your ultimate question. So I sustain the objection.
22 Just rephrase.

23 MS. SHAHEEN: Okay.

24 BY MS. SHAHEEN:

25 MS. SHAHEEN: Do you recall Ms. Hardy

1 asking you about facilities owned by Marathon in the
2 area?

3 MR. BAKER: Yes.

4 MS. SHAHEEN: And do you recall Ms.
5 Hardy asking you whether the existence of such
6 facilities would result in decreased costs for the
7 AFEs?

8 MR. BAKER: I recall her mentioning in
9 the context of cost reduction in the --

10 THE HEARING EXAMINER: Would it be
11 helpful to have the court reporter repeat the question
12 that she asked and the answer given? Or do you feel
13 like you know what it is?

14 MS. SHAHEEN: That would be helpful.

15 THE HEARING EXAMINER: Okay.
16 Can you do that?

17 THE REPORTER: Yes. One moment, please
18 (The reporter repeated the record as
19 requested.)

20 THE HEARING EXAMINER: Are we not there
21 yet?

22 MS. SHAHEEN: I don't know. I mean, I
23 have an understanding of what I believe Ms. Hardy was
24 trying to elicit testimony about, and that's not quite
25 there.

1 THE HEARING EXAMINER: Do you remember
2 the question you asked?

3 MS. SHAHEEN: But can I --

4 MS. HARDY: I think Ms. Shaheen is
5 referring to those questions.

6 THE HEARING EXAMINER: Okay. But
7 you --

8 MS. HARDY: But I don't think they -- I
9 don't think I elicited -- I don't think what --

10 THE HEARING EXAMINER: Okay.

11 MS. HARDY: -- he thinks I did.

12 THE HEARING EXAMINER: Does he need to
13 read more. Did the court reporter --

14 MS. SHAHEEN: No, I don't think so.
15 No. Let me -- can I go about it a different way?

16 THE HEARING EXAMINER: Of course,
17 definitely.

18 MS. SHAHEEN: And if this doesn't work,
19 we'll let it go --

20 THE HEARING EXAMINER: Fine.

21 MS. SHAHEEN: -- and I'll try to get
22 there some other way.

23 BY MS. SHAHEEN:

24 MS. SHAHEEN: You testified previously
25 about the differences between the October 2024 AFEs

1 and the June 2025 AFEs. Do you recall testifying
2 about that?

3 MR. BAKER: Yes, I do.

4 MS. SHAHEEN: Does the existence of
5 facilities -- to your knowledge, is there -- are there
6 facilities that would impact -- that decrease or would
7 result in that decrease that you observed between the
8 October 2024 AFEs and the June 2025 AFEs?

9 MR. BAKER: Not to my knowledge.

10 MS. SHAHEEN: Thank you. That's --

11 THE HEARING EXAMINER: Okay.

12 MS. SHAHEEN: -- I'll move on --

13 THE HEARING EXAMINER: Okay.

14 MS. SHAHEEN: -- from there.

15 BY MS. SHAHEEN:

16 MS. SHAHEEN: And when you reviewed the
17 AFEs and tried to compare Tumbler's AFEs to Marathon's
18 AFEs, were you able to actually make a comparison?

19 MR. BAKER: No, I wasn't.

20 MS. SHAHEEN: And why is that?

21 MR. BAKER: Because as I mentioned
22 before, Marathon's AFEs are extremely vague and
23 unspecific. I can give examples if you'd like.

24 MS. SHAHEEN: I think I -- that is
25 sufficient for me now, and I have no further

1 questions.

2 THE HEARING EXAMINER: Okay. Recross
3 on those questions?

4 MS. HARDY: Just one or two.

5 THE HEARING EXAMINER: Sure.

6 RE-CROSS EXAMINATION

7 BY MS. HARDY:

8 MS. HARDY: Mr. Baker, Tumbler never
9 asked Marathon to provide additional detail regarding
10 its AFES; did it?

11 MR. BAKER: Not -- it's out of my
12 scope. I -- I'm not -- I don't manage the
13 communication between Tumbler and Marathon. So I -- I
14 can't answer that with a -- yeah, intelligence, so.

15 MS. HARDY: So you don't know whether
16 they -- whether Tumbler requested any supplemental
17 information regarding the AFES that you say are vague;
18 correct?

19 MR. BAKER: That's correct.

20 MS. HARDY: Okay. Thank you. No
21 further questions.

22 THE HEARING EXAMINER: Mr. McClure, did
23 any of that raise an issue for you?

24 MR. MCCLURE: No, it did not, Mr.
25 Hearing Examiner.

1 THE HEARING EXAMINER: All right. May
2 this witness be excused?

3 MS. SHAHEEN: Yes, he may.

4 THE HEARING EXAMINER: All right.

5 Thank you, sir.

6 Mr. Villarreal with us? Villarreal?

7 MS. HARDY: Mr. Examiner, could we take
8 a five-minute break?

9 THE HEARING EXAMINER: I think we need
10 one.

11 MS. HARDY: Very quickly?

12 THE HEARING EXAMINER: All right.
13 We're off the record for five minutes.

14 (Off the record.)

15 THE HEARING EXAMINER: -- sir, and you
16 could sit close to the microphone and speak clearly.
17 It would be helpful. Thank you.

18 MS. SHAHEEN: And, Mr. Examiner, I'm
19 going to ask you to help clarify how I should proceed.
20 And I'll state - because when I read Marathon's
21 objections, the only portion of Exhibit D that they
22 seek to exclude is paragraph 7.

23 THE HEARING EXAMINER: Okay.

24 MS. SHAHEEN: And I just want to make
25 sure that I understand that correctly and so that I

1 can proceed, and then we can deal with paragraph 7.
2 And then perhaps from there, we go to the sub-exhibits
3 if Ms. Hardy agrees with that, with my understanding?

4 THE HEARING EXAMINER: -- paragraph 7.
5 So hold on a minute.

6 MS. SHAHEEN: I just want to make sure
7 you're not trying to exclude the entirety of Exhibit
8 D.

9 MS. HARDY: No.

10 MS. SHAHEEN: Because for some reason I
11 got that impression earlier today, but that's not what
12 the objection says.

13 MS. HARDY: It's paragraph 7, which is
14 the bottom of page 4 to the middle of page 10.

15 THE HEARING EXAMINER: Right.

16 MS. SHAHEEN: Okay.

17 MS. HARDY: And I -- well, I would --
18 I'm not sure if that's the -- so I also have another
19 objection. Do you want me to raise it?

20 THE HEARING EXAMINER: To D on its own?

21 MS. HARDY: Yes.

22 THE HEARING EXAMINER: But what is the
23 objection?

24 MS. HARDY: Well, now, because the
25 prior witness has testified about AFEs pretty

1 extensively, and Mr. Villarreal had addressed AFEs in
2 his testimony, including at the bottom of his
3 affidavit, page 3, I object to him discussing the AFEs
4 on the ground that it's cumulative evidence. It's
5 been addressed now by their prior witness, and they
6 chose to proceed that way.

7 THE HEARING EXAMINER: Right. So the
8 way I understand the rule is that it's up to the
9 hearing examiner to exclude repetitive -- I can read
10 the -- well, is it in here? I think it is. Hold on a
11 second here. Here it is. Okay. In 19.15.4.17A NMAC,
12 it says "The commissioner and division examiner may
13 admit relevant evidence unless it is immaterial,
14 repetitious, or otherwise unreliable." So the word
15 "repetitious" is the word you're focused on?

16 MS. HARDY: Correct.

17 THE HEARING EXAMINER: You're not
18 saying it's immaterial or unreliable?

19 MS. HARDY: Correct.

20 THE HEARING EXAMINER: Okay. Well,
21 I'll make a decision on whether it's repetitious after
22 I hear the testimony.

23 So, Ms. Shaheen, why don't you get
24 started with this witness in the way we have been
25 doing it, and then we'll deal with the exhibits one at

1 a time.

2 MS. SHAHEEN: Thank you.

3 DIRECT EXAMINATION

4 BY MS. SHAHEEN:

5 MS. SHAHEEN: Mr. Villarreal, do you
6 see on the screen here, I'm showing your self-affirmed
7 statement, which is labeled as Exhibit D?

