

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

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

Application of Longfellow Energy, LP for compulsory pooling, Eddy County, New Mexico Case No. 21651

Application of Spur Energy Partners, LLC for compulsory pooling Eddy County, New Mexico Case No. 21733

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING - VOLUME 2, PAGES 165-407

THURSDAY, JUNE 18, 2021

9:00 A.M.

This matter came on for hearing before the New Mexico Oil Conservation Division, Hearing Examiner William Brancard, Technical Examiners Leonard Lowe and John Garcia, on Thursday, June 17, 2021, via the Webex Videoconferencing platform

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1 (Time noted 9:00 a.m.)

2 HEARING EXAMINER BRANCARD: Good morning. I  
3 see Ms. Macfarlane. Are we ready to go?

4 (Note: Discussion held off the record.)

5 HEARING EXAMINER BRANCARD: That's fine.  
6 Feel free to interrupt.

7 Good morning. This is a hearing of the  
8 New Mexico Oil Conservation Division, June 18, 2021.  
9 Today we are on a continuation of a contested hearing  
10 between cases 21651, 21733.

11 Hope everyone is here. Looks like it.

12 We have a court reporter with us, we have  
13 one examiner.

14 Mr. Lowe, you're here?

15 EXAMINER LOWE: Good morning. I'm here.

16 HEARING EXAMINER BRANCARD: All right.

17 Mr. Garcia is not with us this morning, conflicting Zoom  
18 meetings, which will get worse as the day goes on, so  
19 I'll give you an hour to finish up, Mr. Rankin.

20 With that, we will call for appearances  
21 from the attorneys.

22 Longfellow Energy?

23 MS. SHAHEEN: Good morning, Mr. Examiner.

24 Sharon Shaheen on behalf of Longfellow Energy.

25 HEARING EXAMINER BRANCARD: And I will tell

1 you Ms. Shaheen, I caught several of your fellow  
2 Montgomery Andrews people wandering around our building  
3 this morning, so I don't know what they are up to.

4 MS. SHAHEEN: How can that be?

5 HEARING EXAMINER BRANCARD: And Spur Energy.

6 MR. RANKIN: Good morning, Mr. Examiner. Adam  
7 Rankin of the law firm of Holland & Hart appearing on  
8 behalf of Spur Energy Partners in this case.

9 HEARING EXAMINER BRANCARD: ConocoPhillips?

10 MR. RODRIGUEZ: Good morning, Mr. Examiner.  
11 Michael Rodriguez representing ConocoPhillips.

12 HEARING EXAMINER BRANCARD: And I'll ask again  
13 if there are any other appearances in these cases,  
14 21651, 21733.

15 Hearing none, I believe we were done with  
16 the direct testimony of Longfellow Energy, and I believe  
17 we were about to move on to Spur Energy Partners.

18 MR. RANKIN: Thank you very much, Mr. Hearing  
19 Examiner. I am ready to proceed. However, I Have just  
20 want to make sure I understood. I think I heard you say  
21 we have an hour to complete the whole case. Is that  
22 correct?

23 HEARING EXAMINER BRANCARD: No.

24 MR. RANKIN: Because I was a little concerned  
25 about that.

1                   We'll do our best to be very efficient but I  
2                   just wanted to make sure we weren't going to be  
3                   prejudiced on time. So I appreciate that.

4                   HEARING EXAMINER BRANCARD: Everyone has  
5                   prefiled, has written statements from their witnesses.  
6                   I believe the request from the examiners was to sort of  
7                   just go back over the exhibits briefly and summarize  
8                   them. So if you could do that, that would be great.  
9                   I'm sure there will be a few questions

10                  MR. RANKIN: Mr. Examiner we have three  
11                  witnesses today who are present and ready to be sworn in  
12                  by yourself.

13                  HEARING EXAMINER BRANCARD: I can swear them  
14                  all in together. That would move things along here.  
15                  Are they all available right now?

16                  MR. RANKIN: Paul, is everybody over there  
17                  with you?

18                                 I think he's on mute.

19                  HEARING EXAMINER BRANCARD: Sure looks like it

20                  MR. RANKIN: I think he's looking for the  
21                  other witnesses.

22                                 Paul, you're on mute. Are the other  
23                  witnesses there, or is Normand and C. J., are they  
24                  there?

25                                 Can't hear you.

1 MR. ESCHETE: Can you hear me now?

2 MR. RANKIN: Paul, are the other witnesses  
3 there? Is Norm and C.J. there?

4 MR. ESCHETE: Yes.

5 MR. RANKIN: All right.

6 HEARING EXAMINER BRANCARD: Is there a third  
7 person?

8 MR. ESCHETE: He is -- is he here?

9 MR. RANKIN: We're waiting for C.J.

10 MR. ESCHETE: We are. He's coming down the  
11 hallway.

12 (Note: Spur Energy Partners' witnesses Paul  
13 Eschete, Normand Pennington and C.J. Lapinski were duly  
14 sworn by Examiner Brancard.)

15 HEARING EXAMINER BRANCARD: Excellent. Thank  
16 you. You may call your first witness, Mr. Rankin.

17 MR. RANKIN: Thank you very much, Mr. Hearing  
18 Examiner. Our first witness of the day is Mr. Paul R.  
19 Eschete.

20 PAUL R. ESCHETE,  
21 having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. RANKIN:

24 Q. Mr. Eschete, can you please state your name  
25 and spell it for the benefit of the court reporter.

1           A.    My name is Paul Eschete.  P-a-u-l, last name  
2   E-s-c-h-e-t-e.

3           **Q.    By whom are you employed?**

4           A.    Spur Energy Partners.

5           **Q.    In what capacity?**

6           A.    I am the Executive Vice President of Land.

7           **Q.    Have you previously testified before the New  
8   Mexico Oil Conservation Division?**

9           A.    I have not.

10          **Q.    Are you familiar with the applications that  
11   are filed in these consolidated competing cases?**

12          A.    Yes, sir, I am.

13          **Q.    Are you familiar with the status of the lands  
14   in the subject area?**

15          A.    Yes, sir, I am.

16          **Q.    Have you conducted a study of the land  
17   ownership?**

18          A.    Yes, sir, I have.

19          **Q.    Is Spur Exhibit C-1 a true and correct copy of  
20   your updated resume?**

21          A.    Yes, sir, it is.

22          **Q.    Will you please briefly review for the  
23   examiners your education and work experience in  
24   petroleum land matters.**

25          A.    Yes, sir.  I graduated from --

1 HEARING EXAMINER BRANCARD: Mr. Rankin, can I  
2 jump in here?

3 (Note: Discussion re audio adjustment.)

4 MR. RANKIN: Okay. We will try to slow down  
5 the responses so that everything catches up, hopefully.  
6 If we have to make any adjustment, just let us know and  
7 we will try to address it.

8 Q. Mr. Eschete, will you please briefly review  
9 your education and work experience in petroleum land  
10 matters.

11 A. (Note: No response.)

12 MR. RANKIN: Paul, I think you're still on  
13 mute.

14 HEARING EXAMINER BRANCARD: Now you're  
15 completely muted.

16 THE WITNESS: What about now? Okay.

17 Q. I graduated from the University of Southwest  
18 Louisiana in 1995. While attending school I worked both  
19 as an independent and then for Unocal.

20 Throughout my career I've worked for  
21 Phillips, El Paso, Kerr McGee, Anardako, and Wild Horse  
22 Resources.

23 I have performed or managed land  
24 functions in Oklahoma, Arkansas, Louisiana, GuLongfellow  
25 of Mexico, Mississippi, Texas and New Mexico.

1 MR. RANKIN: At this time, Mr. Examiner, I  
2 would tender Mr. Eschete as an expert in petroleum land  
3 matters.

4 HEARING EXAMINER BRANCARD: Any objections?

5 MS. SHAHEEN: No objection here.

6 MR. RODRIGUEZ: No objection.

7 HEARING EXAMINER BRANCARD: Thank you. The  
8 witness is so accepted as an expert.

9 Q. Mr. Eschete, did you prepare Prefiled Written  
10 Testimony for this case?

11 A. Yes, sir, I did.

12 Q. Has it been marked as Exhibit C in the Spur  
13 exhibit packet that was prefiled and served on parties  
14 in this case?

15 A. Yes, sir.

16 Q. Mr. Eschete I'm just going to briefly go  
17 through your exhibits.

18 Ms. Salvidrez, may I please have the  
19 authority to share my screen. (Note: Pause.) Thank  
20 you.

21 Mr. Eschete, does your Affidavit, does it  
22 identify each of the wells that Spur proposes to drill  
23 in this proposed spacing unit?

24 A. Yes, sir, it does.

25 Q. There's a total of six wells, correct?

1           A.    Yes, sir.

2           Q.    In your affidavit do you identify the correct  
3   and updated locations for the surface hole and  
4   bottomhole locations for these wells?

5           A.    Yes, sir.

6           Q.    And is Exhibit C-2, which I'm going to put on  
7   my screen here in just a moment -- I'll leave that off.

8                        Is Exhibit C-2, is that a correct and  
9   updated Form C-102 for each of the wells that Spur  
10   proposes in this case?

11          A.    Yes, sir, it is.

12          Q.    Now, as to the C-102s, can you confirm the  
13   C-102s reflect the correct surface hole and bottomhole  
14   locations for each of the wells?

15          A.    Yes, sir.  As Mr. Mitchell confirmed  
16   yesterday, we moved our -- the C-102 accurately reflects  
17   the first take point and the last take point, the  
18   surface hole location and the bottomhole location at  
19   legal standard locations, and the company that created  
20   the C-102s normalized the viewing, for viewing purposes  
21   only.  And our intent is to drill a standard location  
22   throughout the wellbore for the 51.

23          Q.    Okay.  So what you're speaking about here is  
24   all the wells will be -- the intent is all the wells  
25   will have a legal location, including Spur's proposed

1 51H well which is on the farthest south portion of the  
2 proposed spacing unit, correct?

3 A. Correct. That is the intent, that all six  
4 wells will be at a legal standard location.

5 Q. And the reason that 51H well that Mr. Mitchell  
6 testified that he thought it would be a nonstandard  
7 location, was because the line between the first take  
8 point to the last take point was a straight line and  
9 didn't account for the variation in the unit's  
10 orientation and size in the area. Is that correct?

11 A. Correct. The straight line that was drawn by  
12 the company, it is not an accurate depiction of the  
13 wellbore path.

14 Q. Spur intends to drill a well that will be at  
15 the same offset as the first and last take point across  
16 the entire well lateral for that well?

17 A. Yes, sir.

18 Q. Now if I can share my screen.

19 Is Spur Exhibit 3 that hopefully is on  
20 your screen, is that a copy of the general location map  
21 that outlines the proposed spacing unit in this area?

22 A. Yes, it is.

23 Q. Is Spur Exhibit C-4 a copy of the ownership  
24 breakdown of the interests within each of the separately  
25 owned tracts and on a unit-wide basis?

1 A. Yes, sir, it is.

2 Q. Are the parties that Spur is seeking to pool  
3 highlighted in yellow?

4 A. Yes, sir, they are.

5 Q. Does that include that overriding royalty  
6 interest owners?

7 A. Yes, sir, it does.

8 Q. Now, is the next page of this exhibit a copy  
9 of -- oops. Is this a land plat depicting the proposed  
10 spacing unit outlined in a red dashed line?

11 A. Yes, sir, it is.

12 Q. And does it also depict each of the separately  
13 owned tracts within the proposed spacing unit?

14 A. Yes, it accurately does.

15 Q. And then did your land plat identify the  
16 separate ownership interest in each of these tracts and  
17 in the prior page of the exhibit?

18 Oh-oh. Oh, you're still there. Good.

19 A. Yes, sir. The previous exhibit is a direct  
20 correlation between the tract number and the particular  
21 mineral owner.

22 Q. Now, do you have an updated depiction of the  
23 working interests who are committed to -- who may be  
24 committed to Spur's operation, to Spur's operation as  
25 operator of this proposed unit?

1           A.    Yes, sir, we do.

2                   MR. RANKIN:  Mr. Examiner, on Wednesday and  
3 Thursday of this week Spur received Letter Agreements --  
4 a Letter Agreement on Wednesday from MEC Corporation,  
5 one of the working interest owners in the unit,  
6 supporting Spur as operator of this unit.  I would like  
7 to introduce that exhibit today.

8                           And the second letter from ConocoPhillips  
9 indicating that Spur and ConocoPhillips have reached a  
10 verbal agreement on the acquisition of ConocoPhillips'  
11 working interest in the unit.  And I would like to  
12 introduce that letter as an exhibit in this case.

13                           And finally, just a second page that  
14 shows how those two interests will contribute to Spur's  
15 working interest control of the spacing unit.

16                           I shared a copy of this exhibit with  
17 counsel yesterday.

18                           HEARING EXAMINER BRANCARD:  Are there any  
19 objections to these exhibits, Ms. Shaheen?

20                           MS. SHAHEEN:  No objections.  We will be  
21 having similar exhibits later in today's hearing.

22                           HEARING EXAMINER BRANCARD:  Mr. Rodriguez.

23                           MR. RODRIGUEZ:  No objection.

24                           HEARING EXAMINER BRANCARD:  The exhibits will  
25 be admitted.

1           Q.    Mr. Eschete, on your screen is this a copy of  
2 a letter that you received from MEC Corporation?

3           A.    Yes, sir.

4           Q.    Does it indicate that MEC Corporation supports  
5 Spur's operatorship of this proposed spacing unit over  
6 Longfellow?

7           A.    Yes, sir, it does.

8           Q.    The second page of this exhibit, is this a  
9 letter from ConocoPhillips reflecting that  
10 ConocoPhillips and Spur have reached a verbal agreements  
11 on the acquisition of ConocoPhillips's working interest  
12 in the proposed spacing unit?

13          A.    Yes, sir, it does.

14          Q.    Does it reflect that that acquisition is  
15 expected to close on January 28th of this month (sic)?

16          A.    Yes, sir, it does.

17          Q.    And the last page of this exhibit, is this an  
18 image of the overall spacing unit interest on a mineral  
19 basis -- actually, tell me what this table shows.

20          A.    This is a summary of the proposed 480-acre  
21 pooling unit. It reflects the mineral interest owners.

22                    The highlighted parties in yellow are the  
23 two parties that have -- support Spur, or SEP in this  
24 case. If you add Spur, Conoco and MEC, that would give  
25 us just over 50 percent control of the unit.

1           **Q.    And what is that interest control based on?**

2   **In other words --**

3           A.    That --

4           **Q.    Go ahead.**

5           A.    That's based on mineral interests within the  
6   DSU.

7                   MR. RANKIN:   And Ms. Shaheen, in order to save  
8   time I think you shared with me I think what you're  
9   intending to present.  In order to save time I would  
10  suggest that I take the opportunity to -- to -- I'd like  
11  to present a rebuttal exhibit at this time just in order  
12  to save time so we don't have to come back to it at  
13  another time, Mr. Examiner, if that's okay.

14                   HEARING EXAMINER BRANCARD:  Well, present as  
15  much as you want right now.

16                   MR. RANKIN:  Yeah.

17           **Q.    So, Mr. Eschete, did you receive any other**  
18 **additional proposed working agreements from any other**  
19 **working interest in the spacing unit?**

20           A.    Yes, sir.  We did receive a letter from Apache  
21  via email in April.

22           **Q.    Is this a copy of the letter that you received**  
23 **from Apache that they asked you to sign and agree to?**

24           A.    Yes, sir, it is.

25           **Q.    Has it been marked Spur Exhibit No. 4?**

1                   You know what? Mr. Examiner, I meant to  
2   send this around, but, Ms. Shaheen, this is essentially  
3   the same letter you shared with us.

4                   So I'm happy to take a break and quickly  
5   send it out so you can have a copy of it and take a look  
6   at it.

7                   MS. SHAHEEN: Yes, I would appreciate  
8   receiving ahead of time any rebuttal exhibits you're  
9   going to be using.

10                  MR. RANKIN: Yeah. Let's see if I can get  
11   that sent to you.

12                  MS. SHAHEEN: I can see it now, so...

13                  MR. RANKIN: I will do my best to share. I'm  
14   sorry. I meant to send this to you this morning.

15                  **Q. Mr. Eschete, is this a copy of the proposed**  
16   **Letter Agreement that you received from Apache?**

17                  A. Yes, sir, it is.

18                  **Q. It's marked as Spur Rebuttal Exhibit No. 4,**  
19   **correct?**

20                  A. Correct.

21                  **Q. And you received this by email from Apache on**  
22   **April 22nd?**

23                  A. Yes, sir, that's correct.

24                  **Q. What was your understanding of what the intent**  
25   **of this letter was, this Letter Agreement would do?**

1           A.     This Letter Agreement, in my opinion, in the  
2 event we were to obtain operatorship of the DSU, it sets  
3 out how Apache's interest would be handled on a  
4 go-forward basis.

5           **Q.     Did it indicate that Apache would support or**  
6 **is supporting Spur as the operator of the proposed**  
7 **spacing unit?**

8           A.     No, sir, I did not see that.

9           **Q.     Did you understand from Apache that they had**  
10 **sent a similar letter to Longfellow?**

11          A.     Yes, sir.

12          **Q.     And did you understand from Apache that**  
13 **Longfellow and agreed to and signed the letter that**  
14 **Apache had sent to them?**

15          A.     Yes, sir. Per our conversation they indicated  
16 that Longfellow had executed the letter, I believe in  
17 hopes it would be executed, but we did not execute it.

18          **Q.     Is it your understanding, based on discussions**  
19 **with Apache that Apache was supporting one operator or**  
20 **the other for operations of this proposed spacing**  
21 **unit?**

22          A.     No, sir. It was my understanding that they  
23 were going to sit on the side line and let us -- let it  
24 get determined.

25          **Q.     So the effect of this Letter Agreement would**

1 be simply a side agreement to pooling. Providing how it  
2 went, Apache would be required to elect or pay under a  
3 Pooling Order. Is that your understanding?

4 A. Yes, sir. It just identified their interest.  
5 Basically they don't want to get pooled, and it states  
6 their intent and how their interest would be handled,  
7 depending on who became operators. I believe they were  
8 covering both sides of the fence.

9 Q. Now, moving on to the other exhibits here, is  
10 Exhibit C-5 a copy of the Well Proposal Letters that  
11 were sent out to each of the parties on January 4th,  
12 2021, and the updated Well Proposal Letter sent out on  
13 May 12th?

14 A. Yes, sir, it is.

15 Q. Does this exhibit also contain the estimated  
16 well costs that were sent out?

17 A. Yes, sir, it does.

18 Q. Does Spur Exhibit C-6 contain an accurate  
19 chronology of the contacts that Spur made with the  
20 working interest owners in the proposed spacing unit in  
21 order to try to reach voluntary agreement?

22 A. Yes, sir, it does.

23 Q. In your opinion did Spur make a good-faith  
24 effort to try to reach voluntary agreement with the  
25 working interest owners within the proposed spacing

1 unit?

2 A. Yes, sir.

3 Q. Does Spur request overhead and administrative  
4 rates of \$7,000 per month for drilling and \$700 per  
5 month for producing?

6 A. Yes, sir.

7 Q. Are these rates consistent with the rates  
8 charged by Spur and other operators for wells in this  
9 area?

10 A. Yes, sir, it is.

11 Q. Does Longfellow propose overhead and  
12 administrative rates of 8,000 per month for drilling and  
13 800 per month for producing the well in their  
14 proposal?

15 A. Yes, sir.

16 MR. RANKIN: At this time, Mr. Hearing  
17 Examiner, I would move the admission of Spur Exhibits  
18 C-1 through C-6 -- rather Exhibit C, and C-1 through  
19 C-6, with the updated -- with the updated Exhibit C-4A  
20 and Spur Rebuttal Exhibit 4.

21 HEARING EXAMINER BRANCARD: Are there any  
22 objections, Ms. Shaheen?

23 MS. SHAHEEN: No objection.

24 HEARING EXAMINER BRANCARD: Mr. Rodriguez, I  
25 doubt this includes a Conoco exhibit, so any objections?

1 MR. RODRIGUEZ: No objection.

2 HEARING EXAMINER BRANCARD: The exhibits are  
3 so admitted.

4 MR. RANKIN: Mr. Examiner I would follow up  
5 and file Exhibit C-4A and Rebuttal Exhibit 4 through the  
6 portal.

7 HEARING EXAMINER BRANCARD: All right. I  
8 believe Ms. Luck is trying to do that right now.

9 MR. RANKIN: Okay. Thank you.

10 At this point, Mr. Examiner, I have no  
11 further questions of the witness and pass Mr. Eschete  
12 for cross-examination.

13 HEARING EXAMINER BRANCARD: Ms. Shaheen.

14 MS. SHAHEEN: Thank you.

15 CROSS-EXAMINATION

16 BY. MS SHAHEEN:

17 Q. Good morning, Mr. Eschete.

18 A. Good morning.

19 Q. I have quite a few questions for you so I hope  
20 you'll be patient with me as I go through my notes.

21 I think I'd like to start by taking a  
22 look at your Affidavit, paragraph 6.

23 And I am not as adept as Mr. Rankin with  
24 sharing. I'm going to attempt to share some exhibits  
25 later but I'm not prepared to put this up on my screen,

1     **so I'm hoping you have a hard copy there or access to an**  
2     **electronic copy. If not, we will have to figure out**  
3     **what we need to do.**

4                   HEARING EXAMINER BRANCARD: Mr. Eschete, do  
5     you have a hard copy?

6                   THE WITNESS: I am looking at paragraph 6 of  
7     my Affidavit, yes, sir.

8                   HEARING EXAMINER BRANCARD: Thank you.

9                   MS. SHAHEEN: Great.

10            **Q. Now, in this paragraph you set four footages**  
11   **for the locations of the surface hole location and the**  
12   **bottomhole location, correct?**

13            A. Correct.

14            **Q. And are these locations the same as were found**  
15   **in the first set of Well Proposals?**

16            A. No, ma'am.

17            **Q. Why not?**

18            A. Uhm, the first set that was mailed out we  
19   intended to drill from -- these are in DSU locations.  
20   Our locations were slightly west on, uh, going  
21   through -- if you drill from those locations you would  
22   have had to go through the BLM process, and when the  
23   moratorium was set put. And we decided to move these  
24   locations in DSU and stay off of BLM lands, not knowing  
25   what would happen going forward.

1 Q. And when did you make that decision?

2 A. Uhm, (Note: Pause.) Uhm, some point  
3 between -- at the time of the moratorium.

4 Q. So --

5 A. I would say in March. No, around March.  
6 March/April.

7 Q. All right. You sent out Well Proposals again  
8 on about May 12th; isn't that right?

9 A. Correct.

10 Q. And did those Well Proposals have the same  
11 locations that you have here in paragraph 6 of your  
12 application?

13 A. Uhm, I think they do not. They were moved,  
14 and primarily moved out of that bottom area into a  
15 better location.

16 Q. So the May 12th --

17 A. The --

18 Q. Even though you made the decision in March to  
19 change the location, the May 12th Well Proposals do not  
20 have the locations that are represented in your  
21 affidavit today. Is that correct?

22 A. That is correct.

23 Q. Why is that?

24 A. Because upon further review and examination of  
25 the area we did realize that one of the locations was in

1 a low area, and we went ahead and moved it.

2 **Q. And when was that decision made?**

3 A. Uhm (Note: Pause.) Uh, it was on or around  
4 the time the letters went out, but they were not  
5 properly incorporated into new letters.

6 **Q. And with respect to the AFEs, there was one**  
7 **set of AFEs submitted with the initial Well Proposals,**  
8 **correct?**

9 A. Correct.

10 **Q. And that was in early January of this year,**  
11 **right?**

12 A. Yes, ma'am.

13 **Q. And what -- when you do your AFEs, do you base**  
14 **those on your locations? Do you take the locations into**  
15 **consideration?**

16 A. Uhm, we've drilled enough wells where we have  
17 a standard set cost for a location build. Uhm, if  
18 there's any variance, we don't think it's, uh,  
19 sufficient enough to make a change in an AFE.

20 So we have a standard cost for surface  
21 locations, and moving a location 500 feet usually does  
22 not quantify additional costs.

23 **Q. Okay. So if I am hearing you right you don't**  
24 **take into consideration the locations when you prepare**  
25 **your AFEs. Is that right?**

1           A.     Uhm, that's not totally accurate. We do take  
2     it into consideration if there's an extraordinary  
3     circumstance, whether if it's on a BLM land or a  
4     different type of land. But for our standard locations  
5     we have a set cost that we estimate we are going to  
6     build, because until you actually build it you will not  
7     know the actual cost. And --

8                                 (Note: Audio issue.)

9           HEARING EXAMINER BRANCARD: Mr. Eschete, can  
10    you respond to the question. I couldn't hear.

11                                THE WITNESS: Yes, sir.

12           A.     The actual surface cost isn't determined until  
13    the pad is built; uhm, therefore an AFE is an estimate.  
14    And we have parameters that we think are within our --  
15    the estimates that we put forth are within parameters  
16    that we are comfortable sending out, and unless it's an  
17    extraordinary circumstance then the surface cost in our  
18    AFEs are what we would feel accurate.

19           **Q.     And I believe you testified earlier that**  
20    **when -- maybe one of the parameters is moving a location**  
21    **by about 500 feet. Is that right?**

22           A.     In this case from the original proposal to the  
23    location it's at now it was to get out of this bottom  
24    that was picked from the office. And sometimes software  
25    grids don't actually line up as well as we would like

1    them from one software to the other, and when the  
2    geologist picked a location in one software, it didn't  
3    compute properly to actual calls.

4           **Q.    And are you aware that your locations moved by**  
5    **more than 700 feet?**

6           A.    Yes, ma'am.

7           **Q.    And wouldn't that be outside of your parameter**  
8    **of 500 feet?**

9           A.    Oh, I didn't say out- -- I said if a well, for  
10   example, moves 500 feet, the costs, depending if we move  
11   it 1500 feet, if it's the same type of surface the  
12   actual costs to build that surface would be consistent.  
13   Only if it's extraordinary circumstances would the cost  
14   of building a surface in our defined area would be  
15   significantly different.

16                        So for AFE purposes we have a pretty  
17   standard surface building cost.

18           **Q.    You mentioned earlier that the reason you**  
19    **moved the surface location is because they were on BLM**  
20    **land. Is that right?**

21           A.    Not the surface, but maybe the subsurface, and  
22   therefore required BLM process.

23           **Q.    And where is that BLM land located?**

24           A.    In the northeast quarter -- no, northwest  
25   quarter of 14.

1 Q. And So --

2 A. Of Section 14 outside of the proposed DSU.

3 Q. Are you talking about BLM surface or BLM  
4 minerals?

5 A. BLM minerals.

6 Q. And, I'm sorry, where did you say those BLM  
7 minerals were located?

8 A. I am not factual on this but this is the  
9 northwest quarter of 14.

10 Q. The northwest quarter of 14. (Note: Pause.)  
11 And did you move those surface locations  
12 west from the original location?

13 A. East.

14 Q. You moved them east.

15 And now I'm turning to paragraph 8 of  
16 your affidavit. It's on page 3. And you represent  
17 there that Exhibit C-2 includes updated Form C-102s. Do  
18 you see that?

19 A. Yes, ma'am.

20 Q. When were these C-102s updated?

21 A. I don't have them in front of me directly  
22 right now, so I don't know.

23 MS. SHAHEEN: Is there a way we can get  
24 Mr. Eschete a copy of those?

25 A. Yes. Yes, ma'am. I have one now. I had them

1 print it out on the side.

2 It appears, uh -- yeah. Yeah. It says  
3 February 8, 2021, but I...

4 That's what it says, but...

5 **Q. So that's inaccurate; is that right?**

6 A. Uh, February -- uh, I would have to go through  
7 my emails and see what we -- when the first version to  
8 the second version was. I cannot confirm that 2-8-21  
9 was the last C-102s we had. They may be. I...

10 Hmm.

11 **Q. So taking a look at the first C-102. For the**  
12 **10H, for example.**

13 A. Yes, ma'am.

14 **Q. You represent in paragraph 8 that these forms**  
15 **demonstrate the completed interval for each well**  
16 **complies with standard setbacks for oil wells.**

17 **Is that what your affidavit states?**

18 A. Yes, ma'am.

19 **Q. Now, I understand from your earlier testimony**  
20 **that you agree this doesn't actually accurately**  
21 **represent the location of each of these wells. Is that**  
22 **right?**

23 MR. RANKIN: Objection. Mischaracterizes his  
24 prior testimony.

25 MS. SHAHEEN: Do you want me to rephrase the

1 question?

2 THE WITNESS: Yeah, please do.

3 Q. Let's take a quick look at your Exhibit C-3.

4 A. C-3. Yes, ma'am. General location map. Yes,  
5 ma'am.

6 Q. Yes. Does this accurately reflect the land  
7 grid for these two sections?

8 A. Define land grid. Oh, yes, ma'am. I mean for  
9 forty-acre -- so yes, ma'am.

10 Q. Well, what I'm looking at -- if you see the  
11 two sections side by side, Section 14 and Section 13,  
12 Section 13 looks fairly centered in the map, right, but  
13 section 14 kind of leans down a little bit. Do you see  
14 that?

15 A. Yes, ma'am.

16 Q. Why is that?

17 A. Uhm, as your client testified yesterday,  
18 curvature of the earth.

19 Q. And so do your C-102s take that into  
20 account?

21 A. Uh, yes, ma'am. As previously testified, they  
22 are normalized. Rather than being curved, they are just  
23 angled. But the calls themselves are correct.

24 Q. So you're saying that the footages here, even  
25 though the C-102 does not reflect the existing land

1 **grid, you're saying these footages are correct.**

2 A. Yes, ma'am. The footages are from the section  
3 line themselves, irregardless of what angle they come  
4 off of Section 13.

