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6 **OCD Hearing Oral Arguments for Case No. 25878-** 7 **20260203_124825-Meeting Recording**

8 February 3, 2026, 7:48PM

9 4m 4s

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11 ● **Pecos Hall** started transcription

12

13 ● **PH** **Pecos Hall** 2:34

14 Yes, Freddy.

15 Good morning, my good afternoon.

16 This is in motion period.

17 Based on.

18 Well, several motions, although I'm excited.

19 So just a little bit to see what was going to be happening. I'll be having application.

20 Let me see the price on.

21 3.

22 Mike.

23 Thank you.

24 President Buchanan, just a moment ago, maybe that's a problem.

25 Down South, that doesn't sound right.

26 Swap it with what they're all already in case it's not.

27 So.

28 Can you turn off the recording when we start the recording please?

29 I think it just.

30

31 ● **Pecos Hall** stopped transcription

32 **Pecos Hall** started transcription

33 **Pecos Hall** 0:03

34 That was amended, but it doesn't matter right now.

35 Right now, we're here to deal with the subpoena that I signed.

36 Giving you certain discovery rights.

37 There was an objection. A motion to quash that subpoena filed by Miss Hardy.

38 And after reviewing the motion and the response, I issued a order granting the

39 motion in part and denying it in part.

40 Now in my order granting in part I specifically limited item number six, which you can

41 talk about in a minute, Mr. Debrine, to only communications.

42 With Chevron.

43 Then there was a motion to compel, and in the motion to compel.

44 It asks me to basically broaden the.

45 Item number six, discovery.

46 To other parties that PBX is dealing with as pool parties in their compulsory pooling

47 cases.

48 In the meantime.

49 PB EX filed a motion to dismiss.

50 Based on standing.

51 Now I have reviewed all of the motions and responses to this point and I asked for

52 an oral argument.

53 Not not to rehash, although I'll give you a chance to give me an opening statement

54 so you can put it in your own words.

55 Both of you.

56 But I I have some questions that I want to ask the parties before I make a decision

57 only on the motion to compel.

58 This is not, I'm not.

59 Deciding the motion on standing today, it is literally just for the motion it compel.

60 So, Mr. Debrine, this is your motion to compel.

61 Give me a brief opening argument and and tell me why you think I should grant the

62 motion.

63 Thank you, Mr. hearing officer.

64 I didn't.

65 I forgot to turn it on.

66 On the AI challenge, so please join OK to rehash we we filed the motion to compel

67 with regard to item number six because it would be meaningless. The the division

68 ordered the production of items responsive to number six.

69 It only requested communications that PB EX and EGL had with other working

70 interest owners.

71 And it was the only one of the items that were ordered that did not relate to
72 communications with Chevron.

73 And so it would be meaningless for the division to just order production of items
74 that were with Chevron when the request only sought information concerning
75 communications with third parties.

76 So we didn't think it made any sense.

77 We raised that issue with them.

78 They said no, we're interpreting it correctly.

79 We brought the matter before the division to make a ruling and we submit that the
80 communications with all the other working stations.

81 Are intertwined with the question of Chevron standing to bring.

82 Its applications, which challenges the efficacy and the compliance of the statement of
83 well cost that it received from PB EX Resources Inc.

84 On behalf of the PB related and the PBX LLC but was not submitted on behalf of the
85 actual operator designated by the division which was EGL Resources Inc.

86 The reason why?

87 Well, backing up a little bit.

88 It didn't want to provide any information.

89 They immediately filed a motion to stay, but it's notable for what their motion to stay
90 did not contend. It didn't contend that the documents sought by Chevron's
91 subpoena were irrelevant.

92 The issues raised in its application, it didn't contend that any of the documents that
93 Chevron sought were privileged.

94 It didn't contend the documents Chevron sought were confidential or.

95 Settlement communications.

96 It didn't present any evidentiary support to meet the requirements of Division rule
97 19.15 point 4.23 for granting a stay of division order, which is that have to show
98 gross negative consequences to an affected party. It also did not raise any
99 recognized object.

100 To discoverability, under the New Mexico Rules of Procedure, other than
101 Burdensomeness saying that, Oh no, we're going to file a motion to stay, we're going
102 to win.

103 Trust us and it's going to be burdensome for us to produce anything in this case
104 because we're going to win and it's inappropriate to get the cart before the horse
105 and decide they're going to win in unfiled motion and deny discovery.

106 But the hearing order.
107 The hearing officer made a split decision in order that they had to produce items
108 responsive TO1235 and six, but deferred ruling on the rest.
109 Now when Chevron?
110 When PBX and EGL responded to the subpoena that by only producing documents
111 Ron only had in his possession, obviously information we didn't need, we already had
112 that we're requesting it to make sure that our our documents were complete
113 because there's a question raised as to whether a J.
114 Was provided to Chevron or not and we wanted to nail down that question by
115 getting all of their documents, but with regard to the five categories, number six was
116 the only one that was at issue.
117 In this motion and it's interesting with regard to what EGL and PBX.
118 Said in response to that response.
119 They said that in accordance with the divisions order granting in part motion to stay,
120 which limited the request information specific to Chevron, please refer to the
121 responses to request numbers one through 4.
122 Now, with regard to their responses to four 7-8, they didn't raise any objections.
123 They just said refer to our other stuff. They didn't raise any of these new objections
124 they raised in their response to the most to compel.
125 They just said refer to the other documents. Now if you look at their responses to
126 request numbers 478 and nine, they sought to preserve an opportunity to raise
127 objections to their production at some future date.
128 And they said in response to each, in accordance with the division's order granting in
129 part motion to stay, subpoena Dukas take on PBX and EGL are not required to
130 produce documents at this time.
131 PBX EGL have not objected to or moved to quash this request.
132 Us but reserve the right to do so if it's reinstated in the future.
133 So now they're raising new objections that should have been raised in response to
134 the subpoena. We believe that the objections they're raising in response to the most
135 to compel have been waived.
136 Wanna go back to something you said?
137 About rule nineteen 15423 'cause I'm very familiar with most of that rule but I have
138 not read 23 carefully before and it seems to me that standard that you brought up
139 stays of division or Commission orders. A party requesting a stay of a BL.
140 Blah blah file a motion serve copies.