8 MR. VILLARREAL: Yes.

9 MS. SHAHEEN: Do you accept this
10 statement as your true and correct testimony today?

11 MR. VILLARREAL: Yes.

12 MS. SHAHEEN: And do you have any
13 corrections to this testimony?

14 MR. VILLARREAL: No.

15 MS. SHAHEEN: Turning to paragraph 5,
16 which begins at the bottom of page 1 -- or 215 of 328,
17 you opine that TOP's development plan, "TOP" being
18 Tumbler development plan is superior to Marathon's
19 proposals for a number of reasons. Can you summarize
20 those for the hearing examiners, please?

21 MR. VILLARREAL: Yes. So that is
22 looking at Exhibit D-10 details why TOP or Tumbler's
23 David development plan is superior to Marathon's
24 Goliath development plan.

25 One, we believe that Marathon is

1 wasting potential recovery in the Wolfcamp A due to
2 their ultra-wide spacing with minimal marginal uplift
3 only about 10 percent.

4 We believe they're ignoring co-
5 development in the Third Bone Spring Sand. We believe
6 that they are under developing the Second Bone Spring
7 Sand with their greater than 1,500 per foot spacing.

8 And we believe that they're abandoning
9 proven reserves in the Avalon and Third Bone Spring
10 Carbonate.

11 MS. SHAHEEN: And then, are there
12 details -- let's turn to first Exhibit D-10, which
13 compares Tumbler's and Marathon's development plans?

14 MR. VILLARREAL: Uh-huh.

15 MS. SHAHEEN: And can you highlight the
16 important points of Exhibit D-10?

17 MR. VILLARREAL: Yes. So, you know, we
18 can see Tumbler's David unit. We're proposing 31
19 wells, as we've gone through today. You know,
20 Marathon Conoco, 17 wells. What you can see is, you
21 know, the estimate ultimate recovery of substantially
22 more, you know, 52.9 MMboe compared to 29.6 MMboe
23 Tumbler versus Conoco. You know, then going down
24 really rehashing the same stuff that I just discussed.

25 MS. SHAHEEN: And if we turn to Exhibit

1 D-11F, I understand this is Tumbler's type curve? Let
2 me find that for us. This is D-11A. Can you
3 summarize your opinions here on D-11A?

4 MR. VILLARREAL: Yeah. So just
5 broadly, D-11 is just providing top -- excuse me, type
6 curve support for all of the formations that Tumbler
7 plans to develop with David. Here is the overview of
8 our Avalon type curve, you know, 15 offset wells, our
9 expected EURs. You know, I don't know how much detail
10 you want me to get into here.

11 MS. SHAHEEN: Well, let's just walk
12 through each one to --

13 MR. VILLARREAL: Okay.

14 MS. SHAHEEN: -- make sure --

15 MR. VILLARREAL: Yeah. So we have the
16 Avalon, we have the First Bone Spring Sand, we have
17 our Second Bone Spring Sand, we have our Third Bone
18 Spring Carb, our Third Bone Spring Sand.

19 We have our Wolfcamp A, and then we
20 have our Wolfcamp B. You know, so, you know, Wolfcamp
21 B, that's the 80 percent water cut, you know, also the
22 same target that, you know, Conoco or Marathon intends
23 to develop.

24 MS. SHAHEEN: And, Mr. Examiner, would
25 it -- do you think it might be helpful, expedient for

1 us to address -- I mean, again, I'm not sure whether
2 Marathon is objecting to Exhibit D-11. I don't think
3 they are, but I just want to double check.

4 THE HEARING EXAMINER: It's my
5 understanding that they objected to all the D's.

6 MS. SHAHEEN: That's why I'm a little
7 bit confused because we --

8 THE HEARING EXAMINER: Is that right,
9 Ms. Hardy?

10 MS. SHAHEEN: I'll just say --

11 MS. HARDY: No, I think that we don't
12 object to these.

13 THE HEARING EXAMINER: Okay. When you
14 say, "these," though, I need you to be specific.

15 MS. HARDY: To the D-11.A through, is
16 it G?

17 MS. SHAHEEN: Yeah, I think it's D-11.A
18 through D-11.G. And so, because when I look at the
19 objections, I understood that they were objecting to
20 paragraph 7 of Exhibit D, to Exhibit D-3, Exhibit D-4,
21 Exhibit D-5, and Exhibit D-9. And so if we can
22 proceed with that understanding, then I think it'll be
23 a lot easier for us.

24 Because like Mr. Examiner, I -- at the
25 beginning, I thought I heard you say you objected to

1 all of the D's, but if that's not the case, that would
2 make things more convenient.

3 MS. HARDY: I wasn't willing to
4 stipulate at that point to the admission of all of
5 them. But I don't necessarily object to all of the
6 D's. I don't object to theses that you're asking
7 about.

8 MS. SHAHEEN: Okay. So maybe we walk
9 through all of them briefly and --

10 THE HEARING EXAMINER: It may be
11 quicker to do it this way.

12 So, Ms. Hardy, may I have a list of the
13 D exhibits that you are objecting to at this time?

14 MS. HARDY: Yes.

15 THE HEARING EXAMINER: Because I did
16 write D-1 through 15 as objected to.

17 MS. HARDY: Okay. So -- well we object
18 to certain paragraphs in his affidavit; right?

19 THE HEARING EXAMINER: That's paragraph
20 7.

21 MS. HARDY: And then now also the
22 information on the AFEs being cumulative.

23 THE HEARING EXAMINER: Cumulative.

24 MS. HARDY: So I have some objections
25 that have come up today that I hadn't raised, right,

1 because they're new --

2 THE HEARING EXAMINER: It's your
3 prerogative to object as you see fit.

4 MS. HARDY: -- today.

5 THE HEARING EXAMINER: So in D, we have
6 a -- the parts that you object to are paragraph 7 and
7 there's a bunch there. It's about five or six pages
8 there.

9 MS. HARDY: Right.

10 THE HEARING EXAMINER: And the AFEs
11 testimony?

12 MS. HARDY: Within -- yes.

13 THE HEARING EXAMINER: Okay. Now, what
14 about D-1 through 15?

15 MS. HARDY: Okay. So we object to --

16 THE HEARING EXAMINER: Mr. Villarreal,
17 while she's looking for her objections, what
18 paragraphs in your self-affirmed statement deal with
19 the AFEs?

20 And, Ms. Hardy, if you know your
21 objections, just speak up.

22 MS. HARDY: Sure. Oh yes, it's -- we
23 object to Exhibits D-3.

24 THE HEARING EXAMINER: 3.

25 MS. HARDY: D-4.

1 THE HEARING EXAMINER: 4.
2 MS. HARDY: D-5.
3 THE HEARING EXAMINER: 5.
4 MS. HARDY: And D-9.
5 THE HEARING EXAMINER: D-9. Okay.
6 So then, Ms. Shaheen, D-1, D-2, D-6, 7,
7 8, 10, 11, 12, 13, 14, and 15 are admitted into
8 evidence.
9 (Tumbler Exhibit D-1, Exhibit D-2,
10 Exhibit D-6, Exhibit D-7, Exhibit D-8,
11 and Exhibit D-10 through D-15 were
12 received into evidence.)
13 MS. SHAHEEN: That sounds good.
14 THE HEARING EXAMINER: Good.
15 Why don't we work on the other
16 exhibits. Let's -- I guess you were going -- you were
17 discussing, what's it, D-15 or D-11 with your witness?
18 MS. SHAHEEN: We just discussed D-11,
19 and I don't believe there's an objection to D-11.
20 THE HEARING EXAMINER: That's true.
21 MS. SHAHEEN: If you'd like, I can
22 address each of the ones that are objected to.
23 THE HEARING EXAMINER: Yes, that'd be
24 good.
25 MS. SHAHEEN: Okay.

1 THE HEARING EXAMINER: And let's leave
2 D out for a moment. Let's just start with D-3.

3 MS. SHAHEEN: Okay.

4 THE HEARING EXAMINER: Provide a
5 foundation for D-3.

6 MR. VILLARREAL: So are we off D-12?

7 THE HEARING EXAMINER: I'm sorry?

8 Oh --

9 MR. VILLARREAL: We're off D-12?

10 MS. SHAHEEN: Yeah, we're done with
11 D-12.

12 THE HEARING EXAMINER: And you were
13 going to tell me what paragraph you dealt with the
14 AFEs in your self-affirmed statement?