5 Q. And then going back to your paragraph 8, these  
6 forms demonstrate that the completed interval for each  
7 well comply with standard setbacks for oil.

8 So, uhm, I know I may be missing  
9 something here, but I do -- and turning back here to  
10 that first C-102 for the 10H, I see a first take point  
11 here. I do not find a last take point on this C-102.  
12 If you can point that out to me, I would appreciate it.

13 HEARING EXAMINER BRANCARD: I'm sorry, Ms.  
14 Shaheen. Which well are you looking at?

15 MS. SHAHEEN: I'm looking at the 10H.

16 A. 330 from the north line of Section 13 and 100  
17 feet from the east line of Section 13.

18 Q. It says b.h. there, so I'm -- my understanding  
19 is that is your bottomhole location. I don't see an  
20 indication for a last take point.

21 A. I don't think we've indicated those on our  
22 C-102s.

23 Q. Okay. So none of your C-102s indicate the  
24 last take point; is that right?

25 A. Correct.

1           Q.    So it's incorrect in your affidavit to state  
2   that they demonstrate the completed interval for each  
3   well comply with standard setbacks, because we don't  
4   know what the completed interval is without the last  
5   take point.  Isn't that right?

6           A.    Yes, ma'am.  I think the intent was the  
7   bottomhole and the last take point.  I -- yeah, they  
8   just have the bottomhole location.

9           Q.    If you take a look at Longfellow Exhibit A-6.  
10   Do you have that handy?

11          A.    Hmm.  No, ma'am, I do not.

12          Q.    I can try to get that for you.  I can try to  
13   pull it up.

14                         Mary, would you allow me to make an  
15   effort here, my first effort?

16                         HEARING EXAMINER BRANCARD:  It should be  
17   Marlene.

18                         MS. SHAHEEN:  Oh, I'm sorry.

19                         THE WITNESS:  I have B-3, I have B-1.

20                         MS. SHAHEEN:  Marlene, can you allow me to  
21   share?

22                         MS. SALVIDREZ:  Yes.  I'm trying as soon  
23   as possible.

24                         MS. SHAHEEN:  Okay.  Thanks.  This is my first  
25   rodeo here.

1 THE WITNESS: Yes, ma'am. I see it. It's a  
2 copy of their C-102.

3 MS. SHAHEEN: Right.

4 Q. So if you take a look at the first 102, let's  
5 look at the 10H. I'm sorry, not the 10H. It would be  
6 the 1H in this instance.

7 And here this C-102, would you agree that  
8 this C-102 accurately reflects the land grid?

9 A. Yes, ma'am.

10 Q. And you see a first take point and last take  
11 point there?

12 HEARING EXAMINER BRANCARD: Ms. Shaheen you  
13 can move the document on your screen.

14 MS. SHAHEEN: Oh, yes. I just have to find it  
15 here.

16 A. Yes, ma'am, they have a second dot that says  
17 LTP. I see it no. I apologize. My eyes aren't what  
18 were they used to be.

19 Yes. Confirmed. I see the LTP dot on  
20 their C-102.

21 Q. Okay. Great. And all these C-102s are done  
22 the same way, so you would agree that Longfellow's  
23 C-102s are accurate whereas Spur's are not. Correct?

24 A. No, ma'am.

25 Q. What is the basis for your disagreement with

1     **that?**

2           A.    I -- are you saying accurate based on the  
3     curvature of the earth or accurate --

4           **Q.    I'm saying -- I'm sorry.  Go ahead.**

5           A.    No, go ahead.

6           **Q.    I'm saying accurate based on the curvature of**  
7     **the earth and accurate based on reflecting the proposed**  
8     **well, the first take point, the last take point.**

9           A.    Yes, ma'am.  I agree Longfellow's is accurate.  
10    As I stated earlier, our C-102s simply normalized that  
11    line, and the calls, while correct, just do not have the  
12    slight offset angle, they are just normalized.

13          **Q.    Okay.  The calls that are there, your**  
14     **testimony is the calls that are there are correct?**

15          A.    Correct.

16          **Q.    Why didn't Spur use --**

17                   HEARING EXAMINER BRANCARD:  Ms. Shaheen, I'm  
18    going to have to take a short break here.  We've lost  
19    our hearing examiner.  Apparently his computer is  
20    restarting right now.

21                   MS. SHAHEEN:  All right.

22                   HEARING EXAMINER BRANCARD:  So why don't we  
23    take about a 10-minute break here.

24                   MS. SHAHEEN:  Thank you.

25                   (Note:  In recess from 9:49 a.m. to 9:59 a.m.)

1 HEARING EXAMINER BRANCARD: Okay. We may  
2 proceed again. Ms. Shaheen.

3 Mr. Eschete, are you ready?

4 MS. SHAHEEN: I believe he's on mute.

5 THE WITNESS: Hello. What about now?

6 MS. SHAHEEN: That's working.

7 HEARING EXAMINER BRANCARD: Thank you. Okay.  
8 Sorry for that interruption. Please proceed.

9 MS. SHAHEEN: So I'm almost that done with the  
10 C-102s, but I do want to make sure I understand.

11 **Q. Why didn't Spur use an accurate land grid for**  
12 **its C-102s?**

13 A. I don't think that's required as a valid  
14 proposal. The company normalized the grid or whatever.  
15 I mean, it's accurate from the section lines.

16 **Q. But isn't it true that normalized means calls**  
17 **aren't depicted where they actually are on the earth's**  
18 **surface?**

19 A. If you read 860 feet from the north line, that  
20 is 860 feet from the north line. The picture on the  
21 bottom is an aid or a tool. I don't know if it's -- I  
22 don't -- I am not familiar with the do's and don'ts of  
23 grids, or what's accurate. I don't know how that's  
24 material.

25 **Q. But you agree that your C-102s aren't**

1 **accurate. You agreed to that previously.**

2 A. No, ma'am. My C-102s are accurate. They have  
3 an accurate surface hole location, they have an accurate  
4 bottomhole location. They do show a first take point,  
5 but the fact they do not have a last take point does not  
6 make them inaccurate, it just shows that we do not say  
7 where the last take point is.

8 **Q. It just makes them incomplete, correct?**

9 A. No, ma'am, they are not incomplete. It is not  
10 required for an accurate Well Proposal to have take  
11 points.

12 **Q. But isn't it necessary to know what the last**  
13 **take point is and the first take point is to determine**  
14 **whether the completed lateral is within standard**  
15 **setbacks?**

16 A. No, ma'am.

17 **Q. Turning back to your discussion about BLM, I**  
18 **understand you said that BLM minerals were located in**  
19 **the northwest quarter of Section 14. Right?**

20 A. I was inaccurate. I'm sorry I made that  
21 statement. I retract that statement.

22 **Q. Where are the BLM minerals located?**

23 A. I don't know. I didn't do a study on the  
24 northwest quarter of Section 14. The surface was BLM.

25 **Q. Okay. So if I remember correctly your**

1 testimony previously was the reason you moved your  
2 location was because there were BLM minerals that were  
3 being trespassed.

4 **Is that your previous testimony?**

5 A. It was, but it was inaccurate and I should  
6 have said I don't know, because I really didn't know. I  
7 took a guess, and I was wrong, and I apologize.

8 MR. RANKIN: Mr. Hearing Examiner, I want to  
9 raise an objection to that question. It misstated  
10 Mr. Eschete's prior testimony. He never testified they  
11 were trespassing on BLM minerals.

12 THE WITNESS: No, ma'am. No.

13 MS. SHAHEEN: I'm not -- I must have -- I  
14 wasn't clear. What I understood Mr. Eschete to say was  
15 that the reason they moved the surface location was so  
16 that they would not trespass on the BLM minerals.

17 **Q. Is that accurate? Is that an accurate**  
18 **representation of your previous testimony?**

19 MR. RANKIN: Objection. Mr. Eschete did not  
20 use the word "trespass". He did not testify there was  
21 going to be a trespass?

22 **Q. Mr. Eschete, did you mention the reason you**  
23 **moved the surface location was because there were**  
24 **subsurface issues related to BLM minerals?**

25 A. If I did state that, it was an incorrect

1 statement. That's not accurate.

2 Q. Okay. Thank you.

3 A. And I would like a chance to correct it.

4 Q. Okay. And so I'm going to give you that  
5 opportunity now, because my original question was: Why  
6 did you move those locations? So explain to me why the  
7 locations were moved.

8 A. Uhm, I -- the surface outside of the proposed  
9 DSU to the west was BLM surface. We wanted to avoid  
10 any -- initially when the geologist picked them he did  
11 not have a surface map. We went back and reviewed it,  
12 and we wanted to avoid any contact with BLM, so we moved  
13 our locations within the confines of the DSU.

14 Q. Okay. And you moved them west; is that  
15 right?

16 A. No, ma'am, we moved them east. But I think...  
17 Anyway...

18 Q. You moved the surface locations east. Is that  
19 your testimony?

20 A. Well, I think what I'm discussing with you  
21 right now was an internal iteration that was not  
22 actually proposed, and so I'm giving you some insight as  
23 to what was our original locations, and then we moved  
24 them. And the Proposal Letter, you're correct, was  
25 east. I mean, the ones you're talking about are east

1 and we moved them to the accurate locations on the  
2 C-102s now.

3 Q. Okay. Let me make sure I understand.

4 In the first Well Proposal the surface  
5 locations were not correct. Is that right?

6 A. Correct.

7 Q. Okay. The C-102s, those are the surface  
8 locations that you believe are correct; is that right?

9 A. Yes.

10 Q. And the second set of Well Proposals, those  
11 locations were not accurate either; is that right?

12 A. Correct.

13 Q. Okay. And so you've corrected the surface  
14 locations in your affidavit. Correct?

15 A. Correct.

16 Q. And those surface locations correspond to the  
17 C-102s, correct?

18 A. Correct.

19 Q. And in your affidavit in the C-102s, the  
20 surface locations moved west from where they were  
21 indicated in the first and the second Well Proposals; is  
22 that correct?

23 A. Correct.

24 Q. And where is the BLM surface located?

25 A. Outside of the respective DSU.

1 Q. And where outside of the respective DSU?

2 A. West.

3 Q. West. So you moved the surface locations  
4 closer to the BLM surface; is that right?

5 A. We moved them in line with Longfellow's  
6 surface locations.

7 Q. So you used Longfellow's surface locations to  
8 determine where Spur's surface locations should be?

9 A. No, ma'am. I'm just stating that our current  
10 surface locations are in line with Longfellow's surface  
11 locations.

12 Q. Right. And I'm just asking you why you moved  
13 them, and I'm still not sure that I have an answer.

14 A. As we do with most wells, we give preliminary  
15 locations, and then as you go through the process you  
16 get a more defined surface location. I would consider  
17 this a part of a normal, standard process.

18 Q. Let's move on to your Exhibit C-4.

19 A. Yes, ma'am. Okay. Yes, ma'am.

20 Q. All right. So at the top it states that this  
21 is the DSU Working Interest Summary. Is that correct?

22 A. Yes, ma'am.

23 Q. Does this show the working interests in the  
24 proposed spacing unit as Spur believes it to be owned?

25 A. We believe this is the lease ownership that

1 was reported. Define working interest, when you say  
2 working interest.

3 Q. I think what I mean by working interest I mean  
4 all those folks are going to be pooled and subsequently  
5 pay costs and receive revenues. They will be the owners  
6 of that production, those minerals.

7 That's what I mean by working interest.

8 A. We believe these are the mineral ownership  
9 report for the respective DSU.

10 Q. Okay. So it's not the Working Interest  
11 Summary? Is that your testimony?

12 A. It's the working interest for the mineral  
13 ownership estate within the DSU.

14 Q. And so does this include the percentages of  
15 interest that you would use for all working interests to  
16 allocate costs, which would get paid, and get revenues,  
17 which would be for the production owned by each working  
18 interest owner.

19 A. We are not to that stage yet. Right now we  
20 were getting the mineral ownership as it sits for a  
21 pooling hearing.

22 Q. Right. But aren't you force pooling all the  
23 working interest owners?

24 A. I am force pooling the mineral estate that  
25 owns minerals within a 480-acre DSU.

1           **Q. Did you provide Notice to all the working**  
2 **interest owners who were going to be force pooled in**  
3 **this proceeding?**

4           A. To my knowledge yes.

5           **Q. Did that include all of the working**  
6 **interests?**

7           A. That included all the mineral owners whose  
8 minerals can be pooled within 480-acre DSU.

9           **Q. What do you mean by mineral owners?**

10          A. People who own rights to the minerals under  
11 the 480 acres.

12          **Q. And how do you know who owns the rights to the**  
13 **minerals under the 480 acres?**

14          A. I'm not saying they own rights, I'm saying  
15 they actually own ownership in the minerals, the mineral  
16 rights under the 480 acres.

17          **Q. Right. But the mineral owners -- who are the**  
18 **mineral owners here? Let's talk about that. Who owns**  
19 **the minerals underlying these...**

20          A. The lessors in the leases, they own the  
21 minerals, and they sign leases and that's who own -- the  
22 people who have the right -- I mean, there's all kinds  
23 of owners. I'm talking about owners that have the right  
24 to explore and drill for oil and gas, who own mineral  
25 ownership. Mineral rights ownership is mineral rights

1 ownership.

2 Q. My question for you: Are you force pooling  
3 the mineral owners?

4 A. I am force pooling the mineral right owners.

5 Q. So does that mean you are not force pooling  
6 the working interest owners?

7 A. Not at this time.

8 Q. You're not force pooling the working interest  
9 owners?

10 A. Uhm, again what is a working interest owner?

11 Q. Well, you're the expert. You tell me what is  
12 a working interest owner.

13 A. I'm saying that this represents the people  
14 that own interests under the 480-acre DSU, the mineral  
15 ownership report.

16 Q. So when you -- going back to my previous  
17 question: When you start allocating costs, when you  
18 send out your estimated costs with your election, will  
19 those elections be calculated based on the interests  
20 that are here in your Exhibit No. C-4?

21 A. If other contracts are applicable we would  
22 review those at the time.

23 Q. So you don't know -- well, if there's --  
24 So it could be, and in fact likely will  
25 be a different percentage of ownership that you use to

1 calculate costs per each working interest owner; is that  
2 right?

3 A. Uhm, we will have to review those contracts to  
4 make that determination, or if there are any contracts  
5 applicable.

6 Q. Do you know whether there are any contracts  
7 that pertain to these minerals?

8 A. I do.

9 Q. And can you tell us what contracts do exist  
10 with respect to these minerals?

11 A. Uhm, there are two operating agreements that  
12 would be applicable in this case.

13 Q. Is that the Puma Operating Agreement and the  
14 Aid Operating Agreement?

15 A. That is correct.

16 Q. Did you take those operating agreements into  
17 consideration when you determined the percentages of  
18 interest for the working interests that you're force  
19 pooling in this proceeding?

20 A. No, ma'am, I did not.

21 Q. Would you agree that what you're presenting to  
22 the Division today with respect to percentages of  
23 interest differs from what you use to allocate costs and  
24 revenues?

25 A. Uhm, upon applying those contracts I would

1 have to review that, but I don't know. There  
2 potentially could be a difference.

3 Q. So is Spur a party to the Puma Operating  
4 Agreement?

5 A. It is.

6 Q. And in fact it participated in Longfellow's  
7 Hendrix CD wells in the south spacing unit. Correct?

8 A. We did, but that was not under the Puma  
9 Operating Agreement.

10 Q. Do you know whether your estimated costs were  
11 based on a percentage of interest calculated based on  
12 the Puma Operating Agreement?

13 A. My cost was not based on the Puma Operating  
14 Agreement.

15 Q. Would you expect an operator to take that  
16 operating agreement into consideration in calculating  
17 the percentages of interest for allocating costs and  
18 revenues?

19 A. Yes, ma'am.

20 Q. And did you participate in those wells, the  
21 Hendrix CD wells?

22 A. We did.

23 Q. And are you aware that your percentages of  
24 interest were based on that Puma JOA?

25 A. Ma'am, my interests were not calculated on the

1 Puma JOA. It was the Aid JOA.

2 Q. Oh, I'm sorry. I'm sorry. That's my mistake.  
3 Okay.

4 So then you agree that the interest for  
5 Spur in the Hendrix CD wells were calculated based on  
6 the Aid JOA, correct?

7 A. Yes, ma'am.

8 Q. Okay. And you have paid those estimated costs  
9 and participated in the wells.

10 A. Yes ma'am.

11 Q. So wouldn't you agree that Spur would do the  
12 same thing here with their proposed Aid North wells.  
13 They would take that Aid JOA into account when they  
14 calculated and allocated costs and revenues for those  
15 proposed wells. Correct?

16 A. Assuming we would win operatorship, based on  
17 the fact it takes to get a pooled unit then we would  
18 look at applicable contracts, yes.

19 Q. Maybe I need to ask that question again.

20 A. Okay.

21 Q. Would you agree that Spur would use the Aid  
22 North JOA to calculate interest and allocate costs and  
23 revenues?

24 A. Assuming we win operatorship? Is that your  
25 question? If we win operatorship --

1           Q.    Well, yes.  Obviously you have to be the  
2 operator to be doing this.

3           A.    Okay.  Okay.  Yeah.  Yes, ma'am.

4           Q.    Okay.  So I understand your testimony, you  
5 would use the Aid JOA to calculate percentages of  
6 interest, allocate costs, and pay revenues if you are  
7 the operator.  Right?

8           A.    Correct.

9           Q.    And why, then, did you not use that Aid JOA  
10 and the Puma JOA to calculate your percentages of  
11 interest here in Exhibit C-4?

12          A.    Okay.  Maybe I can describe it this way:  
13 Because of my contractual interest in the Aid JOA, had I  
14 proposed the original Hendrix wells on a purely  
15 contractual basis but not an acreage where I own the  
16 acreage in the Hendrix CD wells, would I have a right to  
17 pool those lands on a contractual basis?  I think not.  
18 So therefore why would I use a contractual basis to  
19 determine ownership of a DSU where a contractual owner  
20 does not own any mineral ownership in that DSU.

21          Q.    Okay.  Who prepared that answer for you?

22          A.    I did.

23          Q.    Do you think the Division would want to know  
24 what the actual percentages of interest will be used to  
25 allocate costs and pay revenues in these wells?

1           A.    I think the Division wants to know who owns  
2 the true minerals and has correlative rights under the  
3 actual DSU that's being proposed.

4           **Q.    Isn't it true that the mineral owners are the**  
5 **State of New Mexico and Mossman Midwest Company?  Those**  
6 **are the only two mineral owners.**

7           A.    Uh, yes, ma'am, that's correct.  And I also  
8 own the entire northwest quarter of Section 13 on a  
9 single lease from the State of New Mexico, which is not  
10 bounded by any of the operating agreements mentioned,  
11 and I feel like I have to represent the State of New  
12 Mexico to the best of my ability to grow and develop the  
13 minerals as stated in the lease I took from them.

14           MS. SHAHEEN:  I ask that that be stricken as  
15 nonresponsive.  I'll ask the question one more time.

16           THE WITNESS:  Ma'am.

17           **Q.    Don't you believe the Division wants to know**  
18 **the percentages of interest that would be used to**  
19 **allocate costs and pay revenues by the operator?**

20           MR. RANKIN:  Objection.  I do not think that  
21 the witness has any idea what the Division wants to  
22 know.

23           HEARING EXAMINER BRANCARD:  Agreed.  Thank  
24 you.

25           **Q.    There's certain information is that the**

1 **Division requires. Is that true?**

2 A. Yes, ma'am, to my knowledge.

3 **Q. And isn't it true that the Division requires**  
4 **you to provide the percentages of interest that are held**  
5 **by each working interest owner that will be force**  
6 **pooled?**

7 A. Uhm, to my knowledge that's the mineral owners  
8 or the mineral owner estate, not the mineral owners who  
9 actually -- the ones who took leases from the owners,  
10 who have the rights to develop under oil and gas.  
11 That's what my understanding is who has the right to  
12 develop the actual minerals under the proposed, in this  
13 case, 480-acre DSU.

14 That's my understanding.

15 **Q. You mean that's not an accurate depiction of**  
16 **the way costs will be allocated and revenues paid?**

17 A. I don't know how that's relevant for pooling  
18 of mineral acres. But that's my understanding.

19 **Q. And isn't it true that the ownership of the**  
20 **interests in this spacing unit would also be determined**  
21 **by including the Aid and the Puma JOA?**

22 A. Not for the purposes of this pooling hearing,  
23 but after determination of who obtains operatorship.

24 **Q. So are you saying that the ownership is**  
25 **different before you force pool than it is after you**

1     **force pool?**

2           A.     Depends on what you're force pooling.  We're  
3     here to...

4           **Q.     Would you at least agree that your**  
5     **representation on Exhibit C-4 is different from the**  
6     **percentages of interest that any operator would use to**  
7     **allocate costs, pay revenues and determine ownership?**

8           A.     At what point in the process?  For pooling  
9     purposes?

10                   HEARING EXAMINER BRANCARD:  I'm not sure the  
11     witness can testify to what any operator would do.

12                   MS. SHAHEEN:  Okay.  I'll ask as if it's  
13     Spur.

14           **Q.     Isn't it true that the percentage of**  
15     **interest reflected in your Exhibit C-4 does not reflect**  
16     **what Spur would use to calculate ownership, allocate**  
17     **costs, and pay revenue if it's the operator of this**  
18     **spacing unit?**

19                   MR. RANKIN:  Mr. Examiner, I believe that  
20     question was asked and answered.

21                   MS. SHAHEEN:  I don't recall getting an answer  
22     to that question.

23                   HEARING EXAMINER BRANCARD:  Okay.  Try once  
24     more and that's it.

25                   MS. SHAHEEN:  Okay.

1           Q.    Isn't it true that your Exhibit C-4 does not  
2 reflect the ownership, the percentage of interest in the  
3 ownership that would be used to allocate costs and pay  
4 revenues by Spur if it becomes the operator.

5           A.    Correct.

6           Q.    Thank you. In other force pooling cases that  
7 Spur has filed has it calculated the percentages of  
8 interest without taking into account existing JOAs?

9           A.    I am familiar with this case. I have  
10 employees that do the other cases, and I would not -- I  
11 would be speaking out of turn. I would have to ask my  
12 employees.

13          Q.    So you don't know whether your employees take  
14 into account joint operating agreements when creating  
15 similar Exhibit C-4s for other force pooling cases?

16          A.    I do not.

17          Q.    Have you ever allocated ownership costs and  
18 revenue without considering an existing JOA?

19          A.    No, ma'am.

20                MS. SHAHEEN: The good news is I believe I'm  
21 done. Well, let me ask you one more question.

22          Q.    Wouldn't Longfellow have a greater working  
23 interest than Spur if you took into account existing  
24 JOAs?

25          A.    Correct.

1           **Q.    Thank you.**

2                   HEARING EXAMINER BRANCARD:   Thank you.

3                               Mr. Rodriguez, do you have any questions?

4                   MS. SHAHEEN:   Oh, wait, I'm not done.   I'm  
5   sorry.   I didn't mean...

6                   HEARING EXAMINER BRANCARD:   Oh, sorry.

7                   MS. SHAHEEN:   I think I'm going to move from  
8   Exhibit C-4 to the next set of questions.   And I don't  
9   know if it would be -- if we wanted to take a  
10   five-minute break, I could get a little more organized.

11                               But I'm ready to move on if you all are.

12                               (Note:   Discussion off the record.)

13                   HEARING EXAMINER BRANCARD:   Okay.   Please  
14   proceed, Ms. Shaheen --

15                   MS. SHAHEEN:   Thank you.

16           **Q.    Okay.   Turning back to your affidavit,**  
17   **paragraph 13A.**

18                   A.    Yes, ma'am.

19           **Q.    So here you state that Spur began planning to**  
20   **develop its acreage in the north half of Section 14**  
21   **following receipt of Longfellow's Well Proposals in**  
22   **January to September of 2020.**

23                               **Have you been planning to drill these**  
24   **wells since January of 2020?**

25                   A.    Uhm, we have been reviewing, or my group has

1 been reviewing multiple and various DSUs for drilling  
2 throughout the Northwest Shelf. So this was, this DSU  
3 was a part of those packages of wells that we were  
4 preparing to plan to drill.

5 **Q. When did Spur begin planning to develop this**  
6 **particular unit?**

7 A. I would have to probably find someone in the  
8 geology department and see how that ranked, but I would  
9 say in the beginning of January, 2020.

10 **Q. January of 2020? Why did it take a year to**  
11 **send out Well Proposals?**

12 A. Again, we had two acquisitions in the area.  
13 We began review on various areas, DSUs, and did all of  
14 these DSUs had to go through various processes in order  
15 to become eligible to -- you know, to make it  
16 drillworthy.

17 **Q. What were those two acquisitions that you**  
18 **speak of?**

19 A. Percussion and Concho.

20 **Q. Do you know how many acquisitions Longfellow**  
21 **has made to acquire its working interest?**

22 A. Uhm, I do not.

23 **Q. Would it surprise you if I told you that they**  
24 **have made 10 acquisitions before it made its proposals**  
25 **and four acquisitions after it made its proposals?**

1           A.    No, ma'am, that's pretty standard for DSU  
2 pooling preparation here in New Mexico.

3           Q.    Now I think I'm ready to turn to your -- I  
4 think it's Exhibit C-5. I'm going to look at your Well  
5 Proposal and your AFE.

6           A.    Okay.

7           Q.    Well, I may have already beat this horse. Let  
8 me just double check with you.

9           A.    Yeah. Please.

10          Q.    Okay. So here you have one set of AFEs,  
11 right, and then you sent out another set of AFEs May  
12 12th with your May 12th Well Proposal. I don't know if  
13 you have both of those handy, but my question for you  
14 is: What is the difference between these two AFEs?

15          A.    Nothing.

16          Q.    Okay. And in Spur's experience have there  
17 been any changes in costs, for example metal, materials,  
18 services, in the last -- let's say since you first put  
19 together the AFE?

20          A.    No, ma'am, the same -- if I have a little  
21 latitude, I think Longfellow said they were to drill  
22 these wells sometime next year, so I don't know how  
23 their AFEs would accurately depict pipe next year, just  
24 like our AFEs don't accurately depict pipe prices today,  
25 and when we drill these wells, we don't know what pipe

1 prices would be then either.

2 So we don't adjust for commodity or raw  
3 material prices in our AFEs.

4 **Q. So wouldn't you agree that Longfellow's AFEs**  
5 **would be more accurate because they have been revised**  
6 **more recently to reflect the changes in materials and**  
7 **service cost?**

8 A. No, ma'am, I would think that is not  
9 accurate.

10 **Q. What is the basis of your disagreement**  
11 **there?**

12 A. It depends on the price when you're actually  
13 drilling the well versus the price at the time you  
14 prepared the AFE, and the duration between the time of  
15 the preparation and the actual commencement of drilling  
16 or buying the pipe.

17 **Q. So would you agree that your AFEs are not an**  
18 **accurate reflection of what costs are now?**

19 A. I would say they are no more inaccurate than  
20 Longfellow's.

21 **Q. Are you aware that Longfellow recently revised**  
22 **its AFE to account for changes in materials and service**  
23 **costs?**

24 A. Yes, ma'am. But unless they are drilling it  
25 today that AFE is inaccurate on the same basis that

1 Spur's would be inaccurate. They're not accurate until  
2 the well is drilled.

3 Q. With respect to the second set of AFEs I  
4 notice that at the top there's no information relating  
5 to the project or to the description. Do you see that?

6 A. Yes, ma'am.

7 Q. Why is that?

8 A. Uhm, conversely to Longfellow, Longfellow  
9 doesn't put that information in the body of their  
10 letter. We put that information in the body of our  
11 letter. That is a style conflict or difference.

12 Q. Okay. So if you go back and take a look at  
13 the AFEs that you previously provided, now these look  
14 completely different, but they do have all the  
15 information requested in the headers except for company  
16 and division. That's at the top. Right?

17 So why would you have that information in  
18 the first AFEs, but not in the second AFEs?

19 A. My engineer decided to make the AFEs more  
20 legible than the previous that were generated from, I  
21 think, just a program. And I -- I would have to look  
22 and see if it's in there or not. I am not looking at it  
23 right now, but I know we just tried to make it more  
24 readable for the parties that were getting the  
25 letters.

1 Q. So you did that by removing any information  
2 related to the project or the description of the  
3 project; is that right?

4 A. Uhm, no, ma'am. It refers to the well, and in  
5 the well refers to the description of the project in the  
6 body of the letter.

7 Q. Turning now to your Exhibit C-6, this is your  
8 Chronology of Contact. Do you have that handy?

9 A. Yes, ma'am, I do.

10 Q. So I understand that you would be force  
11 pooling numerous parties. Is that correct?

12 A. That is correct.

13 Q. Your Exhibit C-4, you indicate you're pooling  
14 all of these parties that are in the Working Interest  
15 Summary except for those whose interests you may have  
16 acquired. Is that right?

17 A. Correct.

18 Q. Do you have a joint operating agreement for  
19 this spacing unit with any party?

20 A. Uh, I am applicable to the same operating  
21 agreements as Longfellow. I don't understand what --  
22 can you rephrase your question, maybe?

23 Q. Yes. I may not have been clear. I'm asking  
24 whether you have a joint operating agreement to cover  
25 this particular proposed horizontal spacing unit.

1           A.    The only lands that are not under an operating  
2 agreement is the one lease that I own 100 percent in the  
3 northwest quarter of Section 13.

4           Q.    Okay.  So let me just make sure, because I  
5 think your answer to my question was no, based on what  
6 you just said.  There is no joint operating agreement  
7 that covers the entire spacing unit, correct?

