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A P P E A R A N C E S

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A P P E A R A N C E S (Cont'd)
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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
Avant Operating:		
Exhibit A	Compulsory Pooling Checklist	10/11
Exhibit A-1	Application for Case 24688	10/11
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Exhibit A-3	C-102s	10/11
Exhibit A-4	Lease Track Maps	10/11
Exhibit A-5	Summary of Interest in Each Track	10/11
Exhibit A-6	List of Parties Seeking to Pool Sample Well Proposal Letter and AFEs	10/11
Exhibit A-7	Summary of Contacts	10/11
Exhibit B	Self-Affirmed Declaration of John Harper	10/11
Exhibit C	Notice Exhibits with Declaration of Deana Bennett	10/11

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

NO.	DESCRIPTION	ID/EVD
Franklin Mountain:		
Exhibit D-5	Supplement to Notice	35/37
Exhibit D-6	Sample Notice Letter	35/37
Exhibit D-7	Certified Mailing Tracking Receipts	35/37
Exhibit E	Self-Affirmed Statement of Cameron Jarrett	26/34
Exhibit E-1	Slide Deck	26/34
Exhibit E-2	Resume of Cameron Jarrett	26/34

NO.	DESCRIPTION	ID/EVD
North Fork/Aguila:		
Exhibit A	Self-Affirmed Statement of Aaron Hoak	72/132
Exhibit A-1	C-102s	72/132
Exhibit B	Self-Affirmed Statement of David Bolton	72/136

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P R O C E E D I N G S

THE HEARING EXAMINER: Good morning.
It is 8:31 on August the 1st, 2024. We are here today to hear two cases. One is a compulsory pooling case that is not contested, and the second is a compulsory pooling case that is contested. And we're going to start with the simpler one, the hearing by affidavit in case number 24688.

My name is Gregory Chakalian; I'm the hearing examiner for the Oil Conservation Division. With me this morning is Hailee Thompson, the technical examiner for the Division.

This case is being recorded verbatim and will be transcribed.

Entries of appearance, please.

MS. PENA: Good morning, Mr. Hearing Examiner. Yarithza Pena with Modrall Sperling on behalf of Avant Operating LLC in 24688.

THE HEARING EXAMINER: Are there any other parties entered on this case?

MS. PENA: There are. Mr. Feldewert from Holland & Hart represents PBEX, LLC, and he let us know at the last hearing on July 25th that he probably would not be available for today's hearing, but he did not object to the case moving forward by

1 affidavit, and he just wanted to maintain his entry
2 for his client.

3 THE HEARING EXAMINER: Okay. Let's see
4 if he's here with us this morning.

5 Mr. Feldewert, are you representing
6 your client this morning?

7 Okay. Not hearing or seeing him,
8 please proceed.

9 OPENING STATEMENT

10 MS. PENA: Thank you. Just a quick
11 recap of the case. In case 24688, Avant seeks an
12 order pooling all committed interests in a Bone Spring
13 standard spacing unit comprised of 640 acres in the
14 south half of Sections 35 and 36 in Township 18 South,
15 Range 32 East in Lea County. The spacing unit will be
16 dedicated to nine Alpha Wolf 36 Federal Com wells.
17 The completed intervals for the Alpha Wolf 36 Fed Com
18 302H, 502H, and 602H are expected to be less than
19 330 feet from the adjoining tracks, allowing for the
20 inclusion of the proximity tracks in the proposed
21 spacing unit.

22 We timely filed exhibits before the
23 July 25th hearing originally, and then we filed a
24 revised exhibit packet on July 25th last week for
25 today's hearing. Exhibit A contains the compulsory

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1 pooling checklist, Exhibit A-1 contains the
2 application in this case, and Exhibits A-2 through A-7
3 contain the self-affirmed declaration of Sophia
4 Guerra, the landman for Avant, who has previously
5 testified before the Division, and her credentials
6 have been accepted as a matter of record. And
7 following her affidavit are the standard land
8 exhibits, including the C-102s, the lease track maps,
9 a summary of interest in each track, a list of parties
10 seeking to pool sample well proposal letter and AFEs,
11 and the summary of contacts.

12 Exhibits in Tab B contain the
13 self-affirmed declaration of John Harper, the
14 geologist for Avant, who has also previously testified
15 before the Division, and his credentials have been
16 accepted as a matter of record. Following his
17 affidavit are the standard geology exhibits including
18 a locator map, well work schematics, structure map,
19 cross-reference well locator map, structural cross
20 sections and stratigraphic cross sections.

21 And finally, in Exhibit Tab C, this
22 contains the notice exhibits with the declaration of
23 Ms. Deana Bennett, including a sample notice letter, a
24 mailing list, and certified mailing tracking list,
25 and, out of an abundance of caution, we provided the

1 affidavit of publication from the Hobbs News-Sun
2 showing that we timely published on July 9th of 2024.

3 At this point, I would ask that all
4 exhibits be admitted into 24688 into the record and
5 the matter be taken under advisement.

6 We are also requesting the Division for
7 an expedited order in this case. These wells are on
8 Avant's immediate drill schedule with a drilling rig
9 ready to move onto the location. We have approved
10 permits in this case and built surface facilities, and
11 no other party has objected to this case.

12 For a little bit more context, we filed
13 an extension request in June with the division because
14 we thought we had a little bit more time for an
15 extension and that extension was denied. So we filed
16 a compulsory pooling application to, you know, get
17 another order. So for that we ask that the Division
18 allow us to get an extension request for this order --
19 an expedited request. Sorry.

20 If there are any questions, our landman
21 and geologist are also on the call.

22 (Avant Operating Exhibit A, Exhibit A-1
23 through A-7, Exhibit B, and Exhibit C
24 were marked for identification.)

25 THE HEARING EXAMINER: Did you say that

1 Mr. Harper has been accepted as an expert by this
2 Division?

3 MS. PENA: Yes, he has.

4 THE HEARING EXAMINER: Okay. Are there
5 any objections to admitting these exhibits into
6 evidence?

7 Not hearing any, your exhibits are
8 admitted.

9 (Avant Operating Exhibit A, Exhibit A-1
10 through A-7, Exhibit B, and Exhibit C
11 were received into evidence.)

12 THE HEARING EXAMINER: There are no
13 questions from the technical examiner, I have no
14 questions, so this case will be taken under
15 advisement.

16 Thank you.

17 MS. PENA: Thank you.

18 THE HEARING EXAMINER: Okay. Now we
19 are proceeding to our second case this morning, and
20 that case number is 24472. Entries of appearance,
21 please.

22 MS. BENNETT: Good morning,
23 Mr. Examiner. Deanna Bennett on behalf of Franklin
24 Mountain Energy LLC.

25 MR. PADILLA: Good morning.

1 MR. PADILLA: Good morning,
2 Mr. Examiner. Ernest L. Padilla on behalf of North
3 Fork Operating Company and Aguila Operating.

4 THE HEARING EXAMINER: Okay. And you
5 filed objections in this case?

6 MR. PADILLA: Yes, we did.

7 THE HEARING EXAMINER: Okay. Can you
8 explain why?

9 OPENING STATEMENT

10 MR. PADILLA: The objection was we were
11 concerned -- or my client was concerned about a
12 wellbore collision. In addition to that, we were
13 concerned about the effect of the frac that's going to
14 occur at some point on my client's vertical well.

15 THE HEARING EXAMINER: Can you pull the
16 microphone closer to you, because it's a little
17 hard to --

18 MR. PADILLA: Sure.

19 THE HEARING EXAMINER: I think you can
20 also pull it closer to you also. That whole unit will
21 move toward you. Do you see what I mean? You can
22 move this whole unit toward you.

23 MR. PADILLA: I see, I see. The whole
24 unit.

25 THE HEARING EXAMINER: That's it.

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1 Thank you, sir. Now we'll be able to hear you.

2 Can you be a bit more specific?

3 MR. PADILLA: Well, an existing well,
4 the application includes an overlapping spacing unit.
5 You have now a 2-mile lateral with 40-acre components,
6 and that's the Franklin Mountain well. The North Fork
7 well has a 40-acre spacing unit and the Franklin
8 Mountain Spacing unit is going to overlap the 40-acre
9 spacing unit that's already existing.

10 Franklin Mountain is concerned about,
11 number one --

12 THE HEARING EXAMINER: I'm sorry.
13 Franklin Mountain is concerned or your client is
14 concerned?

15 MR. PADILLA: I'm sorry. North Fork is
16 concerned about notice because, in the past
17 especially, they had a well just completely ruined by
18 Mewbourne Oil Company when no notice of the frac was
19 given.

20 I think we're pretty much agreed that
21 30 days for commencement of the drilling of the well
22 is necessary, and I think we also are in agreement
23 that 30 days for frac notice is also pretty much okay.
24 The problem, I think, that arises here is going to be
25 the effect of the frac on the existing well, and we

1 have a disagreement on who pays for safeguarding the
2 well during the frac and that kind of thing. I'm not
3 sure jurisdictionally whether the Division can
4 actually require certain safeguards and damages to the
5 existing well.

6 THE HEARING EXAMINER: Mr. Padilla,
7 does North Fork have wells in this area? Is that what
8 you're saying?

9 MR. PADILLA: They have a number of
10 wells in this area, but they're vertical wells, and
11 they have wellbore rights, and associated with that
12 wellbore right is the right, for regulatory purposes,
13 to designate a 40-acre spacing. And we agree that you
14 can have overlapping spacing units because of the
15 horizontal roots. That's something that we can't
16 prevent. I mean, the rules are the rules, and the
17 Franklin Mountain well can overlap the 40-acre
18 spacing, but there's got to be some safeguards in
19 terms of what I consider impairment of correlative
20 rights due to the frac.

21 THE HEARING EXAMINER: Okay. And does
22 that sum up your client's concerns?

23 MR. PADILLA: Yes.

24 THE HEARING EXAMINER: Okay. Before
25 the hearing begins, what would you like to see as a

1 result of this hearing? What's the outcome you're
2 looking for?

3 MR. PADILLA: Well, we're looking for
4 protection of the existing well. Now, I'm not sure
5 that right now we have enough evidence in the record,
6 because I think both our drilling engineer and the
7 engineer for Franklin Mountain have -- well, the
8 Franklin Mountain engineer says that their science is
9 good enough to prevent any kind of collision. We're
10 concerned about the frac itself. I'm sure that a
11 collision can be prevented because of the technical
12 aspects of the Franklin Mountain testimony, but still,
13 within the sphere of the drilling, you could have a
14 considerable amount of effect. And that --

15 THE HEARING EXAMINER: And do you have
16 witnesses today?

17 MR. PADILLA: I have two witnesses,
18 Mr. Examiner. One is the manager for North Fork who
19 will testify about what can occur, and the other is a
20 drilling engineer.

21 THE HEARING EXAMINER: And the other is
22 a drilling engineer?

23 MR. PADILLA: Yes, sir.

24 THE HEARING EXAMINER: And what's the
25 purpose of his testimony?

1 MR. PADILLA: His purpose of testimony
2 is going to be that, well, 30 days is necessary
3 notice. And I think we don't have a problem in that
4 regard, but in terms of the proximity of the
5 horizontal well and the vertical well may have some
6 effect, and who pays for that is really what it comes
7 down to.

8 THE HEARING EXAMINER: Okay. And so
9 you have two witnesses. Have they both been accepted
10 as experts by the Division?

11 MR. PADILLA: One is -- we're not
12 proffering the manager as an expert. The other has
13 not been accepted as an expert as a drilling engineer.

14 THE HEARING EXAMINER: Okay. Well,
15 when it's their turn to testify, we'll get all that
16 handled.

17 Ms. Bennett, you've heard some of the
18 issues in this case. Do you want to give a brief
19 opening statement regarding these issues and -- how
20 many witnesses do you have?

21 MS. BENNETT: We have one witness.

22 THE HEARING EXAMINER: One witness.
23 And who is that witness?

24 MS. BENNETT: His name is Cameron
25 Jarrett, and he's a drilling engineer for Franklin

1 Mountain Energy, and he has not previously testified
2 before the Division, so we're ready to walk through
3 his credentials.

4 THE HEARING EXAMINER: Perfect. And I
5 see him on the camera. Why don't you give a brief
6 opening statement on how your case will deal with
7 these issues.

8 MS. BENNETT: Thank you.

9 OPENING STATEMENT

10 MS. BENNETT: So just as a reminder, I
11 put this case on back in May, so the compulsory
12 pooling portion of the case has already been heard.
13 We ended up having to continue the case for notice
14 purposes only because I inadvertently did not send
15 notice to the well in the overlapping spacing unit
16 operators, which is North Fork and -- I'm not sure if
17 it's Aquila [sic] or Aguila. I can't really tell;
18 it's different in different pleadings. But we sent
19 them letters, they appeared, and so that notice issue
20 has been cured. So at the end of the day, that's the
21 only thing I think we need to be here on is accepting
22 our revised exhibits to complete notice.

23 And the reason for that is because, as
24 Mr. Padilla explained, the parties are in agreement
25 about advance notice before Franklin Mountain Energy

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1 commences drilling and before Franklin Mountain Energy
2 begin its fracking operations.

3 I communicated that to Mr. Padilla that
4 Franklin Mountain Energy agrees with the requests
5 stated in the drilling engineer's affidavit, and so
6 that's not a disputed issue. The only issue,
7 apparently, is whether the Division can compel
8 Franklin Mountain Energy to pay some damages or
9 something to North Fork. And, as Mr. Padilla
10 conceded, the Division doesn't have that jurisdiction.
11 And in fact, Franklin Mountain Energy did offer to
12 defray some of the costs that North Fork would have to
13 bear to protect its well, and North Fork declined
14 Franklin Mount Energy's offer as unacceptable to them.

15 So the issue, I think, before the
16 Division today is going to be whether Franklin
17 Mountain Energy's plan is sufficiently protective, and
18 Franklin Mountain Energy's position is that it is.
19 You'll see that we have a very qualified drilling
20 engineer who's run tests, and his models are shown in
21 his affidavit that show that there's zero risk of
22 collision from the 703H well and the 803H.

23 And in terms of the risk to the frac
24 hit, the notice that we'll be providing would give
25 North Fork the time it needs to protect its well and

1 to hopefully avoid the negative implications from a
2 potential frac hit. But those frac hits happen all
3 the time. That's somewhat the cost of doing business
4 in a very popular and populated oil field. There's no
5 way the Division can insulate every single vertical
6 well or even every horizontal well from offsetting
7 frac hits. That's just not possible. We wouldn't be
8 able to have the thriving industry that we have in New
9 Mexico if the Division were to take that position.

10 So what Franklin Mountain Energy's
11 witness and exhibits show is that they've taken a
12 thoughtful approach to this, they've analyzed the
13 collision risk and determined that it's zero for both
14 wells, and they intend to notify North Fork well in
15 advance so that North Fork can take the appropriate
16 steps to protect its well.

17 THE HEARING EXAMINER: So give me one
18 moment.

19 Mr. Padilla, you heard what Ms. Bennett
20 had to say. Does that change your position at all?

21 MR. PADILLA: Not with respect to the
22 correlative rights issue, is that there's going to be
23 a frac. The existing well no doubt was fracked
24 originally, so there's going to be an invasion of the
25 frac into the North Fork well.

1 THE HEARING EXAMINER: Okay. Perfect.
2 I think we understand the issues before us this
3 morning.

4 Ms. Bennett, this is your application,
5 and so let's get your witnesses sworn in. We have one
6 witness, you said. And I see -- is it Mr. Jarrett?

7 MS. BENNETT: Yes.

8 MR. JARRETT: Yes, sir.

9 THE HEARING EXAMINER: All right.
10 Thank you. Would you raise your right hand, please?
11 WHEREUPON,

12 CAMERON JARRETT,
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: Okay. Very
17 good. Let's go through your qualifications. You are
18 seeking to be admitted as an expert in what field?

19 THE WITNESS: Drilling engineering.

20 THE HEARING EXAMINER: Drilling
21 engineering. How is drilling engineering different
22 from a petroleum geologist?

23 THE WITNESS: So drilling engineering
24 and geology go hand in hand. I've got a background
25 and education for both geology and petroleum and

1 natural gas engineering, so I think I have a good
2 understanding of how the rocks were put in place
3 depositionally, the geomechanics once you start having
4 those rocks stack on top of each other, and then, from
5 the mechanical side, on the engineering side, how you
6 would construct a wellbore in an efficient and safe
7 manner.

8 THE HEARING EXAMINER: I see. Okay.
9 Let's talk about your educational background.

10 THE WITNESS: Yes, sir. I went to
11 school at West Virginia University and graduated in
12 2011 with a bachelor's in science in geology and
13 petroleum and natural gas engineering.

14 THE HEARING EXAMINER: Okay. And since
15 that time, have you taken any other education courses,
16 symposiums, things like that?