15 MR. VILLARREAL: Yes, I believe I
16 talked about the AFEs in -- it's Exhibits D-6 and 7.
17 So that is the paragraph at the top of page 9. And --
18 yeah.

19 THE HEARING EXAMINER: It's what? What
20 do you have?

21 MR. VILLARREAL: Oh, wait --

22 THE HEARING EXAMINER: I asked you for
23 a paragraph number in your self-affirmed statement,
24 Exhibit D, that discusses --

25 Ms. Hardy, are you objecting to -- what

1 paragraph are you --

2 MS. HARDY: I have it in front of me.
3 It's a little confusing the way the paragraphs are
4 numbered. It is paragraph 5G.

5 THE HEARING EXAMINER: Oh, I see.

6 MS. HARDY: At the bottom of page 3 and
7 the top of page 4.

8 MS. SHAHEEN: Oh, yeah. Page 217 of
9 328.

10 MS. HARDY: Yes.

11 THE HEARING EXAMINER: Okay. So G. I
12 see. So it's paragraph G, then, within paragraph 5.
13 So 5G. Excellent. Now I know that.

14 And are you still objecting to D-15,
15 which is the rebuttal exhibit? I didn't hear you say
16 that in your list.

17 MS. HARDY: Yes.

18 THE HEARING EXAMINER: Ah. Very good.
19 So I better write that down. So D-15 is not admitted
20 into evidence.

21 (Tumbler Exhibit D-15 was withdrawn.)

22 Ms. Hardy, is that correct?

23 MS. HARDY: Correct.

24 THE HEARING EXAMINER: I just want to
25 make sure that I got it right. Okay.

1 So, Ms. Shaheen, why don't you begin
2 with D-3, 4, and 5, and let's work through those and
3 see we can provide foundations.

4 MS. SHAHEEN: Okay, 231.

5 THE HEARING EXAMINER: And it's on the
6 screen in front of us?

7 MS. SHAHEEN: Right. And I'm just
8 looking for the paragraph in which Mr. --

9 MR. VILLARREAL: I think it's -- it's
10 kind of cut off, so you could zoom out a little bit.

11 BY MS. SHAHEEN:

12 MS. SHAHEEN: On page A -- 222 of 328,
13 Mr. Villarreal includes testimony about Exhibit D-5.
14 This relates to the communications -- oh, this is D-3.
15 Sorry. It's D-3. It relates to Marathon's
16 projections on Exhibit 2. So this builds on Exhibit 2
17 and shows that --

18 Well, let me ask you, Mr. Villarreal.
19 What does Exhibit D-3 pertain to?

20 MR. VILLARREAL: Yeah, could you zoom
21 out just --

22 MS. SHAHEEN: Oh, yeah.

23 MR. VILLARREAL: -- a little bit on the
24 exhibit? Okay. So part of this as we look at
25 planning and think about development, we have to think

1 about the risk that this project will actually be
2 developed, you know.

3 And then I think when we look about the
4 risk, one way to look at it is what does history say?
5 So we look at the track record, and one way to look at
6 the track record is by looking at the wells that have
7 actually been drilled by Conoco or COG that have come
8 out of -- that have had pooling orders.

9 So here what we can say, if we were to
10 go in -- excuse me -- NMOCD website and search for
11 Conoco and COG pooling hearings and cases, and then
12 for each one, we double click into it and look at what
13 was the working interest for Conoco and COG in those
14 cases.

15 That is what we're bending here. And
16 so you can see, you know, the -- the line at 100
17 percent shows that that's roughly -- there's roughly
18 25 cases there, you know, that's 60 percent, there's
19 roughly 10 cases there. And these are representing
20 the cases what -- that resulted in wells actually
21 drilled.

22 You know, what stands out here is when
23 you look at where the David Goliath working interest
24 is for Conoco, which is far to the left with their 43
25 percent, you know, I think the risk of this slipping

1 on the drill schedule and not actually being developed
2 is further reaffirmed by their statements.

3 If you go all the way back to when we
4 first started engaging with Marathon prior to the
5 merger, merger being as Conoco's representing it on
6 their own website, Fraley Duval [ph] 18 months out to
7 be September 2025. Go into March 2025, won't be
8 developed in 2025.

9 You know, Sean Miller, these wells are
10 discretionary. There's a typo that says "Q1 of 2017,"
11 but Sean Miller in March of 2025, that should say Q1
12 of 2027, it's a correction. You know what's -- what's
13 further troubling, though --

14 MS. HARDY: Mr. Examiner --

15 MR. VILLARREAL: -- when I look at
16 this --

17 MS. HARDY: I'm really sorry to
18 interrupt, but I think we're -- the question was, what
19 is this exhibit showing? Because I object to the
20 exhibit. So he is testifying about what he wants to
21 establish that I have objected to.

22 THE HEARING EXAMINER: Okay. So --

23 MS. HARDY: I mean, I think it's --
24 this is a narrative that's going on and on about an
25 exhibit that's under objection.

1 THE HEARING EXAMINER: Ms. Shaheen?

2 MS. SHAHEEN: I understood that the
3 hearing examiner asked --

4 THE HEARING EXAMINER: For foundation.

5 MS. SHAHEEN: -- for foundation for Mr.
6 Villarreal to explain what was the basis for this
7 exhibit.

8 THE HEARING EXAMINER: Let me stop you
9 here.

10 MS. SHAHEEN: Uh-huh.

11 THE HEARING EXAMINER: The -- what you
12 need to do at this point is show how this exhibit is
13 relevant and reliable. That's the foundation I need
14 to hear. I don't need to understand what it's saying
15 because I can see what it's saying, and it's -- that's
16 -- I agree with Ms. Hardy.

17 So I'm sustaining the objection, but
18 please ask questions to this witness of how he
19 produced this, why it's relevant and reliable, and
20 then we'll make a decision on whether it comes in or
21 not.

22 MS. SHAHEEN: And that's what I
23 understood him to be explaining. He went to the OCD
24 website.

25 THE HEARING EXAMINER: Oh, I heard his

1 testimony.

2 MS. SHAHEEN: And so if -- do you want
3 more foundation other than he went to the OCD website
4 and pulled down the forced pooling orders? I mean,
5 this is what he did, and this is what an expert of his
6 type does when it's considering planning and
7 development and from an engineering perspective.

8 So I feel like he's laid the
9 foundation, he relied on OCD public records to
10 conclude that the percentage of interest here that
11 Conoco has or Marathon has --

12 THE HEARING EXAMINER: I -- you don't
13 have to just repeat the same thing. That's --

14 MS. SHAHEEN: Okay. So I guess I'm
15 just a little bit confused. Because the foundation --

16 THE HEARING EXAMINER: Well, this is
17 going on past that.

18 MS. SHAHEEN: Okay.

19 THE HEARING EXAMINER: That's what the
20 objection is.

21 MS. SHAHEEN: Okay.

22 THE HEARING EXAMINER: He's basically
23 testifying as though this was admitted, but it's not
24 been admitted yet. So all I need is a foundation and,
25 I got it in the first minute or so, but then he went

1 on.

2 MS. SHAHEEN: Okay. Well, I didn't
3 want to interrupt him.

4 THE HEARING EXAMINER: Okay. But she
5 did, and it's her --

6 MS. SHAHEEN: She did. That's right.

7 THE HEARING EXAMINER: It's her --

8 MS. SHAHEEN: And so, then, I guess the
9 only other --

10 THE HEARING EXAMINER: That's her job,
11 and she did it well.

12 MS. SHAHEEN: Right.

13 BY MS. SHAHEEN:

14 MS. SHAHEEN: The only other foundation
15 that we need to lay is that the communications were --
16 where do you find the communications that you relayed
17 here in your exhibit?

18 MR. VILLARREAL: Those would be, I
19 think, Fraley Duval [ph], Caroline Frederick, those
20 are emails, the theme of the day. Sean Miller's,
21 those are -- that was a phone conversation. Sean
22 Miller, Nick Weeks March -- or excuse me, September 3,
23 2025. Caroline Frederick, we've already seen that
24 email today on March 19, 2025.

25 THE HEARING EXAMINER: So do you have

1 personal knowledge of these emails and communications?

2 MR. VILLARREAL: Yes.

3 THE HEARING EXAMINER: Okay.

4 All right. Ms. Hardy, basically this
5 data comes from the OCD website. So the reliability
6 is, you know, whatever it is. And these quotes are
7 firsthand personal knowledge of this witness. So what
8 is the objection now of this exhibit?