8           A.    No, ma'am.

9           Q.    Okay.  And so you're force pooling all of  
10 these parties that are indicated on your Exhibit C-4.

11                         And I was looking at your Chronology of  
12 Contact, and it seems to be only related to  
13 communications with Longfellow.  So if I've missed  
14 something, I would just like for you to point out where  
15 you have indicated your contacts with all of these other  
16 parties who will be force pooled.

17           A.    You are correct.

18           Q.    So you haven't represented to the Division  
19 your communications with any force-pooled party other  
20 than Longfellow, right?

21           A.    Correct.

22           Q.    When does Spur propose to spud its wells?

23           A.    We would have to be deemed operatorship, and I  
24 think that may be better discussed with other groups who  
25 are testifying.

1           **Q.    Okay.  Do you know whether these wells are on**  
2 **Spur's drilling schedule?**

3           A.    We normally do not put wells that we do not  
4 operate or we don't know if we are going to operate on  
5 our drill schedule.

6           **Q.    How many APDs does Spur have within the radius**  
7 **of a mile?**

8           A.    I wasn't -- I have no idea.  I don't know.

9           **Q.    How many vertical wells does Spur operate**  
10 **within the proposed spacing unit?**

11          A.    Uhm, within the spacing unit zero, but we  
12 operate adjoining wells in Section 14, less than a mile  
13 away from the proposed surface locations.

14                         We actually --

15          **Q.    Are you --**

16          A.    Sorry.

17          **Q.    You're aware that Longfellow operates vertical**  
18 **wells within the spacing unit in the Yeso, correct?**

19          A.    Yeah, that's common where two parties operate  
20 the same wells within the same spacing unit.

21          **Q.    But you're aware that Longfellow currently**  
22 **operates those vertical wells, right?**

23          A.    Yes, ma'am.

24          **Q.    Has Spur obtained a title opinion for the**  
25 **interests in this spacing unit?**

1           A.    We have updated title to what we call the Puma  
2    or the Aid title opinions that were rendered.  I think  
3    one is 2016 and one is -- uh, I can't recall.  But they  
4    are based off that same title that Longfellow has.

5           **Q.    And what makes you -- what is the basis for**  
6    **that understanding?**

7           A.    Uhm, (1), we got a copy of the title opinion  
8    for Section 13; and (2), there was a title opinion  
9    rendered in the Puma that was updated.  And when --  
10   usually if you update title, I don't know how -- from a  
11   fairly recent title opinion it's kind of hard to mess it  
12   up at that point.  But they may have it updated to date,  
13   but we updated the title to those same base of  
14   opinions -- let me rephrase.

15                           Our current title reflects the same base  
16   opinions that we think Longfellow used.

17           **Q.    If I understand correctly, you've used title**  
18   **opinions that related to the Puma JOA and the Aid JOA.**  
19   **Is that right?**

20           A.    No.  The units.  Same thing, and yes.

21           **Q.    Okay.  Thank you.  But you did not include**  
22   **those operating agreements in your calculation of**  
23   **working interests.  Is that right?**

24           A.    Title opinions for other units have nothing to  
25   do with the proposed DSU.

1           **Q. Do you have a title opinion for the proposed**  
2 **DSU?**

3           A. No, ma'am, I don't have a title opinion on the  
4 northwest quarter. I have the lease from the State of  
5 New Mexico, 100 percent. It was not assigned out since  
6 2019, and so we will render that if we become operator.

7                         But that's the only tract that does not  
8 have a title opinion on it.

9           **Q. I'm sorry, when you said you will render that,**  
10 **what does that mean?**

11          A. We will run out, or just solidify that there's  
12 no other encumbrances on the northwest quarter of  
13 Section 13, which I own the lease 100 percent that was  
14 leased in 2019. That's the only tract that does not  
15 have a title opinion in our possession.

16          **Q. Okay. So if I understand correctly, you're**  
17 **using title opinions that were done for the Puma JOA and**  
18 **the Aid JOA. Correct?**

19          A. I can't confirm they were done for that JOA.  
20 They were just done for the lands that cover the  
21 northeast quarter of Section 13 and the northeast  
22 quarter of Section 14. Title opinions are done on land,  
23 not on operating agreements.

24          **Q. Do you know if Longfellow has obtained a title**  
25 **opinion for the entire DSU?**

1 A. I do not.

2 Q. Would it surprise you to know that they  
3 have?

4 A. It -- again, we have the same base title and  
5 have done the same thing, with the exception of the one  
6 tract that I own 100 percent. So no, that's -- well, I  
7 would be surprised if they did not.

8 MS. SHAHEEN: Just reviewing my notes quickly  
9 here to see if I have asked you everything that I  
10 intended to.

11 I think that concludes my questions for  
12 you Mr. Eschete. I appreciate your patience with me.  
13 Thank you.

14 THE WITNESS: Thank you very much,  
15 Ms. Shaheen. Thank you.

16 HEARING EXAMINER BRANCARD: Thank you.

17 Mr. Rodriguez, do you have any questions?

18 MR. RODRIGUEZ: No questions. Thank you,  
19 Mr. Examiner.

20 HEARING EXAMINER BRANCARD: We are going to  
21 take another ten-minute break, because now I'm getting a  
22 pop-up saying my computer is about to shut down in one  
23 minute and 41, 40, 39 seconds.

24 So we will get back about 10:56, how  
25 about that, if I did my math correctly.

1 (Note: In recess from 10:46 a.m. to 10:58 a.m.)

2 HEARING EXAMINER BRANCARD: I am back and  
3 updated. Are you here, Ms. Shaheen, Mr. Rankin?

4 MS. SHAHEEN: I'm here.

5 HEARING EXAMINER BRANCARD: Mr. Eschete?

6 Okay. Mr. Lowe, are you there?

7 EXAMINER LOWE: Yes, I am.

8 HEARING EXAMINER BRANCARD: Do you have  
9 questions for this witness?

10 EXAMINER LOWE: Oh, I have a few questions.

11 HEARING EXAMINER BRANCARD: Please proceed.

12 CROSS-EXAMINATION

13 BY MR. LOWE:

14 Q. God morning, Paul.

15 A. Good morning. How are you?

16 Q. I'm pretty good. I've got a few questions  
17 pertaining to what was presented today.

18 You mentioned earlier in your  
19 presentation, you referenced -- you mentioned  
20 "normalized" in reference to one of the C-102s. What  
21 did you mean by normalized?

22 A. The fact is that the company that generated  
23 the C-102 continued the section straight rather than  
24 into the curvature of the earth at the angle, but that  
25 the calls themselves are correct from the section line.

1 The section lines are noted, but rather than -- they are  
2 just made a straight line rather than the little angle  
3 in Section 14.

4 Q. Okay. So that's what you mean. I assumed so.  
5 I just wanted to clarify that for myself. Okay.

6 The other question is you also mentioned  
7 that you got a letter from Apache. When did you get  
8 that back? That was early in your presentation.

9 A. I think it was April 21st Apache emailed me a  
10 letter. The letter basically states that if we were to  
11 be -- if we were to be granted operatorship of these  
12 wells that their interest would be treated in a certain  
13 fashion when it comes to cash calls, not being force  
14 pooled, and things of that sort.

15 Q. Okay. And Apache is a working interest in the  
16 spacing unit that you're seeking?

17 A. They are an interest owner, yes, sir.

18 Q. Okay. And general synopsis for all these  
19 wells in the area that are of concern right now, they  
20 are basically about the same, \$800 for drilling and  
21 \$8,000 for production, producing?

22 A. Oh, are you talking about cost?

23 Q. Yes. Sorry.

24 A. I think you're better off -- oh, for the  
25 overhead.

1           **Q.    Yes, sir.**

2           A.    Yeah.  No, our proposal was \$7,000 for  
3  drilling and \$700.  Longfellow's is the higher rate at  
4  \$8,000 and \$800.  Those are COPUS overhead charges that  
5  you typically put on the back of -- attached to an  
6  operating agreement?

7           **Q.    Yes.  Yes.**

8           A.    Okay.

9           **Q.    Then that's fine.  Thank you for clarifying**  
10 **that?**

11                           **And I think it was indicated at the**  
12 **beginning of your presentation that there are new**  
13 **exhibits, C-4.a and Exhibit 14.  Is that what I recall?**

14                           **Maybe Adam can answer that.**

15           A.    Yes, sir.  I think you're -- what he's  
16 referring to was our interest, assuming -- or  
17 calculating that we speak for MEC and with our deal with  
18 Conoco indicates that we own 50 percent ownership in the  
19 proposed DSU.

20                           Okay.  It added up those two parties into  
21 our number, I'm thinking.  And maybe we can recall them,  
22 but I'm fairly confident that what he was referring to  
23 was a slide that merely -- when you incorporate both  
24 Conoco and MEC it shows SEP Permian with a 50.4 percent  
25 working interest?

1           **Q.**    Okay.  And also it was brought to light when  
2   Sharon Shaheen was questioning that the reason for the  
3   surface location that was moved was because you  
4   mentioned "a low area".  What did you mean by a low  
5   area?

6           A.    Uhm, when we -- when the -- oops.  I'm sorry.  
7   Are you still there?

8           **Q.**    Yes.

9           A.    It messed up on our end.

10                        The original surface location was in just  
11   a geographically lower area, in what you would call a  
12   ravine or a bottom, by a couple of feet.  So once that  
13   got computed from geology's system that they use that we  
14   made our proposals based on, in the actual grid we  
15   realized it was in a bottom, so we diligently moved it  
16   out of that bottom up into a higher lands.  You know,  
17   we're not talking about a really big bottom but just a  
18   natural ravine.

19           **Q.**    Like a playa lake is what you're kind of  
20   saying?

21           A.    I think it's a draw.

22           **Q.**    Okay.

23           A.    You know, a temple (phonetic) draw between two  
24   highs.  It's not -- I don't think it's significant, but  
25   we did move it, so...

1           Q.    And it was brought to light that -- well, that  
2   was mentioned on your end that it was the low area was  
3   the reason why it was moved, and then it was mentioned  
4   again.  I'm not too sure who mentioned it or how it was  
5   stated, but it was due to BLM being the surface owner.  
6   So --

7           A.    Yes.  So technically when we first sent out  
8   our proposals our wells were west, off location.  That  
9   way we could be at full TVD to make our first  
10  perforation and obtain the most perforated length we  
11  could.

12                        So sometimes you drill off DSU and  
13  sometimes you drill within DSU, and so that time we were  
14  going to drill off DSU just slightly.  That way we could  
15  get maximum perf.  But when we realized it was the BLM  
16  was involved, you know because of their process we moved  
17  off of their lands, and we will try to still get maximum  
18  perf, but we will do it from a backfill and try to land  
19  the TVD and start our perfing there.  It's just a  
20  different angle to where you come in from the surface.

21           Q.    Okay.

22           A.    So that was the first one.  I'm sorry.  That  
23  was the first location.  And then we moved it east, and  
24  that's when we were put into the bottom.  Then we are  
25  where we are now on the high at the final location.

1           Q.    Okay.  And the locations for -- or that were  
2   the initial and then a bottom location, in both  
3   instances were there mineral interests or mineral owners  
4   that were federal BLM?

5           A.    No, sir.

6           Q.    Okay.  Just the surface?

7           A.    Just the surface.

8           Q.    Okay.  And throughout this morning's testimony  
9   on your end, the term VSU, can you -- I wanted to make  
10  sure that I understood what was being said.  Is it VSU,  
11  GSU or PSU?  I didn't get that.

12          A.    I apologize.  That's my accent.  It's D.  
13  Drilling Spacing Unit.

14          Q.    DSU?

15          A.    As in dog.

16          Q.    Okay.  I just wanted to clarify that on my  
17  end.

18          A.    No, that's -- I apologize.

19                EXAMINER LOWE:  No, that's okay.  I just  
20  wanted to make sure I understood.  Thank you for  
21  clarifying that.

22                        In the C-102s that were submitted, in  
23  whatever fashion they were submitted, in reference to  
24  all that is going on right now I just want to make you  
25  aware I'm not too sure if there's a requirement on

1 C-102s for information. There's times where there is  
2 more information, but if there's less information, that  
3 is not -- from my perspective, from the agency's  
4 perspective, we are very aware and concerned for the  
5 first take points and last take points and where they  
6 are located. So I just wanted to make you aware, and I  
7 guess everybody else aware that whenever we, especially  
8 myself, get an application, I inquire about the take  
9 points. Because the take points in the spacing unit,  
10 where it's producing from is where we pay a lot of  
11 attention to, as well, as far as the pool and the  
12 formations are concerned.

13 So I just wanted to make that aware to  
14 everybody, and you-all, as well, too.

15 So that's all the questions I have.

16 Thank you.

17 THE WITNESS: Thank you, sir.

18 HEARING EXAMINER BRANCARD: Thank you,  
19 Mr. Lowe.

20 I just had a couple of quick  
21 clarifications here.

22 CROSS-EXAMINATION

23 BY HEARING EXAMINER BRANCARD:

24 Q. It seemed when you were looking at the C-102  
25 that your company has put in the exhibit packet it

1     sounded like you weren't sure that that was the most  
2     recent one. Was I listening correctly?

3             A. No, I will confirm those are the most recent  
4     ones. Yes, they are.

5             Q. Okay. Thank you. That's helpful.

6                     Then when you're talking about the  
7     discussion about the AFEs and moving the surface  
8     location not having an impact on the cost, in these  
9     cases when you move the surface location are you also  
10    changing the length of the wellbore underground?

11            A. Uhm, in most cases we're going to -- probably  
12    the geologist would be the better testifier to talk to  
13    surface hole location versus, you know, wellbore length  
14    and all that.

15            Q. Okay. Thank you.

16                    And, you know, there's some confusion  
17    about interests here. I think maybe I can simplify it.  
18    In our Orders, our Pooling Orders, the final statement  
19    from the agency is we are pooling all uncommitted  
20    interests in the unit.

21                    If someone signs a JOA, is that a  
22    committed or uncommitted interest?

23            A. Uhm, I -- I -- under the Pooling Order, the  
24    way I interpret it, someone that was not a party to a  
25    JOA would -- only within the confines of that proposed

1 pooling unit would be notified.

2 Q. Well, I mean we are legally pooling people  
3 through these Orders. That's what we're doing here.  
4 That's our authority, the State of New Mexico.

5 A. No, I agree. This is just the way I interpret  
6 it. When we pool the mineral ownership -- or, you know,  
7 the leasehold ownership of that 480 acres, if someone  
8 within that pooling unit has a different or another  
9 obligation that is their responsibility and in their  
10 contract, you are pooled -- or my interpretation is  
11 you're pooling the minerals for a pooled DSU, you are  
12 not pooling contracts.

13 Q. But we are pooling uncommitted interests. If  
14 you are committed, we're not pooling you.

15 A. Correct.

16 Q. So does the JOA make you committed?

17 MR. RANKIN: Mr. Examiner, I wonder -- I don't  
18 mean to interrupt this line of questioning, but I might  
19 direct you to the Division's precedent on whether an  
20 overlapping JOA commits a party to that JOA to the  
21 proposed spacing unit or not, and the Division's  
22 precedent on that is unless the parties agreed to that  
23 JOA for that spacing unit that's being pooled, there is  
24 no agreement to pool their lands or interest in that  
25 spacing unit.

1 HEARING EXAMINER BRANCARD: So even if they  
2 signed a JOA they're not committed?

3 MR. RANKIN: They're not committed to that  
4 spacing unit, no. They have a contract area that  
5 overlaps.

6 HEARING EXAMINER BRANCARD: I'm totally  
7 confused by that, Mr. Rankin.

8 MR. RANKIN: I can direct you to the case law.  
9 I didn't mean to interrupt Mr. Eschete's response to  
10 you, but there is a distinction, I guess, to be made  
11 between the ownership in the contract area and the  
12 ownership within that mineral estate that you're seeking  
13 to pool.

14 HEARING EXAMINER BRANCARD: It's very simple.  
15 It's a committed interest or it's not. I mean, that's  
16 what we're pooling. Okay.

17 You know, I think we are getting really  
18 confused here on terminology, and so hopefully you-all  
19 can clarify this in your closing statements.

20 **Q. And I would just finally ask Mr. Eschete,**  
21 **though: Those two exhibits you provided to us about**  
22 **ConocoPhillips and I forget --**

23 **A. MEC.**

24 **Q. -- MEC, have either of those parties signed a**  
25 **joint operating agreement?**

1           A.    Uhm, I think both parties are subject to the  
2 Puma JOA.

3           **Q.    So they are subject to a prior JOA? This is**  
4 **the one that Ms. Shaheen was talking about?**

5           A.    Right.

6                         HEARING EXAMINER BRANCARD:  Okay.  Thank you.

7           THE WITNESS:  Thank you.

8                         HEARING EXAMINER BRANCARD:  Mr. Rankin, do you  
9 have any redirect?

10                        MR. RANKIN:  Hopefully some clarification to  
11 some of this as we work off through, and of course the  
12 rest will be dealt with to an extent, the legal issues,  
13 in a closing brief.

14                        Mr. Eschete, I'm going to -- if I may,  
15 Ms. Salvidrez, share my screen.

16                        HEARING EXAMINER BRANCARD:  I'm not sure if  
17 Marlene is still there.

18                        MR. RANKIN:  Someone is, and I got it.

19                        MS. SALVIDREZ:  Just to let everybody know, I  
20 am going to leave at 11:20 because I have training.  So  
21 Leonard, I'll give him the host duty.  But be patient  
22 with him, because he has not done this before.

23                        MR. RANKIN:  Okay.

24   REDIRECT EXAMINATION

25   BY MR. RANKIN:

1 Q. Mr. Eschete, do you recognize this as Spur  
2 Exhibit C-4?

3 A. Yes, sir.

4 Q. Okay. Now, to confirm and to clarify, Spur --  
5 when Spur identified its parties it's seeking to pool,  
6 did it identify only owners of a mineral interest in any  
7 portion of the lands that Spur's application proposes to  
8 be pooled?

9 A. Correct.

10 Q. Okay. And it identified those owners whose  
11 interest was evidenced by a written conveyance document  
12 either of record or known to the applicant at the time  
13 the pooling application was filed; is that correct?

14 A. Correct.

15 Q. Okay. So the interest owners identified here  
16 in yellow are those interest owners, and they are  
17 uncommitted in the spacing unit, correct?

18 A. Correct.

19 Q. In other words, they have not signed a JOA and  
20 reached voluntary agreement with any operator for  
21 operations of their lands within the proposed 480-acre  
22 spacing unit -- comprised of the 480-acre spacing unit.

23 A. No, sir.

24 Q. So all these interest owners remain  
25 uncommitted and require to be pooled in order to

1 complete these wells.

2 A. Correct.

3 Q. Now, Mr. Eschete, I'm going to share a  
4 different screen, a different image on my screen here.

5 Mr. Eschete, this is the Division's  
6 regulation addressing notice requirements for compulsory  
7 pooling. And I'm going to read it out loud into the  
8 record.

9 This is Division Rule 19.15.4.12(A)(1a)  
10 and I'm going to read it.

11 (Reading) Compulsory Pooling and  
12 Statutory Unitization: The applicant shall give Notice  
13 to each owner of an interest in the mineral estate of  
14 any portion of the lands the applicant proposes to be  
15 pooled or unitized whose interest is evidenced by a  
16 written conveyance document, either of record or known  
17 to the applicant at the time the applicant filed the  
18 application, and whose interest has not been voluntarily  
19 committed to the area proposed to be pooled or unitized.

20 I left off that last parenthetical.

21 Did I read that correctly?

22 A. Yes, sir.

23 Q. So based on this regulations requirement by  
24 the Division about who to provide Notice to and who is  
25 being pooled, did Spur identify only the parties who

1 actually own a record title interest in the mineral  
2 estate in the spacing unit, based on a document that  
3 conveyed actual title?

4 A. Yes, sir.

5 Q. Now I want to just go and touch on one other  
6 issue, because it got entirely and unfortunately very  
7 muddled during your cross-examination. And I don't have  
8 a screenshot of it but I'm going to direct your  
9 attention, and I'll read it out loud into the record, to  
10 the definition of a mineral interest owner that the  
11 Division follows.

12 I would like you just to confirm whether  
13 it jives generally with your understanding of the term.

14 Under 19.15.2.7, which is the rule or  
15 definition in the Division's regulations, we go to  
16 definition beginning with the letter M, subparagraph 10,  
17 to the definition of mineral interest owner.

18 It means a working interest owner. And  
19 I'll leave it right there.

20 In your understanding is that a leasehold  
21 interest owner someone who owns a lease interest within  
22 that mineral estate?

23 A. Yes, sir.

24 Q. Okay. And the rest of the definition reads:  
25 "...or an owner of a right to explore for and develop

1 oil and gas that is not subject to an existing oil and  
2 gas lease."

3 So someone who doesn't have an existing  
4 and gas lease, that would be the underlying mineral  
5 estate. Right?

6 A. Correct.

7 Q. So the Division's definition of a mineral  
8 interest owner is either a leasehold owner; i.e. a  
9 working interest owner, or the mineral estate owner.

10 Is that your understanding?

11 A. Yes, sir.

12 Q. Okay. So under a force-pooling situation you  
13 need to pool either the working interest owner, if an  
14 interest is leased, or the underlying mineral estate  
15 directly. Is that your understanding?

16 A. Yes, sir.

17 Q. And based on this regulation I have up here on  
18 the screen, the only parties subject to a Compulsory  
19 Pooling Application and a Compulsory Pooling Order are  
20 those owners of an interest in the mineral estate of any  
21 portion of the lands that the applicant proposes to be  
22 pooled. That would be limited only to the 480 acres of  
23 this proposed spacing unit, correct?

24 A. Yes, sir.

25 Q. Okay. No. 1 and No. 2, those interests must

1 be evidenced by a conveyance document of record title.

2 Agreed?

3 A. Agreed.

4 Q. All right. Now I want to talk a little bit  
5 about a JOA, and I'm going to go back to this other  
6 screen.

7 This image of your Exhibit C-4, it  
8 excludes any interest owner who does not own a leasehold  
9 interest or a mineral estate interest. It excludes any  
10 interest owner, leasehold interest owner, or mineral  
11 interest owner whose interest is not within any portion  
12 of the tract within the 480-acre spacing unit. Correct?

13 HEARING EXAMINER BRANCARD: Mr. Rankin, I  
14 think you need to get the definition correct. Mineral  
15 interest owner says "working interest owner". Working  
16 interest owner has its own definition, and it's not --  
17 it's the owner of an operating interest under a lease  
18 who has the exclusive right to exploit the minerals?

19 MR. RANKIN: Right.

20 HEARING EXAMINER BRANCARD: Working interests  
21 are cost-bearing.

22 MR. RANKIN: Agreed. Agreed. Yeah, I agree.  
23 Absolutely. Cost bearing. Absolutely.

24 Q. So what I want to get at here, Mr. Eschete, is  
25 this list you have identified for force pooling excludes

1 any interests that are not derived from a leasehold  
2 interest or a mineral estate within any of the tracts  
3 embraced within the 480-acre spacing unit. Correct?

4 A. Correct.

5 Q. Okay. Now I want to talk about JOAs, because  
6 Ms. Shaheen's cross touched on extensively these JOAs  
7 that overlap portions of this proposed spacing unit.

8 Is it your understanding that a joint  
9 operating agreement actually conveys title in a lease  
10 instrument to other parties in the JOA?

11 A. No, sir, quite the opposite. JOAs are meant  
12 to not convey any interest.

13 Q. Okay. So it's your understanding that joint  
14 operating agreements don't convey any title at all in  
15 the mineral estate or any mineral interest to the other  
16 parties of the JOA?

17 A. No, sir, they are not conveying.

18 Q. So if a JOA is not a conveyance document, does  
19 not convey title of any mineral interest, what is your  
20 understanding of what a JOA actually does?

21 A. It allows parties in a mutual area, or that  
22 have the desire to drill a well or certain wells within  
23 a defined contract area, in how those operations are  
24 defined, how they will proceed, and then the  
25 cost-sharing in billing of those operations.

1           Q.    So the reason -- are JOAs often referred to as  
2 a contractual interest?

3           A.    Yes, sir.

4           Q.    And that contractual interest is an agreement  
5 between the parties to that JOA about who to allocate  
6 costs and the production, correct?

7           A.    Correct.

8           Q.    Do those interests, are they always on an  
9 acreage basis?

10          A.    No, sir, there's varying types of JOAs that  
11 are disproportionate for carries (phonetic), and have  
12 different definitions of how or why those costs are  
13 divided a certain way, but it's not -- sometimes it is  
14 but it is not always directly related to the leases  
15 listed on an Exhibit A.

16                           And furthermore, making these  
17 acquisitions that are under these JOAs would not be  
18 allowed, and everyone subject to that JOA would have to  
19 sign these acquisitions if it was a conveyance. It  
20 would not be conveyable to us or Longfellow in this  
21 instance.

22          Q.    Okay. Now, is it also the case that sometimes  
23 JOAs will recognize an interest in a party to the JOA  
24 that doesn't even have a leasehold interest in the  
25 contract area?

1           A.    Yes, sir.

2           Q.    And that might be the situation where an  
3 operator doesn't actually have a leasehold interest, the  
4 operator of the JOA doesn't have a leasehold interest  
5 but they have an interest that the other parties have  
6 recognized and have given that operator without a  
7 leasehold interest.  Correct?

8           A.    Yes, sir, they have instances where that  
9 occurs.

10          Q.    Okay.  Now, the general idea about a JOA  
11 is that it's an agreement -- I think I heard you say  
12 it's an agreement about how to share costs and  
13 production within a contract area.  Is that right?

14          A.    Correct.

15          Q.    Okay.  Now, do you have -- and then those  
16 terms, those agreements, are they limited to that  
17 contracting area?

18          A.    Yes, sir.  On the first page of an operating  
19 agreement defines the contract area, and outside of that  
20 contract area the JOA is not applicable.

21          Q.    Okay.  So do you have a general understanding  
22 about whether parties who are not -- not parties.

23                         Do you have an understanding whether  
24 working interest owners who are not a party to a JOA may  
25 be bound by the terms or provisions of a JOA?

1           A.    I do not.

2           Q.    You are not aware of -- is that a general  
3 understanding of is that possible in the world of oil  
4 and gas that working interest owners who are not a party  
5 to a JOA are somehow bound or, uh, affected by the  
6 interests of a, a -- of a JOA?

7           A.    No, sir. And that is a part of the purpose of  
8 pooling, is to accommodate for those owners whereby the  
9 JOA cannot overreach on their interests.

10          Q.    And is your understanding that a JOA obligates  
11 only the parties to that JOA as and between and among  
12 themselves?

13          A.    That is correct.

14          Q.    So you're not saying that owners with an  
15 actual record title mineral interest in this proposed  
16 spacing unit who are also a party to any overlapping JOA  
17 can ignore their contractual obligations to share  
18 production and costs within the JOA contract area, are  
19 you?

20          A.    No, sir.

21          Q.    But what you're saying is that those  
22 contractual obligations and requirements are between  
23 those parties themselves.

24          A.    Correct.

25          Q.    So I'll just try -- I may -- maybe I can ask

1 you to summarize, but I think what I'm trying to get at  
2 here is that while an overlapping JOA may obligate  
3 parties to that agreement who have a mineral interest in  
4 a force-pooled spacing unit, okay, it does not affect  
5 the ownership calculations under the pooling statute of  
6 New Mexico, because the JOA does not actually convey  
7 record title interest in a mineral interest such as a  
8 leasehold interest within the proposed spacing unit.

9 Is that a fair characterization of your  
10 testimony?

11 A. Yes, sir. That's fairly evident, if you will  
12 focus on the northwest quarter of Section 13, whereby  
13 Spur owns that State lease 100 percent, it is not  
14 committed to either JOA and therefore it is being pooled  
15 without any contractual -- Tract No. 4. That is a 100  
16 percent lease owned by Spur, and that is not covered by  
17 any existing contract right now, and therefore it does  
18 not have any obligations but it is being used to be  
19 force pooled by the applications today.

20 Q. Okay. Now, you testified to this in response  
21 to one of Ms. Shaheen's questions, and I want to try to  
22 clarify it a little bit because I don't think it came  
23 through.

24 The northeast quarter of Section 14 is  
25 partially -- is part of an area that's under a JOA.

1 Correct?

2 A. Correct.

3 Q. And that JOA covers the north half of Section  
4 14, correct?

5 A. That is correct.

6 Q. And under Longfellow's ownership interest  
7 breakdown, they have included in this tract in the  
8 northeast corner of 14 interest owners who only have an  
9 interest in that JOA, and they don't have an actual  
10 leasehold interest in the northeast corner of Section  
11 14. Correct?

12 A. Correct.

13 Q. The only method by which they are being  
14 included in the northeast quarter of 14 is that they  
15 have a contractual interest in the north half of 14.

16 Correct?

17 A. Correct.

18 Q. And the same with respect to Tract 5 on your  
19 exhibit. There is a JOA that covers the east half of  
20 Section 13; is that right?

21 A. Yes, sir, that's correct.

22 Q. And in your ownership breakdown you have  
23 identified only those interest owners in Tract 5 that  
24 have a leasehold interest in the mineral estate in  
25 Tract 5, correct?

1           A.     Correct.

2           Q.     And Longfellow has included within Tract 5  
3 owners who have a contractual interest in the  
4 overlapping JOA's contract area; is that correct?

5           A.     Yes, sir.

6           Q.     Okay. And your understanding of the  
7 compulsory pooling statute in New Mexico and the  
8 regulations that govern those poolings in New Mexico is  
9 that only those interest owners whose mineral interest  
10 is evidenced by a conveyance document of record within  
11 the tracts that comprise the spacing unit are those  
12 subject to the compulsory pooling. Is that correct?