17 THE WITNESS: Yes. Industry-standard
18 training. I've had some extended-reach training
19 through K&M. I've got my active well control license
20 that I just renewed this month; that's an industry
21 standard just to be part of the drilling operation
22 pretty much anywhere. And then I've taken a couple
23 free courses -- I don't know if we need to get into
24 that much detail -- with respect to geomechanics and
25 some coding classes.

1 THE HEARING EXAMINER: Okay. And then
2 your work experience.

3 THE WITNESS: After graduating, my
4 first position was with Weatherford International as
5 an MWD engineer, so actually building the tools that
6 take the survey that we would run anti-collision
7 against, and that was primarily in the northeast.
8 After about a year of service in that role, I was
9 pulled into the office as a well planning engineer.
10 So taking those surveys, client-specific directional
11 requirements, and industry-standard anti-collision
12 practices and actually building the well path from the
13 survey plats that we would get from surveyors,
14 respecting lease lines and those anti-collision
15 standards, and I did that before moving into
16 Weatherford's first drilling engineering role in
17 Houston, Texas. So moving from kind of a northeast
18 focused role into a North America focused control.
19 And there were only two of us, so we were exposed to
20 about a hundred wells a day -- drilling optimization,
21 anti-collision management, and just overall
22 operational efficiency across that entire fleet. So
23 each basin in the U.S., including a couple of drill
24 ships offshore.

25 In 2014 I eventually moved into the

1 management role in August, when oil prices were
2 extremely high, so I had a huge headcount below me. I
3 managed the entire North America district for -- for
4 Weatherford International with respect to the real
5 time operations center, which manages anti-collision
6 real time; all the well planners, so the people that
7 were designing the actual well path; and the MWD
8 coordinators, so the people in charge of QC'ing the
9 rules that actually shoot the survey.

10 After the crash, the global
11 infrastructure at Weatherford International shrunk and
12 North America actually took in the entire global
13 operations. So that same scope of work on a global
14 application at that point, until I into an operator
15 role as a drilling engineer with PDC Energy in the
16 Delaware Basin.

17 Sorry?

18 THE HEARING EXAMINER: I didn't say
19 anything. I was listening.

20 THE WITNESS: Oh, okay.

21 So moving into the operator role, I
22 spent the first couple months actually managing the
23 operation from the well site as a well site manager
24 before stepping into the office role and -- and really
25 grabbing ahold of drilling and completions operations

1 with PDC Energy in Reeves County, Texas.

2 After PDC Energy, I moved to the
3 Midland Basin with Pioneer Natural Resources. I would
4 say it's probably the most applicable role to this
5 case with respect to anti-collision because Pioneer's
6 Field had hundreds of vertical wells in each drilling
7 unit, and I think that's where, I guess, my background
8 really came together with developing anti-collision
9 practices, and that's eventually what's evolved into
10 Franklin Mountain's anti-collision policies and best
11 practices.

12 After -- after a year at Pioneer
13 Natural Resources, I went back to Jagged Peak Energy
14 in the Delaware basin as a drilling engineer. I
15 managed a couple rigs there. We were eventually
16 acquired by Parsley Energy. Still -- still maintained
17 management authority in the Delaware Basin of our
18 couple super-spec rigs, so managing the operation from
19 permitting all the way to handing over to completions.

20 And then, after Parsley was acquired by
21 Pioneer Natural Resources, I had short stint helping
22 Franklin Mountain get started whenever they went from
23 one to two rigs, and then eventually went and started
24 a company called Greenlake Energy in the Delaware
25 Basin where I was wearing many hats. I had to do

1 regulatory, construction, drilling, and handover to
2 completions.

3 And -- and then ultimately left there
4 after two years and came back to be the drilling
5 manager at Franklin Mountain Energy.

6 THE HEARING EXAMINER: Okay. Thank
7 you. The division recognizes you as an expert in
8 drilling engineering.

9 Ms. Bennett.

10 MS. BENNETT: Thank you.

11 At this time I'd like to have a few
12 preparatory questions with Mr. Jarrett and then I'll
13 turn him over for cross-examination.

14 THE HEARING EXAMINER: Please.

15 Do we have any exhibits?

16 MS. BENNETT: Yes.

17 THE HEARING EXAMINER: Do we need to
18 deal with your exhibits?

19 MS. BENNETT: Yes.

20 THE HEARING EXAMINER: Go ahead.

21 DIRECT EXAMINATION

22 BY MS. BENNETT:

23 Q So Mr. Jarrett, did you prepare exhibits for
24 this case?

25 A Yes.

1 Q And for this case, I'm talking about the
2 hearing that we're having today. Right?

3 A Yes.

4 Q And are those exhibits your self-affirmed
5 statement, which was Exhibit E?

6 (Franklin Mountain Exhibit E was marked
7 for identification.)

8 A Yes.

9 Q And then a slide deck that we marked as
10 Exhibit E-1?

11 (Franklin Mountain Exhibit E-1 was
12 marked for identification.)

13 A Yes.

14 Q And then your resume, which was attached as
15 Exhibit E-2?

16 (Franklin Mountain Exhibit E-2 was
17 marked for identification.)

18 A Yes.

19 Q Have you had a chance to review your
20 exhibits in the intervening week since we filed them?

21 A Yes.

22 Q And are there any changes that you want to
23 make to your affidavit?

24 A Yes.

25 Q And is that change at the bottom of your

1 affidavit, which is marked page 6 of 15 of the PDF,
2 paragraph 8, the second bullet, that says "Currently
3 the Treble State Com 703 and Treble State Com 803 are
4 planned to be 262 west of the existing Toro 27-5
5 well"?

6 A Yes.

7 Q Do you see that? And what's the change that
8 you'd like to make there?

9 A So the Treble 803 is actually on the east
10 side with a greater distance.

11 Q And so here you were focused primarily on
12 the 703, which is 262 feet west of the existing
13 Toro 27.

14 A Yeah. That's -- yeah. That was the -- the
15 main concern and the focus at the time. That's the
16 reason for the -- the misstep.

17 Q Okay. But the 803 is actually further away
18 from the Toro 5 well.

19 A Yes.

20 Q Okay. And just for everyone's
21 clarification, the Toro 5 well is the North Fork well
22 that's at issue here. Is that right? That's correct.
23 Right, Mr. Jarrett?

24 A Yes, yes.

25 Q Okay.

1 THE HEARING EXAMINER: Ms. Bennett, you
2 said something about page 6 of 15, but I'm on page 12
3 of 15, which is the beginning of Mr. Jarrett's CV. Is
4 that what you were talking about?

5 MS. BENNETT: No. I'm actually
6 referring to his self-affirmed statement --

7 THE HEARING EXAMINER: I see. Okay.

8 MS. BENNETT: -- which begins on page 6
9 of 15.

10 THE HEARING EXAMINER: I understand.
11 And what paragraph number were we just talking about?

12 MS. BENNETT: Paragraph 8.

13 THE HEARING EXAMINER: Now I
14 understand. Thank you.

15 MS. BENNETT: Yep.

16 THE HEARING EXAMINER: I'm with you
17 now.

18 MS. BENNETT: Okay. Thank you.

19 BY MS. BENNETT:

20 Q And then, Mr. Jarrett, is there also a
21 change that you'd like to make to one of your
22 exhibits? A similar change?

23 A Yes.

24 Q And is that change on page 8 of 15, which --
25 I'm hopefully sharing my screen. No? Okay. In a

1 second I'll be sharing my screen. Let's see.

2 Okay. Am I sharing now?

3 A Yes.

4 Q Okay. So I'm on page 8 of 15 of the exhibit
5 packet that we filed, and here it says, in this first
6 bullet, Franklin Mountain Energy 3 has plans to
7 develop two wells, the 703 and 803 -- I'm
8 paraphrasing -- that will be approximately 262 feet
9 and 426 feet, respectively, west of an existing
10 vertical well operated by North Fork. Did you want to
11 change that to say that the 803 is 426 feet east of
12 the existing vertical well?

13 A Yes.

14 Q Okay. So are there any other changes you
15 wanted to make?

16 A No.

17 THE HEARING EXAMINER: So Ms. Bennett,
18 before we continue, this looks like this exhibit or
19 this exhibit packet filing that we are reviewing now
20 and has not been admitted to evidence yet, seems like
21 it's in addition to the exhibits that were admitted
22 back in May, and you said that they were admitted.

23 MS. BENNETT: They were, but we do have
24 a supplemental exhibit packet that I would also like
25 to ask to be admitted today.

1 THE HEARING EXAMINER: I see. Okay.

2 MS. BENNETT: That's in addition to
3 this one.

4 THE HEARING EXAMINER: Before we do any
5 of that, what I'd like to do is I'd like to instruct
6 Franklin Mountain Energy after this hearing is over we
7 will leave the record open for one single submission,
8 and Freya will take out the exhibits that were filed
9 in May and take out this 15-page exhibit. Once you
10 file one exhibit packet that includes, I guess, your
11 supplemental that you are about to talk about, these
12 exhibits, with their changes in there so that we don't
13 have to try to compare the record with the actual
14 exhibit to see that it's actually east and not west,
15 et cetera, et cetera. So can you do that?

16 MS. BENNETT: Yes.

17 THE HEARING EXAMINER: Okay. Good.
18 How long will it take for you to do that?

19 MS. BENNETT: If it could have through
20 Monday close of business.

21 THE HEARING EXAMINER: Perfect. So
22 we'll leave the record open -- let me just make some
23 notes here. So the record will remain open until
24 Monday, which will be the 5th of August -- August 5,
25 close of business, to file one complete amended --

1 we're going to call it an amended exhibit packet --
2 with a cover letter to show what changes you made from
3 May to today and then the supplemental that you're
4 proposing to add, which I haven't seen yet.

5 But let's deal with these exhibits
6 first. Are there any other corrections that you need
7 to make to this 15-page exhibit packet?

8 MS. BENNETT: My understanding is no,
9 there are no other changes that need to be made.

10 THE HEARING EXAMINER: Okay. Do you
11 want to confirm with your witness?

12 MS. BENNETT: Yes, sir. Yes. Thank
13 you.

14 BY MS. BENNETT:

15 Q Mr. Jarrett, can you confirm that there are
16 no other changes that you wanted to make to the
17 exhibits that you prepared?

18 A I can confirm there are no other changes.

19 MS. BENNETT: Thank you.

20 With that, I would ask that these
21 exhibits be admitted into the record subject to the
22 changes that we're going to make.

23 THE HEARING EXAMINER: Meaning the
24 supplemental.

25 MS. BENNETT: Yes.

1 THE HEARING EXAMINER: And you said
2 it's changes you are going to make, meaning the
3 supplemental.

4 MS. BENNETT: Yes.

5 THE HEARING EXAMINER: Okay. Very
6 good.

7 So Mr. Padilla, are there any
8 objections to these exhibits which are marked as
9 Exhibits E, if I'm not mistaken.

10 Is that correct, Ms. Bennett?

11 MS. BENNETT: That's correct.

12 THE HEARING EXAMINER: Okay. Very
13 good.

14 Are there any objections, Mr. Padilla?

15 MR. PADILLA: Mr. Examiner, I don't
16 understand what the changes were. Is Mr. Jarrett
17 saying that he changed this 262 feet distance? Is
18 that my understanding of what he --

19 THE HEARING EXAMINER: I believe there
20 were two changes made -- two amendments made to this
21 exhibit packet. The first is on page 6 and it's
22 incorporated in paragraph number 8.

23 And Mr. Jarrett, would you explain the
24 error that you found in paragraph 8?

25 THE WITNESS: Yes. So the -- the focus

1 while developing the exhibit was on the closest
2 approach well center to center, Treble State Com 703H,
3 which is to the west. The -- the distance mentioned
4 with respect to the Treble State Com 803H is correct.
5 The typo is in the designation of west versus east.

6 THE HEARING EXAMINER: Okay. But on
7 the record, what is the sentence you're correcting?

8 THE WITNESS: "FME3 will be able to
9 develop" -- sorry. I'm in the wrong -- I'm not seeing
10 the page. Yeah. So it's -- it's in Section 8. It's
11 the second bullet point. So "Currently the Treble
12 State Com 703H and Treble State Com 803H are planned
13 to be 262 feet west." The addition would be to
14 include the distance to the east that the 803H is.

15 THE HEARING EXAMINER: So as corrected,
16 what will that sentence read in the final exhibit
17 packet submitted on Monday?

18 THE WITNESS: "Currently the Treble
19 State Com 703H is planned to be 262 feet west of the
20 existing Toro 27 number 5 well, and the Treble State
21 Com 803H is planned to be 462 feet to the east of the
22 Toro 27 number 5 well."

23 THE HEARING EXAMINER: Mr. Padilla, do
24 you understand that correction?

25 MR. PADILLA: I understand that now.

1 THE HEARING EXAMINER: Okay. Very
2 good.

3 And then the second correction, to my
4 understanding, is on page number 8, and it's in the
5 bullet point on the right. What does it say now that
6 will be changed and what will it be changed to?

7 THE WITNESS: So the -- the designation
8 in the first bullet point where it says "respectively
9 west," it'll still be respectively west with respect
10 to the Treble State Com 703H and it'll be moved to the
11 426 feet east for the 803H.

12 THE HEARING EXAMINER: Mr. Padilla, do
13 you understand that?

14 MR. PADILLA: I understand that.

15 THE HEARING EXAMINER: Very good. Are
16 there any objections to this exhibit being admitted
17 into evidence?

18 MR. PADILLA: No. I think the
19 explanation's fairly clear.

20 THE HEARING EXAMINER: Okay. Perfect.
21 So Ms. Bennett, Exhibit E and it's sub
22 parts are admitted into evidence.

23 (Franklin Mountain Exhibit E,
24 Exhibit E-1, and Exhibit E-2 were
25 received into evidence.)

1 THE HEARING EXAMINER: Now, you were
2 talking about a supplemental exhibit?

3 MS. BENNETT: Yes.

4 THE HEARING EXAMINER: Where is that?

5 MS. BENNETT: Let's see. I think I
6 have it here. We submitted that on June 6, 2024, and
7 I'm sharing my screen right now. We submitted a
8 notice of revised exhibit packet. And what we did
9 there was we submitted the entire exhibit packet again
10 with the addition of a supplement to notice to
11 demonstrate that we had, in fact, sent notice letters
12 to the existing well operators and proof that notice
13 was delivered. And so that is Tab D-5, and D-6 is the
14 sample notice letter, and D-7 is the certified mailing
15 tracking receipts.

16 And as I mentioned earlier, that was
17 the reason why this case was continued originally, was
18 for us to provide notice, and so this revised exhibit
19 packet cures that notice issue, and that's the only
20 change that was made here.

21 (Franklin Mountain Exhibit D-5,
22 Exhibit D-6, and Exhibit D-7 were
23 marked for identification.)

24 THE HEARING EXAMINER: I understand.
25 Okay. So then Freya will take out

1 three exhibit packets once you file the amended final
2 exhibit packet.

3 And in this exhibit packet you're
4 talking about the notice being cured, and it begins on
5 what page?

6 MS. BENNETT: Let me get to that real
7 fast. It's on page 71 of 79.

8 THE HEARING EXAMINER: Okay. Let me
9 get there.

10 MS. BENNETT: And that's the OCD
11 pagination.

12 THE HEARING EXAMINER: I see. I see a
13 supplemental self-affirmed declaration of Yarithza
14 Pena. And how does this cure the notice? Point out
15 in this -- this is D, you said?

16 MS. BENNETT: This is D. That's
17 correct. D-5.

18 THE HEARING EXAMINER: This is D.
19 Okay.

20 Please explain how this cures the
21 notice issue.

22 MS. BENNETT: Certainly. So we did
23 not -- and it was completely inadvertently -- we did
24 not send notice to North Fork and Aguila or
25 Aquila [sic] originally when we sent out the notice

1 letters for the compulsory pooling hearing. And so if
2 you look at the next page, D-6, it's the notice letter
3 that we sent out to North Fork and Aguila, and we said
4 in the letter that the case was reset to June 13th for
5 notice purposes, and then included a copy of the
6 application. And then on page 78 of 79, that shows
7 the addressees to whom we sent notice. And then the
8 final page is our tracking information that shows that
9 notice was received by all three entities to whom we
10 submitted the notice.

11 THE HEARING EXAMINER: I see.

12 Mr. Padilla, are there any objections
13 to admitting Exhibit D and its subparts into evidence?

14 MR. PADILLA: No.

15 THE HEARING EXAMINER: Very good.

16 Ms. Bennett, Exhibit D and its subparts
17 are admitted into evidence.

18 (Franklin Mountain Exhibit D-5,
19 Exhibit D-6, and Exhibit D-7 were
20 received into evidence.)

21 THE HEARING EXAMINER: In your cover
22 letter on the amended exhibit packet, would you just
23 explain why you submitted Exhibits D and E into the
24 packet, and so that'll take care of that.

25 So are you ready to begin your

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1 presentation?

2 MS. BENNETT: I am.

3 THE HEARING EXAMINER: All right. So
4 we've already admitted your expert in the field of
5 drilling engineering and he's been sworn in, so please
6 proceed.