9 MS. HARDY: Sure. So first of all, I
10 think these are excerpts of the quotes. We've been
11 through that at length today. I think they're taken
12 out of context and incomplete.

13 Regarding the data here, I have a lot
14 of questions about it, not about the data on OCD's
15 website, but about the interpretation of it and how
16 it's listed here.

17 THE HEARING EXAMINER: Okay.

18 MS. HARDY: He's saying there's a zone
19 of apathy that I absolutely object to.

20 THE HEARING EXAMINER: Okay. Why don't
21 you -- so she's laid the beginnings of a foundation.

22 MS. HARDY: Okay. I can ask --

23 THE HEARING EXAMINER: But the
24 objection remains, Ms. Shaheen.

25 MS. HARDY: Yes.

1 THE HEARING EXAMINER: So now we're
2 going to -- she's going to voir dire your witness.

3 MS. HARDY: Okay.

4 MS. SHAHEEN: Okay. I kind of wish I
5 could do my legal argument about how this is really
6 not necessary under Rule 11-703. An expert can rely
7 on --

8 THE HEARING EXAMINER: I know the rule
9 well.

10 MS. SHAHEEN: Okay. So I believe Ms.
11 Hardy has the opportunity to cross-examine Mr.
12 Villarreal about it, and it goes to the weight and not
13 the admissibility. So I'll just leave it at that.

14 THE HEARING EXAMINER: So an expert
15 witness can base his expert opinion upon what you said
16 in Rule 11-703. I'm quite aware of that. As a
17 prosecutor who brought many witnesses who are experts
18 to trial, I know it very well.

19 But this is more than just his expert
20 opinion here. Do you see the difference? This is a
21 bunch of data here that he's presenting as an expert
22 that we have to determine whether it's relevant and
23 reliable.

24 Now, Ms. Hardy has objected to it. And
25 so she's going to voir dire your witness to find out

1 the basis of this exhibit. It's not just his opinion.
2 because you could have asked him his opinion, and we
3 would have gotten his opinion, and that's fine.

4 But this is more than his opinion. So
5 you were trying to get this in. So do you understand
6 at this point? You don't seem like you do.

7 MS. SHAHEEN: No, I mean, I just feel
8 like this is going well beyond the rules of an
9 administrative proceeding. And this is not a criminal
10 trial, it's not a civil trial. And the rules of
11 evidence don't necessarily apply.

12 I think it should all come in, and the
13 hearing examiner should give it the weight that it
14 deserves. That's my opinion. But obviously that's
15 not your opinion.

16 So Ms. Hardy is free to voir dire the
17 witness about Exhibit D-4 and all the rest of them.

18 THE HEARING EXAMINER: So the
19 foundation that you were providing was to show me that
20 this is both relevant and reliable. Okay? That's
21 where you differ with Ms. Hardy. Those are the rules
22 that do apply in an administrative hearing.

23 They're not the general rules of
24 evidence because we've already agreed that those are
25 not applicable in the way that they would be at a

1 civil or criminal trial.

2 But Ms. Hardy does have the basis to
3 object to the foundation of this and to show me that
4 it's not reliable or not relevant. And so that's what
5 she's going to do now.

6 So you've questioned your witness, now
7 she's -- it's not cross-examination, it's just voir
8 dire.

9 So go ahead, please. Just keep it to
10 relevant and reliable.

11 MS. HARDY: Sure. Thank you.

12 DIRECT EXAMINATION

13 BY MS. HARDY:

14 MS. HARDY: Mr. Villarreal, looking at
15 this exhibit, you have here percentages across the
16 bottom; right?

17 MR. VILLARREAL: Yes.

18 MS. HARDY: And one of them is 100
19 percent?

20 MR. VILLARREAL: Yes.

21 MS. HARDY: Okay. So you're showing --
22 I guess my question is, if you looked at pooling
23 orders, a pooling order wouldn't be necessary if the
24 operator has 100 percent of the interest; correct?

25 MR. VILLARREAL: I'm not certain.

1 MS. HARDY: Okay. And you don't show
2 here, and I can't tell. You looked at ConocoPhillips
3 pooling orders dating back to 2022. You didn't
4 specify the actual operator. Were you looking just at
5 ConocoPhillips?

6 MR. VILLARREAL: It just says below it
7 says "ConocoPhillips inclusive of CRG."

8 MS. HARDY: Okay. And you don't know
9 when you look at a pooling case whether the operator
10 acquired additional interest after the order was
11 issued; do you?

12 MR. VILLARREAL: Say it one more time?

13 MS. HARDY: You can't tell from a
14 pooling case how much interest the operator picked up
15 after the order was issued; can you?

16 MR. VILLARREAL: That's correct.

17 MS. HARDY: Okay. So you can't say
18 with any certainty whether the interests that existed
19 at the times the order were issued were the same as
20 those that were existing at the time the wells were
21 drilled; can you?

22 MR. VILLARREAL: No, that would just
23 shift it further to the -- to the right if that was
24 the case, but --

25 MS. HARDY: Well, you're -- you don't

1 know that; right? You're assuming that? And you
2 don't provide any data here on the formations;
3 correct?

4 MR. VILLARREAL: There -- there's no
5 data on formations here.

6 MS. HARDY: Okay. And you didn't look
7 at the area of New Mexico; correct? Whether it was
8 Lea County or Eddy County or somewhere else?

9 MR. VILLARREAL: I do not specify
10 counties.

11 MS. HARDY: Okay. And you didn't look
12 at or specify the number of wells that were involved
13 in each pooling order; did you?

14 MR. VILLARREAL: I do not have that on
15 this table, correct.

16 MS. HARDY: Okay. And I think we've
17 already covered the fact that these quotations here
18 are just -- are excerpts; right?

19 MR. VILLARREAL: Yes, those are
20 excerpts.

21 MS. HARDY: Okay.

22 Okay. I maintain my objection. I
23 don't think this exhibit is reliable. It's not an
24 accurate representation of wells that would actually
25 be drilled by ConocoPhillips under pooling orders.

1 THE HEARING EXAMINER: So, Ms. Shaheen,
2 the objection stands so far. I need to hear why this
3 is reliable. I also need to hear why it's relevant,
4 but I think I understand why it's -- I think I'm more
5 clear about why it's relevant, or at least why you
6 believe it's relevant. So that's not really the
7 issue.

8 The issue is reliability here. Now
9 there was a question asked of the witness about why is
10 -- why does this graph contain 100 percent ownership
11 when you would need a compulsory pooling order to --
12 for that. And their question -- their answer was less
13 than 100 percent sure. So you might want to ask some
14 more questions.

15 MS. SHAHEEN: Yes.

16 THE HEARING EXAMINER: If you think
17 this is an important exhibit for you.

18 MS. SHAHEEN: Yes.

19 THE HEARING EXAMINER: That I think is
20 ultimately what you're trying to decide.

21 DIRECT EXAMINATION

22 BY MS. SHAHEEN:

23 MS. SHAHEEN: I think it would be
24 helpful, Mr. Villarreal, if you could tell us the
25 parameters of your search. For example, did you limit

1 the request to a particular county in New Mexico, or
2 was this throughout New Mexico that you pulled these
3 forced pooling orders?

4 MR. VILLARREAL: This was throughout
5 New Mexico. So this is Google search NMOCD cases,
6 then search Conoco or COP, search COG, search
7 Burlington, there was nothing. And then running
8 through just the list of cases.

9 MS. SHAHEEN: And Ms. Hardy asked you
10 about the fact that you didn't consider whether Conoco
11 may have acquired additional interest after the forced
12 pooling orders were issued. Do you recall that
13 questioning?

14 MR. VILLARREAL: I do.

15 MS. SHAHEEN: Now, and you said that
16 wasn't relevant; right? It would just push the graph
17 farther to the right, meaning they would have acquired
18 more interest than is even reflected here; is that
19 right?

20 MR. VILLARREAL: Yes.

21 MS. SHAHEEN: And would that also
22 account for the fact that some of these were
23 attributed to 100 percent interest because Conoco,
24 after the forced pooling order was issued, acquired
25 additional interest?