13          A.     Yes, sir.

14          Q.     Okay. Just a couple of other questions I want  
15 to touch on.

16                     One other issue, Mr. Eschete. This is  
17 going to the effect of an overlapping JOA. Okay.

18                     Let's use, for example, the east half of  
19 Section 13. Okay. Assume that there is a working  
20 interest owner who has a leasehold interest in the  
21 northeast corner of 13 where my cursor is.

22          A.     Okay. Yes, sir.

23          Q.     That leasehold interest owner is also a  
24 contractual party to an overlapping spacing unit, an  
25 overlapping JOA comprised of the east half of Section

1 13. Are you with me?

2 A. Yes, sir.

3 Q. So that leasehold interest owner is committed  
4 to an agreement to drill within a contract area  
5 comprised of the east half of Section 13. Is that a  
6 fair statement?

7 A. Yes, sir. Yes, sir.

8 Q. Does that leasehold interest owner have an  
9 commitment to an agreement to drill across the proposed  
10 480-acre spacing unit here in that case?

11 A. No, sir.

12 Q. Okay. Because they have not reached a  
13 voluntary agreement for JOA to combine the specific  
14 480-acre lands that are the subject of this proposed  
15 spacing unit, correct?

16 A. Correct.

17 Q. Okay. Now, a couple of things I just wanted  
18 to clean up.

19 Ms. Shaheen pointed out that in your  
20 affidavit at paragraph 13, this is in Exhibit C, you  
21 stated here that Exhibit C-6 contains a Chronology of  
22 Contracts with the working interest owners that Spur  
23 seeks to pool. She pointed out the only contacts in  
24 that exhibit are Longfellow Energy. Correct?

25 A. Correct.

1 Q. So you agree that was a misstatement?

2 A. Yes, sir. We've contacted all the parties  
3 listed on my exhibit. Because of the nature of this  
4 hearing we thought it would be relevant to only list  
5 those conversations between Spur and Longfellow.

6 Q. And that was because Longfellow is the  
7 competing -- is the party that has the competing pooling  
8 application and seeking to be the operator?

9 A. Correct.

10 Q. But the prior sentence in your affidavit  
11 states that Spur has contacted the uncommitted parties  
12 regarding the proposed wells but you haven't been able  
13 to reach agreement with them. Right?

14 A. Yes. In consideration of the ones that we  
15 have that may be listed.

16 Q. So in your opinion -- your opinion hasn't  
17 changed. You have attempted to reach out, make  
18 voluntary agreement with all the parties, working  
19 interest owners that Spur is seeking to pool in this  
20 case, either verbally, by email, or by the AFES.

21 Or the Well Proposals.

22 A. Yeah.

23 Q. Mr. Eschete, no one is suggesting that Spur  
24 did not undertake a good faith effort to reach voluntary  
25 agreement with the working interest owners in this case.

1           A.    Not to my knowledge.

2           **Q.    To your knowledge is Longfellow alleging that**  
3 **Spur has failed to undertake good faith negotiations to**  
4 **reach agreement with them?**

5           A.    Not to my knowledge.

6           MR. RANKIN:  Mr. Examiner, I have no further  
7 questions for Mr. Eschete.

8           HEARING EXAMINER BRANCARD:  I guess I have a  
9 question for you, Mr. Rankin?

10          MR. RANKIN:  Yeah.

11          HEARING EXAMINER BRANCARD:  Is it your legal  
12 theory that an interest owner in one portion of a  
13 drilling unit who enters into a JOA for only that  
14 portion of a drilling unit, that JOA is not effective to  
15 the rest of the drilling unit?

16          MR. RANKIN:  That is 100 percent my theory,  
17 and there are several Division cases that address that  
18 issue head on.

19          HEARING EXAMINER BRANCARD:  Well, I mean we  
20 have interest owners who are only in part to drilling a  
21 spacing unit.

22          MR. RANKIN:  That's right.  And they must  
23 reach agreement on how to combine their lands within the  
24 entire proposed spacing unit, and if they have an  
25 agreement as to an overlapping contract area, say the

1 east half of Section 13 in my example, but they have not  
2 reached agreement as to how to pool their lands in the  
3 480 acres as proposed.

4 HEARING EXAMINER BRANCARD: Well, I look  
5 forward to seeing your arguments on that one, because I  
6 really think that's the key here. I think all this  
7 discussion about whether something is a mineral interest  
8 of contract issue is really irrelevant. The issue is  
9 whether they are committed or not.

10 And so I look forward to hearing about  
11 that.

12 I think we are done with Mr. Eschete.  
13 What is your next witness, Mr. Rankin?

14 MR. RANKIN: Thank you very much, Mr. Hearing  
15 Examiner. I'll stop sharing my screen now.

16 Our next witnesses is Mr. C.J. Lipinski.

17 C.J. LIPINSKI,  
18 having been previously sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. RANKIN:

21 Q. Good morning, Mr. Lipinski.

22 A. Good morning. Can you hear me all right?

23 Q. Thank you. Mr. Lipinski, would you please  
24 state your full name for the record.

25 A. My name is C.J. Lipinski. Last name

1 L-i-p-i-n-s-k-i.

2 Q. By whom are you employed and in what  
3 capacity?

4 A. Spur Energy Partners, Vice President of  
5 Geology.

6 Q. Have you previously testified before the  
7 Division and have you had your credentials as an expert  
8 in petroleum geology accepted as a matter of record?

9 A. I have.

10 Q. (Inaudible) that you own a copy of your  
11 updated and complete resume reflecting your education  
12 and work experience in petroleum geology?

13 A. It is.

14 Q. Are you familiar with the applications filed  
15 in these two cases by Spur and Longfellow?

16 A. I am.

17 Q. Have you undertaken a study of the geology in  
18 the subject area?

19 A. I have.

20 MR. RANKIN: At this time, Mr. Examiner, I  
21 would move, tender Mr. Lipinski as an expert in  
22 petroleum geology.

23 HEARING EXAMINER BRANCARD: Are there any  
24 objections?

25 MS. SHAHEEN: No objection for Longfellow.

1 MR. RODRIGUEZ: No.

2 Q. Mr. Lipinski, is what's marked as Exhibit D a  
3 complete and accurate copy of the affidavit you prepared  
4 as Prefiled Written Testimony in this case?

5 A. It is.

6 EXAMINER LOWE: Mr. Rankin, this is Leonard.

7 Is it possible you could address the  
8 actual page number in your exhibits so that I can see  
9 exactly what page you're looking on? Is it possible on  
10 your end?

11 MR. RANKIN: You know -- are you looking at  
12 the .pdf pages?

13 EXAMINER LOWE: Yes, I am, but I'm looking  
14 online and I have no tags to reference the letters.

15 MR. RANKIN: Mr. Lowe, we tried to make it  
16 real convenient for you. So if you are able to open the  
17 bookmark tab, you can -- I can -- you can clip by  
18 bookmark each individual exhibit.

19 EXAMINER LOWE: I don't know if I can access  
20 the bookmarks online.

21 MR. RANDALL: Alternatively it's .pdf 69.  
22 Unfortunately we did not paginate the page numbers. I'm  
23 sorry for that. We usually try to do that, and I did  
24 not.

25 EXAMINER LOWE: I think I have a general idea

1 of where you're located at. I just wanted to -- I deal  
2 with a .pdf, a straight-out .pdf I could maneuver it on  
3 by side, in essence, but this one is already online.

4 I think I have the location, but...

5 MR. RANKIN: Mr. Lowe, would it be helpful if  
6 we emailed you the .pdf?

7 EXAMINER LOWE: No, please no. You don't have  
8 to do that.

9 MR. RANDALL: I'm sorry.

10 Q. Mr. Lipinski, is Spur targeting the Paddock  
11 and Blinebry Formations in the case of its six proposed  
12 wells?

13 A. Yes.

14 Q. Is Exhibit D-2 a copy of the project location  
15 map that you prepared identifying the proposed  
16 horizontal spacing unit in Sections 13, north half of 13  
17 and the northeast quarter of 14?

18 A. Yes.

19 Q. Is Exhibit D-3 a structure map identifying the  
20 proposed spacing unit that you prepared at the top of  
21 the Glorieta Formation?

22 A. Yes.

23 Q. And it also identifies the six wells that Spur  
24 proposes to drill within the spacing unit?

25 A. That is correct.

1 Q. Does it show that there's a modest dip  
2 slightly to the east?

3 A. Yes.

4 Q. And you testified that you did not observe any  
5 faulting or geologic impediments?

6 A. I can.

7 Q. And also on this exhibit is there a line from  
8 B to B prime that you use for a gun barrel depiction in  
9 your subsequent exhibits?

10 A. Yes.

11 Q. Now, I think one thing I meant to hit on real  
12 quick. In your Exhibit D-2 did you also prepare a live  
13 cross section identified from A to A-prime that you used  
14 to prepare a cross section?

15 A. Yep.

16 Q. Is D-4 the exhibit depicting that cross  
17 section from A to A-prime?

18 A. It is.

19 Q. And does it identify that the target intervals  
20 in this proposed spacing unit are continuous and  
21 apparent throughout the entire proposed spacing unit?

22 A. Yes.

23 Q. Is D-5 a copy of the gun barrel at the  
24 location from B to B-prime in the previous exhibit we  
25 just addressed?

1 A. It is.

2 Q. It identifies each of the six wells within the  
3 Paddock and Blinebry members of the Yeso Formation that  
4 Spur proposes to drill?

5 A. That is correct.

6 Q. Is D-6 another map identifying Spur's proposed  
7 spacing unit with its wells, and superimposed on top  
8 with Longfellow's proposed five wells based on its  
9 locations in its Well Proposal Letter?

10 A. Yes.

11 Q. And also a from D to D prime for a subsequent  
12 gun barrel view depicting Spur's planned development  
13 with Longfellow's planned development?

14 A. Yes.

15 Q. Is D-7 that gun barrel view showing that  
16 approximate spacing for Spur's proposed wells within the  
17 Blinebry and Paddock intervals of the Yeso?

18 A. Yes.

19 Q. And D-8 is a similar view showing Longfellow's  
20 proposed spacing relative to the spacing unit to the  
21 south?

22 A. That's correct.

23 Q. And does this also indicate there is a gap of  
24 approximately 1700 feet between Longfellow's proposed  
25 wells in the Hendrix ABX spacing unit that is the

1 subject of this case and the spacing unit to the south  
2 in the south half of Section 13?

3 A. Yes. Correct.

4 Q. And is Exhibit D-9 a similar gun barrel view  
5 superimposing the project development plans for both  
6 Longfellow and Spur?

7 A. Correct.

8 Q. And it shows these wells relative to the  
9 spacing unit that exists to the south in Section 13,  
10 correct?

11 A. Yes.

12 Q. So the takeaway here, Mr. Lipinski, that you  
13 identify in your exhibit is that Spur and Longfellow  
14 follow similar spacing as between the two spacing units  
15 for the Paddock and as within that proposed spacing unit  
16 within the Paddock, but the spacing proposed by both  
17 companies for the Blinebry diverge.

18 A. That is correct.

19 Q. And it's your opinion that the spacing  
20 proposed by Spur in the Blinebry would result in a more  
21 effective drainage of the proposed spacing unit not only  
22 within the proposed spacing unit but relative to the  
23 offsetting spacing unit to the south? Is that correct?

24 A. It is my belief that we will do a better job  
25 within the proposed unit.



1 wells in the upper zone and 935 feet between the  
2 horizontal wells in the lower zone; is that right?

3 A. That is correct.

4 Q. Is Spur's well spacing the same everywhere or  
5 does it vary?

6 A. Our spacing varies.

7 Q. And what factors do you consider -- and I  
8 should say when I say "you" I mean Spur. What factors  
9 does Spur consider when considering well spacing?

10 A. There's multiple factors that we take into  
11 consideration. Depends on the size of the unit that's  
12 proposed, depends on offset vertical and horizontal  
13 production, depends on the rock quality within the unit  
14 we are drilling, depends on surface issues.

15 So there is a lot of variability across  
16 the field, and we take them all into consideration as to  
17 how best to operate that unit.

18 Q. Does it also include drainage?

19 A. Absolutely.

20 Q. Does Spur consider the fracture stimulation  
21 design when evaluating well spacing?

22 A. Absolutely.

23 Q. Is that because different fracture designs can  
24 drain rock differently?

25 A. (Note: Pause.) I mean, a well drains the

1 rock.

2 Q. Let me see if I can rephrase that.

3 Does Spur consider the fracture  
4 stimulation design because different fracture designs  
5 can drain rock differently?

6 A. I mean, different stimulations stimulate the  
7 rock differently, yes.

8 Q. And will drainage differ as a result of the  
9 different stimulation?

10 A. It can.

11 Q. So to confirm: Frack design impacts spacing  
12 and drainage decisions, correct?

13 A. In certain instances, yes. Depends on the  
14 difference between the frack design.

15 Q. And the closest wells, horizontal wells to  
16 this location that were drilled and completed by Spur  
17 are the Welch 28A wells which are about two miles away;  
18 is that right?

19 A. I don't have a map or of our wells offhand,  
20 but that sounds correct.

21 Q. Were the wells drilled at the Welch 28A Unit  
22 spaced the same as Spur proposes in this application?

23 A. I would have to double check that. I am not  
24 sure at this moment.

25 Q. You would agree that Longfellow is a working

1 interest owner in the Welch 28A wells, right?

2 A. Yes.

3 Q. And that consequently they receive data that  
4 shows the wells, the 28A wells were spaced at 750 feet  
5 apart. Is that right?

6 A. I cannot confirm they did, but I assume they  
7 did, which is the (inaudible).

8 Q. Would that inform them that wells were spaced  
9 750 feet apart?

10 A. Can you repeat that?

11 Q. Okay. Yes, I can repeat it. I'll try to ask  
12 it in a better way.

13 Part of the data or the information that  
14 Longfellow received as a consequence of being a working  
15 interest owner in the Welch wells or the Welch 28A well,  
16 was the information that those wells were spaced 750  
17 feet apart.

18 MR. RANKIN: Mr. Examiner, objection. The  
19 witness just testified he didn't know what data was  
20 conveyed to Longfellow, so he wouldn't know what  
21 information they got.

22 HEARING EXAMINER BRANCARD: I would agree.

23 MS. SHAHEEN: Okay.

24 Q. Were the wells, the Welch 28A wells spaced 750  
25 fees apart?

1           A.    Like I said, I cannot confirm that.

2           **Q.    Did you work on the Welch 28A wells?**

3           A.    I did.

4           **Q.    But you don't recall what the spacing was for**  
5 **those wells?**

6           A.    I've worked on hundreds of drilling units.  As  
7 I said, we take multiple factors into consideration and  
8 they are spaced differently commonly.  So I would not be  
9 surprised to learn they are that spacing, I'm just  
10 saying I cannot confirm that at this moment.

11          **Q.    Let's assume those wells are spaced 750 feet**  
12 **apart for purposes of my next question.**

13                               **Why does Spur plan to space these wells**  
14 **in this proposal the Aid North wells, 150 feet farther**  
15 **apart than those Welch 28A wells that were 750 feet**  
16 **apart?**

17          A.    The spacing unit is a different size and there  
18 is different factors within the unit so that 900 fit  
19 better into this unit.

20          **Q.    What are the different factors between the**  
21 **Welch 28A unit and this proposed unit?**

22          A.    For one, I believe Welch is a 160-acre unit  
23 and this is a proposed 480, so if you are sort of trying  
24 to evenly space out wells within a zone, if we did 750  
25 apart in our Aid and Longfellow's Hendrix, there would

1 be a large gap -- (Note: Reporter inquiry.)

2 THE WITNESS: So do you want me to restate  
3 that answer? (Note: Reporter responds.)

4 HEARING EXAMINER BRANCARD: All right.

5 A. So to begin with, Welch is a 160-acre unit, I  
6 believe, as opposed to our Aid North/Longfellow Hendrix  
7 ABX which is a 480-acre unit. So if we were to space  
8 Paddock wells, or either bench, at 750 feet apart there  
9 would be a large gap in either the northern or the  
10 southern portion of that unit.

11 Q. Are there any other factors that differ  
12 between the Welch 28A well unit and the unit proposed in  
13 these applications?

14 A. Yes.

15 Q. Can you elaborate, please.

16 A. There's different working interests, the rock  
17 quality is different, the vertical wells within the  
18 units are different, offsets are different.

19 Q. What are the different rock qualities between  
20 the Welch 28A and this particular unit?

21 A. I don't know. I mean, we've done a large  
22 study -- well, either way. I don't know if we have to  
23 disclose that, but we believe the wells to be better  
24 quality than the Aid.

25 Q. You believe the Welch 28A Unit to be better

1     **quality or you mean the rock quality is better in the**  
2     **Welch 28A? I'm not sure I understand.**

3           A.     You were asking about rock quality, correct?

4           **Q.     Right. Right. I was.**

5           A.     Yes. I believe the rock quality is better at  
6     Welch.

7           **Q.     What makes it better?**

8           A.     A multitude of factors.

9           **Q.     Could you name a few?**

10          A.     The porosity is better at Welch. That's the  
11     main difference.

12          **Q.     Okay. And excuse me, because I'm not a**  
13     **geologist and I'm not an engineer, I read and write a**  
14     **lot, so I don't completely -- I don't have the**  
15     **background to be confident that I understand.**

16                         So let me just restate what I think I  
17     heard you say: That the rock quality between the Welch  
18     28A unit is better than the rock quality in the proposed  
19     Aid North unit because the porosity -- there's more  
20     porosity. Is that right?

21          A.     Yes, I believe the one factor as to why I  
22     believe it is better is because there is more porosity  
23     in the Welch unit.

24          **Q.     Okay. Is that one of the reasons why you**  
25     **spaced wells there 750 feet apart?**

1           A.    That's not a specific reason, no.

2           **Q.    One of the reasons?**

3           A.    I could not hear that question.  Can you  
4 repeat it?

5           **Q.    Uh-huh.  Would it be one of the reasons?**

6           A.    I just said it was not one of the specific  
7 reasons.

8           **Q.    Oh, okay.  Well, I'm really starting to get**  
9 **confused now because I thought we were talking about why**  
10 **the spacing was different in the Welch 28A than what is**  
11 **proposed in the Aid North, and my understanding was you**  
12 **said one of reasons was it was different was because of**  
13 **the rock quality, and you thought the rock quality of**  
14 **the Welch 28A is better because it's higher porosity,**  
15 **but that's not a reason why you spaced the wells**  
16 **there -- sorry.  That's not a reason why you're**  
17 **proposing different spacing in the Aid North as opposed**  
18 **to the Welch 28A.**

19                           **Is that right?  Do I understand?**

20           A.    So my understanding is that you asked if we  
21 spaced them differently between the two units, which I  
22 said yes.

23                           And then I believe, to my recollection  
24 you asked are there differences between the two units,  
25 and I said yes.

1                   And then I believe you asked what are  
2 some of those differences, so I said some of those  
3 differences.

4                   I was not linking the differences that  
5 you asked to the different horizontal spacing.

6           **Q.    Okay.  Let me go back and ask that question.**

7                   **Were there differences in the Welch 28A**  
8 **Unit that led you to, and I mean Spur, to have the**  
9 **750-foot spacing in the Welch unit as opposed to what**  
10 **you propose now in the Aid North unit.**

11           A.    Yes.

12           **Q.    And what were those differences that affected**  
13 **the spacing?**

14           A.    Yes.  I mean, you're testing my memory here,  
15 because we develop units independent of other units we  
16 are going to drill if you're looking at -- if they are  
17 not related to each other.

18                   So Aid had not been developed at that  
19 time.  I do not recall the specifics of why Welch was  
20 spaced.

21           **Q.    Okay.  So you don't know.**

22                   MR. RANKIN:  Mr. Examiner, when Ms. Shaheen  
23 previously asked the question and Mr. Lipinski testified  
24 the difference was the spacing -- one was 160, one is  
25 480.  So that was asked and answered.

1 HEARING EXAMINER BRANCARD: Ms. Shaheen, I'm  
2 not sure were we're going with this. The Welch unit is  
3 not on trial here today.

4 MS. SHAHEEN: Well, I think the point that  
5 Longfellow would like to make here is that the spacing  
6 that Longfellow has proposed in this unit is similar to  
7 the spacing that Spur implemented in the Welch 28A unit  
8 which is only two miles away. That's what I'm trying to  
9 get to. Like I said, I'm not a geologist or an  
10 engineer, so I am obviously not doing a good job of  
11 eliciting that testimony, but that's where I'm trying to  
12 get here.

13 HEARING EXAMINER BRANCARD: You know, as I  
14 look at Exhibit A-9, the spacing between Longfellow and  
15 Spur in this unit is not that different, so...

16 Okay?

17 MS. SHAHEEN: Okay. So I won't -- I'm tempted  
18 to ask you some questions, Mr. Brancard, but I'll  
19 refrain from doing so.

20 HEARING EXAMINER BRANCARD: Thank you.

21 MS. SHAHEEN: Okay.

22 **Q. So again looking at Exhibit D-7, Mr. Lipinski,**  
23 **I want to talk about the horizontal offset of the lower**  
24 **row of horizontal wells as compared to the upper row of**  
25 **horizontal wells.**

1                   It looks like from your exhibit the lower  
2 wells are offset from the upper row by 100 to 200 feet.  
3 Would you agree?

4           A.    I do agree.

5           Q.    Has Spur or any of its predecessor companies  
6 conducted any microseismic fracture monitoring in the  
7 play that could be used to quantify frack heights?

8           A.    I would say no to that.

9                   Let me clarify. We have microseismic  
10 data from fracking of wells, correct. Whether you want  
11 to justify that data to frack heights that's up to the  
12 owner of the data.

13          Q.    I think my question is a little bit different.  
14 I'm asking whether you could use that data to quantify  
15 frack heights.

16          A.    Some people believe you can, some people do  
17 not trust microseismic data.

18          Q.    And which person are you?

19          A.    I use microseismic data to get a general idea,  
20 yes.

21          Q.    So could you use Microseismic data from a  
22 particular study that you have to quantify the frack  
23 heights?

24          A.    Again, I don't know if I would quantify it. I  
25 would qualify it.

1           **Q.    What do you mean by qualify?**

2           A.    I would give -- I'm not going to hold  
3    microseismic to give the exact frack height with a  
4    specific number.  Get a general idea.

5           **Q.    Okay.  So you would use that data to get a**  
6    **general idea about quantifying the frack heights; is**  
7    **that right?**

8           A.    I can't --

9                   MR. RANKIN:  I can't find my mute button.  I'm  
10   sorry, I was trying to make the objection because she  
11   just said he wouldn't -- he would quantify it.  So I'm  
12   trying to make sure that he previously answered that  
13   question that he wouldn't quantify it.

14                   MS SHAHEEN:  I understand that, but I also  
15   understood him to say that he would look at it to get a  
16   general idea about the frack heights.

17           **Q.    Do I understand your testimony correctly?**

18           A.    Again, can you repeat the question?

19           **Q.    Yes.  Do you use microseismic fracture**  
20   **monitoring data to gain an understanding about frack**  
21   **heights?**

22           A.    Yes.

23           **Q.    And have you reviewed any of the data from the**  
24   **existing microseismic studies that you do have?**

25           A.    Yes.

1 Q. Did the microseismic monitoring indicate the  
2 fractures in this run vertically or horizontally?

3 A. More vertically.

4 Q. Do you recall which was larger, fracture  
5 height or fracture length?

6 A. That's the vertical. Correct.

7 Q. Okay. So your answer is fracture height.

8 I have no idea what I'm asking you right  
9 now, so be patient with me.

10 Has Spur or any of its predecessor  
11 companies, Concho or Percussion, conducted any chemical  
12 tracer studies in the play?

13 A. Yes.

14 Q. Have you reviewed any of that data?

15 A. I have.

16 Q. Did the chemical tracer data show interference  
17 in any wells?

18 A. How are you defining interference?

19 Q. Uhm, I don't -- I can't define interference  
20 for you. Can you define interference for me, because  
21 you're the expert.

22 A. Uhm --

23 Q. What would you consider to be interference?

24 A. I think there's constructive interference and  
25 destructive interference.

1 Q. Constructive and destructive. Did I hear that  
2 right?

3 A. Yes. Constructive and destructive.

4 Q. Did the chemical tracer data show any  
5 constructive interference in any wells?

6 A. Well, again this is pretty qualitative data.  
7 I would not -- I would not be able to make that  
8 distinction right now.

9 Q. What would you need to make that distinction?

10 A. Other data points besides just the tracer  
11 data.

12 Q. So if I hear you correctly, you would need  
13 more than just the chemical tracer data to determine  
14 whether there was any interference in any well.

15 A. Correct.

16 Q. But it provides some indication as to  
17 interference, right?

18 A. It can be used as an input to determine  
19 whether there is interference or not, yes.

20 Q. And how can it be used as an input to  
21 determine whether there was interference?

22 A. So some people look at whether the tracers are  
23 found in other wellbores or not.

24 Q. And in the data that you reviewed, were there  
25 any tracers in other wells?

1           A.    Yes.

2           **Q.    And was that at the same vertical depth --**  
3 **wait.**

4                       **Were those wells at the same vertical**  
5 **depth?**

6           A.    Let me give a baseline for tracer analysis.  
7 You can do water tracer data, you can do oil tracer data  
8 within the wells. You can do solid tracers or you can  
9 do liquid tracers. So there's many different tracers  
10 that you can do. Depends on the tracer you're using,  
11 depends on how far it goes out. When the specific  
12 chemical tracer interacts with either water or oil it is  
13 released. Now, this is wholly dependent on how far the  
14 tracers go out in the well. So it's very well known  
15 that you stimulate a much larger volume than you drain,  
16 so in a frack job you will get fluid being pushed off  
17 farther than you're going to produce.

18                       So those tracers can go very far outside  
19 of the produced area, so it's very -- I mean, you should  
20 expect to see amounts of tracer data from other wells in  
21 your -- in the other wells, because they are getting  
22 pumped out that far.

23                       So that's -- then you have to look at  
24 other reasons for is this interference.

25           **Q.    Okay. So I think -- let me just make sure I**

1 understand what you're saying. You're saying: Yes,  
2 there was tracer data in other wells, but that doesn't  
3 necessarily indicate there's interference.

4 Is that what you're saying?

5 A. Yes.

6 Q. So were the -- was the tracer that was found  
7 in other wells, were those wells at the same vertical  
8 depth?

9 A. No.

10 Q. They were wells that were landed in different  
11 zones?

12 A. They were different depths. It depends if you  
13 break out zones within there or not.

14 Q. Can interference be observed in production?

15 A. That is another tool, yes.

16 Q. Were the wells where that tracer was  
17 discovered roughly 100 to 200 feet offset from the wells  
18 above them?

19 A. Can you repeat that?

20 Q. Yeah. Let me try to rephrase it.

21 Were the wells offset similarly to these  
22 wells roughly 100 to 200 feet offset from the wells  
23 above them?

24 A. In the tracer analysis, yes, there were some  
25 wells that were spaced at a similar distance within the

1 analysis, yes.

2 Q. Turning to your Exhibit D-8. This one is  
3 titled Longfellow Development. Correct?

4 A. Yes.

5 Q. You have a box showing what you have labeled  
6 as Stranded Blinebry. Do you see that?

7 A. I do.

8 Q. If Longfellow were to continue their spacing  
9 pattern, would they need a nonstandard location  
10 exception to drill in that area?

11 A. No.

12 Q. Why not?

13 A. If they move they can fit a well within 330  
14 feet and still be within that stranded box.

15 Q. Help me. Where here on this Exhibit D-8 does  
16 it say Stranded Blinebry?

17 A. There is a yellow box.

18 Q. Right in the middle. Okay. Got it.

19 So you're saying they could drill a well  
20 within 330 feet of this hatched or patched red line in  
21 the middle to reach the stranded Blinebry?

22 A. I did not say they could drill one in the  
23 middle without a nonstandard. I said they could drill  
24 within that box without using a nonstandard.

25 Q. Okay. Maybe I should ask this question again

1 because I'm a little confused.

2 If Longfellow were to continue their  
3 spacing pattern, and as I understand that that means the  
4 distances between the wells would be similar, would they  
5 need a nonstandard location exception to drill in that  
6 stranded Blinebry area that you have indicated?

7 A. Again can you clarify "if they continued"?

8 Are you talking about if they continued  
9 the Hendrix based off of that Hendrix Upper Blinebry?

10 Q. I think what Longfellow considers this to be  
11 consistent spacing in both the Hendrix ABX and the  
12 Hendrix CD. So assuming that this is a similar spacing  
13 here, which is 825 feet, 900 feet, 900 feet, if they  
14 were to continue similar spacing in light of what is in  
15 the Hendrix -- sorry, the Hendrix CD wells, would they  
16 need a nonstandard location to do that?

17 A. Again I need clarification. I think they have  
18 consistent well spacing within the wells within each  
19 unit. They do not have consistent well spacing in  
20 between wells in the adjacent units, because if they did  
21 they would start with a Blinebry well in the north half  
22 of this proposed unit, Hendrix AB, and they would not  
23 drill the Paddock well if they are going to continue  
24 their pattern.

25 Q. Well, I guess I think the question relates to

1     **the spacing and not which formation is being targeted.**

2             A.     Okay.  I'm --

3             MR. RANKIN:  Is there a question there?

4             MS. SHAHEEN:  Well, it's the same question  
5     that I've asked, and I'm trying to go get a little  
6     guidance here from my client.

7             HEARING EXAMINER BRANCARD:  Let me try this  
8     question, Mr. Lipinski.

9                     If Longfellow puts another well 900 feet  
10    to the right of their current proposed well, would that  
11    be a nonstandard location?