141 Again, the standard of.

142 Gross negative consequences to the affected party that seems to me to be in

143 response to a final order of the division and not an interlocutory order such as this.

144 So I just wanted to double check that because I I wasn't familiar with that. But that

145 being said, I want to ask you a question and and I'm going to ask questions as the

146 parties go along as well.

147 Because I've been thinking about this case a lot since these motions.

148 And responses came in last week.

149 And This is why I didn't draft an order immediately.

150 There are two sections of the standard orders issued by the division, paragraphs 24

151 and 25, that are really at issue in this case.

152 Now, Mr. debrine.

153 Why is standing?

154 Why can't you establish standing based on paragraph 24?

155 Oh, we think we can.

156 But the issue is whether Chevron has suffered some injury. In fact, with regard to

157 conduct of PPEX and EGL.

158 That answers my question.

159 I get the point. OK, fine. And that's why it's intertwined with the merits and I

160 understand that argument, and I've already researched that argument, but I wanted

161 to know if you thought, let's say, that argument doesn't prevail.

162 For some reason.

163 I wanted to know what you thought about paragraph 24 standing because then I

164 would think if you had standing under 24, you could proceed with your application,

165 at least to a motion to dismiss stage.

166 But you're saying, what are you saying to that argument or that suggestion? I don't

167 have paragraph 24 in front of me.

168 Would you take a look at it in the order it talks about the expenses, the estimated

169 expenses?

170 Cost itemization. If I'm not mistaken, is the term I thought I brought that with me.

171 I don't have it.

172 Could you recite what it states?

173 It will take me some time to look that up because I don't have that in front of me.

174 I have. Yeah. And I apologize that I I wasn't expecting us to talk too much about it.

175 Sorry, you happen to have the language of paragraph 24 in front of you and you

176 have turn your microphone.

177 Thank you.

178 I do have it, yes.

179 Paragraph 24 of the order the standard order paragraph.

180 Let me see.

181 Shows looking at paragraph 25, but I do have paragraph 24.

182 Paragraph 24.

183 States.

184 Operator shall submit each owner of an uncommitted working interest in the pool. A

185 pooled working interest, an itemized schedule of cost of estimated cost to drill,

186 complete and equip the well. The estimated well cost is at the end of the paragraph.

187 Yes, I thought it was so, Mr. Debrine.

188 In in essence, you were complaining or you're saying hey, we didn't.

189 Remit cost.

190 Because we didn't get what we should have in paragraph 24.

191 Is that correct?

192 Your microphone.

193 You have to remember to turn your microphone on.

194 Yes, that's correct, Mr. Herring, officer.

195 So if if it's your contention that the violation began with non compliance of

196 paragraph 24 and the division retains jurisdiction of the orders and the cases.

197 Why doesn't that give you standing right off the bat?

198 Well, we, we've not yet filed our response to the motion to dismiss, but we do

199 contend we have standing under paragraph 24 because we're a pooled working

200 district owner under the terms of the order, there's an obligation under the order to

201 submit an itemized statement of EST.

202 Well, cost or obviously a party who was entitled to receive that. We did receive that.

203 We're challenging the efficacy of the statement that we received in this application.

204 Now the counter argument and and MIS Hardy.

205 I know you haven't given your opening statement and I know you and give you an

206 opportunity to do it, but I'm just gonna have this dialogue because this is helpful to

207 me to make a real decision.

208 The counter argument to that Mister Debrine is, hey, Chevron is an extremely

209 sophisticated player in the oil and gas world.

210 It didn't need.

211 Some or all.

212 I don't know what you got.

213 I really it was never alleged.

214 You'd haven't told me what you did receive.

215 That would go to paragraph 24, but whatever you received, pbex's counter argument

216 is you had enough. You're sophisticated.

217 You should have just remitted some costs.

218 Instead, you blew the deadline.

219 What's your counter argument to that?

220 Your microphone, Sir.

221 Our our response to that is is simple.

222 The obligations of an operator and to comply with the divisions orders and rules did

223 not depend on the sophistication of the parties.

224 The rules apply equally all whether you're an operator, whether you're a non

225 operator with a .0001% working interest and and you shouldn't have to sift through

226 documents.

227 Figure it out yourself.

228 Determine what they think your working interest is.

229 In the wells or the spacing units and in this case, the letter that was sent to Chevron

230 did not include any statement whatsoever with regard to what our working interests

231 was.

232 So how are we supposed to submit a check for our share?

233 Well costs when we were never informed by the operator of what our pro rata share

234 of those costs were in the letter.

235 You you haven't submitted that letter as an exhibit, have you?

236 No, but I do have some slides for today's presentation that includes it. OK, if I may

237 approach. OK.

238 And what are you handing?

239 What are you handing?

240 These are just slides that snip excerpts from the some of the orders and also include

241 the August 7th statement of well costs. It was submitted to Chevron all right, and it's

242 at the very back.

243 OK, so miss, Miss Hardy, I just want for procedure. I just want you to know I've never

244 seen this before.