1 MS. HARDY: Object to speculation.

2 THE REPORTER: Could you say a little
3 louder?

4 MS. HARDY: I just object on
5 speculation.

6 THE REPORTER: Okay.

7 MS. SHAHEEN: Well, I -- he did testify

8 MR. VILLARREAL: Well, these would have
9 been --

10 THE HEARING EXAMINER: Hold on.

11 So this is voir dire. Okay? So -- and
12 the questions are even more broad.

13 MS. HARDY: Okay.

14 THE HEARING EXAMINER: It's almost like
15 foundational questions when you're trying to get a
16 piece of evidence admitted, you're allowed a lot of
17 latitude to try to show. So I'm going to let that go.

18 So continue, Ms. Sheehan?

19 BY MS. SHAHEEN:

20 MS. SHAHEEN: Well, to clarify, when
21 Ms. Hardy asked you about whether you looked to see
22 whether additional interest had been acquired after
23 the forced pooling order was issued, and you said you
24 did not.

25 But if you had, it wouldn't really

1 matter to your conclusions because it just meant that
2 Conoco actually had more interest than it originally
3 had when the forced pooling order was issued?

4 MR. VILLARREAL: Yeah, correct.

5 MS. SHAHEEN: Okay. And could that
6 hypothetical scenario, if Conoco acquired additional
7 interest after forced pooling order was entered, that
8 could result in 100 percent interest; couldn't it?

9 MR. VILLARREAL: It would have been
10 pulled off of the documents that were listed on the
11 NMOCD website.

12 MS. SHAHEEN: Right. So -- okay. So
13 you're saying the forced pooling orders -- well, let
14 me back up. Where did you get the information about
15 the interest that Conoco had?

16 MR. VILLARREAL: The filings that were
17 published on, like, in the packets.

18 MS. SHAHEEN: Okay. And so are you
19 saying that the filings, the exhibit packages that
20 were filed in these forced pooling cases indicated
21 that Conoco had 100 percent interest?

22 MR. VILLARREAL: Yeah. It also could
23 have been inclusive of Conoco plus COG, like multiple
24 parties or different entities, so.

25 MS. SHAHEEN: So it could have been

1 other interest owners who voluntarily participated
2 with --

3 MR. VILLARREAL: Yeah, we -- we summed
4 Conoco plus COG plus Burlington plus -- there's one
5 other Conoco -- Conoco Family Entities, and Marathon.

6 MS. SHAHEEN: And this was prior to the
7 acquisition of Marathon?

8 MR. VILLARREAL: Yes.

9 MS. SHAHEEN: And was it prior to the
10 acquisition of COG?

11 MR. VILLARREAL: I think COG was before
12 2022.

13 MS. SHAHEEN: Okay. So conceivably the
14 100 percent interest could have reflected a Marathon
15 interest that was not actually part of -- that was
16 actually being forced pooled?

17 MR. VILLARREAL: That's correct.

18 MS. SHAHEEN: And would that explain
19 the 100 percent interest that's on your table here?

20 MR. VILLARREAL: That could, yes.

21 MS. SHAHEEN: And as we --

22 I would just note we're happy to
23 provide all of the emails that relate to these quotes.

24 THE HEARING EXAMINER: You know, Ms.
25 Shaheen, it seems to me -- I mean, it's a valid

1 objection that this document is on shaky grounds when
2 it comes to reliability. I'm trying to be nice about
3 this.

4 And it seems to me that this witness
5 could testify to his conclusion here in this paragraph
6 without relying on a exhibit. And he can testify to
7 the communications he personally had with these
8 different witnesses -- or no, excuse me, not witnesses
9 -- Duval [ph], Frederick, Miller, of course, Miller's
10 here, et cetera. He can testify to those. I mean,
11 they're all personal knowledge to him if we even had
12 that standard here.

13 So it seems that there's certain stuff
14 that's reliable he could testify to without getting
15 into this, what I would think is a messy exhibit.

16 So I don't admit Exhibit D-3 based on
17 the objection and based on voir dire that I've heard
18 from this witness. So with that in mind, why don't
19 you elicit testimony instead of D-3.

20 MS. SHAHEEN: Okay. My question for
21 you is, could we address each of these exhibits as to
22 whether they're admissible, and then I could go back
23 and do --

24 THE HEARING EXAMINER: Yeah, definitely

25 MS. SHAHEEN: -- and do the

1 questioning?

2 THE HEARING EXAMINER: Definitely,
3 sure.

4 MS. SHAHEEN: And that might be less --

5 THE HEARING EXAMINER: I agree.

6 MS. SHAHEEN: -- disjointed.

7 THE HEARING EXAMINER: Agreed.

8 MS. SHAHEEN: Okay.

9 THE HEARING EXAMINER: So you want to
10 start with 4 now?

11 MS. SHAHEEN: So is it 4? Yes, D-4.

12 DIRECT EXAMINATION

13 BY MS. SHAHEEN:

14 MS. SHAHEEN: Mr. Villarreal, can you
15 explain to us the information that you reviewed that
16 forms the basis of your opinion in Exhibit D-4?

17 MR. VILLARREAL: Yes. So information
18 that we reviewed, looked at, or I guess, information
19 reviewed and what we kind of did here? Is that --

20 MS. SHAHEEN: Well, let's start with
21 information that you reviewed?

22 MR. VILLARREAL: Okay. Information
23 that we reviewed, you know, we looked at creating kind
24 of an average -- average well with our understanding
25 of average Conoco working interests and NRIs.

1 We looked at public statements from
2 Conoco leadership, whether that be in earnings calls,
3 Oil & Gas Journal, or routers.

4 And then, well, I don't know if I --
5 then tried to draw conclusions on is there an
6 incongruence between, you know, what is stated
7 publicly by leadership and then what is stated in a
8 pooling order.

9 MS. SHAHEEN: With respect to the first
10 column there in MRO Goliath versus base case
11 incremental MBOPD -- and can you state for the record
12 what you mean by MBOPD increase?

13 MR. VILLARREAL: A thousand barrel oil
14 per day.

15 MS. SHAHEEN: And then did you look at
16 data that related to numbers of rigs?

17 MR. VILLARREAL: Yeah. So -- so what
18 we did here is we created a -- created a rig line --
19 or excuse me, ran 13 rigs, made some assumptions on
20 timings and working interest. You can see that listed
21 in the -- the note below.

22 We said, you know, based on what we're
23 assuming to be average Conoco working interest NRI,
24 and we developed a typical well, you know, where would
25 their -- what would the production increase be from

1 those 13 -- 13 rigs over 12 months?

2 Then we said if we -- if they were to
3 move two rigs and drill their 17 Goliath wells, what
4 would that do to their 12 years of -- or excuse me, 12
5 months of production, and what would be the impact at
6 the end of the year?

7 And we saw, because that'd be measuring
8 the impact of going from an assumed, you know, 80
9 percent working interest, 64 percent NRI down to, we
10 have about a 43 percent working interest, 32 percent
11 NRI. And then --

12 MS. SHAHEEN: And when you say, "NRI,"
13 can you explain what you --

14 MR. VILLARREAL: Net revenue interest.

15 MS. SHAHEEN: Okay.

16 MR. VILLARREAL: And so what we found,
17 again, these are based on assumptions, and this is
18 just our -- this is directional. We don't have the
19 actual data.

20 But we do see that there's a shortfall
21 what we estimate to be 630,000 barrels of oil short
22 after 12 months from the baseline case with 13 rigs.

23 So then you have to think, well, if
24 they make the decision to go drill these Goliath
25 wells, how do they find new production? And there's

1 generally two different ways to get more production.
2 You pick up more rigs, or you can execute an
3 acquisition.

4 And we looked at what statements their
5 executives have made to indicate the likelihood of
6 them doing either one of those.

7 And then we say if those are -- are or
8 -- are or are or are not likely, you know, how do we
9 feel about the likelihood of them developing this, and
10 what is the risk that Marathon continues to not
11 develop Goliath as hasn't been developed over seven
12 years, multiple permits, expired permits, pooling
13 order, pooling order extension, expirations.

14 And we drew our conclusion that it is
15 not likely.

16 THE HEARING EXAMINER: Is that the end
17 of your voir dire?

18 MS. SHAHEEN: That's the end of my voir
19 dire.

20 THE HEARING EXAMINER: Okay.

21 So I heard the word "assumptions" a
22 lot, Mr. Villarreal.

23 MR. VILLARREAL: Yes.

24 THE HEARING EXAMINER: And as an
25 expert, you know, you're allowed to make all sorts of

1 assumptions based on fact to come up with your expert
2 opinion as long as it's within the scope of your
3 expertise. And we've qualified you in a pretty wide
4 range.