7 MS. BENNETT: Thank you.

8 BY MS. BENNETT:

9 Q Mr. Jarrett, thank you so much for being
10 here. And you were present when Mr. Padilla and I
11 were discussing -- or when the hearing examiner was
12 asking Mr. Padilla and myself to frame the issues that
13 are pending before the division today. Right?

14 A Yes.

15 Q And would you briefly summarize your
16 testimony and particularly how it addresses the issues
17 that are presented today?

18 A Yes. As far as the -- the concern for a
19 wellbore collision with the existing Toro number 5
20 well with our planned development of the Treble State
21 Com 703 and 803H, with our current surveying
22 technology, real time anti-collision monitoring, and
23 best practices, there is no risk of wellbore collision
24 while drilling with development of those two wells
25 from Franklin Mountain's side.

1 Q And the exhibits that you included, and I'm
2 now referring specifically to page 9 of 15 and page 10
3 of 15, are the anti-collision reports that you
4 prepared for the analysis?

5 A Yes, yes.

6 Q And I'm looking at the anti-collision report
7 for the 703H well. Do you see that on the screen?

8 A Yes.

9 Q And here you have a red box around a
10 particular well. Is that the North Fork Toro 27-5
11 well?

12 A Yes.

13 Q And when you undertook this anti-collision
14 risk analysis, what did you determine Franklin
15 Mountain Energy would need to do or should do to
16 manage the collision risk?

17 A When it comes to anti-collision in well
18 planning, you want to have a planned well that has a
19 separation factor greater than 1 depending on geologic
20 and -- and well status circumstances. So for this
21 being producing well, we want to be over 1. You can
22 see the negative 42, that's the distance that our
23 error ellipses are actually overlapping.

24 So any time you have an error ellipse -- any
25 time you have a directional tool, depending on the

1 quality of the tool, as you drill, it has a defined
2 error envelope. So as you continue to drill, that is
3 a stacked number. So as it gets deeper or further
4 out, that error ellipse increases in size. It's got
5 two -- two axes, it's an ellipsoid, so it takes into
6 account 3D space, not just the center-to-center
7 distance.

8 So to the left of that number you can see
9 exactly what the center of that wellbore versus the
10 Toro 703 is at 262 feet. The error ellipses
11 associated with the surveying tools that we're --
12 we're planning on using in this development versus
13 inc-only surveys that were shot in the Toro well, our
14 ellipses do cross by 42 feet. To eliminate that risk
15 and get our separation factor greater than 1, we would
16 shade, you know, 42 to 43 feet just to ensure that we
17 have zero risk of collision and we do not have our
18 ellipses actually crossing.

19 Q Thank you. And so that means that,
20 essentially, when you shade the 40 feet, your distance
21 center to center from the 703 well and the Toro 5 well
22 would be 300 and -- let's call it 305 feet, 310 feet.

23 A Yes.

24 Q Something like that. And did you see in the
25 North Fork exhibits -- and I'm not asking to turn to

1 them, I'm just asking you -- did you read the North
2 Fork exhibits?

3 A Yes.

4 Q And did you see that they were requesting
5 that the wells be 330 feet apart?

6 A Yes.

7 Q And your proposal here is 305, 310 feet
8 apart?

9 A Correct.

10 Q Okay. And then if we look at the Treble
11 State Com 803H anti-collision report, you ran the same
12 analysis for the Treble State Com 803. Is that right?

13 A Yes.

14 Q And what did you conclude about the distance
15 from the center to center from the Toro 27-5 well,
16 which is the North Fork well, and the Franklin
17 Mountain Energy proposed 803H well?

18 A So with respect to center-to-center
19 distance, we've exceeded their concerned, I guess, gap
20 or -- or requested distance. Our ellipses are
21 separated by over 150 feet or approaching a 2
22 separation factor. So no risk of collision.

23 On top of that, our TVD differences offer
24 some geologic constraints. So gamma changes from, you
25 know, the -- the bottom of their wellbore to the

1 deeper target that we would have in this well, just to
2 ensure there's absolutely zero risk of wellbore
3 collision.

4 Q Thank you. And that raises a good point
5 that I wanted to develop a little bit more with you.
6 The North Fork -- the Toro 27-005 well, which is a
7 vertical well, it produces from the Wolfcamp A as far
8 as you can tell. Right?

9 A Yes.

10 Q And your Franklin Mountain Energy 703H well
11 is targeting the Wolfcamp A. Is that right?

12 A Correct.

13 Q But the Treble State Com 803H is targeting
14 the Wolfcamp B. Is that right?

15 A Correct.

16 Q So when you say there's a vertical
17 separation, you're talking about the distance between
18 the bottom of the Toro well and the top of the 803H
19 well. Is that what I understood?

20 A Yeah. Just in 3D space from -- from the
21 closest point in the Toro well to the -- you know, the
22 corresponding point in the 803H well, there's 426 feet
23 of 3D space between it. So we have a left/right
24 component and an up/down component that goes into that
25 number.

1 Q And so there's both horizontal distance and
2 vertical distance that's keeping the 803H well from
3 potentially colliding with the North Fork 27-005H
4 well.

5 A Yes.

6 Q Thank you. You talked about the ellipsis of
7 uncertainty. I don't think you called it that, but
8 that's, you know, what we've heard it referred to
9 plenty of times here at the Division, and I'm just
10 wondering if you could maybe break that down a little
11 bit more into layman's terms or laywoman's terms so
12 that those of us in the room who aren't quite as
13 familiar with what the ellipsis of uncertainty is can
14 kind of get a better sense of that?

15 A I think it -- like, the best way to think
16 about it is, like, if you -- if you're driving a car
17 and you're at a zero bearing and there's no, like,
18 play in the steering at all, you'd anticipate it not
19 to deviate left or right. We know these tools have
20 inherent error that's been calculated for, you know,
21 pretty much every tool you can use for surveying. So
22 depending on the quality, there's a known error
23 assigned to that tool. So when we go into the
24 planning phase, we take into account that error by
25 assigning half a degree of deviation per hundred,

1 let's say for MWD.

2 So think of it as some play in your steering
3 wheel and you're just slightly right by a couple -- a
4 half a degree, but over the course of 2 miles, that
5 can equate to a couple hundred feet. So as we get
6 further out, that cone of uncertainty, or the error
7 ellipse size, increases.

8 Q And that's what you have taken into account
9 when you considered the zero collision risk here for
10 these two wells.

11 A Yes. We -- we have ISHWA [ph] industry
12 standard IPM files accurately designated in our
13 planning to represent the tools that we will use at
14 the time of execution that show our error ellipses do
15 not overlap.

16 Q Thank you. And finally, a moment ago I
17 asked you if you'd read the North Fork exhibits. Do
18 you recall that the North Fork exhibits focus on the
19 803H well exclusively?

20 A Yes.

21 Q And do you recall that the North Fork
22 exhibits state that there's 260, approximately, feet
23 separation or distance between the North Fork well and
24 the 803H well?

25 A Yes.

1 Q Do you have any indication from the exhibits
2 how that number was calculated?

3 A It could just be a 2D number. So a complete
4 horizontal displacement calculation without taking
5 into account the deeper TVD of this target.

6 Q But there's nothing in the exhibit per se
7 that helps you understand how that calculation was
8 derived?

9 A No.

10 Q Earlier today we were talking about -- or I
11 was mentioning to the hearing examiner that Franklin
12 Mountain Energy has agreed to the notice request that
13 North Fork has identified in one of its affidavits.
14 Can you just confirm for the Hearing Examiner and the
15 technical examiner that Franklin Mountain Energy is
16 agreeable to providing North Fork 30 days' advance
17 notice prior to commencement of drilling and 30 days'
18 advance notice prior to completion operations?

19 A Yes, we are.

20 Q Thank you. Is there anything else you'd
21 like to add before I pass you for cross-examination or
22 for questions by the Division?

23 A No.

24 MS. BENNETT: Thank you very much.

25 THE HEARING EXAMINER: Mr. Padilla?

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

2 CROSS-EXAMINATION

3 BY MR. PADILLA:

4 Q Mr. Jarrett, let me direct your attention
5 to --

6 MR. PADILLA: Deana, can you put the
7 first exhibit you had with the vertical -- that one.
8 Thank you.

9 BY MR. PADILLA:

10 Q Let me understand this exhibit. What are
11 the red lines?

12 A Can you clarify? "Red lines"?

13 Q Well, there are two red lines. One's sort
14 of an orange line in the center of those vertical
15 lines, and I'm trying to figure out --

16 A Am I looking at the same picture?

17 Q I think you are. I'm --

18 THE HEARING EXAMINER: Mr. Padilla,
19 what exhibit are you directing the witness to?

20 MR. PADILLA: E-1.

21 THE HEARING EXAMINER: E-1.

22 Mr. Jarrett, this is an exhibit you
23 prepared. Is that not correct?

24 THE OFFICER: I don't think your mic's
25 on.

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1 THE HEARING EXAMINER: Mr. Jarrett, did
2 you prepare Exhibit E-1?

3 THE WITNESS: Yes. Yes, I did.

4 THE HEARING EXAMINER: Okay. He's
5 asking you to look at Exhibit E-1.

6 THE WITNESS: Yeah. I'm -- I'm
7 assuming I'm looking at the same picture. So I see
8 two red lines. The 803H is -- is depicted to the --
9 to the right of the vertical well that looks like a
10 bullseye. That's the Toro number 005.

11 BY MR. PADILLA:

12 Q Okay. And the distance between the bullseye
13 and the red vertical line is 262 feet? Is that my
14 understanding?

15 A No. That -- that's with respect to the blue
16 line that would be to the west, the 703H.

17 Q Okay. And the red line in the center, what
18 is that line?

19 A That is the planned wellbore for the Treble
20 State Com 803H.

21 Q Okay. So what is the distance between the
22 bullseye and the blue line to the left?

23 A That's the 262 feet west.

24 Q Okay. And what is the distance from the
25 bullseye to the red line?

1 A 426 feet east.

2 Q Okay. And the red line is to the
3 Wolfcamp B?

4 A Yes.

5 Q And the other is to the same Wolfcamp A that
6 the North Fork well has completed.

7 A It's -- it's classified as a Wolfcamp A, but
8 it is a deeper target than where the perforations are
9 for the Toro well.

10 Q But they're both in the Wolfcamp A.

11 A Yes.

12 Q Okay. What is the vertical limit of that
13 pool in that area of the Wolfcamp A?

14 A I do not have that in front of me.

15 Q You testified that you work with geology on
16 planning these wells.

17 A Yes.

18 Q Is the Wolfcamp a homogeneous reservoir?

19 A There are different rock types throughout
20 the Wolfcamp formation.

21 Q Okay. Do they fracture differently on a
22 frac hit?

23 A Each -- each rock, depending on
24 characteristics, would have different fracture
25 signatures, but they can all be simulated.

1 Q How far are your fracs designed to go
2 sideways or upwards or downwards or --

3 MS. BENNETT: Mr. Examiner, I'd like to
4 object to this line of questioning as beyond the scope
5 of direct and outside of the qualifications for which
6 Mr. Jarrett is here to testify.

7 THE HEARING EXAMINER: Mr. Padilla?

8 MR. PADILLA: He's testified about
9 planning this well, he's testified about being
10 familiar with the geology, he's testified about that
11 there would be no wellbore collision, but I think it's
12 fair to ask him about how far the frac is going to go.
13 He's the drilling and completion engineer, according
14 to his resume.

15 THE HEARING EXAMINER: And what was the
16 question you asked him just now?

17 MR. PADILLA: The question is how far
18 are your fracs designed to go sideways or upwards or
19 downward?

20 THE HEARING EXAMINER: Ms. Bennett, I'm
21 going to allow the question.

22 Would the witness answer, please?

23 THE WITNESS: Yeah. So I -- in my
24 current position, I'm designing the wellbore from a
25 drilling perspective. We take into account data

1 collected while drilling before we design the frac.
2 So without sitting in that chair, I couldn't give you
3 frac geometry.

4 BY MR. PADILLA:

5 Q So you don't know how far the fracs are
6 going to go.

7 A It's a difficult number to calculate.
8 Without -- without doing the design myself, I couldn't
9 give you that number.

10 Q Well, let me ask you. Are you a completion
11 engineer for these wells?

12 A Not for these wells.

13 Q Who's the completion engineer for planning
14 the frac?

15 A That would be another individual in our
16 organization.

17 Q Do you work with that individual?

18 A Yes. We hand over drilling-specific
19 information that's required for him to do his design.

20 Q Do you know why he's not here today?

21 A I believe he has a -- a medical issue right
22 now, but he's got -- that's all I'm aware of.

23 Q You're aware that we had a two-tier
24 objection to the drilling of these two wells that
25 you're proposing. The first one dealt with wellbore

1 collision, and you seem to have addressed that, but is
2 there anyone who is addressing the fracking portion of
3 our objection?

4 A To my knowledge, no.

5 Q Do you know why that wasn't addressed?

6 A I think with respect to the anti-collision
7 piece and the distance that we have outlined in our
8 exhibits, this seemed to be the most applicable
9 exhibit to put together.

10 Q From your general understanding, you've
11 testified here on this exhibit that the wellbores are
12 going to be 262 feet on the one well, and you're
13 telling me that you can't tell me whether or not your
14 frac hits are going to be more or less than 262 feet.

15 A Without understanding the reservoir
16 characteristics and doing the frac design, I could not
17 tell you an accurate number. The numbers I have
18 provided are accurate from the drilling standpoint.

19 Q Would you agree with me that perhaps a frac
20 hit could be greater than 262 feet?

21 MS. BENNETT: Mr. Examiner, I'd like to
22 object to that question because Mr. Jarrett has
23 already testified that it's a difficult calculation,
24 sitting here right now he can't do it, and he's not
25 the witness to answer that question in any event. And

1 so to the extent that I need a basis for the
2 objection, I would say asked and answered.

3 THE HEARING EXAMINER: Mr. Padilla?

4 MR. PADILLA: Well, he's testified that
5 he works together with a completion engineer. He
6 would have some general knowledge of the extent of the
7 frac, and the question I'm asking, and I'm not asking
8 for a specific number, I'm just simply saying is it
9 likely that the frac would exceed 262 feet. That's if
10 he knows. If he doesn't know, he can say I don't
11 know.

12 THE HEARING EXAMINER: Well, you're
13 asking the witness to agree with the statement.

14 THE WITNESS: So I think 262 feet with
15 respect to linear distance --

16 THE HEARING EXAMINER: Hold on, hold
17 on, hold on. Can you stop for a minute?

18 Would you strike what he's saying? I'm
19 in the middle of addressing an objection.

20 Mr. Jarrett, would you please wait
21 until we deal with the objection?

22 THE WITNESS: Yes.

23 THE HEARING EXAMINER: Thank you, sir.

24 All right. Mr. Padilla, I've heard
25 from both parties, and I sustain the objection in that

1 this witness is an expert in drilling engineering. He
2 has testified that your question is outside of his
3 knowledge base, and so I think you've made your point,
4 but I don't think this is the right witness to ask
5 this question. I understand experts can form opinions
6 based on evidence that is in the record and based on
7 their experience; however, this is outside his area of
8 expertise. So please move on.

9 BY MR. PADILLA:

10 Q With respect, Mr. Jarrett, to the Wolfcamp B
11 targeted well, you're saying that the vertical
12 distance is what?

13 A The TVD difference? Is that the question
14 you're asking?

15 Q Yeah. I think that's what I'm asking. In
16 other words, how much deeper is the Wolfcamp B than
17 the North Fork well?

18 A It's planned to be in the 11,300 foot range.

19 Q Well, that's not what I'm asking. I'm
20 asking what is the vertical distance between -- I'm
21 not asking how deep the wells are. I'm asking what is
22 the vertical distance between the completion zone of
23 the North Fork well and the proposed well going to the
24 Wolfcamp B?

25 A So with respect to anti-collision, the final

1 survey -- the inc-only surveys that we have on record,
2 for the Toro well, it terminated 11,080. If you take
3 into account the deviation that's calculated over the
4 500-foot intervals, it's 11,075. So 11,075 versus
5 11,300, that would give you your TVD -- your vertical
6 difference.

7 Q Okay. And approximately what is that
8 number?

9 A 225 feet.

10 Q Do you know whether you frac upwards?

11 A I think we've already addressed that.

12 Q You don't know? I don't think you answered
13 my question. I think the objection was sustained, but
14 I'm only asking whether you frac upwards.

15 A Frac propagation can be in an upwards
16 direction in some cases, yes.

17 Q And do you know whether you're going to frac
18 upwards in this case in drilling the well going to the
19 Wolfcamp B?

20 A I can speak to the difference on the
21 drilling side and the lack of anti-collision risk with
22 great certainty. Like I said, I feel like the
23 question had already been answered. There is a --
24 there is a chance that frac will propagate upward.