245 It's never been submitted.

246 It doesn't accompany an affidavit.
247 Or anything of that.
248 I'm not using it as evidence at this point.
249 OK.
250 This is just to inform our conversation here. I think I see the August 7th letter. Is that
251 what you want me to look at? Yes, that's awesome.
252 OK. And this is the letter that Chevron received from Pbex.
253 In response to paragraph 24, their duty under paragraph 24. Correct. OK.
254 All right, I have it here.
255 I'm not gonna spend a lot of time looking at it, but I did.
256 I was curious.
257 Is to see what you received. So this is interesting.
258 Thank you.
259 I'm now looking at.
260 I think this is the last page statement of estimated well cost.
261 OK.
262 All right, so, Miss Hardy, you now have this.
263 Let's put this aside for a minute. Your opening statement and and if I could just
264 clarify, yes, and I wasn't done with with my argument.
265 Oh, I thought you were.
266 No. Now this is supposed to be a brief opening statement, OK?
267 So if you could wrap it up, go ahead and finish up what I'd like to clarify that the on
268 the slide, it's just a letter itself.
269 It enclosed the afe's for the for the wells.
270 So there there was a F ES for each of the wells that are listed in the order.
271 You lost me now.
272 So are you saying I'm sorry, what are you saying?
273 The slide presentation, yes, that I just handed out the letter that's in that.
274 It's just the letter itself.
275 If you look at the letter, this is enclosing a FES for each of the wells.
276 Those are very voluminous they were.
277 They're not.
278 I understand that.
279 So there was an attachment to this. This letter of AFES and AFE stands for authority
280 for expenditure.

281 OK. And and in the oil and gas world, what do AFS do?

282 They itemize the costs of drilling, completing and equipping the well, giving various.

283 Categories of costs associated with those tasks and the statement of well

284 costs is supposed to include those 3 categories of costs that.

285 And the in response, there's an election to participate or not in the cost of

286 drilling wells.

287 So in simple terms, just before I leave, you would go to Ms. Hardy in simple terms,

288 how did PBX in your in your?

289 In your words, how did they violate paragraph 24?

290 Well, if you turn to the beginning of the slide deck, OK.

291 What we have is in the compulsory pulling application checklists which are attached

292 to the order the division is appointing an operator for the two spacing units were

293 created OK, the division designated operator is EGL Resources Inc is reflected in slide

294 2:00 and 3:00.

295 OK. The orders that were entered by the division include findings of fact.

296 Which also appoint EGL resources.

297 As the operator of each of the units, even though one application was filed by EGL,

298 the other application was filed by Pbex LLC two different entities.

299 The operator is designated as the operator of the unit, and the unit is also dedicated

300 to the wells that are set forth in exhibit A, which are on the application checklist.

301 And so then we see in the next slides.

302 Each of the wells that were listed in the application.

303 Checklist. Mm-hmm. There's six wells for each of the units.

304 There's a north unit and a South unit that's at issue in each of the two cases, and

305 they're all called bond, and they're all called bond.

306 Some are in 3233 and some are in 3234.

307 I mean, excuse me, 3334 and 3234, OK, I understand.

308 The checklist also included is required a statement as to whether there were any

309 proximity wells to bring in the adjacent.

310 Acreage under the divisions rules and each of the checklist said yes and identified

311 the proximity wells as the bond 1058 and the bond 2098.

312 Under order 23684, which is the ETL application and for the over 23685 identified the

313 bond 3234102 H and 203 H.

314 Wells has the defining wells and the proximity wells to bring in and make these big

315 non standard spacing units would otherwise be non standard but for the proximity.

316 Rule. So then if you turn to the next slide.
317 This lists the problems with the statement that was sent to Chevron. OK, it was sent
318 by a stranger to the applications and the orders, and then he called PDX Resources
319 Inc.
320 Sent on behalf of PBX.
321 LLC.
322 I think that's a that page are you on?
323 They're not numbered, but it's the one that follows immediately after the proximity
324 well.
325 Order number 2685.
326 It's it, says August 7th at the top.
327 Oh, I see.
328 Hold on. Let me get past the proximity defining lows, OK?
329 I see it now, OK.
330 So what am I looking at?
331 And so that's a that's a that's a typo in the letter. It says that it was submitted.
332 It's a single #1.
333 It's a single statement. We have two different orders, two separate cases, one filed by
334 EGL, the other one filed by PBX LLC. Then we receive a estimated statement of, well,
335 'cause by a completely different entity.
336 It says it's submitted by PBX Resources Inc.
337 On behalf of PBX LLC.
338 It's not submitted on behalf of the operator that was designated by the Division for
339 both of the Spacing units, which is EGL Resources Inc.
340 It's submitted by a completely different party.
341 That was a stranger to the applications and the order. And then when you look at the
342 wells that are listed, it's for a eleven well package.
343 The orders had six wells under each of the orders.
344 It's a 12 well package if you.
345 Them together, and it's lumping them all together.
346 And this lists the wells in the order.
347 We've got 11 wells.
348 They dropped four wells, which happened to be the proximity wells that are used to
349 support the addition of the additional acreage.
350 So what's going on there?

351 We don't know, they added three new wells as well that were not authorized by the
352 division that.

353 Were were expected to make an election on and so it's it's a very confusing situation.
354 Situation, but one the the biggest problem is it did not communicate to Chevron
355 what its working interest was in either the space unit or its share of well costs for any
356 of the wells that were listed in the August 7 letter, which is a completely different well
357 package.

358 That was authorized by the division under the terms of its order, and normally these.
359 Letters that go out under paragraph 24 tell.

360 For example, a pool party like Chevron, what your percentage ownership is in the
361 pool?

362 Absolutely. And we're going to establish that that's industry custom and practice and
363 provide examples to the vision when we file response to the motion to dismiss.
364 I understand.

365 Are you done now with your opening statement?

366 I just want to say one thing that these new objections that were raised with regard to
367 this is a fishing expedition.

368 Seeking irrelevant information and seeking written communications that are
369 privileged.

370 Negotiation settlement negotiations was not supported at all by any evidence in in
371 the response to the most compelled we submit the New Mexico law requires
372 somebody who's raising an objection of those natures if they raising an issue of
373 privilege, they need to provide a privilege log so that.