5 Ms. Hardy, do you want to voir dire the
6 witness now?

7 MS. HARDY: Sure. Thank you.

8 DIRECT EXAMINATION

9 BY MS. HARDY:

10 MS. HARDY: Mr. Villarreal, regarding
11 the assumptions, and specifically, I think I'm talking
12 about the chart period that you have on the left;
13 right?

14 MR. VILLARREAL: Yes.

15 MS. HARDY: And that's where you used
16 your assumptions; right?

17 MR. VILLARREAL: Yes.

18 MS. HARDY: Okay. And so you assumed
19 in the -- they're in this -- these very small letters
20 at the bottom of your exhibit; right?

21 MR. VILLARREAL: Yes.

22 MS. HARDY: Okay. So you assumed 13
23 rigs at 15 wells per rig per year; right?

24 MR. VILLARREAL: Yes.

25 MS. HARDY: Okay. And you don't know

1 whether that is the actual number of rigs
2 ConocoPhillips is running in New Mexico; do you?

3 MR. VILLARREAL: I do not know.

4 MS. HARDY: Okay. And you don't know
5 that each rig would draw 15 wells per year; do you?

6 MR. VILLARREAL: That was assumption.

7 MS. HARDY: Okay. And regarding the
8 average NRIs that you have here, I mean, is the gist
9 of this that ConocoPhillips, or really frankly, any
10 operator makes more money from wells when they have a
11 higher working interest?

12 MR. VILLARREAL: The gist of this is if
13 you have production targets that you have to hit, and
14 you go drill lower working interest wells and lower
15 interest, then you are going to have to go find how to
16 make up for the less barrels that you have coming out
17 of those lower -- lower working interest wells at some
18 point if you're going to hit your production targets
19 without picking up rigs or acquiring more acreage.

20 MS. HARDY: And you don't have any
21 information in here that I see on some sort of -- on
22 production targets. Or have you speculated regarding
23 the production targets?

24 MR. VILLARREAL: We have comments from
25 the executives, you know, in the middle column, kind

1 of middle portion "In lower 48, we plan to reduce
2 capital spending by over 15 percent year over year,
3 while still delivering low single-digit production
4 growth." And then that's from CEO Mr. Lance, that was
5 a Q4 earnings call on February 6, 2025.

6 Now, CFO O'Brien, this is in the Oil &
7 Gas Journal on May 12, 2025. He says "We're finding
8 ways to deliver the same level of production for less
9 capital."

10 MS. HARDY: And none of those comments
11 are specific to ConocoPhillips operations in New
12 Mexico; are they?

13 MR. VILLARREAL: Those are not specific
14 to ConocoPhillips in New Mexico. That is correct.

15 MS. HARDY: Okay. And ConocoPhillips
16 has operations in many countries and many states;
17 correct?

18 MR. VILLARREAL: I would assume so.

19 THE HEARING EXAMINER: Ms. Hardy, I
20 don't think we need any more questions.

21 Ms. Shaheen, I find this exhibit to be
22 the same. It's just on shaky foundations, and it's
23 too shaky for me to admit.

24 Again, your witness can opine as long
25 as it's within the scope, and you're free to ask him

1 questions subject to cross-examination.

2 But the exhibit itself, I find
3 problematic. So I'm not admitting this Exhibit D-4.
4 Let's go on to 5, please?

5 DIRECT EXAMINATION

6 BY MS. SHAHEEN:

7 MS. SHAHEEN: Mr. Villarreal, can you
8 describe for us the information that you reviewed to
9 reach your opinion that's stated here in in Exhibit
10 D-5?

11 MR. VILLARREAL: Yeah. So D-5, you
12 know, again, we're trying to assess, you know, what is
13 the risk that these don't go developed. So one way
14 we're doing this, we're highlighting, you know, the
15 themes of the engagement throughout, and then also
16 highlighting, you know, the initiatives that Tumbler
17 has brought forward to Marathon over the past 18
18 months with no success.

19 You know, we can start on the right-
20 hand side, you know, starting 2024, it was probably
21 April, you know, proposing an allocation of interest
22 to Marathon at no cost in exchange for delivering --
23 or drilling Goliath wells.

24 Offering to sell them overrides at our
25 cost to bolster their NRIs to incentivize development.

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1 You know, offering to secure a drilling rig under the
2 Tumbler banner with COP overseeing the operations.

3 You know, both of those addressing low
4 working interests, not having to pick up a rig. Guys,
5 let us help you, please.

6 Proposing outright purchase of
7 Marathon's interests, initiating trade discussions for
8 TOP to trade out of the unit. And again, trying all
9 of those to bring forward development, and eventually,
10 with no other choice left, having to propose 31 two
11 and a half mile wells.

12 And each time on the left you can see,
13 you know, what we've been met with, you know, refusal
14 to engage, you know, as you could see in the emails
15 "Guys, I'm going to be in Midland, I'll go to Midland,
16 let's meet, you know, let's go to end. Cancel
17 tomorrow's call. No updates, no need to meet, you
18 know, withholding the economic value.

19 "You know, the Goliath unit won't be
20 developed in 2025, and the drill schedule is past 2025
21 still TBD, you know, the breakfast meeting, you know,
22 that was let's do dinner. I can't do dinner, no
23 response, let's do breakfast the day before. How
24 about 7:00 a.m.? Okay, book a plane, get out to
25 Midland at 7:00 a.m.

1 "While you're here we can't -- we can't
2 only commit to not working and let the permits
3 expire." You know, the deprioritizing of the assets
4 and the deal dismissals.

5 You know, "My team and I do not have
6 time to go through our various portfolios to put a
7 trade schedule together" after saying specific tracts,
8 saying "we want non-op, you know, let's be done.
9 Take, let's trade out of our interest, we want non-
10 op."

11 MS. HARDY: Is it fair --

12 MR. VILLARREAL: "We don't have time."

13 MS. HARDY: Is it fair to say that this
14 Exhibit D-5 really is just a summary of the
15 communications that you've had over the course of the
16 past several months?

17 MR. VILLARREAL: Yes.

18 MS. HARDY: Your personal
19 communications?

20 MR. VILLARREAL: This is us begging and
21 pleading, let's do a deal, please. Let's do a deal,
22 guys. And every time getting shut down.

23 THE HEARING EXAMINER: Okay. So this
24 exhibit is based on personal knowledge?

25 MS. HARDY: And written communications.

1 THE HEARING EXAMINER: Right. I
2 understand.
3 And you created this document yourself?
4 MR. VILLARREAL: Yes, ma'am -- yes,
5 sir.
6 THE HEARING EXAMINER: Okay. All
7 right.
8 Ms. Hardy, your objection to this
9 document?
10 MS. HARDY: These excerpts are
11 inaccurate and misleading. This is one of the ones I
12 showed this morning where he's altered the quotation,
13 like for the one from Sean Miller, which Mr.
14 Villarreal has titled "Deprioritizing Assets."
15 And he highlighted in red "Their COP is
16 not developing the project." And the actual email,
17 which I've used in cross, I believe, or I will use it
18 in cross, states "in 2025."
19 So again, these are out of context,
20 they've been altered, it's not a reliable exhibit.
21 THE HEARING EXAMINER: So I see this,
22 the "deprioritizing assets" quotation was not
23 complete?
24 MS. HARDY: Correct.
25 THE HEARING EXAMINER: As you just

1 said. Are there any others here that are not
2 complete, or can you be specific about how they -- how
3 it mischaracterizes what was actually said?

4 MS. HARDY: They are snippets of more
5 complete conversations taken out of context. That's
6 what I would say. That's the most egregious, I would
7 say, false statement in this exhibit.

8 THE HEARING EXAMINER: Uh-huh.

9 MS. HARDY: But the others are
10 certainly taken out of context, and they're
11 incomplete.

12 THE HEARING EXAMINER: I wonder -- Ms.
13 Shaheen, I don't have a serious problem besides what
14 Ms. Hardy said that one of these quotes just leaves
15 out the "in 2025," which is misleading. I haven't
16 heard that the other ones are as misleading. They
17 come from personal interactions.