25 Q Looking at this Exhibit E-1, you have a

1 bullseye there. Is that bullseye a surface location
2 or a bottom-hole location?

3 A So when you -- when a survey tool like
4 inc-only, which is what we have available for this
5 well, is made available, it is assumed that it's the
6 same position. Surface-hole and bottom-hole location
7 are the same position. Each ring represents an error
8 ellipse as you get deeper.

9 Q So you don't know whether that well has
10 deviated left or right.

11 A Without running a gyro survey, nobody would.

12 Q Did you search well records for this well to
13 see what the bottom-hole location was?

14 A The bottom-hole location is generated using
15 inc-only surveys. The C-102 listed the surface-hole
16 location. NMOCD had lat and long for surface-hole
17 location.

18 Q So to understand your answer, you only
19 looked at the surface location?

20 A Yes. That's the most --

21 MS. BENNETT: Mr. Hearing Examiner, I'd
22 like to object to that question. I think it
23 inaccurately reflects what Mr. Jarrett's testimony
24 was. I think he testified that he looked at the OCD's
25 records and he looked at what was available on the OCD

1 well files.

2 THE HEARING EXAMINER: Ms. Bennett,
3 he's already answered the question, so the objection
4 came a little late. So overruled.

5 Mr. Padilla, please continue.

6 BY MR. PADILLA:

7 Q You testified about deviation of the
8 horizontal wells, and let me understand. What you're
9 saying is that you calculate deviation to account --
10 well, let me put it this way. When drilling a
11 horizontal well, you provide for some deviation
12 because you're not going to be able to control that
13 wellbore or the drill bit at some point. And can you
14 explain again how you calculate deviation and use
15 deviation to conclude that you don't have a wellbore
16 collision here?

17 A Are you asking how we use our survey data to
18 pinpoint where we are or are you asking about the
19 error ellipses?

20 Q Well, you must have some initial input as to
21 the possible error. Is that my understanding? Is
22 that correct?

23 A Yes. ISHWA [ph] -- the error files that
24 industry uses are developed by a panel -- their IPM
25 files. So each tool has an understood and accepted

1 error model associated with it. Franklin Mountain
2 uses the -- the tightest and most corrections
3 available to ensure our wellbore is placed exactly
4 where we want it.

5 So we don't just have measure while
6 drilling, which is a -- a standard directional tool
7 for horizontal wells, we actually have HDGM data and
8 IFR data, which means we've had a plane collect
9 magnetic -- local magnetic information over the
10 section that we're currently drilling, we're -- we do
11 multi-station analysis, which means we evaluate that
12 magnetic field at different waypoints throughout the
13 well to make sure we're not referencing magnetic
14 corrections that surface is 2 miles away.

15 Q As you're drilling the well, you do all of
16 this.

17 A Yes, we do.

18 MR. PADILLA: Mr. Examiner, I believe
19 that's all I have.

20 THE HEARING EXAMINER: We're going to
21 go to our technical examiner.

22 Ms. Thompson?

23 MS. THOMPSON: So I was getting a
24 little mixed up with the locations of the wells. Give
25 me one second here.

1 CROSS-EXAMINATION

2 BY MS. THOMPSON:

3 Q Let's see. What's the horizontal distance
4 between the Toro wells and the two proposed wells?

5 A The horizontal distance isn't something that
6 we would take into account in the anti-collision
7 report because we do have a 3D component. That's not
8 a number that was provided in the exhibit.

9 Q Okay. But the center-to-center difference,
10 I guess, was -- for the two wells again?

11 A So 262 feet with respect to the Treble State
12 Com 703H to the west and 426 feet to east for the
13 803H.

14 Q And the 703H well, that's the one that you
15 said you were going to try to do the 40-foot buffer?

16 A Yes.

17 Q Okay. So I noticed that the degree of
18 uncertainty for the 703H was below that 1 threshold
19 that you were talking about at 0.861?

20 A Yes.

21 Q By moving it that 40 feet, would that bring
22 that threshold up?

23 A Yes. It -- 1 indicates that the error
24 ellipses are not overlapping. So that negative number
25 would go into the positive at that point.

1 Q Okay. So currently that negative 42 shows
2 that they're overlapping.

3 A Yes.

4 Q Okay. Which well is below the Toro
5 vertically?

6 A They're both -- they're both technically
7 deeper --

8 Q Deeper --

9 A -- but the greater vertical depth is
10 associated with the 803H.

11 Q The 803. Okay. And you said that that
12 would be the Wolfcamp A, and that would be targeting
13 between 10,700 and 11,300, in that area?

14 A Are you -- are you talking about the range
15 for both wells?

16 Q Yeah.

17 A Yes.

18 Q So though the Toro is vertically higher,
19 does it fall within the middle of the first and last
20 take points of the wells? Right? Is that what I'm
21 seeing from this exhibit in front of us?

22 A Yes.

23 Q I guess, how hard would it be for the 703H
24 well to push it to 330 foot distance?

25 A If -- we would have to file a nonstandard

1 location at that point to move that far west.

2 Q Okay. So assuming that there is an overlap
3 in the uncertainties about the vertical well and that
4 703H well, is it your opinion that the small overlap
5 that they would have potential contact with the well
6 or no contact?

7 A My opinion would be that there would be no
8 contact at that displacement. The -- the error models
9 that generate the ellipses are extremely conservative.

10 MS. THOMPSON: Okay. That's all my
11 questions.

12 THE HEARING EXAMINER: Ms. Bennett,
13 redirect?

14 MS. BENNETT: Yes. Thank you.

15 REDIRECT EXAMINATION

16 BY MS. BENNETT:

17 Q Mr. Jarrett, I just have a few questions I'd
18 like to follow up about. Mr. Padilla asked you about
19 North Fork's two-tiered objection, one being the
20 anti-collision risk and one being frac hits. Do you
21 recall that question?

22 A Yes.

23 Q And earlier today I asked you if you had
24 reviewed North Fork's exhibits and you said you had.

25 A Yes.

1 Q And in North Fork's exhibits, is there a
2 request that the Franklin Mountain Energy wells be
3 330 feet away from the Toro well?

4 A Yes.

5 Q And is that your understanding of their
6 request for both, to address both anti-collision and
7 the frac hit?

8 A Yes.

9 Q And so your testimony, while not the
10 testimony of a completions engineer, does address the
11 nub of their request, which is the 330-foot
12 separation. Is that right?

13 A Yes.

14 Q And again, for the 803 well, you testified
15 it's above and beyond 330 feet; it's 426 feet. Is
16 that right?

17 A Yes.

18 Q And that's the only well that North Fork
19 identified in their exhibits. Is that right?

20 A Yes.

21 Q And then the 703, I know we've been talking
22 about it as a 262-foot separation, but it's actually
23 going to be more like 305 feet separation. Is that
24 right?

25 A Yes.

1 Q So not quite 330, but 25 feet off?

2 A Yes.

3 Q When you looked at -- so Mr. Padilla asked
4 you some questions about whether you'd done some
5 calculations to predict the frac propagation. Is
6 there anything in the North Fork exhibits that
7 discusses frac propagation?

8 A No.

9 Q Are there any calculations that North Fork
10 undertook, based on your review of the exhibits, to
11 show any calculations of frac propagation?

12 A No.

13 Q Mr. Padilla asked you about the bottom-hole
14 location and if you'd looked through any files to find
15 the bottom-hole location for the Toro well. Did North
16 Fork put anything in its affidavits about the
17 bottom-hole location for the Toro well?

18 A No.

19 Q Earlier -- well, when you were talking about
20 some of the protections that you take to manage risk
21 during drilling and completion, I was really intrigued
22 by the statement that you said that you have a plane
23 that flies over the section while you're drilling, and
24 I think that could warrant a little further
25 explanation. Can you describe what that means a

1 little bit more? That you have an actual plane that
2 flies over the section?

3 A So it's -- it is an actual plane. It's --
4 so you can think -- when you -- when you do well
5 planning, well planning software comes built in with,
6 let's call it, low-resolution or like a 720p version
7 of a magnetic model that you would use to actually
8 plan the well and make sure it's where you want it to
9 be. There's a couple different steps you can take to
10 really get that to 4K Ultra.

11 So the -- the next step in -- in resolution
12 is to -- is to actually fly a plane with sensors on it
13 over the exact section that you're going to be
14 drilling and apply the corrected magnetic values that
15 are high resolution versus a model. So we're going
16 from modeled to measured at that point.

17 To -- to further shrink your error ellipse,
18 you can actually put waypoints throughout the wellbore
19 to go back and reference a point closer to where the
20 actual tool is. That -- that'll also shrink the error
21 ellipse.

22 So in the preplanning phase we have HDGM
23 and -- and IFR data from plane, which is an extremely
24 high-resolution magnetic model, but we also send up
25 raw data for each survey that's taken at least a

1 hundred feet. We send it in to be corrected based on
2 those waypoints throughout the laterals to tighten our
3 error ellipse.

4 Q That's great. So that sounds like very
5 comprehensive. A lot of those words I didn't
6 understand, I'll just be honest, but very
7 comprehensive and thanks for explaining that.

8 Ms. Thompson, the technical examiner, asked
9 you a question about whether the Toro is between the
10 first and -- it's sort in the middle of the first and
11 last take points of the two FME wells. I think that
12 was her question. Can you just elaborate on whether
13 that's -- and I think you answered that question as
14 yes, that the Toro is in the middle of the first and
15 last take points of the two Franklin Mountain Energy
16 wells. But isn't it your testimony that, while it's
17 in the middle of the unit, it's actually offset by
18 some distance from each well?

19 A Yes. It is not directly in the middle.
20 It's -- it's located between, like, a wide band from
21 first take point to last take point, closer to first
22 take point, but there is some horizontal and vertical
23 offset there.

24 MS. BENNETT: Great. Thank you.

25 Those are the only redirect questions I

1 have.

2 THE HEARING EXAMINER: Mr. Padilla, is
3 there any cross-examination on the specific questions
4 that Ms. Bennett asked?

5 MR. PADILLA: No.

6 THE HEARING EXAMINER: Thank you.

7 MR. PADILLA: I'm sorry. No.

8 THE HEARING EXAMINER: Thank you, sir.
9 Ms. Thompson?

10 MS. THOMPSON: I actually just have one
11 question.

12 RE-CROSS-EXAMINATION

13 BY MS. THOMPSON:

14 Q I want to set out exactly how the waypoints
15 work, if you could explain those more.

16 A It would depend on the magnetic anomalies
17 along of the path of the wellbore. If you have a lot,
18 you're going to have lot of waypoints. If the
19 magnitude doesn't change a lot, you could have fewer.
20 So it's -- it's really -- it's developed -- we use a
21 company called -- it's through H&P Survey Management,
22 so they only specialize in survey correction. We
23 would get with them in the planning phase and make
24 sure we had enough waypoints to accurately correct the
25 magnetic error as we went from heel to toe in the

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1 well.

2 Q So these waypoints are done before the
3 well's being drilled or during?

4 A The -- the information on the magnetic side
5 from the plane data and IFR cube are known while we're
6 planning. So when we plan, we have the -- the
7 assigned -- the correct error ellipse assigned to the
8 well plan before we approve it.

9 MS. THOMPSON: Thank you.

10 No other questions.

11 THE HEARING EXAMINER: Ms. Bennett, are
12 you done with this witness?

13 MS. BENNETT: I am. Thank you.

14 THE HEARING EXAMINER: Okay.

15 Mr. Jarrett, you're excused.

16 Ms. Bennett, are there any other
17 witnesses you want to call?

18 MS. BENNETT: No. But I would like to
19 be able to recall Mr. Jarrett for rebuttal, if
20 necessary.

21 THE HEARING EXAMINER: Okay. By all
22 means.

23 Okay. Mr. Padilla.

24 MS. BENNETT: Mr. Hearing Examiner?

25 THE HEARING EXAMINER: Yes.

1 MS. BENNETT: Could I request that we
2 take a brief break --

3 THE HEARING EXAMINER: Sure.

4 MS. BENNETT: -- just before we start
5 the next set of questions.

6 THE HEARING EXAMINER: Let's take a
7 five-minute break.

8 MS. BENNETT: Thank you.

9 THE HEARING EXAMINER: It is now 9:54.
10 We'll come back on the record at 10:00 a.m.

11 Thank you.

12 (Off the record.)

13 THE HEARING EXAMINER: It is 10:00 a.m.
14 We're back on the record.

15 Ms. Bennett, do you rest your case in
16 chief?

17 MS. BENNETT: I do.

18 THE HEARING EXAMINER: Thank you.

19 Mr. Padilla?

20 MR. PADILLA: Mr. Examiner, we'll call
21 at this point Aaron Hoak, and we move introduction of
22 his self-affirming statement.

23 THE HEARING EXAMINER: Let's first get
24 Mr. Hoak in front of us.

25 MR. HOAK: I am on the line.

1 THE HEARING EXAMINER: Are you able to
2 turn your camera on?

3 MR. HOAK: I had only called in. I
4 mean, I could -- I could try to log in real quick.
5 I'm out in the field and my service is not good. I
6 could run into the office real quick.

7 THE HEARING EXAMINER: It's impossible
8 to hear you clearly. So are you able to rejoin us
9 with video?

10 MR. HOAK: I will try to join video,
11 but no guarantees on the service. Let me see.

12 THE HEARING EXAMINER: Mr. Padilla, do
13 you have a second witness that we can --

14 MR. PADILLA: Yes. David Bolton. He's
15 the fact witness.

16 THE HEARING EXAMINER: He's the what?

17 MR. PADILLA: The fact witness that we
18 want to call. He's the manager for this entity.

19 THE HEARING EXAMINER: Okay. So
20 Mr. Bowles, you said?

21 MR. PADILLA: Bolton.

22 THE HEARING EXAMINER: Bolton.

23 Mr. Bolton, are you with this?

24 Mr. Padilla, have you spoken to
25 Mr. Bolton?

1 MR. PADILLA: I haven't spoken to him.
2 I spoke to someone else and told him to be on. I see
3 a DB there, so I assume that's him. Oh, that Deana
4 Bennett.

5 THE HEARING EXAMINER: That's
6 Ms. Bennett.

7 MR. BOLTON: I'm also having camera
8 issues. Let me try and hook up to this.

9 THE HEARING EXAMINER: And who is
10 speaking?

11 MR. BOLTON: Dave Bolton.

12 MS. BENNETT: Mr. Hearing Examiner,
13 could I raise a brief procedural issue while they're
14 working on getting their --

15 THE HEARING EXAMINER: Yes. Go ahead.

16 MS. BENNETT: -- technology resolved?
17 In looking through the exhibits or through the
18 materials that were filed, it doesn't appear that --

19 THE HEARING EXAMINER: Filed by who?

20 MS. BENNETT: By North Fork.

21 THE HEARING EXAMINER: Let me take a
22 look at them. Hold on. I have to find them.

23 Mr. Padilla, what did you file and
24 when?

25 MR. PADILLA: I believe it was last

1 Tuesday, Mr. Examiner. We filed self-affirming
2 statements and two exhibits with the self-affirming
3 statement of Mr. Hoak.

4 THE HEARING EXAMINER: How do you spell
5 the name?

6 MR. PADILLA: H-O-A-K.

7 THE HEARING EXAMINER: Okay. Let me
8 find them, Ms. Bennett.

9 I see Mr. Hoak, and I'm looking for
10 your -- you said last Tuesday. Last Tuesday would've
11 been the 23rd. Is that correct, Mr. Padilla?

12 MR. PADILLA: I believe that's correct.

13 THE HEARING EXAMINER: Okay. I'm
14 looking for anything filed in this case on or about
15 that time, and I don't see anything from you. I see
16 an unopposed motion for continuance on the 18th. I
17 see after that -- that's not -- I see this document
18 here, prehearing statement from Franklin Mountain.
19 It's a five-page document. That's not what you're
20 talking about.

21 MR. PADILLA: Mr. Examiner, I think it
22 was the 25th. I'm corrected.

23 THE HEARING EXAMINER: Oh, I see.
24 Well, I see Franklin Mountain Energy's Exhibit E,
25 which we've already discussed. I see a verbatim

1 transcript. I don't see anything from you in this
2 case. Is there another case number it might be under?

3 MR. PADILLA: I don't think so.

4 THE HEARING EXAMINER: No.

5 MS. BENNETT: Mr. Examiner, could I
6 help?

7 THE HEARING EXAMINER: Yes. That'd be
8 great.

9 MS. BENNETT: As you're looking at
10 those thumbnails, there's the Franklin Mountain Energy
11 thumbnail, and right to the left of that is a 301 KB
12 file.