374 We can evaluate the claim of privilege or produce those materials in camera.
375 To the hearing examiner.

376 So you could do it and determine whether is any legitimate claim of privilege at issue
377 rather than just make a blanket unsupported statement that there's a privilege with
378 regard to the information that's being withheld.

379 But the in this case there's a number of issues that relate to standing and item
380 number six in the subpoena, and that's one did the same letter get sent to all the
381 working interest owners?

382 Where all the working interest owners informed of their pro rata share of the
383 estimated cost for drawing, complete and equipping the wells or their percentage
384 working interest in the wells or spacing units.

385 Were the did the letters inform them of the date to pay their pro rata share of costs?

386 The letter that was sent to us did not reference a date that we had to pay by.
387 It enclosed the orders and if you had, if you look through the orders, you might infer
388 that there was a date to do it.
389 But it was not in the letter itself.
390 It's it's a. It's a deceptive letter.
391 We think by intent was what was going on.
392 In this case, the other issue is did were any extensions of time given to the other
393 owners to elect to participate or pay their costs due to the deficiencies in the
394 statement of the well costs or for other reasons?
395 Chevron was informed after receiving the letter that the information that PBEAX and
396 EGL presented to the division.
397 In these exhibits was incorrect.
398 The Chevron's working interest was stated incorrectly and that means that not only
399 Chevron's interest was wrong, but everybody's interest was wrong.
400 So how are we?
401 How are all the pooled working district owners supposed to make an election to pay
402 their share of the well costs when they're reshuffling the deck after the orders were
403 entered as to what their share of those costs were?
404 We've got all kinds of problems associated with how.
405 PBX and EGL handled the statement of well, cost.
406 And and we believe that we should have a hearing to resolve all these questions.
407 We believe that the new objections were not sufficiently supported by affidavits or
408 other evidence, they #1 they're not sufficient grounds for refusing to produce
409 information, even if they were settlement negotiations.
410 And there are no evidence they're not.
411 That is a specific requirement in the terms of the order.
412 To submit those statements, the operator under a compulsory pooling order.
413 Has a duty of good faith and fair dealing to deal with the working interest owners.
414 The measure of good one measure of good faith is how did it treat everybody else?
415 Did it just treat Chevron one way and treat everybody else differently?
416 That would support evidence that they did not engage in good faith. The only way to
417 find that out is to see what they did with other parties.
418 The other thing once Chevron.
419 Once they determine Chevron's interest was incorrect.
420 Then or and or they determined.

421 And that it was non consent.

422 They never the land man. The Chevron was dealing with never said we're going to
423 treat you as non consent.

424 That came with regard to a different group that Chevron and EGL or PBX were
425 discussing the purchase of Chevron's properties that included these properties, but
426 once they determined Sheriffone was non consent, that means everybody else is
427 going to pick up, have to pick up Chevron's cost.

428 Did they communicate?

429 That to the other working interest owners because.

430 Because one of in one of the units, Chevron, wants the new numbers came out.

431 It went to a 55% working interest in the unit, more than half of ownership.

432 And so there's a lot of questions that are need to be answered.

433 The discovery is needed to assess that are interrelated with Chevron standing in this
434 case and we believe that should be ordered to produce so that Chevron can evaluate
435 them and include them so the division can make.

436 An intelligent decision with regard to standing with all the information needed to
437 assess it. There's no harm.

438 It's no burden to produce that stuff.

439 The question is why is Pbex and EGL trying to hide it from the division in SharePoint?

440 Thank you. Mr. Devryne, will you turn your microphone off so we don't get feedback
441 when M's Hardy your opening statement? Yes. Thank you.

442 The situation here is that Chevron unconditionally and that's important
443 unconditionally.

444 Elected to participate in the bond wells in response to the election letter under the
445 polling orders and then failed to pay its share of the estimated well cost as required
446 by the orders. Chevron did not raise any of these issues when it received the ball
447 proposal, it rece.

448 The well proposal it went back and forth with PBX's Land Man on its working interest.

449 It even asked.

450 I want to make sure we have the information we need to make.

451 A timely election.

452 They were provided with their working interest and they made the election so they
453 have waived any of these issues. All of these issues that Mister de Brian is raising
454 because they unconditionally elected to participate in the wells in response to the
455 letter.

456 M's Hardy it would be helpful to me if you would give me a little bit of a timeline
457 because you've mentioned some actions that Chevron took and PBX took. Can you?
458 The only date I have is August 7 so far.
459 Can you tell me what you were talking about?
460 Sure after.
461 This post order well proposal was sent on August.
462 This was the post order. Well proposal, right?
463 It went out under the order on August 7th and the parties had extensive discussions
464 and back and forth about Chevron's working interest.
465 When did they make the election? You mentioned that they made an election.
466 They made their election within 30 days of receiving the well proposal letter.
467 I didn't hear back.
468 Did timely they what?
469 Elected timely. But then once you elect, you have 30 days to pay your well costs.
470 OK.
471 That is what they didn't do.
472 So they so they told you they wanted to be consenting.
473 Yes, but they didn't give you the money to be consenting.
474 Yes, OK.
475 And in the meantime, the PBX and Chevron were going back and forth with
476 communications to resolve what to resolve Chevron's questions about its working
477 interest. OK.
478 Chevron never raised an issue about the operator that had sent proposal or issue the
479 order.
480 They never said they didn't know what the itemized costs were.
481 They never said they didn't know they needed to pay well cost, and certainly Chevron
482 knows that they've been in plenty of polling cases before the division.
483 So they had the information they needed to elect.
484 They missed their deadline to pay, and here they are asking the division to step in
485 and grant them a second bite at the apple.
486 Because they missed their deadline and your argument is that section 20 or excuse
487 me, paragraph 25 of the order is self executing. Once you miss the deadline, you are
488 by your own voluntarily non consenting.
489 Yes, because they did receive an itemized share, itemized list of the well cost. That is
490 what the AFE are the itemized well cost.