12            THE WITNESS:  That would be.

13            HEARING EXAMINER BRANCARD:  Okay.

14            MS. SHAHEEN:  Thank you, Mr. Brancard.

15            **Q.     Given that Spur operates the vertical wells in**  
16    **the southeast quarter of Section 14, do you think Spur**  
17    **would approve a nonstandard location that encroaches on**  
18    **their vertical well?**

19            HEARING EXAMINER BRANCARD:  I'm not sure he  
20    can answer what Spur would do.

21                     Go ahead, Mr. Lipinski.

22            MR. RANKIN:  Well, unless Mr. Lipinski has  
23    authority to speak on that issue, and unless he knows, I  
24    don't know if he has the authority or knowledge to  
25    answer that question as a geologist.

1           Q.    Well, let me ask it this way:  In your  
2   experience as an expert, would you recommend to your  
3   client to approve a nonstandard location that encroached  
4   on their vertical wells in a manner that would occur if  
5   that hypothetical well were drilled in the nonstandard  
6   location?

7           A.    Yes.

8           Q.    You would recommend that they approve that  
9   nonstandard location?

10          A.    We have -- I've been part of companies that  
11   have done this in the past.  It's a given that we're  
12   going to do nonstandard somewhere, they're going to do  
13   nonstandard somewhere.  We're all offset from each  
14   other, we got to work together.  In the interest of best  
15   producing the reserves in the ground, you know, we have  
16   to work together, and you get nonstandard sometimes and  
17   then they get nonstandard at other times.  Just common  
18   practice.

19          Q.    Are you aware that the Aid North 51H well, as  
20   proposed, would encroach within the 330-foot required  
21   for a standard location?

22                MR. RANKIN:  Objection.  That assumes  
23   contradictory testimony than what was provided by Spur.

24                HEARING EXAMINER BRANCARD:  Yeah.  You know, I  
25   think we've been over this issue.

1 MS. SHAHEEN: Yes. I may have some rebuttal  
2 that addresses that.

3 Q. Given that Longfellow operates the producing  
4 horizontal wells directly to the south of the Aid North  
5 51H well, assuming that the 51H -- you know what? I'm  
6 going to withdraw that question.

7 I believe that concludes my questions for  
8 Mr. Lipinski. Thank you very much for your patience  
9 with me as a lay person.

10 THE WITNESS: Thank you. I don't mean to be  
11 rude. I just wasn't understanding some of the  
12 questions.

13 MS. SHAHEEN: Right. I understand that. I  
14 actually appreciate you being willing to share  
15 information with me so I can gain a better  
16 understanding. So thank you.

17 HEARING EXAMINER BRANCARD: Glad someone was  
18 educated here.

19 Any questions, Mr. Rodriguez?

20 MR. RODRIGUEZ: I was also educated. But no,  
21 no questions from Conoco. Thank you.

22 HEARING EXAMINER BRANCARD: Thank you.

23 Mr. Lowe.

24 EXAMINER LOWE: I have no questions at this  
25 time. Thank you, Mr. Lipinski.

1 HEARING EXAMINER BRANCARD: Okay.

2 CROSS-EXAMINATION

3 BY HEARING EXAMINER BRANCARD:

4 Q. Mr. Lipinski, I have one question.

5 Let's look at Exhibit D-9. Do you have  
6 that in front of you?

7 A. I do.

8 Q. Okay. So the real difference here, it seems  
9 to me, between Spur and Longfellow is that little guy in  
10 the middle of the bottom there, Aid North 70H, which is  
11 not only a sixth well but it is deeper than any of the  
12 other wells by 215 feet, if I do my math correctly, and  
13 it is at the -- apparently the edge of the Middle and  
14 the Lower Blinebry. Is that correct?

15 A. We break out the Blinebry different, but it  
16 would be in their Middle Blinebry; its at the base of  
17 our Upper Blinebry.

18 Q. So you just have an Upper and Lower Blinebry?

19 A. Correct.

20 Q. So what is the geologic justification for  
21 having that deep a well? We had testimony yesterday  
22 from Longfellow that Paddock is far better producing  
23 than the Blinebry and the Blinebry gets worse as you go  
24 deeper.

25 So that's the context of my question.

1           A.     Yeah.  We will also provide a rebuttal to  
2 specifically address that, but in general there are  
3 numerous horizontal wells that are landed within the  
4 bench that have produced significant volumes very  
5 economically, and there's vertical production throughout  
6 the entire trend in that unit.  I mean -- yeah, I'll  
7 leave it at that for now, if that suffices.

8                   HEARING EXAMINER BRANCARD:  It does.  Thank  
9 you.

10                   All right.  And with that, I believe we  
11 are done with Mr. Lipinski.  Is that correct?

12                   MR. RANKIN:  Mr. Brancard, I have no further  
13 redirect or any redirect for Mr. Lipinski, so I vote we  
14 take a break for lunch and give Ms. Macfarlane a break,  
15 as well.

16                   HEARING EXAMINER BRANCARD:  I'll second  
17 that.

18                   So how long do people need for a lunch  
19 break?  I'll start with you, Ms. Macfarlane.

20                   (Note:  Discussion off the record.)

21                   HEARING EXAMINER BRANCARD:  All right.  So why  
22 don't we get back here at about 1:05.

23                   How many witnesses do you have,  
24 Mr. Rankin?

25                   MR. RANKIN:  Mr. Examiner, we have one

1 witness on direct and it should be very short, at least  
2 from my side, and then depending on how things proceed  
3 we have planned some rebuttal, which shouldn't take too  
4 long to go through, but do intend to present some  
5 rebuttal in response to Longfellow's testimony. And I'm  
6 sure they do, as well.

7 HEARING EXAMINER BRANCARD: Well, try to keep  
8 the rebuttal short. Counsel has made a lot of points  
9 through examination here, and I think you can summarize  
10 that, and I think you were proposing to have post  
11 hearing submittals to summarize your positions. So I  
12 hope -- what I'm hoping is that rebuttal doesn't bring  
13 up more issues and we need re-rebuttal and all that.

14 So please make it focused on whatever has  
15 been discussed so far in this hearing.

16 (Note: In recess from 12:02 p.m. to 1:05 p.m.)

17 HEARING EXAMINER BRANCARD: Okay. Where were  
18 we?

19 Mr. Rankin, I believe you had another  
20 witness for us.

21 MR. RANKIN: That is true, Mr. Examiner.  
22 There is one, you know, minor procedural, I guess,  
23 preliminary issue just to address with this witness

24 The affidavit of the witness that was  
25 submitted, Mr. John Nabors, Mr. Nabors is unavailable

1 for hearing yesterday and today, so we have a substitute  
2 engineering witness who I have circulated his resume,  
3 and he has done an independent review of the analysis  
4 that Mr. Nabors did, and we are offering him as a  
5 witness and he will adopt Mr. Nabors' testimony.

6 HEARING EXAMINER BRANCARD: Any objection, Ms.  
7 Shaheen?

8 MS. SHAHEEN: No objection so long as he would  
9 be able to answer any questions that we have prepared  
10 based on Mr. Nabors' testimony.

11 MR. RANKIN: I believe that is the case, based  
12 on the testimony.

13 HEARING EXAMINER BRANCARD: Mr. Rodriguez,  
14 you're okay with that?

15 MR. RODRIGUEZ: Yes. No objection.

16 HEARING EXAMINER BRANCARD: Let's go with  
17 that. Have I sworn in this witness already?

18 MR. RANKIN: Yes, you have.

19 HEARING EXAMINER BRANCARD: Please proceed.

20 NORMAND PENNINGTON,  
21 having been previously sworn, testified as follows.

22 DIRECT EXAMINATION

23 BY MR. RANKIN:

24 Q. Mr. Pennington, are you there?

25 A. I'm here.

1 Q. Okay. We just -- there you are. Now I see  
2 you.

3 Mr. Pennington, will you please state  
4 your full name for the record.

5 A. Certainly. First name is Normand, N-o-r  
6 m-a-n-d, Pennington, P-e-n-n-i-n-g-t-o-n.

7 Q. Have you -- by whom are you employed and in  
8 what capacity?

9 A. Spur Energy Partners as the Senior Vice  
10 President of Subsurface.

11 Q. Have you previously had the opportunity to  
12 testify before the Division and have your credentials as  
13 an expert in petroleum engineering been accepted as a  
14 matter of record?

15 A. I have not.

16 Q. Are you familiar with the applications that  
17 were filed in these competing compulsory pooling  
18 cases?

19 A. Yes, sir, I am.

20 Q. Have you undertaken a review of the competing  
21 Well Proposals that were initially submitted by the  
22 parties and the initial estimated well costs that were  
23 submitted by the parties?

24 A. Yes, sir, I have.

25 Q. Mr. Pennington, is your complete and updated

1 **resume marked as Spur Exhibit No. E-5?**

2 A. Yes, sir, it is.

3 MR. RANKIN: I'm going to go ahead and share  
4 my screen so you can see it, Mr. Hearing Examiner. I  
5 have circulated a copy of Mr. Pennington's resume to all  
6 counsel and my colleague Kaitlyn Luck is serving it on  
7 the Division at this time for filing with the Division's  
8 E-filing portal.

9 **Q. Mr. Pennington, if you would just for the**  
10 **benefit of the Division please briefly review your**  
11 **education and work experience as it is --**

12 A. Certainly. Starting at the top, the current  
13 position, as stated, is Senior Vice President of  
14 Subsurface for Spur Energy Partners from approximately  
15 March, 2019 through today.

16 Prior to that I was employed by Wild  
17 Horse Resources as the Vice President of Reservoir  
18 Engineering.

19 And prior to that I had a long tenure  
20 with Longfellow Petroleum. Over 11 years there in  
21 various engineering and leadership capacities.

22 I graduated from the Texas A&M, Texas A&M  
23 University with a BS in petroleum engineering in 2006.

24 **Q. And Mr. Pennington, have you reviewed and are**  
25 **you familiar with the affidavit that was prepared by**

1     **Mr. Nabors?**

2             A.    I have, yes, sir.

3             **Q.    Have you done an independent analysis**  
4     **commensurate with what Mr. Nabors has testified to in**  
5     **his affidavit?**

6             A.    I have.

7             **Q.    Are you prepared to adopt Mr. Nabors'**  
8     **testimony as your own?**

9             A.    Yes, sir.

10            **Q.    Okay.  So I have asked maybe not quite the**  
11     **right question, Mr. Nabors (sic).**

12                                **Do you hereby adopt Mr. Nabors' testimony**  
13     **as your own?**

14            A.    I do.

15                                MR. RANKIN:  At this time, Mr. Examiner, I  
16     would ask that Mr. Pennington be tendered as an expert  
17     in petroleum engineering.

18                                HEARING EXAMINER BRANCARD:  Are there any  
19     objections?

20                                MR. RODRIGUEZ:  No objection.

21                                MS. SHAHEEN:  No objection.

22                                HEARING EXAMINER BRANCARD:  Thank you.  So  
23     qualified.

24                                MR. RANKIN:  Thank you Mr. Examiner.  I'll  
25     just walk through briefly Mr. Pennington's testimony.

1           Q.    Mr. Pennington, in paragraph 5 of the  
2 affidavit, Spur conducted -- I'll say you conducted  
3 analysis of the proposed plans of development and costs  
4 associated with those plans for 1 and 1/2 mile  
5 horizontal wells as originally proposed by both  
6 parties?

7           A.    That's correct.

8           Q.    And at the time were Spur's costs for six  
9 1 and 1/2 mile wells estimated to be approximately  
10 estimated to be \$22,152,500?

11          A.    Yes, sir.

12          Q.    And the cost for five Longfellow wells,  
13 1 and 1/2 miles in the proposed spacing unit estimated  
14 to be \$23,976,935?

15          A.    Yes.

16          Q.    And overall Spur's proposed planned  
17 development for six wells is estimated to cost  
18 approximately \$821,435 less than Longfellow's  
19 development plan for five wells, based on those original  
20 AFEs?

21          A.    Correct, sir.

22          Q.    And is your opinion that lower costs for  
23 Spur's planned development will result in a more  
24 effective, cost-effective and efficient plan of  
25 development?

1 A. Yes, I do.

2 Q. And in your opinion will it also result in  
3 more effective and complete development of the subject  
4 acreage?

5 A. Yes, sir.

6 Q. Now, the next paragraph there is a breakdown  
7 of costs on a per-well basis. Are you familiar with  
8 those breakdown costs?

9 A. I am.

10 Q. And based on those original AFEs, is it your  
11 opinion that Longfellow's estimated well completion  
12 costs are at least \$887,886 more expensive than Spur's?

13 A. Yes, sir.

14 Q. Is it your opinion that that differential  
15 costs will impair the profitability of the proposed  
16 horizontal spacing unit?

17 A. It is.

18 Q. And is it your opinion that Spur's proposed  
19 horizontal well development is more cost effective and  
20 will more effectively and efficiently drain the subject  
21 acreage compared to --

22 (Note: Reporter interruption.)

23 Q. Is it your opinion that Spur's proposed  
24 horizontal well development is more cost effective?

25 A. Yes, sir.

1 Q. And is it your opinion that it will more  
2 effectively and efficiently drain the subject acreage  
3 compared to Longfellow Energy's plan?

4 A. Yes, sir.

5 Q. Is it your opinion that Spur is a more  
6 experienced operator of horizontal wells in the Yeso  
7 formation compared to Longfellow?

8 A. It is.

9 Q. Mr. Pennington, I'm going to direct your  
10 attention to what's been marked as Exhibit E-2. Is this  
11 a map that depicts the Yeso trend in the Northwest Shelf  
12 area of New Mexico's Permian Basin?

13 A. Yes, it is.

14 Q. On the left-hand side does it show in the  
15 inset map the approximate location in the area where  
16 Spur owns interests within the Yeso trend in blue?

17 A. Yes, it does.

18 Q. And then in the inset on the right, does it  
19 indicate a closer view of Spur's trend acreage in  
20 yellow?

21 A. It does. Yes, sir, it does.

22 Q. And Spur has approximately 85,000 net acres in  
23 New Mexico's Yeso trend, correct?

24 A. Correct.

25 Q. And its interests include more than 3,000

1 producing wells and more than 400 horizontal wells?

2 A. That's true.

3 Q. Since 2019 has Spur drilled 30 horizontal  
4 wells to date?

5 A. Yes.

6 Q. And how many rigs does Spur have operating in  
7 New Mexico?

8 A. One rig running continuously.

9 Q. And that's in the Permian Basin?

10 A. Here on the Northwest Shelf. Yep.

11 Q. And how many wells in total has Spur completed  
12 to date, horizontal wells?

13 A. Approximately at the time of writing the  
14 testimony, we are at 32 with 6 pending. Since that time  
15 those are online.

16 Q. So a total of 38 wells, right?

17 A. Correct. Yes, sir.

18 Q. Your next Exhibit, E-3, is this a map that  
19 shows the Yeso trend outlined in the dash?

20 A. Yes, sir.

21 Q. And it depicts the vertical and horizontal  
22 producing wells in dark blue that are operated by Spur  
23 that are included in the Yeso?

24 A. Correct.

25 Q. And it also shows the wells that are operated

1 by Longfellow in red?

2 A. Yes, sir.

3 Q. At the time this was developed and prepared  
4 and submitted, were those all vertical wells?

5 A. At the time, yes, sir.

6 Q. So but now Longfellow has completed and is now  
7 operating five horizontal wells in the spacing unit  
8 immediately to the south of this one?

9 A. That's correct.

10 Q. And in your next exhibit is this a copy of the  
11 exhibit that Spur prepared reflecting the differences  
12 between Longfellow Energy's operations in New Mexico and  
13 Spur's operations in terms of gross oil production and  
14 operated wells?

15 A. Yes, sir, it is.

16 Q. The top graph shows that Spur's overall gross  
17 oil production exceeded Longfellow's by a factor of more  
18 than 10?

19 A. Yes, sir.

20 Q. And that's as of February, 2021, correct?

21 A. Right.

22 Q. And Spur operates more than 2400 wells  
23 approximately, including 346 producing horizontal wells,  
24 whereas Longfellow Energy operates approximately 65  
25 vertical wells, and at the time this affidavit was

1 prepared no horizontal wells were currently producing  
2 that Longfellow operated. Correct?

3 A. That's correct.

4 Q. But as of just recently they said that they  
5 have completed the operations of those five horizontal  
6 wells in the south half of Section 13.

7 A. Yes, sir.

8 MR. RANKIN: At this time, Mr. Examiner, I  
9 would move the admission of Exhibit E, E-1 through E-4,  
10 into the record.

11 HEARING EXAMINER BRANCARD: Any objections?

12 Ms. Shaheen?

13 MS. SHAHEEN: No objections.

14 HEARING EXAMINER BRANCARD: Mr. Rodriguez?

15 MR. RODRIGUEZ: No objections.

16 MR. RANKIN: Thank you, Mr. Examiner. At this  
17 time I have no further questions of Mr. Pennington and I  
18 pass the witness for questioning by other parties.

19 HEARING EXAMINER BRANCARD: Thank you.

20 Ms. Shaheen?

21 CROSS-EXAMINATION

22 BY MS. SHAHEEN:

23 Q. Good afternoon, Mr. Pennington.

24 A. Good afternoon.

25 Q. I'll start off with just generally, uh, Spur's

1 knowledge of --

2 (Note: Pause. Unidentified voices.)

3 Q. (Continued) I'll start with how many  
4 producing wells does Spur operate within the unit of  
5 Spur's proposed Aid North well?

6 A. Zero.

7 Q. How many producing wells does Longfellow  
8 operate within the unit of Spur's proposed Aid North  
9 well?

10 A. I don't know the answer to that.

11 Q. Would it surprise you to learn that there are  
12 five wells that are operated by Longfellow within that  
13 proposed unit?

14 A. No, ma'am.

15 Q. How many accrued drilling permits does Spur  
16 have within one mile of this location?

17 A. I'm sorry, I don't have that information with  
18 me.

19 Q. Do you know of any that are, have been  
20 approved?

21 A. Within one mile of this area, no, ma'am, I do  
22 not.

23 Q. Are you aware that Longfellow has 17 approved  
24 drilling permits within one mile of this location?

25 A. I was not aware of that, no.

1           **Q.    Are you familiar with the term fluid**  
2 **loading?**

3           A.    Yes, ma'am.

4           **Q.    Can you explain that to me, please.**

5           A.    I'm familiar with --

6                   MR. RANKIN:  Mr. Hearing Examiner, I would  
7 object.  Unless Ms. Shaheen can explain how this relates  
8 to the direct testimony, it would be far outside the  
9 scope.

10                   HEARING EXAMINER BRANCARD:  Ms. Shaheen?

11                   MS. SHAHEEN:  Well, it relates to the AFEs and  
12 the frack size.

13                   MR. RANKIN:  There's testimony about the AFEs.  
14 I don't see any testimony about frack size.

15                   MS. SHAHEEN:  No, but the frack size pertains  
16 to the AFEs.

17                   HEARING EXAMINER BRANCARD:  Let me find out:  
18 Does this witness have any idea what that term is?

19                   THE WITNESS:  The term fluid loading, as now  
20 put into context of frack size, I believe I understand  
21 the context.

22                   HEARING EXAMINER BRANCARD:  Okay.  You can go  
23 ahead.

24                   MS. SHAHEEN:  Thank you.

25           **Q.    Could you define for me or explain to me what**

1 fluid loading means?

2 A. One interpretation could be a volume.

3 Q. A volume of what?

4 A. Of fluid.

5 Q. Okay. So would you agree it's a measurement  
6 of the ratio of frack fluid pumped per foot of lateral  
7 length?

8 A. That's one definition of fluid loading, yes,  
9 ma'am.

10 Q. Would it be fair to say, then, that fluid  
11 loading is, in laymen's terms, like saying the size of  
12 the frack?

13 A. Not directly, no ma'am.

14 Q. What fluid loading does Spur use on their  
15 fracking in this area?

16 A. 60 barrels per foot.

17 Q. Longfellow Energy's a working interest owner  
18 in the Welch 28A wells, and as a result Longfellow  
19 received information showing the Welch 28A wells have  
20 fluid loading of about 60 barrels per foot. Would you  
21 agree with that?

22 A. I cannot agree to those details.

23 Q. Are you familiar with the Welch 28A wells?

24 A. Yes, ma'am.

25 Q. That reminds me I want to back up just for a

1     **minute, because Mr. Rankin was specific to note that you**  
2     **had conducted an independent analysis aside from Mr.**  
3     **Nabors' analysis, and so I was hoping you could describe**  
4     **to us the independent analysis that you undertook.**

5           A.     Certainly. I reviewed the total costs, as  
6     summing the AFE costs from the first submission of the  
7     ACFs for Spur, as well as Longfellow's. So I confirmed  
8     the totals within the testimony.

9                     I also confirmed the delta that's  
10    calculated and stated in testimony, based of summed  
11    totals of AFE costs.

12                    I also reconstructed the comparison  
13    single-well AFE table.

14                    Additionally, I reviewed the remaining  
15    exhibits and conformed that material with my knowledge  
16    from public data.

17           **Q.     Are you aware what fluid loads Longfellow**  
18    **plans to use, is using on its Hendrix CD wells?**

19           A.     (Inaudible) CD wells?

20           **Q.     I'm sorry. I think you cut out there for a**  
21    **sec. Should I ask that question again?**

22           A.     Yes, ma'am, please.

23           **Q.     Okay. Are you aware what fluid loading**  
24    **Longfellow uses in this area?**

25           A.     Yes, ma'am, I am.

1           **Q.    Are you aware what fluid loading Longfellow**  
2           **uses on the Hendrix CD wells that Spur participated in?**

3           MR. RANKIN:  Mr. Examiner, I'm letting some of  
4           these questions go because I'm trying to figure out if  
5           they are going to come back to the scope of the direct  
6           testimony, and I'm not sure -- I think -- I'm not sure  
7           how they will.

8           MS. SHAHEEN:  This questioning comes back to  
9           the costs and AFEs.

10          MR. RANKIN:  Okay.

11          MS. SHAHEEN:  The end of this section of  
12          questions comes back to costs on the AFEs.

13          **Q.    So are you aware what fluid loading Longfellow**  
14          **uses on the Hendrix CD wells?**

15          A.    I am not aware of the pumped volumes on the CD  
16          wells, no, ma'am.

17          **Q.    Would it surprise you to know that it's 90**  
18          **barrels per foot?**

19          A.    No, ma'am, that would not surprise me.

20          **Q.    Is it fair to say that Longfellow is pumping a**  
21          **larger frack job than Spur in this area?**

22          A.    Sorry.  Can you define how you're using  
23          "larger" please.

24          **Q.    Uhm, how would you define it in this**  
25          **context?**

1           A.    In terms of -- there's many ways that a frack  
2    job could be smaller or larger in size.  Fluid's one,  
3    proven's (phonetic) one.

4           Q.    I'm going to go out on a limb here as a layman  
5    and suggest that when I mean larger frack job I mean  
6    it's larger because it's 90 barrels per foot as opposed  
7    to 60 barrels perfect foot.  So would you --

8           A.    I understand that.

9           Q.    So is it fair to say that Longfellow is  
10   pumping a larger frack job than Spur in this area, with  
11   that understanding of what I'm asking you?

12          A.    Yes.

13          Q.    And the difference between 60 and 90 barrels  
14   is about 50 percent, so their frack job is planned  
15   roughly 50 percent larger.  Would you agree?

16          A.    I agree they are pumping 50 percent more  
17   fluid.

18          Q.    And is the size of the frack and the cost of  
19   the frack related?

20          A.    Can you repeat that question?  I'm sorry.

21          Q.    Within the same rock is the size of a frack  
22   and the cost of the frack related?

23          A.    In these terms, yes.

24          Q.    Are bigger frack jobs more expensive?

25          A.    They can be, yes.

1           Q.    Would a 50-percent larger frack job be  
2 approximately 50 percent more expensive?

3           A.    No, ma'am.

4           Q.    Is it possible that it would be 50 percent  
5 more expensive?

6           A.    I don't know the answer to that.

7           Q.    In your experience -- have you had any  
8 experience in doing frack jobs and reviewing costs of  
9 frack jobs that result in 90 barrels per foot?

10          A.    Can you describe -- do you mean frack jobs and  
11 reviewing frack jobs at 90 barrels per foot? Can you  
12 describe your question for me, please.

13          Q.    Have you participated in projects that have  
14 included frack jobs of 90 barrels per foot, and reviewed  
15 the related costs?

16          A.    No, ma'am.

17          Q.    Why would someone pump larger or smaller frack  
18 jobs?

19          A.    There are a lot of variabilities that go into  
20 making that decision.

21          Q.    Is reservoir drain an important consideration  
22 when designing a frack job?

23          A.    It's one consideration.

24          Q.    Are you familiar with the term stimulated rock  
25 volume?

1 A. Yes, ma'am.

2 Q. Could you explain that to me.

3 A. Just that. It's stimulated volume of rock.

4 Q. Is it the volume of rock a fracture can  
5 effectively drain?

6 A. No, ma'am.

7 Q. Does a larger frack job stimulate more  
8 reservoir?

9 A. Depends on a number of other factors.

10 Q. What are some of those other factors?

11 A. Some of those other factors can include if  
12 there is offset wells. It can also include any given  
13 changes in rock characteristics.

14 Q. Well, if we're talking about the proposed  
15 wells here by Longfellow and the proposed wells here by  
16 Aid North, which are in the same rock, do the larger  
17 fracks stimulate more reservoir?

18 MR. RANKIN: Mr. Examiner, this is not  
19 something that Mr. Pennington testified to in his direct  
20 testimony. I understand why, and I understand costs,  
21 but drainage issues and that sort of thing is not  
22 something Mr. Pennington has testified to in his direct  
23 examination, so I object to the line of the questioning.

24 MS. SHAHEEN: This all goes to the AFEs, and  
25 that is what Mr. Pennington is testifying about today.

1 HEARING EXAMINER BRANCARD: Yeah. Ms.  
2 Shaheen, you have direct testimony about this issue.  
3 I'll allow a little bit further since he is an expert in  
4 reservoir engineering, qualified as such, but if you can  
5 circle back to the AFEs that would be helpful.

6 MS. SHAHEEN: Okay. I will do my best to  
7 circle back to the AFEs. So I'll just ask that question  
8 one more time.

9 Q. Given the comparable proposed wells by each  
10 party here, does a larger frack job stimulate more  
11 reservoir within this unit?

12 A. Not necessarily, and unknown.

13 Q. The wells that Longfellow and Spur proposed  
14 have fairly similar spacing; is that correct?

15 A. Can you be more specific in your question,  
16 please.

17 Q. Yes. I understand that the wells that both  
18 Longfellow and Spur have proposed are approximately 900  
19 feet apart. Is that right?

20 A. Approximately, yes, ma'am.

21 Q. And the closest horizontal wells to this  
22 location drilled and completed by Spur is the Welch 28A  
23 well about two miles away; is that right?

24 A. I can't confirm exactly two miles.

25 Q. Can you confirm approximately two miles?

1           A.    Approximately, yes, ma'am.

2           **Q.    Were the wells drilled at the Welch 28A space**  
3 **the same as at this location?**

4           A.    I do not know.

5           **Q.    If I were to tell you that they were**  
6 **approximately 750 feet apart, the Welch 28A wells were**  
7 **spaced about 750 feet apart, would you agree to that?**

8           A.    I can't confirm that.

9           MR. RANKIN:  Again, Mr. Examiner, this is  
10 nowhere near what Mr. Pennington testified to, and I  
11 would like to contain the scope of cross here.  So  
12 object to the question.

13           MS. SHAHEEN:  I'll move on.

14           **Q.    On paragraph 8 on page 3 of your testimony you**  
15 **discuss profitability.  Do you see that?**

16           A.    Yes, ma'am.

17           **Q.    What goes into your evaluation of**  
18 **profitability?**

19           A.    It is an analysis on the AFE costs to spend,  
20 as well as the effective recoveries.

21           **Q.    Are production and reserves important factors**  
22 **in determining if a well or project is profitable?**

23           A.    They are.

24           **Q.    Is it possible for different completions to**  
25 **result in different production and reserves outcomes?**

1           A.    Not necessarily.

2           **Q.    Is it possible?**

3           A.    There are a number of factors that go into the  
4   determination of what the ultimate recovery will be.

5           **Q.    I understand that. My question is: Is it**  
6   **possible for different completions to result in**  
7   **different production and reserves outcomes?**

8           A.    Yes.

9           **Q.    Is it possible that larger fracks could**  
10   **produce higher volumes of production and reserves?**

11          A.    Not necessarily, no, ma'am.

12          **Q.    Is it possible that that could occur?**

13          A.    Within the bounds of many factors, the size of  
14   the frack job in this instance could. It could be  
15   "possible".

16          **Q.    Okay. Is it common for companies in the oil**  
17   **and gas industry to increase the size of their fracks to**  
18   **recover more production and reserves?**

19          A.    I'm sorry. Could you repeat your question?

20          **Q.    Uh-huh. Is it common for companies in the oil**  
21   **and gas industry to increase the size of their fracks to**  
22   **recover more production and reserves?**

23          A.    I don't know that I would say it's common.

24          **Q.    Okay. Is it possible that Longfellow's larger**  
25   **fracks could produce more oil and gas?**

1           A.    I don't believe that to be the case.

2           **Q.    Is it possible that the larger fracks could**  
3 **produce more oil and gas?**

4           A.    Amongst a number of other factors.  The size  
5 of a completion can be one of many, yes.

6           **Q.    So the answer to my question is yes; is that**  
7 **right?**

8           A.    Could you repeat your question again, please,  
9 ma'am.

10          **Q.    Is it possible that Longfellow's larger fracks**  
11 **could produce more oil and gas?**

12          A.    Is it possible?  Yes.

13          **Q.    Would that impact the profitability of the**  
14 **proposal?**

15          A.    Can you ask me the question a different way,  
16 please, ma'am.

17          **Q.    Would your comparison of the profitability of**  
18 **the proposals be impacted if Longfellow's larger fracks**  
19 **produced more oil and gas than Spur's?**

20          A.    (Note:  Pause.)  I'm not quite sure I'm  
21 understanding the question.  I apologize.

22          **Q.    Let me see if I can think of another way to**  
23 **ask it.**

24                                **You testified that it's possible that**  
25 **Longfellow's larger fracks could produce more oil and**

1 gas. Correct?