13 THE HEARING EXAMINER: I see it.

14 MS. BENNETT: That is the --

15 THE HEARING EXAMINER: Is that it?

16 MS. BENNETT: Yes.

17 THE HEARING EXAMINER: I see a
18 prehearing statement. Okay. Yes. And this is a
19 five-page document, Mr. Padilla.

20 MR. PADILLA: Correct.

21 THE HEARING EXAMINER: Okay. Thanks,
22 Ms. Bennett.

23 So let's see. Exhibit packet submitted
24 for North Fork Operating Company and Aguila.
25 Exhibit A, self-affirmed statement of Aaron Hoak, and

1 with an Exhibit 1. And Exhibit B, self-affirming
2 statement of David Bolton. Okay.

3 (North Fork/Aguila Exhibit A,
4 Exhibit A-1, and Exhibit B were marked
5 for identification.)

6 Okay. What is the issue, Ms. Bennett?

7 MS. BENNETT: Neither of the
8 self-affirmed statements are included with the exhibit
9 packet, and I don't intend to -- I'm not raising that
10 issue other than to point it out that they're not
11 before the Division. So if the Division or myself has
12 questions about them, I printed them out, and so I'm
13 happy to use the printouts that I have because
14 Mr. Padilla served them on me, and so I'm happy to
15 show those for the Division's convenience. So it's
16 more of a logistical request, I guess, or logistical
17 offer, I suppose. But also the record would need to
18 be clarified --

19 THE HEARING EXAMINER: Okay. Thank
20 you.

21 MS. BENNETT: -- or perhaps the
22 exhibits stricken. I'm not entire sure what the
23 Division would prefer.

24 THE HEARING EXAMINER: So Mr. Padilla,
25 Ms. Bennett's correct. Your exhibits are not part of

1 your prehearing statement.

2 MR. PADILLA: Mr. Examiner, I've always
3 filed a prehearing statement separately from the --

4 THE HEARING EXAMINER: Oh, okay.
5 Exhibits?

6 MR. PADILLA: -- exhibits.

7 THE HEARING EXAMINER: So I don't see
8 the exhibits --

9 MR. PADILLA: I think we filed them
10 both at the same time.

11 THE HEARING EXAMINER: No. That's not
12 correct. They're not here.

13 Freya, is there anything in the queue
14 for this case that needs processing?

15 MS. TSCHANTZ: I can check. Let me
16 check.

17 THE HEARING EXAMINER: Thank you.

18 Mr. Padilla, we're going to check to
19 see if it's an error on our part.

20 I didn't hear an objection,
21 Mr. Padilla, so Ms. Bennett is not objecting to their
22 admission, but I have nothing to admit because all I
23 have is your prehearing statement at this point.

24 We have Mr. Hoak in front of us, so we
25 can get him sworn in, but we don't have his statement

1 to admit at this point. Do you want to send it to me
2 right now?

3 MR. PADILLA: I can.

4 THE HEARING EXAMINER: Go ahead.

5 Mr. Hoak, would you raise your right
6 hand please?

7 WHEREUPON,

8 AARON HOAK,

9 called as a witness and having been first duly sworn
10 to tell the truth, the whole truth, and nothing but
11 the truth, was examined and testified as follows:

12 THE HEARING EXAMINER: Great. Would
13 you state and spell your name for the record?

14 THE WITNESS: Aaron Hoak, H -- or
15 Aaron, A-A-R-O-N, Hoak, H-O-A-K.

16 THE HEARING EXAMINER: Okay. Thank
17 you. So we've got you sworn in.

18 Do we have Mr. Bolton to swear in?

19 MR. BOLTON: Yes. I'm still working on
20 my camera, though.

21 THE HEARING EXAMINER: Okay. Well,
22 when you do that, we'll get you sworn in as well, but
23 until that time I'm not going to swear you in if I
24 can't see you.

25 Mr. Padilla, do you have my email?

1 MR. PADILLA: No, I don't.

2 THE HEARING EXAMINER: Do you have
3 Freya's email?

4 MR. PADILLA: Yes, I do.

5 THE HEARING EXAMINER: Great. Would
6 you send your exhibits to Freya right now, and then
7 she'll forward them to me?

8 MR. PADILLA: Sure.

9 THE HEARING EXAMINER: And Ms. Bennett,
10 did you say that Mr. Padilla sent them to you?

11 MS. BENNETT: Yes.

12 THE HEARING EXAMINER: He emailed them
13 to you.

14 MS. BENNETT: Yes, he did.

15 THE HEARING EXAMINER: All right.
16 Sounds good. When did you get them?

17 MS. BENNETT: Around 6:30 on July 25th,
18 I'd say. I'm looking at it right now, actually. 6:41
19 on July 25th.

20 THE HEARING EXAMINER: Perfect. And so
21 you not objecting to those.

22 MS. BENNETT: No.

23 MR. PADILLA: Mr. Examiner, I can also
24 hand you a hard copy of what we filed.

25 THE HEARING EXAMINER: Yeah. That'll

1 help get us moving, yes.

2 MS. TSCHANTZ: Mr. Hearing Examiner,
3 there's nothing in the queue.

4 THE HEARING EXAMINER: All right.
5 Thank you.

6 Mr. Tschantz, Mr. Padilla is going to
7 email you these exhibits.

8 Thank you.

9 Let's deal with Mr. Hoak's
10 qualifications.

11 Mr. Padilla, did you say that Mr. Hoak
12 had not been accepted previously as an expert before
13 the division?

14 MR. PADILLA: Yes, that's correct.

15 THE HEARING EXAMINER: So you did say
16 that. Okay.

17 Okay. Mr. Hoak, would you outline --
18 first of all, what field are you seeking admission as
19 an expert?

20 THE WITNESS: Drilling engineer and
21 completions engineer.

22 THE HEARING EXAMINER: Drilling
23 engineer and completion engineer. Okay. All right.

24 Mr. Hoak, what education do you have
25 toward this field of expertise?

1 THE WITNESS: I went to Oklahoma State
2 for chemical engineering with a minor in petroleum
3 engineering and graduated in 2015.

4 THE HEARING EXAMINER: Have you done
5 any other updates or symposiums or conferences in this
6 field?

7 THE WITNESS: I'm a licensed --
8 licensed professional engineer in petroleum
9 engineering.

10 THE HEARING EXAMINER: Licensed by who?

11 THE WITNESS: The -- the National
12 Association of Licensing Professionals. I'd have to
13 go get the actual qualifications, but it's -- it's a
14 fairly regulated process.

15 THE HEARING EXAMINER: Okay. I
16 understand. And your work experience since graduation
17 in this field?

18 THE WITNESS: Yes. I worked at Devon
19 Engineering in various engineering roles, Devon Energy
20 in various engineering roles, and then I worked doing
21 consulting for multiple companies, and then I worked
22 for Riley Permian, same -- same -- various engineering
23 roles.

24 THE HEARING EXAMINER: And you're with
25 who now?

1 THE WITNESS: And so I'm on my own now.
2 Again, I do consulting for multiple companies,
3 primarily in the Permian and in -- in Oklahoma.

4 THE HEARING EXAMINER: I see. What is
5 the name of your company?

6 THE WITNESS: Constantinople.

7 THE HEARING EXAMINER: Mr. Hoak, you're
8 recognized as an expert in petroleum drilling,
9 engineering, and a completion engineer before this
10 Division.

11 Mr. Padilla, have you emailed the
12 exhibits to Ms. Tschantz?

13 MR. PADILLA: I just did, Mr. Examiner.

14 THE HEARING EXAMINER: All right.
15 Let's talk about your exhibits. What
16 are you seeking to admit into evidence?

17 MR. PADILLA: Mr. Examiner, they're
18 self-affirming statement and the two well plats,
19 C-102s.

20 THE HEARING EXAMINER: Okay. Do you
21 want to ask some foundation questions to Mr. Hoak for
22 the exhibits that you're seeking to admit through him?

23 MR. PADILLA: Sure.

24 THE HEARING EXAMINER: Go ahead.

25 //

DIRECT EXAMINATION

BY MR. PADILLA:

Q Mr. Hoak, you've already been asked and qualified as a drilling and completion engineer. I'd like to ask you about your self-affirming statement. When did you prepare that?

A I prepared it last Thursday, July 25th, 2024.

Q Mr. Hoak, you drew that yourself?

A Yes, I did.

Q Mr. Hoak, is that self-affirming statement, as far as you know, is that a true and correct statement?

A Yes, it is.

Q And its based on your knowledge as a drilling and completion engineer?

A Yes.

Q And you drew the conclusions that you concluded in that self-affirming statement?

A Yes.

Q Now, the exhibits that you attached are the C-102s proposed by Franklin Mountain for drilling its 703 well?

A Yes. So in the self-affirming statement that does need to be corrected. It was the 703 that

1 is our main concern versus the 803 that was in the
2 exhibit.

3 Q Okay. So what you're saying is that the
4 exhibit is incorrect and you'd like to substitute the
5 703 C-102.

6 A Yes.

7 Q When did you discover that error?

8 A This morning.

9 THE HEARING EXAMINER: Mr. Padilla?

10 MR. PADILLA: Yes, sir.

11 THE HEARING EXAMINER: Are you
12 basically saying that Exhibit 1 attached to Exhibit A
13 is the wrong well C-102?

14 MR. PADILLA: Yes, sir.

15 THE HEARING EXAMINER: Okay. What you
16 are saying is instead of the 803 it should be the 703?

17 MR. PADILLA: Correct.

18 THE HEARING EXAMINER: Okay. So we're
19 going to require you to file an amended exhibit packet
20 with a cover letter by close of business Monday, which
21 is the 5th of August, to correct the exhibits which
22 aren't filed as of yet anyway.

23 So Freya, we're not going to admit --
24 on Monday when he files the amended exhibit packet,
25 would you please remove whatever he filed today?

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1 MS. TSCHANTZ: Okay.

2 THE HEARING EXAMINER: Okay.

3 And Freya, by his emailing you the
4 exhibits, is that an alternate method to filing
5 something in the case?

6 MS. TSCHANTZ: I can upload them for
7 him. It will not have a stamped time receipt on it,
8 though.

9 THE HEARING EXAMINER: And that's okay
10 because we're going to remove it anyway when he files
11 the correct paperwork on Monday by close of business.

12 MS. TSCHANTZ: Okay.

13 THE HEARING EXAMINER: Okay. So we now
14 understand, Mr. Padilla, that Exhibit 1 is not
15 correct. Please continue.

16 BY MR. PADILLA:

17 Q Mr. Hoak, the second part of the two
18 exhibits, or the second exhibit, is the C-102 for your
19 North Fork well. Correct?

20 A Yes.

21 Q And that's the vertical well we're talking
22 about that North Fork operates.

23 A Yes.

24 MR. PADILLA: So Mr. Examiner, I'm not
25 sure how to proceed now. Do you want me to just do

1 direct testimony?

2 THE HEARING EXAMINER: Well, you're
3 relying on this witness for his expert opinion. What
4 is his expert opinion?

5 MR. PADILLA: What --

6 MS. BENNETT: Mr. Examiner, may I weigh
7 in briefly on the exhibits before we move on to the
8 actual testimony?

9 THE HEARING EXAMINER: Of course. We
10 haven't admitted them yet. Yes.

11 MS. BENNETT: Yeah. So in terms of the
12 error that was just, I guess, realized this morning,
13 Franklin Mountain Energy timely submitted its exhibits
14 on Tuesday, July 25th, and North Fork has had an
15 entire week to review our exhibits and make the change
16 to what is a fundamental difference in their exhibit.
17 It's not a typo. It's a fundamental difference. If
18 you look at Mr. Hoak's self-affirmed statement, he
19 references the 803 well multiple times in his
20 declaration. So he will not only need to revise the
21 C-102, but he will also need to revise his affidavit.

22 And like I said, I don't think this is
23 a -- it's a typo that should have been corrected
24 before the hearing given the amount of time that North
25 Fork had to review Franklin Mountain Energy's exhibits

1 and prepare a corrected exhibit.

2 THE HEARING EXAMINER: So what are
3 you --

4 MS. BENNETT: I'm not objecting. I'm
5 making a point for the record and asking that his
6 declaration and his Exhibit 1 be corrected.

7 THE HEARING EXAMINER: Okay. I think
8 that's what I'm asking.

9 So Mr. Padilla, you understand that.

10 MR. PADILLA: I understand completely.

11 THE HEARING EXAMINER: My concern is --

12 MR. PADILLA: I mean, we've got the
13 wrong well in that exhibit so --

14 THE HEARING EXAMINER: Mr. Padilla, my
15 concern is that the expert's opinion is based on
16 evidence of a different well as stated here in your
17 self-affirmed statement. What do you have to say to
18 that?

19 MR. PADILLA: I can have him testify
20 about the error and have him correct the error by his
21 testimony.

22 THE HEARING EXAMINER: Okay. Okay. So
23 please proceed.

24 BY MR. PADILLA:

25 Q Mr. Hoak, we just discovered from your

1 explanation that you included the wrong well in your
2 self-affirmed statement. Correct?

3 A Correct.

4 Q And what should have been the correct well
5 in your self-affirmed statement?

6 A The -- the Treble State Com 703H.

7 Q Despite the error, did you reach a
8 conclusion as to the distance that the Franklin
9 Mountain well should be from the North Fork well?

10 A What was the question?

11 Q Despite the error, did you conclude a
12 certain distance that the Franklin Mountain well
13 should be from your well in order to minimize and
14 mitigate any damage?

15 A 330 feet was our request.

16 Q You heard the testimony here today from
17 Mr. Jarrett. Do you disagree with his conclusion?

18 A I think what he is saying is technically
19 correct, but I still think the well's too close to
20 ours.

21 Q And what is your solution to correct that?

22 A That they would shade, based on his
23 definition, 70 feet so that the nearest collision
24 would be 330 feet. But it sounds like that might not
25 be possible from their testimony.

1 Q Well, if they file for a nonstandard
2 location, would that solve the problem?

3 A That would solve our problem with the
4 drilling aspect.

5 Q As I understand your testimony, you've only
6 got one problem. One well is the only problem you're
7 really concerned with. Right? You're not concerned
8 about the 803 well.

9 A That's correct.

10 Q So let me have you testify about the
11 anti-collision aspect of Mr. Jarrett's testimony. Do
12 you have any problems with his testimony concerning
13 well collision after having looked at his --

14 A I do not have any problem with his
15 testimony for drilling aspects.

16 Q Say again?

17 A I do not have any issue with his testimony
18 regarding the -- the drilling.

19 Q Do you believe that they could manage to
20 avoid a collision with your wellbore given his
21 technological explanation?

22 A Yes. From a drilling perspective, it will
23 probably be close, but that's not the only concern.

24 Q What are the other concerns that you may
25 have?

1 A The completion.

2 Q And completion means the frac?

3 A Yes.

4 Q I asked Mr. Jarrett questions about the
5 proximity or the extent of the frac. Do you have an
6 opinion, as a completion engineer, of what the extent
7 of the frac would be?

8 MS. BENNETT: Mr. Examiner, I would
9 object to this line of questioning as it's not
10 anywhere in his direct testimony. So if this is
11 designed to be a summary of his direct testimony, this
12 question goes beyond that.

13 THE HEARING EXAMINER: Mr. Padilla?

14 MR. PADILLA: Well, we've already asked
15 the questions of Mr. Jarrett; I brought that up. And
16 I'm asking him about whether he can answer those
17 questions.

18 THE HEARING EXAMINER: But the
19 objection is that this is outside the scope of his
20 self-affirmed statement.

21 MR. PADILLA: I understand that, but
22 the whole, the whole concept of this hearing is
23 proximity of the wells and fracs. They're aware that
24 that's a second part of our objection to this case.

25 THE HEARING EXAMINER: Well, based on

1 that answer, I sustain the objection, so please move
2 on. Do you have any other questions for this witness,
3 Mr. Padilla?

4 MR. PADILLA: No. Given your ruling, I
5 can't go forward with any frac questions or extent of
6 frac.

7 THE HEARING EXAMINER: That's correct.
8 I mean that question, the objection is sustained. If
9 you want to try a different question, maybe it won't
10 be objected to, but I can't predict.

11 MR. PADILLA: Well let me try something
12 else.

13 BY MR. PADILLA:

14 Q Mr. Hoak, given, I believe, the 262 feet,
15 which is the distance between the two wellbores, and
16 then the additional calculation to 305 feet, do you
17 still think that's too close for those wellbores to
18 be?

19 A Yes.

20 Q Can you explain?

21 A Well, as Cameron explained, there's
22 measurement errors in these tools, and even with using
23 modeling and the high technology that we have today,
24 there are still going to be errors and they are still
25 going to be within the potential of colliding with

1 each other from a drilling perspective. And
2 additionally, we are still way too close from a
3 completions perspective.

4 Q And when you say "completion," you mean
5 hydraulic fracture. Correct?

6 A -- frac. Yes, sir.

7 MR. PADILLA: That's all I have,
8 Mr. Examiner.

9 THE HEARING EXAMINER: Ms. Bennett?

10 MS. BENNETT: Thank you.

11 CROSS-EXAMINATION

12 BY MS. BENNETT:

13 Q Thank you, Mr. Hoak. Thanks for being here.
14 I wanted to just walk through some of the statements
15 in your self-affirmed declaration and some of the
16 things that you testified to just now.