491 What about now that you've seen and I understand that the AFE is what they are?
492 So thank you for wait. And you've both told me that.
493 But what do you what do you say in response to these issues starting on page?
494 There's no page numbers on this this letter, starting with the issues that Mister de
495 Bruin raised with the August seven statement of, you know, the fact that the letter.
496 Came from a different source. It came from PBX Resources Inc.
497 On behalf of PBX Inc.
498 Not EGL.
499 What do you make of these different issues?
500 Sure. So at the division, typically a working interest owner.
501 Files the pooling application and can ask to have an operator designated.
502 So I think that that is likely why, although I don't know for sure why one was filed by
503 PBX and one was filed by EGL, but the companies are affiliated, they're affiliates, and
504 Chevron's well aware of that because it negotiates with PBX and it did. So ext.
505 In this case, they never said. Oh well, your order says.
506 PBXY or EGLY, is this proposal coming from PBX?
507 They never said that because they knew that the companies are affiliates.
508 What about the the wells listed in the August 7 letter?
509 They're different than the wells listed in the orders themselves. So the well numbers
510 were changed to match federal Apd's that doesn't.
511 That happens all the time.
512 I would know that.
513 Yeah it does.
514 It's not.
515 It doesn't substantively affect the pooling order or the wells that are drilled under it.
516 Well, names can be changed with sundry notices.
517 But but if you have, if you have 123, if you have 12 wells listed in the orders and you
518 get, I suspect Afes for 1234567891011 wells, does that not pose an issue?
519 Well, if they didn't propose.
520 So based on and, I haven't looked at the documents underlying this right now, right?
521 Do you want a few minutes?
522 Would you like a few minutes to look at it?
523 With your client.
524 Do you want 5 minutes?
525 You want to take a 5 minute break.

526 Sure. Is that OK?

527 Yeah, that'd be great.

528 We're gonna take a 5 minute break.

529 Thank you and go off the record, of course.

530 OK.

531 We're back on the record, Miss Hardy.

532 You were giving me your opening statement? Yes, thank you. And I do have some
533 some responses to your questions.

534 So it is true. As I mentioned the well numbers changed, but the wells are the same
535 proximity wells are being drilled. It's just that the numbers changed which is non
536 substantive. And as I mentioned happens frequently.

537 With regarding with regard to the number of Wells PBX proposed, 11 of the 12 wells.
538 That are included in the order, so they haven't proposed the 12th well yet. It's being
539 drilled, but they haven't proposed it yet. So that one can still be proposed.
540 And Chevron can participate in that one well, but there's not a problem with
541 proposing fewer wells than were in the order. So that's not an issue.

542 Mr. Debrine and his exhibit here states that the.

543 Well, a proposal letter was submitted by Pbex Resources.
544 Inc.

545 On behalf of PBX Inc.

546 But that's not true. When you look at the actual letter, which is his next page. And
547 then I pointed out that it's PBX, OK.

548 It's PBX operations.

549 I see it now.

550 OK, OK.

551 And that is the party included in the applications.

552 So none of those things are an issue, but in any event.

553 Chevron didn't raise any of those items when it elected to participate.

554 So it's waived any of those issues.

555 So back to my really my statement I think.

556 You know, Chevron's asking for a second bite at the apple.

557 There's nothing deficient about feedbacks as well proposal.

558 They provided an itemized statement of the cost of drilling.

559 There was back and forth on the percentage of Chevron's working interest, and we
560 did provide that with our exhibits to our motion to compel.

561 I mean, I'm sorry. What's our motion to dismiss?

562 So our motion to dismiss includes exhibits the e-mail and the correspondence

563 between.

564 PBAC's and Chevron.

565 And I haven't seen them, nor have I looked at them, haven't received the response

566 yet.

567 Yeah, because we hadn't decided this discovery issue yet.

568 That's right.

569 They are there and so they will show you that there was back and forth and PBX

570 provided Chevron with its working interest percentage.

571 It had all the information it needed to elect an elected, and it just missed the

572 deadline to pay and now is trying to raise issues with the well proposal letter to

573 which it elected.

574 So you're saying that Chevron elected timely?

575 They just didn't pay. Right and.

576 Is there anything in the communications back and forth? What date was the election

577 made?

578 Let me see I have.

579 No.

580 And if you don't, then Miss Hardy will find out.

581 I would have to look it up, but I think it's 30 days after the 7th, so whatever that turns

582 out to be.

583 It is August 27th, OK and and when and you have to help me because I am not

584 involved in these things at all.

585 I don't know what's involved.

586 When Chevron elected to participate and to remain a consenting party, that's that's

587 what that does, right? Right.

588 What else do they have to do at that time?

589 Is it just we're electing to that's all they have to say?

590 They they sign.

591 They sign.

592 They sign their election law.

593 Is it like a contract? Yes.

594 It is like a country.

595 And what's the next thing that they have to do after that?

596 Then they have 30 days to pay their share of the estimated well cost.

597 Did they know at the time when they elected what their share was?

598 Yes, because they had the estimated well cost total and they had their working

599 interest percentage.

600 So you would do the simple math, right? Of course.

601 So you're saying you're saying at the time they elected, they knew what their

602 percentage was?

603 Yes, yes, they did. They did.

604 Hold on one second, Mr. Debrin, do you agree with that?

605 No, Mr. Heron, officer.

606 And this goes to if we're going to get into the evidence that we ought to have an

607 evidentiary hearing with regard to these matters, I'm just asking you a simple

608 question.

609 Do you agree with that?

610 Chevron's working interest was in a state of flux.

611 They got different information.

612 It was told specifically, and that's in the slide deck that the information that they used

613 to pull.

614 That what they represented to the division was incorrect.

615 They never informed the division that the numbers that were used to premise the

616 orders was wrong.