18 He can be cross-examined by Ms. Hardy
19 based on the actual emails. She can ask to admit
20 those emails that contain these quotations. But I
21 wonder whether this shouldn't be revised to remove the
22 quotations.

23 In other words, using these words as
24 sort of Mr. Villarreal's characterizations of the
25 emails so that the substance is there, but it's not

1 factually incorrect or misleading.

2 So this, I think you need to revise if
3 you want to try to get this one in. I'm going to put
4 it here as -- with a question mark for now. I'm not
5 admitting it the way it is because I agree that, you
6 know, that there is a factual misstatement here.

7 But I think it'd be better if you did
8 what I'm recommending, and then I would be much more
9 likely to admit it knowing that they're just
10 characterizations, and then we can get Ms. Hardy to
11 cross-examine him and bring out more and possibly seek
12 to admit emails. So, leaving question marks there.

13 D-9, please?

14 DIRECT EXAMINATION

15 BY MS. SHAHEEN:

16 MS. SHAHEEN: Mr. Villarreal, can you
17 please talk about the source of the quotes here and
18 the notes in your second column? I do see that you've
19 got some references here. If you could talk a little
20 bit about those references?

21 And then I understand that the third
22 column is your conclusions in light of your review of
23 the quotations in column 1 and the articles that are
24 referenced in column 2; is that right?

25 MR. VILLARREAL: Can -- can you say

1 that -- ask one more time?

2 MS. SHAHEEN: Yes. So is it -- do I
3 understand correctly that the third column represents
4 your opinions based on your review of the quotations
5 and the reports or documents that you -- that the
6 quotations you identify in column 1 and the reports or
7 documents that you identify in column 2?

8 MR. VILLARREAL: Yes, correct. That's
9 my opinion that is based off of, you know, column 1,
10 column 2. Then also my experience working at Bain &
11 Company, which is in the peer group with Boston
12 Consulting Group and McKinsey for another large oil
13 company working on very similar projects.

14 THE HEARING EXAMINER: Ms. Hardy?

15 MS. HARDY: Mr. Examiner, this is so
16 attenuated as to be irrelevant. It's not reliable.
17 These are studies on potential outcomes of corporate
18 reorganizations listed in this middle column, one from
19 2002. And then for Mr. Villarreal to conclude that
20 will cause layoff-induced chaos? I mean, this is not
21 relevant or reliable.

22 There's no evidence that this applies
23 to ConocoPhillips operations in New Mexico. These
24 quotes on the left do not apply specifically to
25 ConocoPhillips operations in New Mexico.

1 ConocoPhillips operates in 15 countries.

2 You know, this is also beyond the scope
3 of his expertise. He's qualified to testify as a
4 reservoir engineer. He's not here testifying as a
5 management consultant.

6 THE HEARING EXAMINER: So, Ms. Shaheen,
7 the title, or at least the biggest letters on the page
8 talk about "head count reduction may challenge future
9 ops." They may, and they may not. I don't have
10 anything here that leans in one direction or the
11 other.

12 And you understand that the standard of
13 evidence at a administrative hearing is a
14 preponderance of evidence. That's how I have to judge
15 these exhibits, as well. I don't find a preponderance
16 of evidence to say that this is reliable, that this is
17 applicable to this case.

18 So therefore, I'm going to exclude this
19 exhibit, as well. And we now have to go to -- I think
20 we should go back to D now. I think we really should
21 focus on D -- the crux --

22 MS. HARDY: And paragraph 7?

23 THE HEARING EXAMINER: Sorry?

24 MS. HARDY: And paragraph 7?

25 THE HEARING EXAMINER: I think we

1 really need to talk about D here before we run out --
2 oh, it's almost five o'clock now. Yeah, let's -- if
3 the parties are willing, let's try to deal with D
4 before we break for the night. Are you okay with
5 that?

6 MS. HARDY: Yes.

7 THE HEARING EXAMINER: Yeah. And
8 because that'll give you time overnight to revise
9 things while they're here with you.

10 MS. SHAHEEN: Yes.

11 THE HEARING EXAMINER: In front of you,
12 hopefully. And then we can go from there. So let's
13 deal with D. Would you like to focus on paragraph 7
14 and paragraph 5G?

15 MS. SHAHEEN: Yes.

16 THE HEARING EXAMINER: Go right ahead.

17 MS. SHAHEEN: I will start with
18 paragraph 5G.

19 THE HEARING EXAMINER: Okay.

20 MS. SHAHEEN: Mr. Baker did not talk
21 specific dollars about completed lateral foot
22 consistent with industry AFEs. He just compared the
23 two AFEs at issue, Marathon's and Tumbler's, and
24 concluded that there was not sufficient information in
25 Marathon's AFEs to actually determine what the

1 differences were.

2 Here, Mr. Villarreal is being more
3 specific and actually talking about cost per foot. So
4 I don't believe it's duplicative or repetitive.

5 THE HEARING EXAMINER: Okay.

6 Ms. Hardy?

7 MS. HARDY: I think it is repetitive.
8 The gist of this testimony here, it states right here
9 at a certain price the AFEs are unreliable given the
10 prior estimates by Marathon. That is exactly what Mr.
11 Baker testified to.

12 And I objected to Mr. Baker on the
13 ground that Mr. Villarreal addressed the same subject,
14 or that he was the one disclosed in his direct as
15 addressing the AFEs.

16 THE HEARING EXAMINER: Okay. There's
17 more to paragraph 5G, though. So can we -- and
18 Exhibit D-7 is admitted into evidence. At this point,
19 I don't remember what Mr. Baker said about the AFEs.
20 They are -- I mean, they are different experts.

21 So if they're coming at it from
22 different viewpoints, one is in operations and
23 facilities, the other is planning and development, I
24 could see how they could have different expert
25 opinions about AFEs because they're different.

1 So let's finish the paragraph, though.
2 Okay?

3 MS. SHAHEEN: And then here again, I
4 would note that Mr. Baker didn't opine on independent
5 AFEs for Matador or Devon. He simply focused on
6 Marathon and Tumbler's AFEs.

7 THE HEARING EXAMINER: Is Mr. Baker's
8 testimony on AFEs in writing, or was it just verbal?

9 MS. SHAHEEN: I believe it may have
10 just been verbal, but I could not promise that.

11 THE HEARING EXAMINER: Right. And, Ms.
12 Hardy, when you objected to Mr. Baker, do you remember
13 whether it was in writing or whether it was just
14 verbal?

15 MS. HARDY: It's just verbal.

16 THE HEARING EXAMINER: Verbal? Okay.

17 MS. HARDY: Well, it was proposed in
18 rebuttal exhibits, I believe that --

19 THE HEARING EXAMINER: Is that right,
20 Ms. Shaheen?

21 MS. HARDY: -- I objected to.

22 MS. SHAHEEN: I'd have to look --

23 MS. HARDY: Yes.

24 MS. SHAHEEN: -- at the rebuttal
25 exhibits.

1 THE HEARING EXAMINER: And I have your
2 rebuttal exhibits in front of me here. Which would it
3 have been?

4 MS. SHAHEEN: Rebuttal --

5 THE HEARING EXAMINER: Well, C was not
6 admitted. C-5 was not admitted. So --

7 MS. SHAHEEN: Right.

8 THE HEARING EXAMINER: -- it could be a
9 rebuttal exhibit; correct?

10 MS. HARDY: So I think I objected to
11 the rebuttal exhibit that deals with AFEs, I think.
12 And so he was allowed to testify --

13 THE HEARING EXAMINER: Okay.

14 MS. HARDY: -- verbally about that.

15 THE HEARING EXAMINER: Okay. Was that
16 Exhibit C-5? Because I show that it's excluded.

17 MS. HARDY: I believe that it was.

18 THE HEARING EXAMINER: Okay. So let's
19 see what Mr. Baker has to say about rebuttal exhibits
20 -- sorry, about AFEs in C-5.

21 MS. SHAHEEN: I believe the exhibit may
22 have been excluded, but then you allowed the
23 questioning --

24 THE HEARING EXAMINER: Right. But I'm
25 just looking at the -- trying to get some -- I'm

1 trying to get something here without asking the court
2 reporter to go back.

3 MS. SHAHEEN: Okay.

4 THE HEARING EXAMINER: And reread the
5 AFEs. So I have C-5 in front of me here. Do you want
6 to review it Ms. Shaheen? It looks like this.