2 A. Yes.

3 Q. And would the fact that Longfellow's larger  
4 fracks, assuming the possibility, produced more oil and  
5 gas, would that affect the profitability of the  
6 proposal?

7 A. That would influence the calculation, yes.

8 Q. Can higher costs sometimes be justified if it  
9 is offset by an increase in production and reserves?

10 A. In that scenario.

11 Q. So it's possible that Longfellow's proposal is  
12 more profitable than your initial estimation that did  
13 not take into account potential production and reserves  
14 differences.

15 A. It is not my opinion of the profitability of  
16 the competing proposals.

17 Q. Let me ask that again because I'm not sure I  
18 got an answer to my question.

19 Sorry. Give me a minute here to move  
20 some stuff around.

21 So did your analysis of profitability  
22 take into account potential production and reserve  
23 differences?

24 A. Yes, it does.

25 Q. Does it take into account the potential for

1 Longfellow's larger fracks to produce more oil and  
2 gas?

3 A. No, it did not, because that's not my belief.

4 Q. It's not your belief that the larger fracks  
5 will result in more production?

6 A. No, ma'am.

7 Q. What is the basis for that belief -- sorry.  
8 What is the basis for that non belief, I guess would be  
9 the correct way to ask that question.

10 A. Our inherent experience here on the Northwest  
11 Shelf.

12 Q. So you're saying your inherent experience on  
13 the entire Northwest Shelf informs you that Longfellow's  
14 larger fracks that will be used for these proposed wells  
15 will not result in more production in this spacing unit.  
16 Is that your testimony?

17 A. Yes. Yes.

18 Q. Has Spur ever used larger frack jobs similar  
19 to the one that Longfellow has proposed here?

20 A. Spur has not.

21 Q. So you've limited your frack sizes to 60  
22 barrels of oil per foot?

23 A. That's our current fluid loading, yes, ma'am.

24 Q. Do you have any plans to do anything larger  
25 than that in the future?

1           A.    We're always looking at potential changes to  
2 optimize.

3           **Q.    So you agree it's possible that you would**  
4 **optimize production by using larger frack jobs?**

5           A.    No, ma'am, that's not what I said.

6           **Q.    It just simply follows from your statement**  
7 **that you're always looking to optimize frack jobs, and**  
8 **you're not limiting yourself to a smaller frack job.**  
9 **Right?**

10          A.    We are always looking for optimization. I  
11 believe you said looking for optimizing above 60 barrels  
12 a foot for higher production, and my answer did not  
13 include production.

14          **Q.    I think we are getting caught up in some**  
15 **semantics here.**

16                   HEARING EXAMINER BRANCARD: We've being  
17 getting caught up in semantics all day.

18                   MS. SHAHEEN: Isn't it fun?

19                           I only have like, two or three more  
20 questions here. Actually, I think it might be two. It  
21 might be one.

22          **Q.    Isn't it more efficient for the two units, the**  
23 **one at issue here and the south offsetting unit, the**  
24 **Hendrix CD, to have the same pattern for the wells?**

25          A.    No, ma'am.

1           **Q.    Why not?**

2           A.    Based on previous testimony by our  
3 geologist.

4           **Q.    Based on what previous testimony by your**  
5 **geologist?**

6           A.    Optimal spacing put forth in Spur's plan is my  
7 reference.

8           MS. SHAHEEN: I have no further questions.

9           HEARING EXAMINER BRANCARD: Thank you.

10                   Okay. Mr. Rodriguez, any questions?

11           MR. RODRIGUEZ: No questions. Thank you,  
12 Mr. Examiner.

13           HEARING EXAMINER BRANCARD: Mr. Lowe, are you  
14 here with us? Did you have any questions?

15           EXAMINER LOWE: Yes, sir, I am. I have just a  
16 few clarification questions.

17                   CROSS-EXAMINATION

18 BY EXAMINER LOWE:

19           **Q.    Mr. Pennington, good afternoon.**

20           A.    Yes, sir.

21           **Q.    Give me have one second.**

22                   **In the testimony on paragraph 5 that Ms.**  
23 **Shaheen initially conversed with you about, paragraph 5,**  
24 **the amounts located there, are those amounts taken to**  
25 **the cost of the surface location change?**

1           A.    To my knowledge -- I would have to double  
2 check. To my knowledge these AFEs would include the  
3 appropriate costs for the location that has been  
4 updated, and we've updated, too.

5           Q.    Okay. And then if you can, in a brief -- uh,  
6 I guess I think you might have mentioned this at the  
7 latter part of your statement with Ms. Shaheen earlier.  
8 Your current, I guess, overall blanket method for  
9 fracking would be 60 barrels per foot. Is that the  
10 norm? Is that what you stated?

11          A.    That's our current plan, yes, sir.

12          Q.    That's your current plan. For all wells in  
13 the area is that what your plan is?

14          A.    At this time, yes, sir.

15          Q.    At this time. Okay. Let's see here.

16                    In the exhibits that you -- here it is  
17 now. They are basically Mr. Nabors'? Is that what was  
18 the name?

19          A.    Mr. Nabors? Yes. He wasn't able to join us  
20 today, yesterday and today.

21          Q.    Did both of you put this exhibit together or  
22 was it his?

23          A.    Once they were put together and once we  
24 realized Mr. Nabors wasn't going to be present, I went  
25 through and recreated a portion of the exhibits, as well

1 as verified -- like, if you are referring to some of the  
2 company statistics and production data, I verified those  
3 through various other sources, uh, firsthand.

4 EXAMINER LOWE: Okay. Thank you, Mr.  
5 Pennington.

6 THE WITNESS: Thank you.

7 HEARING EXAMINER BRANCARD: Thank you. Okay.

8 CROSS-EXAMINATION

9 BY HEARING EXAMINER BRANCARD:

10 Q. Mr. Pennington?

11 A. Yes, sir.

12 Q. Can we just look at some of your exhibits here  
13 for a second.

14 A. Certainly.

15 Q. Let's try the first one there that's titled  
16 Spur Energy Partners, LLC. It has little yellow and  
17 blue maps of the Northwest Shelf.

18 A. Yes, sir.

19 Q. It says that Spur has over 400 horizontal  
20 wells, I'm assuming in the Yeso trend in New Mexico.  
21 But then it says that Spur has drilled 30 horizontal  
22 wells to date.

23 Does that mean that basically you've  
24 purchased a whole bunch of horizontal wells that were  
25 already drilled?

1 A. Yes, sir, that's the case.

2 Q. So you have actually only drilled 30 of them  
3 to date.

4 A. Correct.

5 Q. All right. And so when you've completed 38,  
6 because you said that six below were already completed,  
7 that includes some that were started drilling by  
8 somebody else.

9 A. That's correct. We inherited a number of  
10 drilled uncompleted wells.

11 Q. Okay. So I may have misheard, and it doesn't  
12 quite agree with what your statement is, but I thought  
13 that Mr. Rankin asked you whether the Longfellow wells  
14 would be -- not be profitable. Is that your testimony?

15 A. I don't believe so, no, sir.

16 Q. Okay. So then let's go back to your Written  
17 Testimony which says that they will be less profitable.

18 Is that correct, then?

19 A. The Longfellow wells, yes, sir, less  
20 profitable.

21 Q. And the assumption -- well, I can ask you why  
22 you came to that conclusion, but I think the conclusion  
23 is that you're assuming that their wells cost more but  
24 won't produce more. Is that correct?

25 A. That's correct, yes, sir.

1           Q.    So despite this increased frack rate you're  
2 not thinking they are going to produce any more than  
3 what the Spur wells have.

4           A.    That's correct, yes, sir.

5           Q.    And that is, I think, as the cross-examination  
6 went, based on some of your or Spur's belief about how  
7 to do fracking.

8           A.    Correct. Our experience, yes.

9                   HEARING EXAMINER BRANCARD: Okay. All right.  
10 Thank you.

11                   THE WITNESS: Thank you.

12                   HEARING EXAMINER BRANCARD: Mr. Rankin, any  
13 redirect?

14                   MR. RANKIN: No redirect, Mr. Examiner. That  
15 completes our presentation of our direct case. I would,  
16 however, like to take the opportunity to admit, move the  
17 admission of the remaining exhibits that we have not yet  
18 admitted to the record.

19                   HEARING EXAMINER BRANCARD: Yes, please do.

20                   MR. RANKIN: Mr. Examiner, attached to our new  
21 packet that was filed last Thursday and served on all  
22 parties is Exhibit A, which is a copy of the Application  
23 that Spur filed in this case on February 4th.

24                                 Exhibit B is a copy of the application,  
25 Compulsory Pooling Application Checklist.

1                   Exhibit F is a copy of the Affidavit of  
2 Notice that was prepared by me and our law firm  
3 indicating that we've provided Notice, under cover  
4 letter on the subsequent page, to all the uncommitted  
5 interest owners who are subject to compulsory pooling in  
6 this case.

7                   The following pages are the parties  
8 who -- the status of their notification by United States  
9 Postal Service Certified Mail.

10                   And the final pages of the exhibit are  
11 copies of the Notice of Affidavit of Publication  
12 indicating that we have prepared and published Notice  
13 timely, identifying each of parties by name or who are  
14 subject to this pooling proceeding today.

15                   With that I would move the admission of  
16 Exhibits A, B, F and G into the record.

17                   HEARING EXAMINER BRANCARD: Any objections?

18                   Ms. Shaheen.

19                   MS. SHAHEEN: No objections.

20                   HEARING EXAMINER BRANCARD: Mr. Rodriguez.

21                   MR. RODRIGUEZ: No objection.

22                   HEARING EXAMINER BRANCARD: They will be  
23 admitted.

24                   Did we get Mr. Pennington's resume in?  
25 Did that go in earlier?

1           MR. RANKIN: You know, Mr. Examiner, that's a  
2 good point, because I think I identified it as Exhibit  
3 E-5. Okay. I may have already moved it, but in case I  
4 didn't, I would ask for the admission of Exhibit E-5 for  
5 the record.

6           HEARING EXAMINER BRANCARD: Thank you. Any  
7 objections, Ms. Shaheen?

8           MS. SHAHEEN: No objection.

9           HEARING EXAMINER BRANCARD: Mr. Rodriguez?

10          MR. RODRIGUEZ: No objection.

11          HEARING EXAMINER BRANCARD: Thank you.

12          MR. RANKIN: With that, Mr. Examiner, we have  
13 completed the presentation of our direct case and we  
14 would like to be able to -- in the sequence and order of  
15 direct be able to present short rebuttal on a few of the  
16 technical points that were raised by Longfellow, and I  
17 think implicated in your questioning about the frack  
18 size and estimated production that would result. But  
19 however you want to do. I know Ms. Shaheen has also  
20 some rebuttal testimony that she would like to present,  
21 and we have not discussed at this point the sequence  
22 that would be appropriate.

23          HEARING EXAMINER BRANCARD: Yeah. In  
24 hindsight we probably should have done all this as part  
25 of direct. But here we are.

1                   Ms. Shaheen, how many witnesses do you  
2     want to call at this point, to discuss which issues?

3                   MS. SHAHEEN: It will be primarily  
4     Mr. Reynolds who will be rebutting some of the title  
5     issues addressed in Spur's direct, and then a few  
6     questions -- sorry, a few statements and exhibits will  
7     be presented by our engineer Mr. Mitchell in response to  
8     primarily, I believe, the geologist testimony, but it  
9     may also pertain to the engineering testimony.

10                   But it's really not much. I'm going to  
11    guess 15, 20 minutes at the most.

12                   HEARING EXAMINER BRANCARD: Okay. You-all  
13    have presented a lot of testimony here that made a lot  
14    of points in cross-examination. You know, the issue  
15    with this competing compulsory pooling is that, unlike  
16    some other cases we have, there's not a lot of  
17    differences in the proposals here, and so we are having  
18    to sort of, you know, get into some fine points to try  
19    to find distinctions.

20                   So, you know, in the end of course we  
21    will probably just do our normal and flip a coin, but we  
22    do appreciate your willingness to sort of get at some of  
23    these issues.

24                   Mr. Rankin, what were you thinking of for  
25    rebuttal?

1           MR. RANKIN: Mr. Examiner, we have primarily  
2 one witness who will review the issue over fracks,  
3 comparison of frack size and production; and we have a  
4 second witness who would address very shortly the -- I'm  
5 not sure if I can articulate this exactly right, but the  
6 assumptions that Longfellow employed to come up with  
7 this essentially the F&D cost basis for comparing the  
8 proposing competing well development.

9           So I think that would take us, you know,  
10 between 20 and 30 minutes, at most, to get through this  
11 presentation. Maybe more like 20. I think we can do  
12 that in that short amount of time.

13           HEARING EXAMINER BRANCARD: Okay. And I  
14 assume you-all have looked at the cases that the  
15 Commission and Division have done about competing, and  
16 understand what the factors are.

17           MR. RANKIN: Yes, Mr. Examiner.

18           MS. SHAHEEN: Yes, Mr. Examiner.

19           HEARING EXAMINER BRANCARD: You know, the  
20 original case that sort of really gets us going on this  
21 is R-10731B. And I will note in there that the  
22 Commission, and this is a Commission decision, did say  
23 differences in AFEs are not significant factors. Okay?  
24 So just sort of be aware of that.

25           I do think this notion of the frack size

1 is important because it relates to the development plan  
2 and how results of developing the area will be.

3 I'm just sort of giving you heads up  
4 there.

5 So with that, Mr. Lowe do you have any  
6 comments at this point about where we should go?

7 EXAMINER LOWE: I have no comments right  
8 now.

9 HEARING EXAMINER BRANCARD: All right. So I  
10 will start you off, Ms. Shaheen. Is that okay with you,  
11 or shall we start with Mr. Rankin?

12 MS. SHAHEEN: I can go either way, but is  
13 there any chance we could take five minutes and then I  
14 expect that we would be able to go through both sets of  
15 rebuttal testimony and then we would be done.

16 THE COURT: Oh, okay. Sure.

17 (Note: In recess from 2:00 p.m. 2:11 p.m.)

18 MS. SHAHEEN: Mr. Brancard, I've been thinking  
19 about your suggestion earlier about the possibility that  
20 Spur would go first with its rebuttal, and I kind of  
21 like that idea if Mr. Rankin is amenable.

22 MR. RANKIN: That's fine. We are happy to do  
23 that. I just want to make sure Mr. Lipinski is  
24 available. I think we sent, or are about to send around  
25 an updated rebuttal exhibit bearing down a little bit on

1 what we're intending proceed with.

2 Let me know if you get that, but Kaitlyn  
3 will be circulating it shortly if she hasn't already.

4 MS. SHAHEEN: And I also submitted some  
5 rebuttal exhibits, and please let me know if you didn't  
6 get that.

7 HEARING EXAMINER BRANCARD: So far I've  
8 received three rebuttal exhibits from Longfellow, A-11,  
9 A-12, C-20. Are those your three exhibits, Ms. Shaheen?

10 MS. SHAHEEN: That's correct.

11 HEARING EXAMINER BRANCARD: All right. Then I  
12 have a rebuttal Exhibit 2 from Spur, and earlier you  
13 submitted Rebuttal Exhibit 4.

14 So, Mr. Rankin, is there a 1 and a 3?

15 MR. RANKIN: Mr. Examiner, I'm going to just  
16 make sure I -- I labeled them last night, I think it was  
17 last night when I was anticipating perhaps more  
18 exhibits, so they may be out of sequence. But let me  
19 just make sure that's the case.

20 So we have circulated -- we've so far  
21 admitted a 4, but we have not admitted a 3 and we have  
22 not admitted a 1, but we will be -- so we will be  
23 admitting a 2, but no 1 and 3. Sorry for that.

24 MS. SALVIDREZ: Can I just make sure you all  
25 file them through the fee portal, through the portal,

1 please?

2 MS. SHAHEEN: Will that do? Or email, as  
3 well?

4 MS. SALVIDREZ: Just portal will do for the  
5 OCD, please.

6 HEARING EXAMINER BRANCARD: So it looks like  
7 we now have a Revised Rebuttal Exhibit No. 2,  
8 Mr. Rankin.

9 MR. RANKIN: That is correct.

10 HEARING EXAMINER BRANCARD: So we should  
11 ignore the prior Exhibit 2?

12 MR. RANKIN: That is correct.

13 HEARING EXAMINER BRANCARD: If I can figure  
14 this out here. Okay. If that's all we have for  
15 exhibits, looks like all the parties have been copied.

16 MS. SHAHEEN: Just to double check, Spur only  
17 has the one rebuttal exhibit; is that right?

18 MR. RANKIN: It is one exhibit but it is  
19 several pages.

20 MS. SHAHEEN: Okay.

21 HEARING EXAMINER BRANCARD: Are you going to  
22 refer back to that one you already got admitted, 4?

23 MR. RANKIN: No.

24 HEARING EXAMINER BRANCARD: Okay. Colorful.

25 So let me check in. Mr. Lowe, are you

1 with us?

2 EXAMINER LOWE: Yes, I am.

3 HEARING EXAMINER BRANCARD: Okay. Mr. Garcia  
4 are you with us again? He may not be but he's  
5 responding to Ms. Luck on the exhibits.

6 All right. With that I think we can go  
7 forward with Spur as beginning its Rebuttal.

8 MR. RANKIN: Thank you, Mr. Examiner. We are  
9 call our first and only rebuttal witness, Mr. C.J  
10 Lipinski.

11 HEARING EXAMINER BRANCARD: All right. Thank  
12 you, Adam.

13 C.J. LAPINSKI,  
14 having been previously sworn, testified  
15 in rebuttal as follows.

16 DIRECT EXAMINATION

17 BY MR. RANKIN:

18 Q. Sorry. Mr. Lipinski, I'll start off real  
19 fast. I'm going to share my screen here so you can see  
20 it. I know hopefully you have it in front of you, but  
21 in this way in case people don't, they can see it  
22 easily.

23 Is everyone able to see the exhibit  
24 marked Spur Rebuttal Exhibit 2?

25 HEARING EXAMINER BRANCARD: I can.

1           **Q.    Okay.  C.J., please review what has been**  
2 **marked as page 1 of Spur Rebuttal Exhibit No. 2 and**  
3 **explain what it shows and its relevance.**

4           A.    So this is a more general slide that will be  
5 referred to in a little bit in subsequent slides, but  
6 it's the response to Longfellow's petroanalysis that  
7 they did, as well as their claims on EUR uplift from a  
8 larger frack design.

9                        So the majority of this page is a base  
10 map for the areas of interest.  It has the Township and  
11 Range is labeled, as well as the sections on it.  There  
12 is a contour colored in here.  It is for oil in place  
13 using their same metric parallels per acre that I  
14 calculated, and it's for the Paddock Interval.  I looked  
15 at their type wells and recreated their picks for the  
16 Paddock, make sure that we were comparing similar  
17 volumes.

18                       The upper left of that base map has the  
19 contour scale on it, and at the bottom is 25,000 barrels  
20 per acre in blue, and at the top is the 150,000 barrel  
21 per acre in red.

22                       Within that map there are two highlighted  
23 areas:  the gray box which has the zoom-in in the  
24 northeast corner, which is where the Aid North or the  
25 Hendrix ABX proposed HSUs are located.

1                   In the blow-up you have the offset  
2 horizontal wells within the view and the contour  
3 interval from that same map.

4                   Within approximately 25 miles away into  
5 the southwest there's another blue box there,  
6 highlighting where the type curve analysis wells are  
7 located and the contour interval there.

8                   Just trying to lay out the framework. At  
9 Spur we have done 2500-well petrophysical analyses  
10 across the entire Northwest Shelf for the Yeso Formation  
11 utilizing 7854 sidewall (inaudible) points that we have  
12 either taken -- our predecessors have taken or we  
13 inherited from the deals that we have done.

14                   So a very well calculated and fine-scale  
15 map for the petrophysical analysis.

16                   Just again to note, refer back to if you  
17 look at the Aid North area the offset oil in place,  
18 barrel per acre is 55.4, you know, thousand barrels per  
19 acre where the type curve analysis was done.

20                   So the next slide.

21                   I cannot hear you, Adam.

22                   MR. RANKIN: Sorry. Thank you, Mr. Lipinski.

23                   **Q. Just for layman's terms, when you're using**  
24 **those numbers 55,000 barrels per acre across the Aid**  
25 **North and 136,000 barrels per acre in the type curve oil**

1 locations, you're talking here in terms of what?

2 Previously in your testimony you talked about rock  
3 quality. Is that what you're talking about here?

4 A. Yes, this is a portion of the rock quality.  
5 It is the original oil in place so it's a combination of  
6 the porosity in location, the height of the interval,  
7 and the saturation of oil within those pores.

8 Q. So based on that comparison is it your opinion  
9 that the rock quality in tpye-curve locations is  
10 comparable to the rock quality in the Aid North proposed  
11 HSU area?

12 A. It is not.

13 Q. Thanks. Proceed to your next slide.

14 A. All right. So here is a look at the  
15 Longfellow analysis that they did for type curves,  
16 trying to claim an uplift in EUR based on their larger  
17 completion. And the upper-left portion is just their  
18 exhibit, and then beneath that is a table illustrating  
19 the seven wells that they use in the analysis. The blue  
20 wells are what I assumed that they used for the  
21 completion of (inaudible) Spur's, as they were a smaller  
22 completion, and then the green is the Longfellow  
23 analysis wells they chose to use for their larger  
24 completion design.

25 I also added in the landing zone that

1 they are in. We break up the Paddock between Upper  
2 Paddock and Lower Paddock, and this is because they have  
3 distinct production differences between them. So we  
4 have different type curves for them, and would not use  
5 them in the analysis of the Upper Paddock versus Lower  
6 Paddock.

7                   Again to the right, that's just that same  
8 zoomed-in view of the base map with the original  
9 oil-in-place contours on it. It also has all the Yeso  
10 horizontal wells within that area of interest. To note,  
11 Spur operates just about every one of these.

12                   On it the Upper Paddock wells are dark  
13 blue; the Lower Paddock wells are the light blue; and  
14 that then Blinberry wells in this area are kind of a  
15 maroon color.

16                   There are also circles colored by which  
17 completion design they are: Green for Longfellow, blue  
18 for Spur, and the number on the table that they  
19 correspond to, as well.

20                   So I just want to reiterate that Spur  
21 does not believe the claim that there is an increase in  
22 EUR due to the larger frack size. And we went through  
23 and we created or tried to do a more representative  
24 analysis of the wells, because we believe the Upper  
25 Paddock wells should not be used. There are no Upper

1 Paddock wells being proposed by either operator in the  
2 Hendrix ABX or Aid North unit, so we want to focus on  
3 Lower Paddock wells.

4 And we also think there should be more  
5 wells included, because there are other wells with  
6 longer production history with completion designs of  
7 Spur's nature.

8 Q. And just to be clear, Mr. Lipinski, in this  
9 exhibit where you identify Longfellow wells, you mean to  
10 say that these are wells that Longfellow is using for  
11 its analogous completion design, not that they are  
12 operated by Longfellow.

13 A. That is correct. All of these wells are  
14 operated by Spur, originally drilled and executed by  
15 Percussion.

16 Q. Mr. Lipinski, at the time these were drilled  
17 and executed by Percussion, were you employed by  
18 Percussion?

19 A. I was.

20 Q. Thank you. Proceed to your next slide.

21 (Note: Reporter request.)

22 THE WITNESS: I apologize. Please interrupt  
23 if that is still the case.

24 A. So now on to the third slide, this is Spur's  
25 analysis that they did. So we will start in the upper

1 right with this slide, the same zoom-in, the same wells  
2 colored the same, with the contour the same as the  
3 previous slide. And now these circles and the numbers  
4 that are colored above the wells correspond to the table  
5 below where we chose eight wells for Spur's, the  
6 analogous Spur completion design. And these are all  
7 Lower Paddock wells, they are all directly offset to the  
8 Longfellow analogous wells, which we chose the Lower  
9 Paddock wells to do this analysis for.

10 If we go over to the left here is the  
11 display showing the amalgamated type curve for the  
12 analogous wells at the table to the right. And the X  
13 axis (phonetic), is days from first production, and on  
14 the Y axis is the average daily oil rate, because we had  
15 that data as we own those wells and operate them  
16 currently.

17 So in the orange is the Longfellow  
18 analogous frack decline curve, and then in the dark blue  
19 is the wells from Spur's analogous completion design.

20 And just at glance we see there's no  
21 appreciable difference between the completions when it  
22 comes to ultimate or expected ultimate recovery of oil  
23 from the Yeso.

24 If you want to get really picky, the  
25 Smaller completion does outperform the larger

1 completion.

2                   So just a personal note, I was at  
3 Percussion from acquisition to divestiture of their  
4 Northwest Shelf acreage, and what we did was we took a  
5 design done by Burnett (phonetic) on vertical wells with  
6 their fluid and profit loading that showed a significant  
7 increase in production. And we noticed it was never  
8 applied horizontally, so we decided to apply that to a  
9 horizontal well, and we got excellent results, actually  
10 exceeded our expectations. So what we wanted to do  
11 next, was think, "If we go bigger, will we get even  
12 better recoveries?" Because we wanted to push the limit  
13 of the diminishing returns upon a larger completion,  
14 whether it be fluid loading or profit loading. So we  
15 purposely chose the south boring (phonetic) and north  
16 boring wells that are in this analysis and gave them  
17 larger completions, and offset them by other wells with  
18 smaller completions, similar zones.

19                   After we did this analysis and looked at  
20 the results, we saw the same no appreciable difference  
21 in expected ultimate recovery of oil and we abandoned  
22 that completion design and went back to the smaller  
23 completion design for all our wells.

24                   What we did actually did notice was that  
25 because of the added fluid load in the completion, it

1 took longer to cut hydrocarbons with the wells. You can  
2 note that on the bottom left with the orange curve is a  
3 delayed production in hydrocarbons compared to the blue  
4 curve. That's because you have to recover more of that  
5 load, and it pushes out the time of oil recovery, and  
6 that hurts the economics of the well itself.

7 **Q. Thank you, Mr. Lipinski. Is there anything**  
8 **further that you would like to address on this slide?**

9 A. No, I believe that does it all.

10 **Q. Just explain -- Mr. Mitchell, when asked,**  
11 **wasn't exactly sure of how many wells in the Yeso play**  
12 **have been completed with the larger frack volume of 90**  
13 **barrels per foot. Do you know how many wells in the**  
14 **Yeso play have been completed at that larger frack**  
15 **volume?**

16 A. I think above 90 -- I mean, there have been 12  
17 now. There were eight previous to Longfellow's five.  
18 So the only wells that have any substantial production  
19 are the eight in this area. The other five do not have  
20 any substantial production.

21 So of their 500-well analysis, eight  
22 wells would have that larger 90 barrels or above per  
23 foot.

24 **Q. Thank you. Mr. Lipinski, will you please**  
25 **review with the examiners what has been depicted on page**

1     **5 of Spur Rebuttal Exhibit No. 2.**

2           A.     Yes.    So this is in response to Longfellow's  
3     claiming that the Middle Blinebry is not proven but it  
4     is possibly prospective.

5                     And this gets back kind of to the point  
6     that you asked, Mr. Examiner, earlier about what data we  
7     have to back it up.

8                     On the far left of this slide is a base  
9     map for the area of interest.    In the blue shaded box is  
10    the Aid North and the Hendrix ABX proposed unit, and  
11    approximately five miles away is the Spur operated Dodd  
12    Federal Unit.    And that is Section 14 of 17 South, 29  
13    East.

14                    I have labeled a cross section from A in  
15    the north to A prime in the south across this section,  
16    which is the diagram above.

17                    In the diagram above, we show the  
18    Glorieta top, the Yeso top, and the Blinebry top, and  
19    our Lower Blinebry top, which the zone in yellow  
20    highlighted here is equivalent to the Longfellow Middle  
21    Blinebry zone.

22                    In this unit here there are eight wells  
23    landed in the Middle Blinebry and they have been  
24    producing, some, for nine years almost, and to date they  
25    have cumed (phonetic) 820,000 barrels of oil and are

1 expected to recover approximately 1.6 million barrels  
2 of oil from those eight wells.

3 Now, that's a lot of reserves to be  
4 leaving behind, and I think that would qualify as proven  
5 and not prospective.

6 I also wanted to mention -- we do not  
7 have a slide for this but if you take the average result  
8 of eight wells in the Dodd Federal Unit and then you  
9 apply our cost to drill -- well, first is you upscale it  
10 to a 5,000-foot lateral as these averaged 4343 feet and  
11 apply our cost to drill and complete a 5,000-foot well,  
12 you get a well of a 60 percent rate of return, which I  
13 would think is very economic and would be wasteful to  
14 leave behind.

15 These wells were also completed with much  
16 smaller volumes, significantly be smaller volumes than  
17 what we currently do, and we tried to show on the  
18 previous slide that we think there's a point of  
19 diminishing return after you get to 60 barrels per foot,  
20 but before that you do get a completion uplift with a  
21 higher expected oil recovery, expected ultimate  
22 recovery.

23 So burdening these wells with smaller  
24 completions and a higher completion cost, they're still  
25 A 60 percent rate-of-return well.

1 Q. Thank you very much, Mr. Lipinski.

2 Let's move on to your next slide. Would  
3 you review, please, on page No. 6 of this exhibit.

4 A. So this has been shown before, but again just  
5 trying to highlight. In D to the left would be the  
6 north of the Hendrix ABX or the Aid North Unit. The  
7 dashed lines are the unit lines within that. And then  
8 D prime in the southern portion of that section with the  
9 Hendrix well, including that they previously have  
10 drilled.