617 They never reopened their cases to correct it.

618 They never submitted new, corrected exhibits to reflect that information.

619 We we don't know what they told the other, working their stoners. If they corrected

620 their percentages, we don't know if they elected on the the basis of the exhibits in

621 the polling orders.

622 Or if they were given new information, who knows what elections were made and

623 what percentages were used.

624 All we know is that they told us ours was wrong.

625 They told us it was wrong in One Direction, in the e-mail, and then they gave us new

626 information. It was wrong in the other direction. And so we we, but we were faced

627 with a deadline, then we knew.

628 They said 30 days.

629 That's all, the letter said.

630 It didn't say you have to pay cost by any days, so we figured what we better make

631 sure.

632 We don't prejudice ourselves.

633 We better elect.

634 And then then there was continued communications even after the date that Pbex

635 and Eglint that Chevron was non consent. They're still talking about, OK.

636 When are you going to spot these wells?

637 And then they're giving updated information.

638 They don't say, well, you're not consent.

639 What do you care about when we're going to spud these?

640 Well, because the idea is as we get closer to the spud date, they're going to make a

641 cash call and want to get paid before they start drilling.

642 Says that's typical in the industry, but that never happens.

643 Let me see. Mr. Debran, I get the point.

644 Thank you.

645 I don't want to get too far into the evidence.

646 I really just want this to be about standing, but sorry about compelling discovery.

647 And anyway, so Miss Hardy on this final page of the slide, there's an e-mail from

648 Ruth at PBX com on August 14.

649 So this would have been before the election, right? Right. OK.

650 So before the election.

651 To several people at Chevron, where.

652 Looks like.

653 She is saying N2 and I don't know what N2 means. N 2 looks a little different.

654 That what we initially pooled numbers below or lower. I suspect the updated title

655 came in after we went to pooling accounts for the smaller number.

656 Do you see that I do? OK and it does not include the subsequent communication.

657 OK, which is attached to our.

658 Motion to dismiss. OK and in which PBX did confirm Chevron's working address. And

659 with respect to the title, yeah, the title is in flux.

660 All of the time. I mean, it is very common that an operator does not have final title

661 information in the pooling exhibits and everyone understands that it's subject to final

662 adjustment.

663 No one comes back to the division and says I'm gonna file amended an exhibit

664 because someone's interest went up 2%.

665 Based on the title opinion, I submit that Chevron has likely never done that.

666 It's just not how it works. OK so.

667 Going back to the issue at hand, which is discovery, let me ask you a question about

668 item 6.

669 Now, originally I confined item 6 to only correspondence with Chevron, but as Mr.

670 Debrine points out, that makes it surplusage.

671 It makes it a non a non issue.

672 What? What? What objection do you have?

673 Of sharing with Chevron the communications that PBX just like this letter, this August

674 7 letter, et cetera.

675 That it sent to other pool parties. OK, well, first, I don't think that your limitation

676 renders it meaningless, OK, because there could be correspondence with other

677 working interest owners.

678 Regarding elections to participate, that would involve Chevron.

679 So I don't think it renders it meaningless.

680 OK.

681 There isn't any such communication OK, which is why we just produced the

682 communication with Chevron. But the objections and we didn't.

683 We didn't move to quash or objected this request because of the limitation.

684 So that's why we didn't.

685 Otherwise we would.

686 And the issue is that and I think at the beginning you said Chevron's claiming they

687 weren't treated.

688 Fairly, that's not really true. Chevron is claiming they didn't receive an itemized

689 statement of well cost under the order.

690 That's what they've alleged that relates to Chevron.

691 It doesn't relate to anyone else in the communications with anyone else, so it's not

692 relevant to their standing.

693 It's not even relevant to their claims. It has no bearing on.

694 Their.

695 Failure to timely pay their well cost.

696 And it also relates it's not limited with respect to time or scope. So it seems to go

697 back to from the beginning of when this unit was proposed before the order, when

698 Chevron's only raising issues about post orders. Good point.

699 Doesn't differentiate between parties who are pooled and parties who aren't.

700 It would include confidential settlement communications back and forth on, well,

701 we're willing to carry your interest or we'll lease your interest. At this rate, it's going
702 to be extensive communications like that that have absolutely no bearing on
703 Chevron.

704 Here's the here's the issue that I am finding.
705 And why I'd like to find a compromise here.
706 And I'll tell you why.
707 Your motion to dismiss. Now I I'm mentioning the motion.
708 I'm not getting into it. Your motion to dismiss.
709 Specifically, links the missed deadline.
710 It doesn't talk about.
711 It doesn't talk about the costs because of course you allege you sent the cost.
712 The AFES.
713 And they admit that they received the AF ES. Your motion dismissed is basically
714 saying to me they missed that deadline. It's self executing.
715 That's that's they.
716 They don't have a case.
717 They don't have a case.
718 They don't have a right to bring a case and Chevron is saying, well, we missed that
719 deadline because whether you agree with it or not, we got a bunch of misleading
720 information. That's what they're saying.
721 We got a bunch of misleading information and we were treated differently than
722 other people were OK.
723 So in my mind, your motion to dismiss.
724 Opens the door to my broadening number six. Somewhat, OK.
725 Because you're putting it in contention that they're standing relies upon their MIS
726 deadline.
727 That's in your motion.
728 So what?
729 I would like to do is craft something that permits Chevron to get some
730 communications that went to other parties that are relevant.
731 And confined in scope by time and subject matter.
732 So let me start with Mr. Debrine and then I will go back and forth until we can arrive
733 at something that seems fair and I need do you have a spare pen?
734 May I have it?
735 Yes, because I don't have one.