7 And, Ms. Hardy, do you have a copy of
8 C-5 that was not admitted?

9 MS. HARDY: I do. If I can find it.

10 THE HEARING EXAMINER: So I'm going to
11 compare it to this paragraph here because that's all I
12 have to go on right now.

13 So, Ms. Shaheen, I do see in Exhibit
14 C-5, and that's the indication I have that he might
15 have said it, "I don't know for a fact, that the AFE
16 of about 900 per foot -- dollars per foot does not
17 constitute a reasonable or reliable confident
18 estimate."

19 And, of course, Mr. Villarreal is
20 saying the same thing here, "Marathon AFE at 882 per
21 foot are unreliable, especially given its prior
22 estimate of 1,168 to 1,334 per foot just nine months
23 earlier."

24 "Conoco's recent AFEs nearby average
25 1,203 per foot." Well, that's not redundant. That's

1 new information. "Further undermining Marathon's
2 claims independent AFES from Matador and Devon
3 confirmed Tumbler estimates are in line with industry
4 practice."

5 While I do see that there is some
6 overlap, I don't think there's enough overlap to
7 exclude it. So I'm not going to exclude paragraph 5G.

8 Let's move on to 7, please. What is
9 the objection, first, for 7, please?

10 MS. HARDY: Paragraph 7 goes on for
11 several pages --

12 THE HEARING EXAMINER: Right.

13 MS. HARDY: -- includes unverified,
14 unsubstantiated rotations that are attributed to
15 Marathon. As I've discussed, many of them are
16 incorrect and incomplete.

17 It lists criticisms of ConocoPhillips'
18 consultant "sold the company the standard consulting
19 playbook." That's a statement on page 9. It is far
20 beyond Mr. Villarreal's expertise. It's irrelevant.
21 It's unfairly prejudicial.

22 It's unreliable because the quotations
23 don't have sources, and many of them are inaccurate.
24 Some of this is him opining on the exhibits that
25 you've excluded, actually, D-5 --

1 THE HEARING EXAMINER: I have an idea.

2 MS. HARDY: Yeah, okay.

3 THE HEARING EXAMINER: Since we are at
4 five o'clock, why don't we do this.

5 Ms. Shaheen, I would give you an
6 opportunity to respond, but there are issues with
7 paragraph 7. But I think you can work with your
8 witness and come up with a new paragraph 7 to avoid
9 problems that I think Ms. Hardy correctly brings out
10 here.

11 So why don't you redo that, and then
12 you can file a new Exhibit D in the morning. Just D.
13 just email it to Ms. Hardy, email it to myself. You
14 don't have to file it in the system yet. Let's just
15 get it on paper so that we can see how you changed
16 paragraph 7. And maybe there won't be an objection to
17 paragraph 7.

18 I've already ruled that 5G comes in.
19 So really, the only problem that I understand, unless
20 I'm wrong, Ms. Hardy, is paragraph 7?

21 MS. HARDY: Correct.

22 THE HEARING EXAMINER: Fine. And
23 you've listed the objections.

24 Ms. Shaheen, you've heard them; right?

25 MS. SHAHEEN: Yes. And I would just

1 say that to me, and I want to talk to my client about
2 this --

3 THE HEARING EXAMINER: Yes.

4 MS. SHAHEEN: -- but it seems to me
5 that if the exhibit has been excluded, that should
6 come out of paragraph 7 if --

7 THE HEARING EXAMINER: "Excluded," the
8 word was "excluded." You understand; right?

9 MS. SHAHEEN: "Excluded," yes. If the
10 exhibit was not excluded, then it should stay in
11 paragraph 7.

12 THE HEARING EXAMINER: As long as it
13 shows me it's reliable. As long as it's not just
14 words --

15 MS. SHAHEEN: Okay.

16 THE HEARING EXAMINER: -- that I don't
17 understand that they're reliable. I need to
18 understand that they're reliable.

19 MS. SHAHEEN: Okay.

20 THE HEARING EXAMINER: That's -- I
21 think that's the crux of Ms. Hardy's objection is,
22 hey, this information is lovely, but it's not
23 reliable. She didn't say it that way. All right.

24 So anyway, I think that's enough for
25 one day. It's now 5:06 p.m., and everyone's hungry

1 for dinner and wants to go to bed, I'm sure.

2 So let's leave it here. We are still
3 with Mr. Villarreal in the morning. I have a list of
4 exhibits that were admitted, that weren't admitted,
5 but right now we're dealing with D. We've dealt with
6 a bunch of the subparts of D. D-15 is still not --
7 not in.

8 MS. SHAHEEN: Right.

9 THE HEARING EXAMINER: Right. We
10 haven't really dealt with D-15 yet. We haven't gone
11 through the foundation and all that. But we're really
12 dealing with D at the moment.

13 So when we come back tomorrow morning,
14 do the parties want to start at eight? And I don't
15 know how you feel, but I think if we start with eight,
16 we will definitely get you back home to Texas before
17 the day ends. If we start at nine, I don't know
18 what's going to happen.

19 So do you want to start at eight?

20 THE REPORTER: Good.

21 MS. HARDY: Yes.

22 THE HEARING EXAMINER: We'll start at
23 eight.

24 Now, I know Mr. Court Reporter, that's
25 extra work for you to get up here, but are you okay --

1 and you can leave your stuff here. We will lock the
2 doors.

3 THE REPORTER: I appreciate it.

4 THE HEARING EXAMINER: So if that helps
5 you with the setup, we will make that easier for you.
6 All right.

7 MR. SAYER: Mr. Hearing Examiner?

8 THE HEARING EXAMINER: Yes?

9 MR. SAYER: Just to say one comment,
10 and I appreciate that this is -- if what it's worth is
11 probably very little. My client EOG Resources just
12 wanted to communicate that it has no preference. It
13 has a neutral position in terms of operatorship.
14 Obviously there's a lot of references in some of the
15 rebuttal exhibits to EOG. So I just wanted to get
16 that on the record.

17 THE HEARING EXAMINER: I wasn't sure
18 how EOG was associated with ConocoPhillips, COP. Are
19 you a subsidiary of ConocoPhillips?

20 MR. SAYER: No.

21 MR. MCCLURE: No.

22 THE HEARING EXAMINER: Where -- okay.

23 All right, I'll leave it at that. You're not a
24 witness today, so I'll just leave it at that. But
25 great. Thank you for your position. I appreciate it.

1 Mr. McClure, is there anything you want
2 the parties to think of before --

3 Ms. Shaheen --

4 Mr. McClure, are there anything you
5 want the parties to think about that will be helpful
6 to you in the morning?

7 MR. MCCLURE: Nothing's coming to mind.
8 Mr. Hearing Examiner.

9 THE HEARING EXAMINER: Okay.

10 Ms. Shaheen?

11 MS. SHAHEEN: I just want to clarify.
12 My understanding is the only thing remaining with
13 Exhibit D is paragraph 7?

14 THE HEARING EXAMINER: That's correct.

15 MS. SHAHEEN: Okay, great.

16 THE HEARING EXAMINER: It's quite a
17 lengthy paragraph, but yes.

18 MS. SHAHEEN: It is.

19 THE HEARING EXAMINER: Yes. And then,
20 of course, we haven't even started with the direct
21 testimony of your witness.

22 MS. SHAHEEN: Right. But once we have
23 it --

24 THE HEARING EXAMINER: Yes.

25 MS. SHAHEEN: -- clear what's

1 admissible and what's not, then we can -- we should be
2 able to run right through that, more or less.

3 THE HEARING EXAMINER: In a perfect
4 world, yes.

5 Okay. Thank you everyone. It is 5:08.
6 We are off the record.

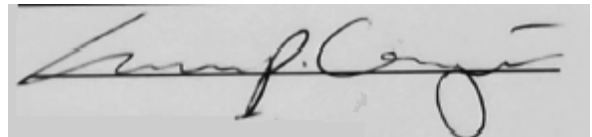
7 (Whereupon, at 5:08 p.m., the
8 proceeding was concluded.)

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CERTIFICATE

I, GERALD ARAGON, 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.



October 1, 2025

GERALD ARAGON
Notary Public in and for the
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, REBECCA S. CAMERON, 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.
October 1, 2025



REBECCA S. CAMERON

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