17 So first of all, I noticed in your
18 self-affirmed statement that you've been retained by
19 North Fork. Does that mean you're acting as a
20 consultant for North Fork?

21 A Yes.

22 Q And when were you retained?

23 A I don't have a specific date. We
24 occasionally do work together.

25 Q When did you begin work on this particular

1 project?

2 A Probably about the 1st of June.

3 Q The 1st of June. Okay. I was looking
4 through the well files for the North Fork Toro well,
5 and I tried to find it using the OGRID number that you
6 put in your self-affirmed statement, and I wasn't able
7 to access it with that OGRID. Do you know if that's
8 North Fork's OGRID number?

9 A It was the number I was told to use.

10 Q And by whom were you told to use that
11 number?

12 A By Dave Bolton.

13 Q Okay. Thanks. Are you retained also by
14 Aguila or Aquila --

15 MR. PADILLA: Aguila.

16 MS. BENNETT: Aguila?

17 BY MS. BENNETT:

18 Q -- Aguila Operating?

19 A Yes.

20 Q Do they operate any wells in New Mexico?

21 A No.

22 Q Do you have an understanding of what the
23 relationship is between Aguila and North Fork?

24 A They are partners in these wells.

25 Q So looking at paragraph number 6 of your

1 declaration, you say that "The Franklin Mountain
2 Energy proposed well is planned to be within 260 feet
3 of the bottom-hole locations of both North Fork and
4 Aguila wells." Are there two wells that we're talking
5 about here or just one?

6 A There is just one well.

7 Q And that's the North Fork Toro State 005
8 that we've been talking about?

9 A For clarification, there's actually two
10 wells there, but they are both operated by North Fork.
11 This -- in this discussion, we are only talking about
12 the Toro 27-5.

13 Q There's another well in the same location?

14 A There's another well nearby that Franklin
15 Mountain has already frac bashed.

16 Q Okay. That's the Toro 1.

17 A Toro 27-1.

18 Q And obviously Franklin Mountain Energy
19 disagrees with the characterization of that. But I
20 wanted to then talk about paragraph 8 of your
21 declaration. You say "The vertical Toro 27 State well
22 does not have a wellbore deviation survey, only an
23 inclination survey." What's the difference between a
24 wellbore deviation survey and an inclination survey?

25 A A actual full survey would also show azimuth

1 and direction and give you a much better understanding
2 of where the well is actually at down hole. With an
3 inclination survey, it's just giving you literally
4 incline of the survey as you work through the well.
5 It doesn't tell you direction.

6 Q Did you review the inclination survey as
7 part of your preparation for your declaration?

8 A Yes.

9 Q Did North Fork provide the inclination
10 survey to you or did you find it on own?

11 A I found it on the OCM website for well
12 files.

13 Q Could a deviation survey be completed on the
14 Toro well?

15 A It could be completed, but my experience
16 is -- is that operators that are doing the -- the
17 frac, the completing, are not willing to pay for that.

18 Q But it's perfectly within North Fork's
19 purview to undertake that survey themselves. Isn't
20 that correct?

21 A We have the technical ability to do so, but
22 we would not probably do that without offset
23 compensation.

24 Q So recognizing that paragraph 8 of your
25 declaration is likely inaccurate or is inaccurate, I

1 still do want to ask you a couple of questions about
2 it. You noted that the Treble State Com 803H is at an
3 approximate measured depth of 15,000 feet. Where did
4 you get the information about the approximate measured
5 depth of the Treble State Com 803H?

6 A That's just from some of the regular files
7 with OCM that -- that I've seen. OCD.

8 Q Do you have a copy of that filing that you
9 are referring to where you found that number?

10 A I can probably provide it, but I don't have
11 it on me at this moment.

12 Q Okay. But you'll be revising that anyway to
13 show the measured depth of the Treble State Com 703H.
14 Is that what I understand?

15 A Yes.

16 Q And based on the question that I believe
17 Mr. Padilla asked you, I just want to make clear that
18 it's North Fork and Aguila's position that the Treble
19 State Com 803H is not at issue in this case.

20 A Not at the moment, no.

21 Q Can you elaborate on what you mean by "not
22 at the moment"?

23 A Well, the main concern is the 703H. I
24 believe that they're going to be zipper fracking these
25 wells, and that means the 803H will probably still

1 interact with the well, but it's far enough away that
2 it's not my concern right now.

3 Q Okay. On Exhibit 1, which is the Franklin
4 Mountain Energy Treble State Com 803H C-102 -- do you
5 have that in front of you?

6 A Yes.

7 Q It shows the 803H well as being to the east
8 of the Toro 27-5. Is that right?

9 A Yes.

10 Q And is this your handwriting? Toro 27-5?

11 A I believe that's Ernie's handwriting.

12 Q And so Ernie made the dot and put it in the
13 Toro 27-5? Mr. Padilla?

14 A Correction. That might have been Mark, that
15 is our landman. That's North Fork's landman.

16 Q Okay. But it wasn't you.

17 A It was not me.

18 MR. PADILLA: And it wasn't me either.

19 MS. BENNETT: Thanks.

20 BY MS. BENNETT:

21 Q And so I understood you to say today that
22 only today you realized that there was an issue
23 between the 703 and the 803. Is that correct?

24 A Yes. This morning when I was preparing, I
25 realized I put the wrong well number on it. And --

1 and at the same time I'd asked Mark to attached
2 the -- that well's exhibit, and so he had pulled the
3 wrong exhibit into that as well. The C-102.

4 Q Okay. So in your affidavit or declaration,
5 in paragraph 8, you say that the Treble State
6 Com 803 -- and I'm paraphrasing here so feel free to
7 correct me if I'm misconstruing anything -- but that
8 the Toro 27 State 5 and the Treble State Com, let's
9 call it 703H, are within a potential collision
10 distance of 260 feet. With my change to that being
11 the 703H, is that what you intended to say in this
12 paragraph 8?

13 A Yes.

14 Q How did you calculate the 260 feet collision
15 distance?

16 A We had a conversation with Cameron, and
17 that's the distance he had told us that would be the
18 distance between the two wells.

19 Q So you didn't undertake any analysis to come
20 up with that number, then.

21 A We knew that it would be very close based on
22 the C-102. We did not know exactly how close it had
23 been.

24 Q I'm going to just ask that question again.
25 Did you undertake any independent analysis of the

1 potential collision distance between the Toro 27
2 State 5 and the Treble State Com 703H well?

3 A No. I did not do any modeling.

4 Q Is it fair to say that you were relying on
5 the Treble State Com 803H well's C-102?

6 A We had looked at it, but the -- the 803 was
7 not the concern. The 703 was the concern.

8 Q And I guess that's what's confusing to me.
9 If the 703 was the concern from, let's say, June 1st
10 when you started working on this project, how is it
11 that you didn't notice until this morning that you had
12 the wrong well in the exhibits? And I'm not trying to
13 be snarky or, like, critical. I'm just really trying
14 to understand. Because our exhibits would've been
15 different had we understood -- or we would've focused
16 less on the 803H well if we'd understood that your
17 concern was the 703H well.

18 A It was just a genuine mistake.

19 Q Okay. Earlier Mr. Padilla asked you about
20 the lengths of fracs, and I objected to that. Do you
21 remember that interaction?

22 A Yes.

23 Q In your affidavit, paragraph 9, you noted
24 that "The horizontal component of Franklin Mountain's
25 well should maintain a minimum distance of 330 feet

1 from the North Fork bottom hole location." Is that
2 what you're asking the Division or what you're
3 suggesting the Division should require here for both
4 anti-collision and frac hits?

5 A That number comes from multiple
6 conversations with geo-steers that I talked to, and
7 they said they would never plan for a well to be
8 within 330 feet without getting permission from the
9 operator beforehand -- the other -- the nearby well
10 beforehand.

11 Q So 330 feet addresses both the frac hit and
12 the collision risk, from your perspective.

13 A That is only addressing the geo-steering
14 perspective, not the frac hit.

15 Q Where in your declaration do you model the
16 frac hit potential?

17 A We did not model the frac hit potential, but
18 we -- from previous experience we've had North
19 Fork's had -- Toro 27-1 fracked into with very similar
20 wellbore situation.

21 Q But you agree with me that there's nothing
22 in your affidavit or exhibits that support your second
23 objection to Franklin Mountain Energy's 703H well.

24 A From past experience we would object to
25 that, but it was not in the declaration, except for

1 discussed about in number 10 -- line 10.

2 Q In number 9, you say "According to industry
3 standards, the horizontal component should be a
4 minimum of 330 feet from the North Fork/Aguila bottom
5 hole location." What industry standard are you
6 talking about there?

7 A That is just basically from some geo-steer I
8 had discussed with them. That's what they would've
9 planned for this wellbore.

10 Q And so you heard this morning and you've
11 seen in Mr. Jarrett's exhibits that Franklin Mountain
12 Energy is planning on shading the 703H well 42 feet to
13 be a total distance of about 304, 305 feet from the
14 North Fork Toro 27 State 5 well. Do you recall that
15 testimony?

16 A Yes.

17 Q And it's your testimony, though, I
18 understood, in response to a question from
19 Mr. Padilla, that you think it should be 330 feet or
20 greater.

21 A Yes. Or greater, yes.

22 Q 330 feet or greater? So are you advocating
23 for or suggesting that on both sides of a vertical
24 well there needs to be a 330-foot setback for a total
25 of a 660-foot no-go zone around any vertical well in

1 New Mexico?

2 A I'm not proposing that. I'm just proposing
3 that on this particular well.

4 Q But isn't that what your position is, that
5 Franklin Mountain Energy's well should maintain a
6 minimum of 330 feet from the North Fork well?

7 A Yes.

8 Q And so isn't the logical conclusion of that
9 that you would think that that should apply in other
10 situations?

11 A Sometimes.

12 Q What would be a factor of when -- what would
13 you consider when you say "sometimes"?

14 A Well, as -- as previously stated, I -- I
15 would've expected the operators to have communicated
16 and discussed a potential well plan before just laying
17 a lateral there.

18 Q And that's, I think, going to your
19 paragraphs 11 and 12 in your declaration. And were
20 you present when Mr. Jarrett confirmed that Franklin
21 Mountain Energy is going to provide the notice as you
22 requested?

23 A Yes.

24 Q Let's see. I would like to share my screen
25 for a moment. Give me just a second here. Sorry.

1 Okay. Are you seeing the C-102 for the
2 Toro 27-5 well?

3 A Yes, ma'am.

4 Q So what I did here rather inartfully, but to
5 try to show what I think you're getting at, is shaded
6 on both sides of the Toro well 330 feet on each side.
7 Do you see that?

8 A Yes.

9 Q So if the Division were to adopt your
10 recommendation here in paragraph 9, this 660 feet that
11 I've shaded in yellow would be a no-go zone for
12 horizontal wells?

13 A No.

14 Q Why not?

15 A Well, you've shaded out the entire length of
16 the lateral, whereas we really only need to shade out
17 when you're going around the Toro 27-5.

18 Q Is it possible from a drilling perspective
19 to -- so I think what I you saying the well would
20 continue straight through this lower half of
21 Section 27 and then shade out -- what you're asking
22 is -- about 70 feet around, and then come back in? Is
23 that what you're suggesting?

24 A Yes, ma'am.

25 Q And pardon me for not knowing about well

1 drilling technology, but is that technologically
2 feasible?

3 A It is, but there are still going be error
4 measurements throughout that process.

5 Q So there's no way to be a hundred percent
6 certain that there's not going to be a frac hit.

7 A Well, from previous experience, there is
8 going to be a frac hit.

9 Q And so the way to address that is through
10 notice and safety protocols. Is that right?

11 A As well as further setbacks or potentially a
12 no-perf zone.

13 Q And in your declaration you've suggested a
14 330-foot setback?

15 A Yes, ma'am.

16 Q And you heard testimony today that Franklin
17 Mountain Energy is willing to be at 305 to 310.

18 A That is not exactly what I'd heard. I heard
19 40 feet from the proposed well plan, which does not
20 exactly add up to that, but it's close.

21 Q Okay. Yeah. 262 and 42.

22 A That's correct. Well, he just said 40, but
23 we'll let that lie.

24 MS. BENNETT: Okay. Let me just take a
25 look at my notes here.

1 I think those are all the questions I
2 have. Thank you.

3 THE HEARING EXAMINER: Thank you.

4 Ms. Thompson?

5 MS. THOMPSON: Give me one second here.

6 CROSS-EXAMINATION

7 BY MS. THOMPSON:

8 Q So I guess my question is what exactly are
9 you trying to ask that the applicant do in order to
10 protect the vertical well? Is it specifically get to
11 the 330 feet?

12 A Ideally, we'd like for them to be further
13 away.

14 Q But previously you did state that the
15 applicant's witness addressed your concerns as far as,
16 like, the setbacks and the zones of uncertainty?

17 A Yes.

18 Q So if those are already addressed, what else
19 would be, you know, preventing, you know, the
20 applicant from going forward if you're okay with
21 those?

22 A Well, irregardless, they're -- they're still
23 going to destroy the North Fork well.

24 Q And your concern is due to the completion
25 side of it?

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1 A That's correct. Mostly more the completion
2 and that's -- yes. Correct.

3 Q Okay. One moment.

4 Going to your testimony on paragraph 10, can
5 you explain what other wells have been damaged or
6 destroyed by fractures in that proximity?

7 A So the Toro 27-1 was a well drilled by North
8 Fork -- I mean, by Franklin Mountain. The Toro 27-1
9 was a well owned by North Fork, operated by North
10 Fork, and Franklin Mountain drilled a horizontal next
11 to it. I'm not exactly sure on the regulatory aspect
12 of what had happened, but my understanding was that
13 Franklin Mountain did not provide -- were not -- North
14 Fork was not notified of drilling the horizontal, and
15 then Franklin Mountain later came in and said that
16 they had missed us on a notification, and then they
17 did provide us frac notice, but we did not have a
18 chance to prevent them from drilling the well so close
19 to our other well. There has also been another well
20 drilled right by us, the Toro 21-2, and it was drilled
21 Mewbourne, and they -- that was frac bashed as well.

22 So we had three -- North Fork had three
23 wells in the section; so far two have been frac
24 bashed, and this is the remaining third well.

25 Q Okay. Do you know if in either of those two

1 cases if the wells being drilled were closer in those
2 incidences then the proposed wells in this case?

3 A I did not have a -- any modeling to show how
4 close they were. But from looking at plots, it's --
5 they were probably within similar distance.

6 MS. THOMPSON: No further questions.

7 THE HEARING EXAMINER: Mr. Padilla, do
8 you have any redirect?

9 MR. PADILLA: Only one question.

10 REDIRECT EXAMINATION

11 BY MR. PADILLA:

12 Q Mr. Hoak, could preventing of any fracs
13 within the 40-acre spacing unit assigned to the North
14 Fork well eliminate the risk of frac hits?

15 A Could you repeat the question?

16 Q Well, on the 40-acre spacing unit assigned
17 to the North Fork well, would disallowing fracs within
18 that spacing unit prevent damage to the well?

19 A I absolutely think that would help prevent
20 damage.

21 Q Let me ask a second question. Can the frac,
22 in your opinion -- well, let me ask it this way. Can
23 frac proceed, in your opinion, by not fracking within
24 that 40-acre spacing?

25 A So even if they don't have preparations

1 there, there's still a chance that they would frac
2 through that zone, or at least cause damage in that
3 zone.

4 Q But that would eliminate some risk.

5 A That -- that's correct.

6 MR. PADILLA: All right. No further
7 questions.

8 THE HEARING EXAMINER: Ms. Bennett?

9 MS. BENNETT: Thank you.

10 RE-CROSS-EXAMINATION

11 BY MS. BENNETT:

12 Q Mr. Padilla was just asking you if avoiding
13 fracking or avoiding operations, I guess, in the
14 40-acre spacing unit to which the Toro well is
15 dedicated would prevent damage. Is that a fair
16 characterization of his question?

17 A I believe so.

18 Q Isn't the 703H well proposed to be outside
19 of the 40-acre spacing unit that's dedicated to the
20 Toro 5H well?

21 A I'm not exactly familiar where their well
22 path goes through, if it goes through that 40 acres or
23 not.

24 Q Did you review the C-102 that is submitted
25 with your exhibits?

1 A Yes.

2 Q Well, actually I'd have to strike that
3 question because it's the 803 C-102, not the 703
4 C-102. But earlier today and in your declaration you
5 testified that, for purposes of correcting your
6 testimony, that the Treble State Com 703H well is at a
7 potential collision distance of 260 feet from the --
8 let me just take a look at the C-102 and see if I can
9 figure out what I'm trying to ask you before I go too
10 much further.

11 But I did want to ask you, while I'm looking
12 up the C-102 for the 702, you said that FME's Treble
13 State Com 703H well is going to bash the North Fork
14 well. Was that a fair characterization of your
15 testimony?