736 It's a sharpie, so it's a thick one.
737 I'm sorry. It's in. I I used to Brian.
738 I do have a pen.
739 I forgot that I stuck it in my pocket and I couldn't find it.
740 Mr. Debrine, if you were going to draft number six, based on what I just said, what
741 would you include?
742 We we would want to see the letter.
743 That was the face of they contend, was sent to all of the pooled working interest
744 owners concerning the estimated statement of well 'cause that the order requires to
745 be sent.
746 We want to see what communications occurred. Were there any extensions of
747 deadlines that were granted because?
748 Because we believe that and and our application accuses them of breach of their
749 duty, of good faith and fair dealing, and the measure of that is how was Chevron
750 treated Visa V? The other working interest owners?
751 So I'm writing this down so you have to allow me to write.
752 What I have here is and. Do you think that would be like the August 7 letter?
753 That would be the August 7 letter in any communications after that, with regard to
754 elections to.
755 Participate in the wells or to pay costs.
756 For their share costs, including any communication saying, Oh well, whoops, we
757 screwed up.
758 You actually have a bigger or smaller percentage. Your pro rata share of the cost is X.
759 Because Chevron's injury depends on what the its share of the cost is.
760 We're we're talking about \$110 million of costs associated with these 11 wells.
761 Chevron per Pbex and EGL has a 55% interest in one unit and a 34.7% interest in the
762 other unit.
763 The injury to Chevron is substantial because you double that number if it's a non
764 consenting party, so it's injury in this case of substantial.
765 We believe that the more information the division has when.
766 It considers these matters the better. It's a precedent setting case.
767 Because the division has never determined what an estimated statement of well costs
768 should contain and what what is sufficient to allow a party to make an election.
769 Is it a contract? If it's a contract, should it be with the operator and not some third
770 party or not?

771 There's contractual issues that underlie the problems with the letter.

772 There's a host of problems. We think the more information the better, but it's a

773 compromise. Just that correspondence with all the working interest donors

774 concerning the state, well costs and the elections and and communications about

775 their working interest that followed it.

776 So there's really three things that he just said, the statement of well cost letter. In this

777 case it was August 7.

778 I don't know what date it would be for other parties. I really don't know. That's

779 number one.

780 Then we have the election letters. I guess that are coming. What back, Mr. Debrine?

781 From the pool parties back to PBX.

782 Yes, correct the election letters.

783 OK, election letters and then any information communications that deal with

784 percentage of change, pro rata costs like that.

785 Now, what do you think of that?

786 Those 3 categories, it seems to me that it's confined in time.

787 And the scope seems reasonable to me so that Chevron can say yes, we were treated

788 differently or no, we weren't treated differently.

789 What do you think?

790 So I think that.

791 Communications regarding the share of costs.

792 I don't think that is relevant to Chevron's issues, I think.

793 That the world proposal letter and the election letters, I don't think.

794 I mean, I don't think they're relevant, but I don't think we have a serious objection to

795 that.

796 But I think that communications regarding title information, which is that's what

797 impacts the share of cost, right?

798 I don't know.

799 It's a title information, so I don't.

800 I don't see how that's that's relevant to Chevron's OK decision whether to elect. So

801 Mr. Debrine, would you make?

802 Argument why it is relevant.

803 Yes, because the share of cost is what's at issue. When you're going to elect to you're

804 you're supposed to make an election as to what?

805 Your share is if you're not informed by the operator, as to what your share is or

806 they're telling you something different that the information that they represented in
807 sworn testimony was correct. And then they say, well, no, it's wrong.
808 This is the latest information we have and it's in a state of flux.
809 You ought to be allowed more time to make a determination as to what, whether to
810 pay or not, because it's changed.
811 It's changed substantially for Chevron and the relative percentage change is going to
812 be the same for everybody.
813 So why do you need? OK, so I understand that with Chevron had changed.
814 Why does it matter whether it changed with other parties or not?
815 Because Chevron's share it's it's all one pie, right?
816 So what is are they treating?
817 Other people like Chevron did they inform them of the changes or they pulling the
818 wool over their eyes, or they they saying that's bad faith too. If you're not telling
819 people, Oh yeah, you sent in a check for X.
820 But really, our latest title information you only you only have Y, but we're only.
821 Excuse me. We're only talking about standing at this point.
822 We're not talking about the larger case.
823 Now I can understand that the good faith, bad dealing, whatever you want to call it
824 as the larger case.
825 And that you would want that discovery at that point. But at this point, it seems to
826 me that that's not critical to your standing argument.
827 Plus, I also think you have a paragraph 24 standing argument that we've already
828 talked about, but that being put aside, you want to base it on 25.
829 I believe their motion almost forces you to base it on 25 at least to answer 25.
830 Why did you miss your payment?
831 So I'm gonna order and I'll have to craft something.
832 So, Mr. Debrine, I'm gonna grant.
833 Your motion to compel in part, and what I'm going to do is I want you to tell me.
834 I want you to draft the order and share it with Miss Hardy and her client for their OK
835 to form.
836 Position before you send it to me to sign.
837 Something.
838 That reflects what we just discussed now.
839 Are you willing to do that?
840 Yes, I took, I think what was good notes and I can craft an order that will be

841 acceptable to everybody.

842 How long will it take to do it?

843 I can send Miss Hardy something tomorrow, OK? Tomorrow and Miss Hardy. If you
844 don't. If if you approve as to form.

845 Would you let Mr. Debrine know, and would you please put it on the order that PBX
846 approved as to form?

847 So I know that she's approved.

848 It has to form and then send it to me for my signature. We will do so once you do
849 that, how much time?

850 Before what time limit do you want to put on the additional discovery?

851 That item.

852 Number six.

853 And and mind you, item number six is still cabins.

854 It's just not as cabin as it was before.

855 How much more? How much?

856 Well, how much time will it take for PBX to provide that information?

857 So I just want to be sure I understand of the order right.

858 So are we not including communications regarding the well cost with the parties or is
859 it just the letter and the the election letter and the response letter? I thought it was
860 the letter that went out to all the owners.