11 If you follow their proposed plan with  
12 what has already been drilled, just using their drainage  
13 volume that they claim, there's a complete well missing  
14 within there. Which we've talked about before, so we  
15 can move on, but just highlighting that.

16 And then if you believe our analysis that  
17 shows there's no appreciable or any difference in the  
18 expected ultimate recovery from the wells from a smaller  
19 or larger completion, or at least the designs we are  
20 talking about between Longfellow and Spur, you would  
21 assume they are draining the same area.

22 So if we apply the same drainage area  
23 that they proposed for their wells, you can see that we  
24 very effectively and efficiently drain the entire  
25 Paddock and Blinebry with these wells; and in not

1 drilling the Middle Blinebry and only drilling the two  
2 Upper Blinebry, we leave behind significant reserves.

3 **Q. Thank you, Mr. Lipinski. Is there anything**  
4 **further you would like to address in this exhibit?**

5 A. I guess again just that, as I have mentioned  
6 before, we take into consideration offset producers when  
7 we develop the unit, so that's why we chose to do the  
8 Blinebry well first, is because they had less  
9 significant space there, so we are trying to come in and  
10 capture as much as we can.

11 MR. RANKIN: Thank you very much. At this  
12 time, Mr. Examiner, I have no further questions of  
13 Mr. Lipinski and pass the witness for questioning by the  
14 other parties.

15 HEARING EXAMINER BRANCARD: Thank you.

16 Ms. Shaheen?

17 MS. SHAHEEN: I am here. I'm looking to find  
18 my copy of the exhibit.

19 MR. RANKIN: Sharon, if it's easier for you  
20 I'm happy to leave it up so you don't...

21 MS. SHAHEEN: No, that's fine. I prefer that  
22 I have some control over it.

23 MR. RANKIN: Sure.

24 MS. SHAHEEN: I don't really have much in the  
25 way of questions right now, because this is the first

1 time I've seen it and I haven't been able to confer with  
2 my client about it, so it's hard to have questions. But  
3 I do have at least one question.

4 CROSS-EXAMINATION

5 BY MS. SHAHEEN:

6 Q. When did you prepare this exhibit?

7 A. The exhibit was prepared Monday or Tuesday of  
8 this week.

9 Q. Okay. And you chose not to share that until  
10 just now for a particular reason, or...

11 A. Well, I mean I would have been fine tuning it  
12 up until today trying to make it as comparable as  
13 possible.

14 Q. Sorry. I'm still looking at the wrong exhibit  
15 here.

16 Okay. Let me make sure I understand what  
17 you've testified to.

18 The first slide is an illustration of the  
19 wells that Mr. Mitchell used to compare the 60 barrels  
20 of oil per foot production to 90 barrels of oil per foot  
21 production; is that correct?

22 A. Uhm, Slide 1 is more the oil-in-place contour  
23 for the petrophysical wells used, and it's highlighting  
24 the areas of Aid North and where the analysis took  
25 place.

1                   The wells that they used are highlighted  
2 on Slide 2.

3           **Q.    Okay.  And so Slide 2 you have underlined here**  
4 **"Spur does not believe Longfellow's claim that their**  
5 **completion yields a 26 percent increase in EUR."**

6                   **Now, is that statement based on your**  
7 **Slide 3 here and this additional analysis that you have**  
8 **done using other wells?**

9           A.    That is correct.  The analysis that we did  
10 that we think is appropriate.

11           **Q.    And how did you choose the wells that were**  
12 **included in your analysis?**

13           A.    So there are only eight wells that are to  
14 completion in the Aid North or the Hendrix ABX, we chose  
15 Lower Paddock wells that are in a similar landing  
16 position.  So we chose those four wells that are in a  
17 similar landing position, and then we went offset of  
18 those wells with our similar completion design.

19                   That's the goods news to the north, which  
20 has a longer production history than any wells in either  
21 of these completions.

22                   We included both the Lower Paddock wells  
23 in the east with a smaller completion -- which I'm not  
24 sure why we didn't look at them before, but they're  
25 essentially the same rock quality.  The only difference

1 is the completion on them. And then they included the  
2 cheaper wells which have longstanding production history  
3 that are close by, so I included the Lower Paddock ones  
4 from there, as well.

5 **Q. When you say "close by," what do you mean?**

6 A. Well, they said "offsetting in adjacent  
7 units," which isn't technically true; it's two units  
8 away. But they are in very similar rock quality, landed  
9 in very similar position, so I included them in the  
10 analysis.

11 **Q. How far away are those?**

12 A. So if you were going by the surface hole  
13 location to the surface hole location, they are less  
14 than a mile. If you go by the first take point to the  
15 first take point, they are a little over a mile.

16 **Q. Okay. Then turning to your next slide, I**  
17 **wasn't quite sure I understood what you represented**  
18 **here. I see 1, 2, 3, 4, 5, 6, 7, 8 wells. Is that**  
19 **correct?**

20 A. That's correct. These are all wells that are  
21 drilled and producing in the Middle Blinbry that  
22 Longfellow is claiming is not proven and is prospective  
23 and they are going to analyze whether it is worth  
24 developing at a later date.

25 **Q. Where is this located in relation to the**

1 proposed spacing unit?

2 A. The map at lower left of that slide is  
3 approximately five miles away.

4 Q. And you provided some numbers on cumulative  
5 recovery. That was based on all eight wells; is that  
6 correct?

7 A. I summed all eight wells to date production --  
8 or I did not, the reservoir engineer here did -- and  
9 then divided it by eight. But the values that they have  
10 all cum'd to date and projected EUR are displayed in the  
11 boxes above each well.

12 Q. And this is five miles away from the proposed  
13 spacing unit, correct?

14 A. Approximately, yes.

15 Q. On that slide, your next slide, I think it's  
16 No. 5, now here you have Longfellow's development plan.  
17 You don't have Spur's development plan up here, but  
18 previously you had an exhibit that illustrated Spur's  
19 development plan and the spacing.

20 Is the spacing between the 70H and the  
21 51H, will that be consistent or will the spacing change  
22 on the 51H to avoid the 51H triggering the NSL  
23 requirement?

24 A. So you're not drilling a nonstandard well.

25 Q. Right. If you're not drilling a nonstandard

1 well, will the spacing change between the 70H and the  
2 51H?

3 A. Okay. So -- sorry, can you repeat that  
4 question?

5 Q. Yes. If you -- if 51H is going to be drilled  
6 to avoid being a nonstandard location, will the distance  
7 that you have represented in your previous exhibit  
8 change, the distance between the 51H and the 70H change  
9 as a result of having to make sure that the 51H is in a  
10 standard location?

11 A. It always was in a standard location. It was  
12 never represented in a nonstandard location. So I won't  
13 have to move anything.

14 MS. SHAHEEN: I think we will have some  
15 rebuttal that addresses this.

16 I have no further questions. Thank you.

17 HEARING EXAMINER BRANCARD: Thank you.

18 Mr. Rodriguez?

19 MR. RODRIGUEZ: No questions. Thank you.

20 HEARING EXAMINER BRANCARD: Mr. Lowe.

21 EXAMINER LOWE: I have no questions for  
22 Mr. Lipinski.

23 HEARING EXAMINER BRANCARD: I don't know if  
24 Mr. Garcia is with us. Hearing not.

25 CROSS-EXAMINATION

1 BY HEARING EXAMINER BRANCARD:

2 Q. I just have a couple of little curious  
3 questions.

4 So Let me ask you this as a geologist who  
5 is involved in a lot of these fracking projects. If you  
6 increase the frack -- I don't know what you would call  
7 it -- intensity, the amount of fluid per foot going into  
8 the ground, what happens underground? Are we getting  
9 more fractures, wider fractures, longer fractures, or no  
10 real difference?

11 A. It really depends on the situation. All of  
12 those are possible. It depends on the rock that you are  
13 fracking into and its competency, as well as the layers  
14 of rock above and below it, or how they vary laterally.

15 I know Mr. Mitchell said this is all one  
16 big block of carbonate before. That is not the case.  
17 So there is a lot of variability within it, and there's  
18 a lot of changes that occur in every one of those  
19 stratifications and the layer of rock.

20 So it really depends on a multitude of  
21 things.

22 I'm just going to leave that there unless  
23 you have further questions.

24 Q. So on your Middle Blinebry, so-called Middle  
25 Blinebry wells, did you compare these results, the EUR,

1 **with Paddock wells in the same area?**

2 A. Well, so this is an area that was developed  
3 vertically initially and they are completed in the  
4 Paddock only, so instead of deepening the wells and  
5 completing into the Blinebry like they have done  
6 previously, they came in underneath and drilled  
7 horizontally.

8 So our -- let me confirm.

9 All right. I do not believe there are  
10 many Paddock wells in the area, because they so drilled  
11 up vertically that there are not horizontal Paddock  
12 wells nearby these.

13 **Q. Because the Paddock was producing**  
14 **vertically?**

15 A. Correct. This is -- I mean, these were early  
16 1900s some of these verticals were produced from the  
17 Paddock. It was an area that was a conventional  
18 reservoir where they only had to acidize and it would  
19 produce 50- to 100,000 barrels for a vertical well.

20 Then there when that quality got worse  
21 and worse, and then over time when completions were  
22 improved they came back into horizontal drilling in the  
23 area.

24 **Q. Okay. But in the area where you were looking**  
25 **then in, say, your Exhibit 2, that area you're doing**

1    **horizontals in both the Paddock and the Blinebry,**  
2    **correct?**

3           A.    Correct. This is historically a Cisco Canyon  
4    field so a deeper oil reservoir, and when they saw what  
5    was kind of going on in the northeast with some of the  
6    Paddock production extension, some operators in the area  
7    perfed the Upper Yeso after the Canyon wells were  
8    noneconomic.

9                        So it was more of a -- it was an open  
10   runway here, and the previous operator didn't really  
11   know what they had. And when times were tough, they  
12   needed to sell it. So Percussion got a great deal. We  
13   came in and got to develop that acreage horizontally.

14           **Q.    So looking from that picture on Exhibit 2 in**  
15   **the upper right it looks like everybody is going after**  
16   **the Paddock and hardly anybody is going after the**  
17   **Blinebry.**

18           A.    Yeah. We want to keep that quiet. We think  
19   there is a lot of potential in the Blinebry. We have  
20   programs coming up to the Blinebry here.

21                        There are three Blinebry wells right here  
22   and they are extremely economic wells.

23           **Q.    Okay. But I mean basically what I'm trying to**  
24   **get at is in Mr. Mitchell's testimony he didn't just say**  
25   **that the Middle Blinebry was less economic, he said that**

1 the Blinebry in general was less of a producing area  
2 than the Paddock.

3 A. Yeah, there is much more development in the  
4 Paddock. That is true.

5 Q. I mean, I don't see you addressing that issue.

6 A. Well --

7 Q. Your development that you're planning here,  
8 are you expecting more production from the Paddock wells  
9 than from the Blinebry?

10 A. In the Aid North area, yes, we are expecting  
11 more production from the Paddock. But we also believe  
12 that the Blinebry is very economic.

13 Q. Okay. So in some ways what Longfellow did  
14 next door in the Hendrix spacing unit with putting their  
15 money into three Paddock wells and just two Blinebry  
16 kind of makes economic sense.

17 A. Depends what your goals are. Uhm --

18 Q. You know, pay back your lenders, put a little  
19 money in your pocket.

20 A. Yeah. We just believe that we can produce the  
21 Middle Blinebry at the same time with better  
22 efficiencies and recover more reserves from this unit.

23 Q. So your theory is while you're out there  
24 drilling, you might as well -- while you're out there,  
25 you know, having good Paddock wells, you might as well

1 **throw in some Blinebry wells.**

2 A. Well, these -- I mean, these wells can stand  
3 on their own. I just alluded to before with these Dodd  
4 wells that we drilled that well with all our costs and  
5 got there production. It's a 60 percent rate of return  
6 well. You can justify that well on it's own.

7 So we're out there, and instead of coming  
8 back to do another trip in this unit, we would propose  
9 to do all six at once.

10 HEARING EXAMINER BRANCARD: Okay. Thank you.  
11 Very helpful.

12 Is that it for your rebuttal, Mr. Rankin?

13 MR. RANKIN: Mr. Examiner, I try to keep my  
14 word, and I believe we kept it to about 20 to 25  
15 minutes. So yes, that is all we have for rebuttal at  
16 this time, and I ask for the admission of Spur Rebuttal  
17 Exhibit No. 2 into the record.

18 HEARING EXAMINER BRANCARD: Thank you. Any  
19 objections, Ms. Shaheen?

20 MS. SHAHEEN: No objections.

21 HEARING EXAMINER BRANCARD: Mr. Rodriguez?

22 MR. RODRIGUEZ: No objections.

23 HEARING EXAMINER BRANCARD: Thank you. Okay.  
24 They will be so admitted.

25 So I guess that means we are back to

1 Longfellow, Ms. Shaheen.

2 MR. SHAHEEN: Yes. Mr. Reynolds will be doing  
3 his rebuttal testimony first.

4 HEARING EXAMINER BRANCARD: Kind of cool. We  
5 are sort of zeroing in on him in there.

6 MS. SHAHEEN: Mr. Reynolds, are you about  
7 ready?

8 THE WITNESS: Yes, ma'am.

9 MS. SHAHEEN: Great.

10 RYAN REYNOLDS,  
11 testified in rebuttal as follows:

12 DIRECT EXAMINATION

13 BY MS. SHAHEEN:

14 Q. You remember testifying previously about  
15 Longfellow's Exhibit A-3 which shows the working  
16 interests as Longfellow believes it to be owned?

17 Do you recall that testimony?

18 A. Yes, ma'am.

19 Q. This working interest that Longfellow has  
20 provided takes into account the contractual interest  
21 derived from the Puma JOA and the Aid JOA that covers  
22 two thirds of the proposed spacing unit; isn't that  
23 correct?

24 A. Yes.

25 Q. Is this working interest basis how Longfellow

1 intends to bill the cost of drilling and completing its  
2 proposed wells?

3 A. That is correct.

4 Q. And it appears clear to me, and I'm assuming  
5 it appears clear to you, but confirm that for me:  
6 Spur's working interest basis that it provided to the  
7 Division here in support of its application, it does not  
8 include those JOA contractual interests, does it?

9 A. No, it does not.

10 Q. Do you believe that Spur's working interests  
11 are incorrect because they failed to take into account  
12 the existing JOAs?

13 A. Yes.

14 Q. And is that because the parties to the JOA are  
15 cost-bearing in the proposed spacing unit?

16 A. That is correct.

17 Q. And a Puma JOA or Aid JOA owner would have the  
18 right to participate as a cost-bearing working interest  
19 owner in the proposed spacing unit here; is that  
20 right?

21 A. That's correct.

22 Q. And would Spur have knowledge of who these  
23 owners are?

24 A. Yes.

25 Q. And is that because Spur is an owner in both

1 the Puma JOA and the Aid JOA?

2 A. That is correct.

3 Q. And on Longfellow's well Proposal Letter, does  
4 Longfellow offer all the parties to have the right to  
5 participate as cost-bearing working interest owners in  
6 the proposed spacing unit, the opportunity to join in a  
7 JOA covering the proposed 480-acre spacing unit?

8 A. That is correct.

9 Q. None of those parties have signed that JOA  
10 yet, right?

11 A. At this moment we have not had anybody sign  
12 the JOA.

13 Q. And did that same Well Proposal Letter offer  
14 all the parties who have the right to participate as a  
15 cost-bearing working interest owner in the proposed  
16 spacing unit the opportunity to sell their interest to  
17 Longfellow in lieu of joining the JOA?

18 A. That is correct.

19 Q. Did any of those parties sell to Longfellow?

20 A. Yes, we've had some parties sell to  
21 Longfellow.

22 Q. Were there any of those parties who Spur did  
23 not include in the calculation of Longfellow's working  
24 interest?

25 A. Can you repeat that one more time.

1 Q. Yes. Were there any parties that you acquired  
2 interest from that -- let me restate that.

3 A. Represented in Spur's ownership?

4 Q. Right. Did Spur attribute the interest that  
5 you acquired from all of the other parties that you  
6 acquired interest from, did they include all of that  
7 interest that you acquired in their calculation of  
8 Longfellow's working interest?

9 A. No, they did not.

10 Q. Okay. So which interests did Spur omit from  
11 Longfellow's percentage of interest?

12 A. It would have been Murchison Oil and Gas.

13 Q. What was Murchison -- what was attributed to  
14 Murchison by Spur?

15 A. By Spur. Let me double check.

16 Technically they show Murchison with 95  
17 percent of Tract 2 in their C-3 or C-4, Exhibit C-3 or  
18 C-4.

19 Q. Uh-huh.

20 A. Which would be in the horizontal spacing unit  
21 about 7.92 percent.

22 Q. Okay. So that should be added to the  
23 Longfellow interest. Correct?

24 A. Representing their ownership, how they have  
25 it, yes, that should be under Longfellow where they have

1 Murchison.

2 MS. SHAHEEN: Okay. So I am going to try to  
3 share -- marlene, if you will let me share my screen --  
4 rebuttal A-11, I believe.

5 Q. Mr. Reynolds, can you see that?

6 A. Yes.

7 Q. Can you explain to the parties this exhibit  
8 here?

9 A. So the Exhibit 11 that we've shown here will  
10 represent an ownership summary comparing Spur's  
11 ownership findings compared to Longfellow's ownership  
12 findings.

13 Q. All right. And so you have some circled  
14 numbers here. What is the significance of that?

15 A. So -- well, they're representing their  
16 ownership as to specific tracts, rather than the actual  
17 interests in the JOA, which is the cost-bearing working  
18 interests in the horizontal spacing unit. It will  
19 attribute to the horizontal spacing unit.

20 Q. Okay. So a little further down here, I am  
21 going to scroll down, I believe this is a comparison of  
22 Longfellow's and Spur's calculations of percentages of  
23 interest with respect to the JOA. Is that right?

24 A. That is correct.

25 Q. Can you tell us what it says?

1           A.    Yes.  So, as you see here, which, you know,  
2   320 acres of the proposed horizontal spacing unit will  
3   consist of JOA working interests, which can you scroll  
4   done a little bit?

5           **Q.    Yes.**

6           A.    Thank you.  So the representation under the  
7   circled ownership, that would be Spur's ownership across  
8   the horizontal spacing unit of the Puma JOA -- or excuse  
9   me, under the spacing unit of the JOA.  That would be  
10  their working interest across that entire tract.

11          **Q.    Okay.**

12          A.    It's not lease specific.

13          **Q.    All right.  And so under your calculations,**  
14 **which include the Joint Operating Agreement, it's clar**  
15 **that Longfellow has 46 -- excuse me.  I'm lost here.**

16          A.    I'll take a look at mine.

17          **Q.    Longfellow Lf has 47.23 percent as compared to**  
18 **Spur's 40.31 percent.  Correct?**

19          A.    That is correct.

20          **Q.    Okay.**

21          A.    And I would like to mention that Longfellow is  
22   actually the operator for both JOAs, the Puma and the  
23   Aid State.

24          **Q.    Going back just for a sec.  When you say --**  
25 **would you say that if a party you proposed the wells to**

1 has not signed the Hendrix ABX JOA and has not sold  
2 their interest to Longfellow yet, would you say those  
3 parties have not committed to the development of the  
4 spacing unit as Longfellow has proposed?

5 A. That is correct. And the uncommitted owners  
6 would be parties pooled under this horizontal spacing  
7 unit Pooling Order, for the pooling --

8 Q. So anyone that you proposed the wells to,  
9 those owners who have not signed a JOA and have not  
10 agreed to convey their interest in some manner to  
11 Longfellow would be considered an uncommitted party.  
12 Correct?

13 A. That is correct.

14 Q. And Longfellow drilled the five wells, we've  
15 talked about this, in the south offsetting tract, the  
16 Hendrix CD wells. Did Longfellow base the working  
17 interest in that spacing unit on the existing JOAs that  
18 covered those lands?

19 A. Yes, for the east half. For the south half  
20 would be -- the southeast quarter would be the same as  
21 in the northeast quarter for the Aid State JOA.

22 Q. And Spur was a working interest owner in those  
23 wells, right?

24 A. That is correct.

25 Q. Lonfellow billed Spur for the cost of those

1     **wells, right?**

2             A.     That is correct.

3             **Q.     And did they pay those billed costs?**

4             A.     Yes, ma'am.

5             **Q.     Did they object to the working interest amount**

6 **they were billed because it was based on their JOA**

7 **working interest?**

8             A.     No, they were not.

9                     No, they did not.   Excuse me.

10             MS. SHAHEEN:   Those are all the questions I  
11 have on rebuttal for Mr. Reynolds.

12             HEARING EXAMINER BRANCARD:   Thank you.

13                     Mr. Rankin.

14             MR. RANKIN:   Thank you very much.

15                     CROSS-EXAMINATION

16 BY MR. RANKIN:

17             **Q.     Mr . Reynolds, is it your understanding that a**  
18 **Joint Operating Agreement conveys a mineral interest to**  
19 **the parties to it?**

20             A.     No.

21             **Q.     On the Murchison acquisition -- I'm going to**  
22 **pull up your map here from your original exhibit.**

23             A.     Just to touch back on what you said  
24 originally, it would be actually a working interest that  
25 is in the joint operating agreement.

1           Q.    Did you hear me previously review what the  
2 definition is of a working interest under the Oil  
3 Conservation Division rules?

4           A.    Based on the -- you know, based on the joint  
5 operating agreement -- no, I did not hear what you said.

6           Q.    Okay.

7           A.    Under the joint operating agreement, this is  
8 based on working interest cost-bearing parties.

9           Q.    I'll read for you again -- it's in the record  
10 but, you know, just so you understand what the  
11 definition is of a working interest under 19.15.2.7  
12 NMAC. Okay?

13          A.    When I --

14          A.    I'm sorry, I got myself confused because I was  
15 talking about a mineral interest, and you were  
16 correcting me to a working interest. Correct?

17          A.    Yes.

18          Q.    And I meant to say: Did you hear me  
19 previously give a definition of what a mineral interest  
20 is?

21          A.    No, I did not.

22          Q.    That's defined under the regulation as, quote,  
23 "A working interest owner or an owner of a right to  
24 explore for and develop oil and gas that is not subject  
25 to an existing oil and gas lease."

1                   Okay. So just moving on, I'm going to  
2 ask if I can share my screen, Ms. Salvidrez. Thank you.

3                   Mr. Reynolds, you can see your land tract  
4 exhibit on your screen?

5           A. Yes.

6           Q. Can you identify for me in which of these  
7 tracts your acquisition of Murchison's interests were  
8 located.

9           A. Murchison owned across the entire unit as a  
10 working interest owner who bears costs. They own in the  
11 north half of Section 14.

12          Q. You said they own across the entire proposed  
13 480-acre unit. Is that your testimony?

14          A. Yes. If this was to be a horizontal spacing  
15 unit, they own working interests across the entire 480  
16 acres.

17          Q. My question is: In which tracts did you  
18 acquire interests from Murchison?

19          A. We acquired working interests in the north  
20 half of Section 14.

21          Q. Okay. Now, a working interest is a leasehold  
22 interest, correct?

23          A. Leasehold working interest.

24                   MS. SHAHEEN: Objection, form.

25                   THE WITNESS: Is that what you're saying?

1           Q.    I'm asking -- is it your understanding that a  
2 leasehold interest -- I'm sorry. I don't know what I  
3 asked.

4                        Can you that read back possibly, what my  
5 question was?

6                        HEARING EXAMINER BRANCARD: Trying to say  
7 whether a working interest is a leasehold interest.

8                        I don't know that that is relevant to  
9 this proceeding, but whatever.

10           Q.    What I'm trying to understand is -- you did  
11 acquire Murchison's interest in the north half of  
12 Section 14, correct?

13           A.    Across the north half of Section 14? Yes.

14           Q.    And Murchison's interest that you acquired was  
15 a leasehold interest, correct?

16           A.    It was a cost-bearing working interest.

17           Q.    Okay. Cost-bearing working interest.

18           A.    Plus it would be a cost-bearing working  
19 interest as to the land and the wells, as we are the  
20 operator for the north half of Section 14.

21           Q.    Okay.

22           A.    Under the JOA working interest.

23           Q.    So cost-bearing -- I'm sorry. Go ahead.

24           A.    The Puma State.

25           Q.    Just so I understand, did you acquire their

1 interest that was contributed to the Puma State JOA?

2 A. We bought their -- yes, we bought their  
3 working interest.

4 Q. So my understanding is when you have a -- when  
5 you're a party to a working interest and you contribute  
6 a cost-bearing working interest to a JOA, it's based on  
7 a lease. Correct?

8 A. To me, in a JOA -- for example the Puma State,  
9 you would have to be a leasehold working interest owner  
10 across one of the leases, and once it becomes a bigger  
11 contract, it's combined and now you have the JOA working  
12 interest owners who are cost-bearing to the well, and  
13 paying out on the well.

14 Q. I understand all that, but I guess my question  
15 is: In what tract is there a leasehold interest that  
16 was contributed to the pool JOA that you acquired?

17 A. The north half.

18 Q. So their lease --

19 A. They were --

20 Q. Now, I'm not talking about the JOA, about how  
21 it was distributed across the north half of 14. I'm  
22 asking in which tract was their leasehold interest  
23 located that was contributed to the --

24 A. It was --

25 Q. -- to the -- I'm not asking that question --

1                   **(Note: Reporter interruption.)**

2                   MR. RANKIN: Mr. Examiner --

3                   THE WITNESS: I apologize.

4                   MR. RANKIN: -- I'm asking a direct question  
5 and the witness is not asking -- answering it. I'm  
6 asking you to please direct the witness to answer the  
7 question

8                   HEARING EXAMINER BRANCARD: Mr. Rankin, you  
9 keep repeatig the questions and phrasing them  
10 differently. Okay? Just ask it simply. I'm not sure I  
11 understand your question. We are getting into details  
12 of oil and gas law here, which I'm not sure is relevant  
13 to this, but...

14                   MR. RANKIN: It Is. it is very relevant,  
15 Mr. Examiner. That's why he doesn't want to answer the  
16 question.

17                   MS. SHAHEEN: I would object to your  
18 characterizaton of Mr. Reynolds' testimony here,  
19 particularly in light of your witness' testimony. And  
20 also I would object because I do believe you are asking  
21 him questions that bear on legal issues, and he is a  
22 fact witness here and is not here to testify about legal  
23 issues.

24                   MR. RANKIN: Okay.

25                   **Q. Mr. Reynolds you are a man -- petroleum land**

1 matter -- an expert in petroleum land matters. You've  
2 been qualified, correct?

3 A. Yes.

4 Q. Are you able to identify tracts of land in  
5 which a leasehold interest exists?

6 A. Yes.

7 Q. Okay. So I'm not asking you about what  
8 happens once a leasehold interest is contributed to a  
9 JOA. Okay? I'm asking you in which tract is a  
10 leasehold interest located that you acquired from  
11 Murchison.

12 A. If you refer to the Exhibit A-11 where it  
13 reflects your ownership, or Spur's ownership, compared  
14 to Longfellow's, --

15 Q. Yep.

16 A. -- the leasehold would be in Tract 2, as you  
17 have stated.

18 Q. So it's in the northeast quarter of the  
19 northeast quarter of Section 14.

20 A. Yes.

21 Q. Okay. Mr. --

22 A. And a -- I'm sorry, I wasn't trying to talk  
23 over you.

24 Q. Mr. Reynolds, the northeast quarter of the  
25 northeast quarter is this top-right corner of Tract 1,

1 correct?

2 A. Yes.

3 Q. If you had just answered my question, we would  
4 have saved 10 minutes from the beginning. Appreciate  
5 it.

6 When were these interests acquired from  
7 Murchison?

8 A. Effective May 1st.

9 Q. Were there any other interests that Longfellow  
10 acquired from Murchison, other than the leasehold  
11 interest in the northeast quarter of the northeast  
12 quarter of Section 14?

13 A. Correct. There are multiple tracts.

14 Q. What other tracts did you acquire?

15 A. I would have to refer to the instrument to  
16 tell you that.

17 Q. Any other tracts that are contributing to the  
18 JOA, the Puma, for the north half of Section 14?

19 A. Yes. We have multiple tracts.

20 Q. What other -- so multiple tracts acquired from  
21 Murchison that were contributed to the north half --

22 A. Yes.

23 Q. -- of Section 14?

24 A. We have -- we acquired, so in your sense, the  
25 leasehold in the northwest quarter, as well, of

1 Section 14.

2 Q. What percentage of leasehold interest did  
3 Murchison own in the northwest quarter of Section 14?

4 A. They would have owned, excuse me, around 38.39  
5 percent across the north half.

6 Q. So interests that Murchison owned outside of  
7 the 480-acre spacing unit are being calculated as being  
8 included within the interest you have acquired in the  
9 480-acre spacing unit, correct?

10 MS. SHAHEEN: Objection, form.

11 A. The interest --

12 MS. SHAHEEN: You can answer.

13 MR. RANKIN: Okay. Thank you.

14 (Note: Reporter inquiry.)

15 MR. RANKIN: He said yes.

16 THE WITNESS: I said yes.

17 Q. Mr. Murchison, I'm sharing my screen. I'm  
18 showing you what has been marked as Exhibit A-11. Do  
19 you see that?

20 A. Yes.

21 Q. This may just be, you know, something I didn't  
22 understand, but I'm looking at Longfellow's line here,  
23 and at the end of it you've got 47.23 percent,  
24 correct?