16 A Yes.

17 Q There isn't any modeling in your declaration
18 that supports that conclusion, is there?

19 A No. But we have firsthand experience with
20 two similar wells that this has -- this has happened.

21 Q But earlier you were asked by Ms. Thompson
22 if you knew what the separation distance between the
23 Toro State wells were and the Franklin Mountain Energy
24 and Mewbourne wells, and you didn't know the distance,
25 did you?

1 A I did not, but based on surveys and first
2 take points and last take points, we know that it is
3 very close.

4 Q Okay. And so just to rephrase or reframe
5 what you said, that ideally you like horizontal wells
6 to be 330 feet or further from the vertical well. Is
7 that accurate?

8 A I think every situation is different, but I
9 also think that this particular well producing from
10 the same interval should be considered for that
11 ruling.

12 Q Does your analysis take into account any
13 differences in vertical depth?

14 A I'm not -- what was the question? What you
15 asking?

16 Q Does the 330-foot offset that you're
17 suggesting, is that a 330-foot offset for a Wolfcamp B
18 well, a Wolfcamp C well, a Wolfcamp D well?

19 A That would just be wells that are producing
20 from the same interval.

21 Q And is there any sort of depth discussion
22 that you could provide to give the Division some more
23 guidance on when you think it would be appropriate to
24 require 330 and when you wouldn't?

25 A If they're in different producing intervals.

1 Q And so the only -- oh, I did want to address
2 your comment about notice. Were you involved in
3 receiving any notice from Franklin Mountain Energy
4 about the impacts to the Toro-1 well?

5 A I got the notice from Mark, the North Fork
6 landman.

7 Q When was that?

8 A Around the 1st of June.

9 Q Oh, I'm sorry. For the Toro State 1 well,
10 I'm talking about, not the 5.

11 A I did not receive notice for that well.

12 Q So do you have any firsthand knowledge about
13 the notice that Franklin Mountain Energy gave North
14 Fork for the Toro 27 State 1 well?

15 A Nothing more than what North Fork has
16 provided me.

17 Q Have you reviewed what North Fork provided
18 you?

19 A Somewhat in -- in relation to this well, but
20 I'm not -- haven't been -- that was probably a year
21 ago or so.

22 Q Okay. So sitting here right now, you can't
23 say for sure that Franklin Mountain Energy didn't
24 provide notice to North Fork, can you?

25 A That's correct. I've been told that they --

1 they did not provide the original notice for the
2 drilling, but they did provide notice for frac.

3 Q And that's what you've been told, but you
4 have no firsthand knowledge of that.

5 A That's correct.

6 MS. BENNETT: Okay. Those are all my
7 questions. Thank you.

8 THE HEARING EXAMINER: Thank you,
9 Ms. Bennett.

10 Ms. Thompson, are there any additional
11 questions on this issue?

12 RE CROSS-EXAMINATION

13 BY MS. THOMPSON:

14 Q I guess my only other question would be,
15 outside of not fracking in that specific unit area, is
16 there any other ways to prevent the wells from
17 communicating?

18 A Not that I know of.

19 MS. THOMPSON: No further questions.

20 THE HEARING EXAMINER: Mr. Padilla, may
21 this witness be excused?

22 MR. PADILLA: Yes, sir.

23 THE HEARING EXAMINER: Is your second
24 witness available?

25 MR. PADILLA: I hope so.

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1 Mr. Bolton, are you on camera?

2 Yes.

3 THE HEARING EXAMINER: Okay.

4 Mr. Padilla, did you submit any exhibits based on
5 Mr. Bolton?

6 MR. PADILLA: No exhibits. The only
7 thing we submitted was a self-affirmed statement.

8 THE HEARING EXAMINER: Okay. And it's
9 marked as Exhibit B.

10 MR. PADILLA: Yes.

11 THE HEARING EXAMINER: Okay. So there
12 is an exhibit based on this witness testimony.

13 Mr. Bolton, would you raise your right
14 hand?

15 WHEREUPON,

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

20 THE HEARING EXAMINER: Thank you, sir.
21 Would you state and spell your name for the record?

22 THE WITNESS: Dave Bolton. D-A-V-E
23 B-O-L-T-O-N.

24 THE HEARING EXAMINER: Okay.

25 Mr. Padilla.

1 DIRECT EXAMINATION

2 BY MR. PADILLA:

3 Q Mr. Bolton, did you prepare a self-affirmed
4 statement in this case?

5 A I did.

6 Q And did you personally do that based on your
7 knowledge of the contents of that self-affirmed
8 statement?

9 A I did.

10 Q What is the general basis for your
11 statement?

12 A The basis for our statement is that, you
13 know, we have a right in a well to -- to produce in
14 that area, and that would be negatively impacted by
15 this proposed well of Franklin Mountain.

16 Q Mr. Bolton, you're not testifying as an
17 expert in petroleum engineering or geology or any of
18 that. You're the manager for -- well, tell us what
19 you're manager of.

20 A I'm the manager for North Fork Operating and
21 North Fork Land Management.

22 Q And are those LLCs or limited partnerships?

23 A Correct. Limited partnerships.

24 Q Okay. Why did you decide that you needed to
25 file something in this case?

1 A To protect our interests.

2 Q And what interests are those?

3 A To protect our vertical well and our -- our
4 correlative rights to produce that well.

5 Q What kind of production do you have out of
6 that well now?

7 A It makes 15 to 20 barrels a day of oil,
8 makes about 7 to 10 MCF of gas, and zero water.

9 Q And what kind of -- does it produce any
10 water?

11 A None. No measurable, anyway.

12 Q There's been some discussion here about
13 damage to other of your wells. Can you tell us about
14 that?

15 A We had a -- we have a well, the Toro 21
16 State 2, and Mewbourne drilled and completed a -- a
17 well offsetting that, and they -- they bashed that
18 well, completely destroyed that well, and they
19 provided no notice of the drilling, no notice of
20 completion whatsoever.

21 Then Franklin Mountain drilled their -- I --
22 I don't know the well name, but the Toro 27 State
23 Com 1 was impacted by Franklin Mountain's completion.
24 I believe that was in January of this year. And they
25 did notice us before they completed -- or started

1 their frac, but it was very short notice, and we were
2 very fortunate to be able to get a rig to go and --
3 and secure that well. We put pressure monitoring
4 equipment there and have documented evidence of the
5 pressure that impacted us from that frac they did.

6 Q What happened after the frac in terms of
7 water production?

8 A We have not put that well back on production
9 yet. We went out and tried to put it back on, and the
10 frac fluid -- that's what I was told by my engineers,
11 anyway. The frac fluid that entered the wellbore has
12 caused some brittleness in our tubulars and, you know,
13 it's going to be an expensive operation to go in and
14 clean that well out and get it back. We have not done
15 it yet.

16 Q What do you have to clean out?

17 A Well, we got to get the tubulars out of the
18 hole. We got to see how much damage has been done to
19 those. And then, based upon that, we'll be able to
20 know how much sand in the hole. So we don't rightly
21 know.

22 Q And when you say "sand," you're talking
23 about frac sand. Correct?

24 A Correct.

25 Q Going to the Mewbourne well, can you give us

1 a short description of how that well was destroyed?

2 A Well, they pumped probably 3 foot of frac
3 sand all over our location, and it was -- you know,
4 the well was full of frac sand, frac fluid going
5 everywhere. Hell of a mess.

6 Q Have you filed a lawsuit against Mewbourne
7 as a result?

8 A We have.

9 THE HEARING EXAMINER: Mr. Padilla, I
10 fail to see the relevance of this testimony. There's
11 been no connection between what Franklin Mountain
12 Energy is proposing and what happened in this other
13 unfortunate situation. So unless you can make that
14 connection and then provide some sort of foundation
15 for this fact witness, who's not been accepted as an
16 expert, to opine on this, leaves me not knowing what
17 the relevance of this is, and I can't accept
18 nonrelevant evidence.

19 MR. PADILLA: All right. I'll end my
20 thing with one final question.

21 BY MR. PADILLA:

22 Q Mr. Bolton, is it fair to say that you are
23 just simply trying to minimize the risk of your well
24 in this case?

25 A That's correct.

1 MR. PADILLA: I pass the witness,
2 Mr. Examiner.

3 THE HEARING EXAMINER: Ms. Bennett?

4 MS. BENNETT: Thank you.

5 CROSS-EXAMINATION

6 BY MS. BENNETT:

7 Q Mr. Bolton, thanks for being here. My
8 name's Deana Bennett, and I represent Franklin
9 Mountain Energy, and I just have a few questions for
10 you.

11 So in your self-affirmed statement, in
12 paragraph 6 -- do you happen to have that in front of
13 you?

14 A Yes. Just a second.

15 Yes, I do.

16 Q The last page of paragraph 6 says "We were
17 given no notice of these drilling operations and less
18 than 48 hours of these completion operations." I'm
19 wondering if, in the intervening week since you
20 compared the self-affirmed statement, if you happened
21 to recall any other discussions you may have had with
22 Franklin Mountain Energy.

23 A In what regard?

24 Q Well, in particular that Franklin Mountain
25 Energy reached out to you in August of 2023. Mark

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1 Hinaman reached out to you via your voicemail and also
2 on LinkedIn. Do you recall that?

3 A I do not.

4 Q Do you recall having a conversation with
5 Mr. Hinaman in August of 2023?

6 A I do not.

7 Q Do you recall having an email exchange with
8 Mr. Hinaman in 2023?

9 A No, I don't.

10 Q Do you think it's possible that those events
11 occurred?

12 A It's possible. I just don't recall that.

13 Q Do you recall getting an email from Franklin
14 Mountain Energy in October 2023?

15 A I do not.

16 Q Do you recall getting any emails from Mark
17 Hinaman at Franklin Mountain Energy?

18 A I don't know who the email came from with
19 regard to the completion that impacted our 27 State 1.
20 Someone at Franklin, but I don't know who.

21 MS. BENNETT: Thank you. I appreciate
22 that.

23 Mr. Hearing Examiner, I don't intend to
24 admit the email correspondence between Mr. Bolton and
25 Mr. Hinaman, but I would like to show it to him to see

1 if it refreshes his recollection. Would that be
2 permissible?

3 THE HEARING EXAMINER: Let's take a
4 five-minute break and you can do that, then we'll come
5 back on the record and we'll hear his testimony about
6 that.

7 MS. BENNETT: So I'll refresh his
8 recollection during the break?

9 THE HEARING EXAMINER: Exactly.

10 MS. BENNETT: Okay.

11 THE HEARING EXAMINER: Thank you.

12 (Off the record.)

13 THE HEARING EXAMINER: It is 11:22 a.m.
14 on August the 1st. We're back.

15 And counsel for Franklin Mountain
16 Energy 3 attempted to refresh the witness's
17 recollection regarding emails from Franklin to North
18 Fork.

19 And Ms. Bennett, what happened?

20 THE HEARING EXAMINER: Mr. Examiner,
21 Mr. Bolton -- and if I mischaracterize his responses,
22 he's free to correct me -- but he was able to recall
23 certain of the emails that I showed him, but not all.
24 And we talked a little bit more about the contact in
25 August and I don't think that his memory was refreshed

1 or his recollection was refreshed.

2 THE HEARING EXAMINER: Okay. Well, the
3 question you asked before we took a break was what?

4 MS. BENNETT: The question I asked
5 before we took a break was not something I remember at
6 the moment, but I think I was getting to -- perhaps
7 the court reporter can read it back? Or I can re-ask
8 where I was going.

9 THE HEARING EXAMINER: James?

10 THE OFFICER: Let me try and find it.

11 THE HEARING EXAMINER: We'll have the
12 court reporter do it.

13 MS. BENNETT: Thank you.

14 THE HEARING EXAMINER: But from my
15 recollection you were asking Mr. Bolton if he
16 recollected having email exchanges with Franklin
17 Mountain Energy. I mean, that's what I remember.

18 MS. BENNETT: That is the nub of what I
19 was asking him. I just wasn't sure if it was more
20 detailed than that.

21 THE HEARING EXAMINER: Let's find out
22 from James.

23 MS. BENNETT: Okay.

24 (The officer repeated the record as
25 requested.)

1 THE WITNESS: Are you asking me?

2 THE HEARING EXAMINER: Not yet, sir.

3 THE WITNESS: Okay.

4 THE HEARING EXAMINER: Okay. So
5 Ms. Bennett, would you repose the question to the
6 witness?

7 MS. BENNETT: Yes. Thank you.

8 BY MS. BENNETT:

9 Q Mr. Bolton, do you recall receiving any
10 emails from Franklin Mountain Energy in October of
11 2023?

12 A I don't recall the specifics, but you showed
13 me an email chain that apparently happened in October.

14 Q Do you have any reason to doubt the veracity
15 or the validity of what I showed you?

16 A No.

17 Q Okay. And that did include an email from
18 Franklin Mountain Energy in October of 2023.

19 A That -- that's what it looked like, yeah.

20 Q Okay. Thank you. I know we talked about
21 you may have some records in your email account or on
22 your LinkedIn, and I trust that if you go back and
23 look and find that there are additional records, that
24 you would revise your paragraph 6 accordingly, given
25 that you're going to be submitting a revised exhibit

1 packet in any event. And thank you for going down
2 that path with me.

3 THE HEARING EXAMINER: So Ms. Bennett,
4 hold on a second. Are you then asking Mr. Padilla to
5 have his client revise the Exhibit B after Mr. Bolton
6 reviews his email account?

7 MS. BENNETT: If Mr. Bolton and
8 Mr. Padilla think that that is appropriate, then I
9 think it should be revised, but I don't know what he
10 might find in his records or might find when he
11 reviews his email account.

12 THE HEARING EXAMINER: But you have
13 emails that go to this issue. Are you willing to
14 share that with Mr. Padilla?

15 MS. BENNETT: Yes.

16 THE HEARING EXAMINER: The emails?
17 Okay.

18 Mr. Padilla, Ms. Bennett will send you
19 those emails --

20 MR. PADILLA: Very well.

21 THE HEARING EXAMINER: -- to show that
22 there was allegedly communication between Franklin
23 Mountain and North Fork, and if you and your client
24 agree that they're valid, I'm going to ask you to
25 revise Mr. Bolton's paragraph -- which is it?

1 MS. BENNETT: It is paragraph 6.

2 THE HEARING EXAMINER: -- paragraph 6
3 before you refile this Monday afternoon by close of
4 business.

5 MR. PADILLA: I will.

6 THE HEARING EXAMINER: Okay. Thank
7 you, Mr. Padilla.

8 Ms. Bennett, would you continue?

9 MS. BENNETT: Yes. Thank you.

10 BY MS. BENNETT:

11 Q Mr. Bolton, it's my understanding that North
12 Fork has a wellbore interest here. Is that correct?

13 A I don't understand your question --

14 Q Well, I suppose --

15 A We've talked about a number of wells today,
16 so what exactly are you asking?

17 Q Okay. Good clarifying question. I'm
18 talking about the Toro 27-5 well. And it's my
19 understanding that North Fork has a conveyance from
20 WPX that assigns a wellbore interest only. Is that
21 accurate?

22 A Well, we -- we have a wellbore interest in
23 the Toro 27-5, yes.

24 Q Okay. And so you don't have a working
25 interest in the minerals in the mineral estate subject

1 to the Toro 27-5 well. Is that accurate?

2 A No. Not the way you framed that question.
3 No, that's not accurate.

4 Q Okay. I'd like to, if I may, share my
5 screen. And while I'm sharing my screen, what is your
6 understanding of what a wellbore interest is?

7 A My understanding is that you have the rights
8 to that specific wellbore and rights to produce
9 hydrocarbons from that wellbore.

10 Q So a right to produce, but not a working
11 interest ownership in the minerals.

12 A Well, the bills I pay sure tell me I have a
13 working interest there. So --

14 Q In the minerals or in the well? Sorry.

15 A In the well. We would not necessarily have
16 the right to drill additional wells outside of that
17 wellbore, but we -- we have the rights to produce
18 within that wellbore.

19 Q I think that's a good way to recap what I'm
20 trying to get at, that you don't have any rights
21 outside of this wellbore in Section 27.

22 A That's not what I said.

23 Q Feel free to correct me and restate what you
24 said.

25 A We don't have the right to drill outside of

1 this wellbore, but we have the right to produce from
2 this wellbore.

3 Q Right. So you don't have the right to drill
4 any other wells within Section 27.

5 A Correct.

6 Q And the only right you have is to produce
7 from this one wellbore, for purposes of this case.

8 A Correct.

9 Q I'm trying to share my screen
10 unsuccessfully, so if you'll just bear with me for one
11 more second.

12 Are you seeing this amended objection
13 document in this case that was filed on behalf of
14 North Fork?

15 A Yes.

16 Q And this objection that was filed on behalf
17 of North Fork says that the assignment did not convey
18 a working interest or a leasehold interest in the
19 Franklin Mountain Energy proposed spacing unit. Do
20 you see that?