861 On August 7, yes, that letter.

862 Well, whatever date it was, I'm not saying it's August 7th, but you understand.

863 And then it's all the return correspondence from the parties.

864 Saying we elect, we're not going to elect whatever it may be.

865 That's what's that's the discovery we're ordering. OK. OK.

866 How long will it take for your client?

867 I think if we had two weeks that would be fine, perfect.

868 So we'll hold your motion to dismiss an abayance while we wait for two weeks from,
869 let's say, tomorrow, or the next day, whatever it may be.

870 Then how much time would you like to respond to the motion to dismiss?

871 Because you've you've had the two weeks to receive your discovery.

872 That was the other aspect of our motion.

873 We asked for a week after we got.

874 Any documents that were, it's fine with me.

875 Any objections to that?

876 No, that's fine.
877 All right, so let's see.
878 Tomorrow is February 4.
879 We'll expect the order from you, Mr. Debrine approved as the forum by Miss Hardy
880 tomorrow, February 4, then two weeks from there will be February 18 for the
881 deadline for that additional expanded item 6 Discovery, then another seven days will
882 be the 25th of February.
883 For your response to be due.
884 That's fine.
885 OK, great. The one thing I would add, we do have a status conference in this case
886 and I forget the the date.
887 Do you remember Dana?
888 It's the it's the upcoming February docket.
889 Freya, what's the status conference docket in February?
890 It's February 26th.
891 I didn't hear you, said 26.
892 Yes, yes, because I get back on the 25th. Yes, OK.
893 So we'll have this information if you want. We can do this case at the end of that
894 Status conference.
895 Docket and I can let you know my decision on the motion for dismiss based on
896 standing.
897 I think that's acceptable to showroom. Is that acceptable to you? That that's fine. If
898 we were going to have argument.
899 I would want more time if I'm getting the response on the 26th right?
900 I would rather not argue.
901 The response would be the 25th, but I understand I wasn't thinking of additional oral
902 argument on that. If I feel like I need it. If it's a close call.
903 And I'm pulling my hair out.
904 Which you know, I can't really afford.
905 So at that point, I will ask the parties to schedule some time for oral argument.
906 But I don't think I'm going to need it now.
907 If this case survives a motion to dismiss, how do you see?
908 How do you see it proceeding, Mr. Debrine?
909 As a normal case, you would set it for an evidentiary hearing in the parties and
910 anybody else who was interested would have the opportunity to appear.

911 Have you thought about how many witnesses you might have?

912 I.

913 I don't think it's more than two or three. OK, the usual two or three, OK.

914 And Miss Hardy, any ideas?

915 I would think similarly, although I think we will probably do discovery as to Chevron

916 OK as well if we are proceeding. Oh, of course.

917 Of course it goes both ways.

918 Very good.

919 And then of course, depending on how I rule on the motion to dismiss, we might

920 revisit your subpoena as well.

921 Because I cabin did based on the motion to stay.

922 Because we were still dealing with standing at that point.

923 Yes, we would have expectation you might go forward. You might think about that.

924 As Miss Hardy will about what discovery you feel like you need to go forward.

925 Yeah, that that's fine. OK.

926 There was something you said, Mr. Debrine, that I wasn't familiar with. And as being

927 a criminal attorney and a defense attorney, I don't remember. Ever.

928 Having.

929 To provide evidence to show why a discovery item is objectionable.

930 Is there a rule that goes to that?

931 Well, if I may approach, Mr. Herring.

932 But there was a 2020 where they determined that the rules of discovery in civil cases

933 should also be applied to state agencies when they're responding to requests for

934 inspection of public Records act. And if they're, if the objection that is raised in

935 response to a request is.

936 Challenged just up to the agency through to submit.

937 Their to support their objection through affidavits.

938 And and a privileged log if they're claiming privilege. And that's what that case

939 stands for.

940 And I knew, and I had.

941 I was familiar enough with that concept that for an IPRA request, if you don't want to

942 turn over something, you have to say what exception it was and provide some sort of

943 something to back that up.

944 But how does that apply to an administrative hearing?

945 Well, the the reason why we and in the motion to stay the subpoena we provided the

946 the division with authority that in the context of civil litigation, a party is definitely
947 required to support their objections if they're claiming privilege to provide a
948 privileged log and provide an.
949 Affidavit as to why or present the materials for in camera review so that the decision
950 maker to decide whether the claim of privilege is legitimate or not.
951 And I think this case is interesting because they extended.
952 Beyond the civil context and impose that obligation on an agency.
953 And here we have an operator that is exercising the state's police power.
954 It's been delegated to them.
955 It's an extraordinary power.
956 It imposes obligations of good faith and fair dealing that are different than your
957 normal situation. And so we think they have a higher duty anyway than even in a
958 normal case.
959 Given the context that these matters arise in.
960 OK. And Miss Hardy, same question to you. Had you heard of authority or how do
961 you normally handle when you when you claim something is outside the scope of
962 discovery or it's too burdensome or it's not responsive or?
963 Thank you.
964 Or it's too burdensome.
965 It's not responsive.
966 There's a privilege.
967 How do you normally deal with? Sure, I think it's typically it's just an objection.
968 In the.
969 In the response and let if you're claiming privilege attorney-client privilege or work
970 product, you should prepare a privilege log.
971 But we didn't come.
972 We didn't object based on privilege, so I don't see the issue.
973 That's why I just wondered what you were going to say.
974 Yeah, to that.
975 I'll read this case.
976 Thank you for bringing me this case.
977 So at this point, is there anything left?
978 For me to decide, Mr. Debrine.
979 No, Mr. Hernandez. Ever. OK, Miss Hardy.
980 No, thank you.

981 You're very good.

982 Well, thank you everyone.

983 We're off the record.

984 Thank you.

985

986● **Pecos Hall** stopped transcription

987