21 A I do.

22 Q Do you disagree with that statement?

23 MR. PADILLA: Mr. Examiner, I'm going
24 to object to this line of questioning. Ms. Bennett is
25 asking questions directly related to whether or not

1 notice was necessary to North Fork and Aguila for
2 compulsory pooling hearing, not to determine what the
3 extent of their interest and understanding of what
4 wellbore rights are defined or the definition of
5 wellbore rights. It simply means that notice was not
6 necessary because they're not a working interest
7 owner, period.

8 THE HEARING EXAMINER: So what is the
9 basis for the objection?

10 MR. PADILLA: Well, that the line of
11 questioning is trying to elicit whether they're a
12 working interest owner. I think we've stated they
13 don't have a leasehold interest but they have a
14 wellbore interest, and the amended notice for this
15 hearing met the requirement of notice due to the
16 overlapping spacing units.

17 THE HEARING EXAMINER: So what is the
18 basis for the objection? Is it relevance? I don't
19 know what that is.

20 MR. PADILLA: Yeah. I think it would
21 be relevance. It's not relevant. It is what it is in
22 terms of what we're saying. I don't know
23 where -- Ms. Bennett's trying to elicit what's a
24 bundle of sticks that North Fork has.

25 THE HEARING EXAMINER: Okay. Thank

1 you.

2 Ms. Bennett?

3 MS. BENNETT: Thank you. That is
4 exactly what I'm trying to determine, which is the
5 bundle of sticks that North Fork has, and if North
6 Fork can explain to the Division how this limited
7 wellbore interest does not -- I mean how that has a
8 relationship to the mandate of the Oil and Gas Act,
9 which is to prevent waste and protect correlative
10 rights. Mr. Bolton and Mr. Padilla have both -- well,
11 primarily Mr. Padilla, I think, has said that this is
12 an issue with correlative rights, and if the only
13 interest that North Fork has is to produce oil and gas
14 from this wellbore, I think it's fair for the Division
15 to understand and for me to ask how a horizontal well
16 could possibly impact correlative rights when North
17 Fork doesn't have the right to drill any other wells
18 in Section 27.

19 THE HEARING EXAMINER: Okay. So the
20 objection was relevance, and I think you have laid out
21 the grounds of your legal argument that the wellbore
22 interests and correlative rights -- the intersection
23 between the two. It seems to me that you've already
24 asked this witness -- who, again, is not a expert
25 witness; he's just a fact witness here. I mean,

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1 Mr. Padilla did not seek to admit him as an expert, so
2 he really is very limited to what he can testify to.

3 And these questions that you are now
4 asking for him to expand upon what he's already
5 stated, which I think he's already told you that they
6 only have wellbore interests in this section, that
7 they don't have the right to drill any other wells
8 here, seems to me you've already elicited information
9 to make your argument about correlative rights, or the
10 lack thereof, or whatever you want to argue. To go
11 further down this -- I disagree that it's not relevant
12 because your argument is about correlative rights. So
13 I think the problem is that this witness is very
14 limited to what he can testify to, and so I think you
15 should keep that in mind when you ask your questions.

16 So I'm going to sustain the objection,
17 not based on relevance, but to this witness's
18 qualification to answer these questions or that
19 question, and you might want to rephrase your question
20 or move on or -- you know.

21 MS. BENNETT: Thank you.

22 THE HEARING EXAMINER: Please proceed.

23 MR. PADILLA: Mr. Examiner, if I may.
24 I think she's also asking for a legal conclusion for
25 which he's not qualified to testify.

1 THE HEARING EXAMINER: Well, I
2 sustained your objection, so you don't need a second
3 basis for your objection.

4 But please proceed, Ms. Bennett.

5 MS. BENNETT: Thank you.

6 BY MS. BENNETT:

7 Q Mr. Bolton, are you familiar -- well, I
8 think your testimony is that you're the president of
9 North Fork. Is that right? The manager of North Fork
10 Land Management and North Fork Operating. Is that
11 right?

12 A Manager. Correct.

13 Q Okay. Are you familiar with North Fork's
14 frac protection procedure or policy?

15 A Yes.

16 Q What is it?

17 A That we -- we hang the wells off and, you
18 know, tighten everything down as best we can, and we
19 try to get -- we try to find out how much pressure we
20 might expect there and make sure that we have valves
21 strong enough for that, and then we install pressure
22 monitoring equipment.

23 Q And is that all something you could do in
24 advance of Franklin Mountain Energy completing the
25 703H well?

1 A Given enough notice, yes.

2 Q Thank you. And were you listening in
3 earlier today when Franklin Mountain Energy agreed to
4 give 30 days' notice prior to commencement of drilling
5 and 30 days' notice prior to completion fracking?

6 A Yes.

7 Q And is that adequate notice from your
8 perspective?

9 A Yes.

10 MS. BENNETT: I have no further
11 questions for this witness. I would reiterate,
12 though, the Division's concern about the relevance of
13 this witness's testimony.

14 Thank you.

15 THE HEARING EXAMINER: Thank you.

16 Ms. Thompson does not have questions
17 for this witness.

18 So Mr. Padilla, is there any redirect
19 for this witness?

20 MR. PADILLA: I don't have any,
21 Mr. Examiner.

22 THE HEARING EXAMINER: Very good. This
23 witness may be excused.

24 Mr. Padilla, we have received by email
25 the original exhibits that you filed in this case, and

1 Ms. Tschantz will upload them to the imaging system;
2 however, you've been instructed to correct and revise
3 your exhibit packet with a cover letter to file on
4 August 5th close of business, and at that time, we'll
5 take out this document that you've just emailed us
6 today -- or Ms. Bennett emailed; someone emailed
7 them -- to us and substitute what you file.

8 MR. PADILLA: Very well.

9 THE HEARING EXAMINER: Okay. Now,
10 Mr. Padilla, does that conclude your case in chief?

11 MR. PADILLA: Yes, it does.

12 THE HEARING EXAMINER: Okay. Very
13 good.

14 Ms. Bennett, do you have a rebuttal
15 case?

16 MS. BENNETT: I do not.

17 THE HEARING EXAMINER: You do not.
18 Very good.

19 Okay. So then let's go to post-hearing
20 procedures. The record, as you know, is being kept
21 open till close of business for the amended exhibit
22 packets from both parties.

23 So let me ask one question off the
24 record.

25 (Discussion held off the record.)

1 THE HEARING EXAMINER: Ms. Bennett,
2 this is your case. How do you wish to proceed from
3 this point?

4 MS. BENNETT: Well, if you're asking me
5 if I'd like a post-hearing brief or at least a written
6 closing statement, I would prefer the opportunity to
7 provide a written closing statement, primarily because
8 I think there may be stipulations that Franklin
9 Mountain Energy would be willing to agree to that
10 would alleviate certain of the concerns expressed
11 today but that I don't have authority to stipulate to right
12 now. And so I would request the opportunity to do a
13 limited post-hearing brief.

14 THE HEARING EXAMINER: When you say
15 "limited," I was going to propose that the parties
16 also submit proposed findings of fact and conclusions
17 of law along with their closing argument.

18 MS. BENNETT: Thank you.

19 THE HEARING EXAMINER: Mr. Padilla.

20 MR. PADILLA: That's fine with me,
21 Mr. Examiner.

22 THE HEARING EXAMINER: Okay. I have a
23 feeling that the parties want to wait for the verbatim
24 transcript, which will take two weeks from today. So
25 let's say we receive it about the 15th of August.

1 What about September 1st as a deadline to submit the
2 post-hearing documents?

3 MS. BENNETT: In a rare move on my
4 part, could we say August 30th instead, because
5 September 1st is a Sunday and September 2nd is Labor
6 Day, and I don't really want to work on this over
7 Labor Day.

8 THE HEARING EXAMINER: I see. So
9 August 30th would give you about two weeks from the
10 verbatim transcript. That should give you another day
11 to the verbatim transcript two-week period.

12 Mr. Padilla, August 30th?

13 MR. PADILLA: That's fine.

14 THE HEARING EXAMINER: Very good.

15 Okay. Are there any other issues that
16 we need to deal with now before we go off the record?

17 MS. BENNETT: In terms of the admission
18 of Mr. Bolton's testimony, are you reserving judgment
19 on whether to move that testimony based on your
20 concerns of its relevancy?

21 THE HEARING EXAMINER: Mr. Padilla, I
22 don't think that we did admit -- did we admit any of
23 your exhibits? I don't remember.

24 MR. PADILLA: I don't think so. I
25 think we --

1 THE HEARING EXAMINER: I don't think so
2 either.

3 THE OFFICER: No.

4 THE HEARING EXAMINER: Thank you,
5 James. I appreciate it.

6 Thank you, Ms. Bennett.

7 So let's go through your exhibits.

8 Okay. So you submitted an Exhibit
9 packet with Exhibit A and Exhibit B. Exhibit A is the
10 self-affirmed statement of Aaron Hoak, and it includes
11 Exhibit 1, which unfortunately was the wrong C-102, as
12 you know. And then there was also, it looks like, a
13 C-102 for the Toro 27 well.

14 MR. PADILLA: Correct.

15 THE HEARING EXAMINER: Okay. Very
16 good. And that all came through Aaron Hoak.

17 MR. PADILLA: Correct.

18 THE HEARING EXAMINER: Very good.

19 Ms. Bennett, any objections to those
20 documents, knowing that they're going be corrected?

21 MS. BENNETT: No objections, but I do
22 reserve the right to submit rebuttal exhibits if
23 there's anything unexpected in the revised exhibits.

24 THE HEARING EXAMINER: Okay. So
25 Mr. Padilla, your Exhibit A with it's attached

1 Exhibit 1 is admitted to evidence.

2 (North Fork/Aguila Exhibit A and
3 Exhibit A-1 were received into
4 evidence.)

5 THE HEARING EXAMINER: I will go
6 through some of the notes I made on Exhibit A, and
7 that is that the OGRID number was wrong on Mr. Aaron
8 Hoak's paragraph 1. I was unsure in paragraph 6
9 whether Aguila wells applied in this case, whether
10 there was an Aguila well within 260 feet of the
11 bottom-hole location. It seemed to me that he
12 corrected it and said it was only the North Fork.

13 Paragraph 8 had many errors in it and
14 needs to be corrected. The most obvious one is that
15 we're not dealing with the Treble State Com 803H,
16 we're dealing with the 703H, so then I don't know
17 whether the distances are correct or not, so I leave
18 that to be corrected. I also believe that the term
19 "industry standards" in paragraph 9 applies to this
20 case or not. I couldn't tell. From the witness's
21 testimony it seemed like he had some discussions with
22 I'm not sure who, but I don't know that the term
23 "industry standards" is applicable here. That's the
24 issue I found there. Plus obviously we need a
25 different C-102 for Exhibit 1.

1 So those are some corrections that I
2 saw needing to be made. Maybe there's others.

3 THE HEARING EXAMINER: Ms. Bennett,
4 were there any others that you saw?

5 MS. BENNETT: Paragraph 8. I believe
6 you mentioned that there's a number changes that will
7 need to be done in paragraph 8, but other than that, I
8 do think that you covered everything.

9 THE HEARING EXAMINER: Thank you.

10 Okay. So Mr. Padilla, I've stated that
11 Exhibit A is admitted on the basis that it's going to
12 be corrected.

13 MR. PADILLA: Correct.

14 THE HEARING EXAMINER: Okay. Let's
15 move on to Exhibit B, the self-affirmed statement of
16 Mr. David Bolton. I have -- well, first of all, are
17 there any -- yes. So what are the objections to
18 Exhibit B?

19 MS. BENNETT: Mr. Examiner, as you
20 indicated, I have concerns about the relevance of the
21 discussion in paragraph 5 relating to the prior frac
22 hits. Paragraph 6. Also paragraph 6, I believe, has
23 some inaccuracies in it. And paragraph 8 is
24 technically accurate but doesn't matter. And so I
25 think that there's portions of the declaration that

1 could be stricken as irrelevant, those provisions that
2 I just identified.

3 THE HEARING EXAMINER: All right. So
4 Mr. Padilla, how do you proposed to deal with
5 paragraphs 5 and 6?

6 MR. PADILLA: We can correct the actual
7 statements made there.

8 THE HEARING EXAMINER: Yeah. Let's be
9 more specific since we're on record. How will you
10 correct or how will you recommend to the client that
11 they're going to correct 5 and 6?

12 MR. PADILLA: Well, number 5 I think we
13 can eliminate entirely because that's a matter of a
14 lawsuit at this point. So we can eliminate that.

15 Paragraph 6, well, that goes to
16 330 feet, which our expert was recommending, and what
17 happened in that, but I think the last sentence
18 starting with "We were given no prior," I think that's
19 incorrect.

20 THE HEARING EXAMINER: Okay. My
21 concern with paragraph 6 is that there was no evidence
22 submitted to substantiate that statement that begins
23 "Franklin Mountain's drilling and completion
24 operations damaged and may have destroyed Toro 27
25 State Com well in January of '24." What evidence do

1 we have to base that statement on?

2 MR. PADILLA: We don't have any except
3 the testimony that Mr. Bolton gave.

4 THE HEARING EXAMINER: But Mr. Bolton
5 is not an expert.

6 MR. PADILLA: No.

7 THE HEARING EXAMINER: Right. So --

8 MR. PADILLA: We can eliminate that.

9 THE HEARING EXAMINER: Okay. Fine.
10 Okay. So the first sentence -- yes. Okay. So I'll
11 look for you to amend or strike paragraphs 5 or 6 from
12 your revised self-affirmed statement of Mr. Bolton.
13 It'll have to be signed again with a new date to show
14 that. And it'll be accepted because the record stays
15 open, as you know, until August the 5th by 5 p.m.

16 And please pass your amended exhibits
17 to Mr. Padilla and vice versa before they were
18 submitted with enough time so that, you know, you can
19 both comment, if necessary, on each other's amended
20 exhibit packet. As long as they're submitted by
21 5:00 p.m., they'll be accepted into the record.

22 MS. BENNETT: Mr. Examiner, could I
23 request that we then have through Wednesday of next
24 week --

25 THE HEARING EXAMINER: By all means.

1 MS. BENNETT: -- to allow for the
2 coordination?

3 THE HEARING EXAMINER: By all means.
4 So August 7th. The record will remain open till
5 August 7 close of business so that the parties can
6 exchange the amended exhibit packet.

7 So Mr. Padilla, I will accept into
8 evidence Exhibit B based on the discussion we just
9 had.

10 (North Fork/Aguila Exhibit B was
11 received into evidence.)

12 MR. PADILLA: Okay.

13 THE HEARING EXAMINER: Okay.

14 MS. BENNETT: Mr. Examiner, can I ask
15 one more follow-up question?

16 THE HEARING EXAMINER: Yes.

17 MS. BENNETT: As long as this, this
18 being the self-affirmed statement of David Bolton, is
19 being revised, it would be helpful for me to
20 understand Aguila's relationship to North Fork and how
21 North Fork has the authority to represent Aguila's
22 interests in these matters. There is a division rule
23 that says corporations can represent themselves
24 through a director, but I haven't seen anything in
25 these materials that identifies that relationship.

1 And I'm not suggesting that there isn't one, I just
2 think it would be helpful for the record to have that
3 clarified.

4 THE HEARING EXAMINER: I believe you
5 asked a question at one point to one of the witnesses.
6 Do you remember the question?

7 MS. BENNETT: I did.

8 THE HEARING EXAMINER: You did. Okay.
9 And I can, of course, ask James to go back and find
10 it, but do you remember the answer?

11 MS. BENNETT: I think the answer was
12 that they're affiliated.

13 THE HEARING EXAMINER: Right. I
14 thought that's when I heard.

15 Mr. Padilla?

16 MR. PADILLA: The answer I heard was
17 that they were partners.

18 THE HEARING EXAMINER: I heard that
19 too. More than just affiliated. I heard that they
20 were partners.

21 MR. PADILLA: And our entry of
22 appearance was for both.

23 THE HEARING EXAMINER: Okay. So I
24 think that answers your question, Ms. Bennett. If you
25 have a problem with that, I guess you can file a

1 motion, but I do believe Mr. Padilla is correct in
2 that the entry of appearance had both parties on it
3 and the testimony was that they were partners in this
4 adventure.

5 So is there anything else?

6 MS. BENNETT: No, thank you.

7 THE HEARING EXAMINER: Okay.

8 Mr. Padilla?

9 MR. PADILLA: Nothing.

10 THE HEARING EXAMINER: Okay. It is
11 11:55. We are done before lunch. We are off the
12 record.

13 Thank you.

14 MS. BENNETT: Thank you.

15 (Whereupon, at 11:55 a.m., the
16 proceeding was concluded.)

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CERTIFICATE OF DEPOSITION OFFICER

I, JAMES COGSWELL, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



JAMES COGSWELL
Notary Public in and for the
State of New Mexico

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I, MARY ANN BURKE, 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.

August 15, 2024



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[north - oh]

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