25 A. Yes, sir.

1 Q. And that represents what percentage of the  
2 interest in the 480-acre proposed spacing unit?

3 A. 47 --

4 Q. I'm sorry. I mangled that question.

5 Is that percentage across the entire  
6 480-acre spacing unit?

7 A. Of the proposed spacing unit it's 47.23  
8 percent.

9 Q. So when I looked at your original exhibit that  
10 you filed on last Thursday, you presented Longfellow's  
11 interest across the 480-acre spacing unit. It  
12 doesn't -- it's not the same percentage. It's 46.45.

13 A. So as you revert back to my exhibit, Exhibit  
14 A-11, --

15 Q. Okay.

16 A. -- it stated for you the after pay out/before  
17 pay out. The Puma State has not paid out.

18 The interest that was taken out, so you  
19 would have two new working interest owners -- we took it  
20 out of our own interest, working interest, which is  
21 reflected.

22 Q. So you're proposing that under a statutory  
23 Pooling Order the interests that are going to be  
24 reflected are going to be changed and variable whether  
25 or not an underlying JOA that partially overlaps is paid

1 out or not?

2 A. I'm not going to answer that question.

3 **Q. You're refusing to answer the question?**

4 A. No, I'm not refusing to answer the question.

5 I'm just not --

6 MS. SHAHEEN: I'm sorry. I tried to make an  
7 objection and I was muted. I object to the form of that  
8 question.

9 THE WITNESS: I apologize. Can you restate  
10 the question in different way?

11 HEARING EXAMINER BRANCARD: But a little less  
12 dramatic, Mr. Rankin.

13 MR. RANKIN: Sorry.

14 **Q. I think I understood you to say that the**  
15 **reason that the percentages are different are because**  
16 **there was a payout in the Puma.**

17 A. Yes. I mean, it's unrelated, though, because  
18 it's all cost-bearing.

19 **Q. So you're saying that your working interest**  
20 **that you're representing is going to be contributed --**  
21 **or is -- is, uh, controlling the 480-acre proposed**  
22 **spacing unit has changed because there was a payout on**  
23 **an unrelated contractual area controlled by a JOA?**

24 MS. SHAHEEN: I'm going to object to the form  
25 again, and I believe what Mr. Reynolds testified to is

1 that the reason there's a difference between Exhibit  
2 A-11 and Exhibit A-3 or -4, or whatever it was, is  
3 because one of them was calculated assuming that both  
4 JOAs had paid out, and the other was not. That is the  
5 difference between the two exhibits.

6 MR. RANKIN: Just --

7 MS. SHAHEEN: I don't think there is any  
8 other relevance to this line of questioning.

9 MR. RANKIN: Well --

10 HEARING EXAMINER BRANCARD: I think Mr. Rankin  
11 is trying to figure out why that matters.

12 THE WITNESS: We did not if the Puma paid out.

13 MS. SHAHEEN: And I think the point is it  
14 doesn't matter. We were just explaining the  
15 discrepancy.

16 MR. RANKIN: Mr. Examiner this matters a great  
17 deal, because if these interests are going to be  
18 incorporated in a Pooling Order, okay, are they going to  
19 be shifting based on a contractual area unrelated, based  
20 on whether or not status of those wells is paid out?  
21 That surely was not the intent of the legislature when  
22 they created the pooling statute. The intent of the  
23 legislature was to identify the mineral interests within  
24 the 480-acre tracts that have been proposed in this  
25 case, and limit it to the pooled parties with those

1 interests.

2 MS. SHAHEEN: I'm going to object to Mr.  
3 Rankin testifying here. He's the lawyer. He's not  
4 testifying, he's making legal argument that is best  
5 reserved for our written submission.

6 MR. RANKIN: That's -- so no further questions  
7 of the witness. Thank you.

8 HEARING EXAMINER BRANCARD: Mr. Rodriguez.

9 MR. RODRIGUEZ: No questions. Thank you.

10 HEARING EXAMINER BRANCARD: Mr. Lowe.

11 EXAMINER LOWE: No questions. Thank you.

12 HEARING EXAMINER BRANCARD: Mr. Garcia, are  
13 you with us?

14 (Note: No response.)

15 CROSS-EXAMINATION

16 BY HEARING EXAMINER BRANCARD:

17 Q. All right. Mr. Reynolds let's get back to  
18 this exhibit here.

19 A. Yes, sir.

20 Q. I got thoroughly confused looking at this.

21 So the top part of the exhibit -- uhm, I  
22 could share the screen if somebody would let me, but  
23 anyway. Do you have it in front of you?

24 A. Yes.

25 Q. So the top part I think is Spur's analysis

1 here.

2 A. That is correct.

3 Q. So it says that Longfellow has 25.62 percent.

4 All right? Then down here further it says Longfellow  
5 says they have 47.24 percent.

6 A. 47.23?

7 Q. 23, sorry.

8 A. Okay.

9 Q. So let's just look at the top part, Spur's  
10 part.

11 A. Yes, sir.

12 Q. To get an additional 21 and 1/2 percent, 20.61  
13 percent, who do you have to add in that's below?

14 I mean, you mentioned Murchison. Would  
15 100 percent of that 7.92 be added into Longfellow's  
16 total?

17 A. If you were to show Spur's interest how they  
18 have it, it should have been amended, anyways, to  
19 reflect Longfellow in the Murchison line. They did not  
20 adjust that.

21 But this -- as I was stating before, so  
22 once -- so Spur's predecessor in title signed the JOA,  
23 which became working interest, and it combined the  
24 leases within the unit area, combined them together, and  
25 their interest was allocated across each tract or each

1 lease within the unit of the JOA.

2                   Once that happens, once they sign off on  
3 it it becomes the contract working interest and  
4 everybody associated with that is cost-bearing to the  
5 interest.

6                   So, for example, if Spur, which is shown  
7 on their percent, like the 27.5 percent of the south  
8 half northeast quarter, I think that would be around --  
9 hold on a second, I think I have it right here -- 22 net  
10 acres. And then you would basically, since the unit  
11 size is 320 acres, would be the 22 acres divided into  
12 the 320 acres, which would give you the 7 percent that's  
13 credited on Longfellow's tract, the full portion  
14 under -- I guess it would be the Puma JOA. It's like  
15 6.8 percent, not 7. Apologies.

16                   (Note: Pause.)

17                   HEARING EXAMINER BRANCARD: Sorry. I've been  
18 muted here.

19                   **Q. Looking at that 46.25 of Spur, --**

20                   A. Yes, sir.

21                   **Q. -- you're saying that some of that acreage,**  
22 **some of that percentage should be put in the Longfellow**  
23 **total because some of that Spur acreage is committed to**  
24 **Longfellow under a JOA?**

25                   A. That is correct.

1 Q. So that might be, what, 6 percent or so?

2 A. It's like 6.9 percent in the Puma JOA.

3 Q. Okay. Then what else? And we got the  
4 Murchison. Do we move the whole Murchison 7.92 percent  
5 up to the Longfellow number?

6 A. So it would be the 38.39 percent, which is  
7 12.8 percent somewhere, roughly.

8 Q. Okay. So how do you get 12.8 percent on your  
9 bottom for Murchison and they have 7.92?

10 A. Well, the 12.8 percent is across the 480-acre  
11 horizontal spacing unit. So it would be like 61 net  
12 acres. 61.4. I apologize. It's a little...

13 Q. So you're saying that Spur is incorrect in  
14 what it attributes to Murchison in its numbers?

15 A. Yes. Yes, sir.

16 Q. And that Spur is only crediting Murchison for  
17 the northeast/northeast quarter and they should be  
18 crediting them for the whole northeast quarter?

19 A. That is correct.

20 Q. Is that because of the JOA?

21 A. Yes, sir. It's 38.39 percent of the JOA, and  
22 the contract area of the JOA is the north half of 14 so,  
23 it's 320 acres.

24 Q. Okay. So this leads me back to Mr. Rankin's  
25 point here, which is: You're crediting percentages to

1 **Murchison based on a JOA that covers acreage outside of**  
2 **this unit.**

3 A. Yes. But the percentage that is credited to  
4 Longfellow is just the northeast quarter portion, the  
5 acreage amounts.

6 Q. Well, I'm looking at Murchison and how we went  
7 from 7.92 to 12.80 percent.

8 A. Okay.

9 Q. And you're attributing Murchison this 38.39  
10 percent across the entire north half of the section; is  
11 that correct?

12 A. Yes. But it's allocated equally across both  
13 tracts. So it's just 38.39 percent of the northeast  
14 quarter through the 160 acres, which is the acreage we  
15 have credited, being 61.418 acres. The northwest  
16 quarter acreage is not factored into this at all.

17 Q. Okay.

18 A. Or the percent. Excuse me. Neither the  
19 percent or the acreage. Nothing from the northwest  
20 quarter is actually factored into the acreage total for  
21 Murchison.

22 Q. All right. You-all are going to have to  
23 really explain this in your post-hearing comments.

24 A. Okay.

25 Q. Because I'm seeing some fancy math going on

1 **here.**

2 MS. SHAHEEN: We're happy to explain it.

3 A. That's what I was saying in a lease. Say they  
4 were owning 80 acres in that lease, well, then they  
5 allocate it to a certain area. Well, that percentage  
6 would be allocated to the size of the unit, so then in  
7 whatever tract in that unit, they would have that same  
8 interest that would be allocated. Whether it's the  
9 northeast quarter or the northwest quarter, the interest  
10 is going to be the same.

11 But if the acreage is not in the proposed  
12 horizontal spacing unit -- so the northwest quarter for  
13 instance is not in this spacing unit, so no interest or  
14 acreage was contributed to the horizontal spacing unit.  
15 It has nothing to do with this.

16 **Q. So by voluntarily pooling their interests**  
17 **under a JOA, the JOA determines their percentage of**  
18 **interest across the entire area covered by the JOA?**

19 A. Yes.

20 **Q. And so when any portion of that area is**  
21 **included in another pooling unit, it's based on a JOA**  
22 **percentage --**

23 A. That's correct.

24 **Q. -- and not based on the original leasehold**  
25 **percentage?**

1           A.     100 percent that's correct.  So it's 47  
2 percent for Longfellow which will be into the wells for  
3 the horizontal spacing unit.

4           Q.     Okay.  So we have -- scrolling down, just  
5 careful here.  At the bottom of your exhibit I think is  
6 something important for the record here.

7           A.     Yes, sir.

8           Q.     So it says here:  The Puma JOA covers the  
9 north half of Section 14.

10          A.     Yes, sir.

11          Q.     Right.  And so this unit covers only, what,  
12 the northeast quarter of Section 14?

13          A.     Yes, sir.

14          Q.     And so the Aid State JOA covers the east half  
15 of Section 13?

16          A.     Correct.

17          Q.     This unit only covers the northeast quarter of  
18 Section 13.

19          A.     Yes, sir.  Which is how we show Spur with the  
20 same percentage in the northeast quarter as they do in  
21 the southeast quarter.  It's equally allocated.  The  
22 percentages stay the same, even though the southeast  
23 quarter is not attributable to the Aid -- excuse me, the  
24 proposed horizontal spacing unit.  We have not credited  
25 any of the southeast quarter interest into this proposed

1 horizontal spacing unit.

2 Q. And Spur is a party to which JOA?

3 A. Both JOAs.

4 Q. Both JOAs?

5 A. Yes, sir.

6 Q. The exception, then, is the northwest quarter

7 of Section 13.

8 A. Yes. Yes, sir.

9 Q. It's not covered by either of the JOAs and  
10 currently 100 percent of the working interest is Spur's.  
11 Correct?

12 A. Yes, sir.

13 Q. Okay. I don't know how the parties feel about  
14 admitting these JOAs into the record.

15 MR. RANKIN: Mr. Examiner, I have no problem  
16 with entering those into the record. I think it's a  
17 great idea. I don't have a copy of either one handy, so  
18 perhaps --

19 MR. RANKIN: -- the administrator would be  
20 willing to --

21 HEARING EXAMINER BRANCARD: Since both parties  
22 are party to these JOAs.

23 MS. SHAHEEN: I don't think that will be a  
24 problem.

25 HEARING EXAMINER BRANCARD: Okay.

1 MS. SHAHEEN: I'll be happy to submit the  
2 JOAs.

3 HEARING EXAMINER BRANCARD: So we will leave  
4 the record open for those to be submitted, and obviously  
5 you both have a copy of it and you both can cite from it  
6 in any post-hearing submittals.

7 Okay. Let's move on. Do you have  
8 another witness, Ms. Shaheen?

9 MS. SHAHEEN: I do have one more witness. And  
10 I really am dedicated to making this go by as quickly as  
11 possible. I'm just going to have him review some  
12 rebuttal exhibits and explain those to the Division.

13 HEARING EXAMINER BRANCARD: Thank you. Let me  
14 just check in with Ms. Macfarlane.

15 (Note: Discussion off the record.)

16 HEARING EXAMINER BRANCARD: Let's get through  
17 your presentation of Mr. Mitchell.

18 MS. SHAHEEN: Okay. So I did circulate this  
19 exhibit previously by email, but if Marlene would allow  
20 me to share, I will put it up so we can all see it on  
21 the screen. Make sure I get the right one here. I  
22 think it's this one. Hmm. That's not working either.  
23 Try that again.

24 HEARING EXAMINER BRANCARD: There. It's  
25 coming up now.

1 MS. SHAHEEN: Okay.

2 HEARING EXAMINER BRANCARD: At least I can see  
3 it.

4 DAVID MITCHELL,  
5 previously sworn, testified in rebuttal as follows:

6 DIRECT EXAMINATION

7 BY MS. SHAHEEN:

8 Q. Okay. So please explain that slide to the  
9 Division.

10 A. Okay. So there was testimony from both Spur's  
11 geologist and engineer, both written and verbal,  
12 regarding waste and undeveloped sections, and so what I  
13 wanted to do initially, was just address really the  
14 comments made that Spur's development proposal had less  
15 waste than Longfellow's development proposal, and I  
16 wanted to discuss what I see is the potential waste in  
17 Spur's development proposal that I believe is  
18 significant.

19 I did articulate prior that we plan to  
20 get a nonstandard location exception as we come down to  
21 lower benches, but, that withstanding, the argument is  
22 pretty simple. Spur's argument is that vertically  
23 spaced wells as they have stacked them, if we assume  
24 that there's no vertical competitive drainage, despite  
25 the fact that they did testify the microseismic and

1 tracer studies showed some interference and some greater  
2 height and width did occur, microseismic events, even if  
3 we say that those drainage areas do not interfere with  
4 each other, by taking that center well and dropping it  
5 250 feet you create the space between all of those  
6 wells, as I have outlined in Undrained Reservoir. That  
7 undrained reservoir, as I have outlined, is higher  
8 quality reservoir, higher oil-saturated reservoir than  
9 the 70H will produce on its own. The model estimate I  
10 have given supports that.

11 I will also address a little bit of what  
12 was addressed in Mr. Lipinski's testimony, as well.  
13 We've done a similar type of analysis next.

14 So in terms of waste I argue that  
15 Longfellow's development program preserves more  
16 reservoir to be returned to later, whereas Spur's  
17 development plan creates permanent waste in development.

18 That's all for this slide.

19 **Q. The second?**

20 A. The second slide I wanted to address was the  
21 discussion around interference that Mr. Lipinski also  
22 testified to a little bit. And he did talk about Spur's  
23 microseismic and tracer studies to an extent, and there  
24 was a question posited by Ms. Shaheen about can  
25 production data be used to define wellbore interference.

1                   And the answer to that question is  
2 articulated in production data that Spur has given to us  
3 for our working interest in the Welch 28A well units.  
4 The Welch 28A 10H and the Welch 28A 50H are vertically  
5 stacked units offset by about 100 feet, very similar to  
6 the designs proposed in Spur's Aid North unit.

7                   I want to show that on Days -- really  
8 highlighting Days 24 through 28. These are the same  
9 data. One is on -- I'm an engineer, I apologize. The  
10 right-hand side is the logarithmic graph, just because  
11 it smooths out the data a little bit, but it is exactly  
12 the same data, just with slightly different graphing  
13 techniques. The left is just a normal plot.

14                   What this shows is that on or about Day  
15 25 the 50H well, which is the lower well, the Bench 2  
16 well, increased in production by 1,381 barrels of oil --  
17 excuse me, barrels of fluid: Oil plus water.

18                   At precisely the same time the Welch 28A  
19 10, which is the upper well, dropped in production by  
20 2,051 barrels of oil plus water.

21                   This is what I'm talking about when I  
22 talk about vertical frack height and vertical well  
23 interference. And this is in direct contradiction to  
24 the statements that that is not an issue. This has  
25 proven to be an issue in their own production in the

1 only daily data on wells which we possess of Spur's.

2 So this is likely happening in other  
3 places. Which I'm not testifying to. I shouldn't have  
4 said that. I apologize. But on this well it is, these  
5 two wells.

6 My third piece of testimony relates to  
7 the Middle Blinbry. Now -- and I want to be careful,  
8 because Mr. Lipinski and I both addressed in our direct  
9 testimonies that Spur and Longfellow look at the  
10 stratographic column slightly different, and I had a  
11 slide where I showed the tops of the formation and then  
12 the benches associated with the formations a little bit  
13 different. And so when we look at the reservoir, we  
14 look at it in this bench philosophy, which doesn't  
15 perfectly align with how Spur looks at it. And if you  
16 get ten geologists you would get 10 different opinions  
17 on where the tops should be, anyway, so I think we can  
18 agree we are not going to be perfect.

19 But when we take the 70H well, which is  
20 the lower center well in Spur's proposal, bench -- what  
21 we call -- how we define it would be in our Bench 3, in  
22 the entire Northwest Shelf inside that very specific  
23 bench, which is about 300 feet, 200-and-something feet  
24 thick, there are -- and this exhibit lists them --  
25 eleven horizontal wells producing from that bench.

1 I've listed them from most -- and I've taken the  
2 production and I've run it out to the terminus of the  
3 well, so it's how much oil will these wells produce over  
4 their entire life at the time of P&A.

5 Those wells are ordered with most to  
6 least, so the Spur Energy Pinto 36 State Well is, as we  
7 define it, a Bench 3 well and it will have a total  
8 ultimate oil recovery of 326,000 barrels of oil. It's  
9 located approximately -- and actually it's a measure of  
10 GI, so pretty close. 20 miles from the unit in  
11 question.

12 Did my two lower analogies make it into  
13 the .pdf, because I just want to be able...

14 Okay. Good. We will go back to the slide  
15 I was on, because those are the backup for the two  
16 bullet points at the bottom of this Middle Blinebry  
17 Bench 3 slide.

18 If you take Spur's AFE at face value, if  
19 you take, and if you take a decline curve for a Blinebry  
20 well -- and you can slide these up or you can slide  
21 these down. Effectively -- let's just call it linear,  
22 so scale them up or scale them down -- what we can do is  
23 a process called the break-even analysis.

24 The break even means under today's costs,  
25 using Spur's AFE, under the price of oil, current oil

1 forecast, at which break -- how much reserves do you  
2 need to break even? I mean all the money you put out  
3 there you get back.

4 The other analysis which is commonly used  
5 is Rate of Return Analysis, and Mr. Lipinski talked  
6 about 50 percent rate of return on his Blinebry wells is  
7 his expectation.

8 But if you take the 11 wells that are  
9 exactly like the depth that we're talking about here in  
10 70H, the break-even requirement at today's prices in  
11 Spur's AFE is \$176,000 barrels of total oil. The  
12 investment threshold of 30 percent rate of return is  
13 209,000 barrels of oil. Only one out of the eleven  
14 wells in that exact same depth we are talking about in  
15 the 70H meets that threshold, which mean 10 out of 11  
16 wells in that location across the shelf are uneconomic  
17 at today's commodity prices.

18 That is my argument for calling it  
19 prospective. I do believe over time that with higher  
20 prices this is a developable bench. I do not  
21 necessarily believe today this is a developable bench  
22 from an engineering perspective, and that means we have  
23 a definition for what proven means. It must be  
24 economic.

25 And the next two pages are really just

1 support for those two numbers. That 176 and 209 are  
2 what is called economic summary projections from an  
3 engineering reserve software that support my analysis,  
4 and, you know, can be looked at and understood by  
5 reservoir engineers on the other side.

6 That's the end of my testimony. Thank  
7 you very much.

8 MS. SHAHEEN: Thank you, Mr. Mitchell.

9 Before I forget, Mr. Brancard, I'd like  
10 to move to admit into the record both Exhibit A-11 and  
11 Mr. Mitchell's Exhibit, I believe it's C-21. It could  
12 be C-20. Maybe it's C-20.

13 THE WITNESS: I believe I'm C, yes.

14 HEARING EXAMINER BRANCARD: It's C-20.

15 So you had an A-12, also.

16 MS. SHAHEEN: Right. I did not --

17 HEARING EXAMINER BRANCARD: Looks like you  
18 didn't discuss that, Mr. Reynolds did not discuss it.

19 MS. SHAHEEN: We did not discuss it, and it  
20 basically was the same thing as A-11 but based on  
21 acreage.

22 HEARING EXAMINER BRANCARD: Acreage, right.

23 MS. SHAHEEN: If it would be helpful I'd ask  
24 to have that admitted, and we can call Mr. Ryan back up.  
25 I don't know that it makes a difference.

1 HEARING EXAMINER BRANCARD: No, I got confused  
2 just by the first one. I don't think I will need  
3 another one.

4 So any objections to A-11 and C-20?

5 MR. RODRIGUEZ: No objection.

6 MR. RANKIN: No objection.

7 HEARING EXAMINER BRANCARD: Mr. Rodriguez, are  
8 you still there?

9 MR. RODRIGUEZ: No objection.

10 MR. RANKIN: None from Mr. Rankin. Thanks.

11 HEARING EXAMINER BRANCARD: Okay.

12 So we are on Mr. Mitchell. Questions  
13 from Mr. Rankin?

14 MR. RANKIN: Yeah.

15 HEARING EXAMINER BRANCARD:

16 MR. RANKIN: I'm just trying to figure out,  
17 uhm -- Mr. Mitchell, I'm looking at your exhibit -- I  
18 can't tell whether it's C-20, because the final name is  
19 named C-20 but the exhibit itself is marked as C-21, so  
20 I don't know which one we are calling it. I guess we  
21 can choose one or the other.

22 MS. SHAHEEN: Would you like for me to share  
23 that again?

24 MR. RANKIN: No. But the file name I have is  
25 listed as C-20, and then the actual exhibit itself the

1 .pdf image is marked C-21. Just for the record, I'm not  
2 sure which one it is.

3 MS. SHAHEEN: Thank you. We will make sure  
4 it's consistent, that the file name is consistent.

5 Well, it won't have the same file name  
6 when it gets submitted through the Ogrid.

7 MR. RANKIN: We will call it C-20.

8 (Note: In recess from 3:44 p.m. to 3:50 p.m.)

9 HEARING EXAMINER BRANCARD: All right. So I'm  
10 lost. I think we are on Mr. Rankin's questioning of  
11 Mr. Mitchell, who is sitting there waiting.

12 MR. RANKIN: Thank you.

13 CROSS-EXAMINATION

14 BY MR. RANKIN:

15 Q. Mr. Mitchell, looking at Exhibit C-20, page 1  
16 where you have inserted a greenish box between the two  
17 benches, between Spur's proposed center well and the  
18 wells completed in the upper zone in the Paddock, did  
19 you -- are those drainage areas that you used in this  
20 exhibit the same dimensions as those ones you used in  
21 your original direct testimony for the Spur wells, as  
22 well?

23 A. Yes.

24 Q. Are the drainage areas oriented in the same  
25 location around the wellbore?

1           A.    Yes.  The only difference between this slide  
2           and the previous slide from my direct testimony is I  
3           moved the vertical ellipses that were indicative of the  
4           vertical fracture height growth and I added the green  
5           box.  And I also inserted the text above explaining what  
6           I was attempting to illustrate.

7           **Q.    So this analysis -- those drainage areas that**  
8           **you have got here is based on Longfellow's modeling of**  
9           **it's drainage areas, or is that -- right?**

10          A.    Correct.

11          **Q.    Okay.**

12          A.    And it -- I'm sorry.  I didn't mean to speak  
13          over you.  I should heed my advice of counsel to wait.

14          **Q.    It's really difficult with this virtual**  
15          **format.**

16                        **So these drainage areas are based on the**  
17          **model that you discuss in your direct testimony that**  
18          **Longfellow has developed?**

19          A.    Yes.

20          **Q.    And not based on the data that Spur has or**  
21          **used for its analysis comparing the effect of production**  
22          **differences between 60-barrels-per-foot tracts and**  
23          **90-barrels-per-foot tracts Mr. Lipinski discussed.**

24          A.    If I'm not mistaken, Mr. Lipinski used the  
25          drainage bubbles from my next slide from the Longfellow

1 development project and superimposed them on his slides.  
2 So he just kind of took our model and superimposed it as  
3 the same.

4 Q. Okay. That wasn't exactly my question but I  
5 think I'll leave it there.

6 Now, on your next slide, or -- where  
7 you're analyzing an impact to the Welch production data,  
8 I mean were you -- I mean -- well, I'm not going to --  
9 I'll pass on that one, too, because I think it's I  
10 little bit too fine tuned to get into at this late  
11 hour.

12 On your last set of slides where you  
13 were -- as I understood you were looking at the -- you  
14 were conducting essentially an economic analysis of  
15 wells completed in the -- what Longfellow identified as  
16 the Middle Blinebry zone. Correct?

17 A. So is it titled Middle Blinebry Bench 3?

18 Q. That's what your -- this analysis is based on,  
19 right?

20 A. Yes.

21 Q. Did you identify that each of these wells are  
22 actually completed in that analogous zone?

23 A. I did not. Our geologist did, our previous  
24 geologist did, yes. So every well in the basin -- again  
25 we have our bench system, which is not necessarily

1 perfectly aligned with the Paddock and the Blinebry  
2 tops, but we took every horizontal well in play and we  
3 assigned them to which bench they fall in.

4 So I took that data base and I sorted it  
5 by Bench 3, and these are the wells within that bench.  
6 The vast majority of wells in the play are Bench 1 and  
7 Bench 2, with a small subset in Bench 3 and a small  
8 subset in what we term Bench 4.

9 **Q. When you say a previous geologist, was that**  
10 **Ms. Eker?**

11 A. No, it was a geologist that has since retired.

12 **Q. Okay. How long ago were these benches**  
13 **identified by the geologist?**

14 A. He's probably been using the methodology for a  
15 year and a half. He retired about six months ago.

16 **Q. Okay. So the -- what was the distance these**  
17 **wells were from the Aid North State Unit?**

18 A. They all have different measured differences.

19 And I believe it's calculated on surface  
20 to surface, but I'm not 100 percent sure, sometimes we  
21 have well center to well center. But the approximate  
22 distance measured in miles is on the right-hand side.

23 **Q. Thanks. Why didn't you use the Dodd unit**  
24 **wells which are all within five files and confirmed to**  
25 **be in the same zone?**

1           A.     Well, that's where interpretations do vary.  
2     Those are in our Bench 2.

3           **Q.     So this is a dispute over geologist picks,**  
4     **essentially.**

5           A.     Yeah, you could put it at that.

6                     Now, I will say, looking at that list of  
7     I believe it was eight wells at 1.6 million barrels for  
8     eight wells, the numbers will fall in the line of what  
9     we're showing here, and it wouldn't change -- if you  
10    looked at specifically just those wells it wouldn't  
11    change the analysis much anyway.  Those are all  
12    roughly -- well, they are close to that break-even  
13    value.  The cum oil on it was mostly on the 100-to-150  
14    range.

15          **Q.     When you did this analysis for these wells did**  
16    **you confirm they were of the same rock quality as the**  
17    **rock in the North Aid unit?**

18          A.     We talked a little bit about rock quality in  
19    my direct testimony, and there's a lot -- and actually  
20    Mr. Lipinski did a good job of talking a little bit  
21    about the variances and what goes into rock quality.

22                     Most of what you're seeing, especially  
23    when you look at that map that he showed across the play  
24    of oil in place, is a variance in thickness of the  
25    Paddock.  The Paddock is thicker in the southwest, it's

1 thinner as you move to the northeast.

2 And so if something is thicker and it has  
3 the same amount of porosity, it hold more oil, so you  
4 get...

5 But when you go down there (indicating)  
6 there's multiple benches of Paddock; when you're up here  
7 there's one. So again there's a lot of nuance in the  
8 data, because you cannot drill all of the Paddock in the  
9 southwest with one horizontal, as Spur's development  
10 indicates, because they are drilling multiple benches.

11 But quality is -- if you define it as the  
12 amount of oil per acre foot of rock, which is called  
13 hydrocarbon density, it's fairly similar across the  
14 Paddock.

15 **Q. Mr. Mitchell, this analysis, if I'm not**  
16 **mistaken, was done in the Middle Blinebry, and I'm**  
17 **asking you whether or not you compared the rock quality**  
18 **in the Middle Blinebry, as you define it, in these**  
19 **wells, to the rock quality in the Aid North wells in the**  
20 **area that's proposed by Spur.**

21 A. You're right. I'm sorry. I misunderstood the  
22 question.

23 So the Blinebry has far less variation  
24 than the Paddock in quality, and we've mapped the  
25 quality of the Blinebry across the play. It's not, I

1 would say, materially different. There will certainly  
2 be some differences but it's not material.

3 Q. So I guess my second question is: For  
4 purposes of these wells that you selected, you confirmed  
5 that the rock quality is comparable to the rock quality  
6 in the area of the Aid North proposed unit?

7 A. No. We confirmed that they were in the same  
8 geologic bench --

9 Q. Okay.

10 A. -- of our lithographic -- or stratographic  
11 column.

12 Q. Okay. And what is the completed lateral  
13 length for these wells that you did this -- that you  
14 included in your analysis?

15 A. It varies, and I couldn't speak specifically  
16 to it.

17 Q. Did you normalize it, uh, in your analysis  
18 based on lateral length when you conducted the study?

19 A. I did not.

20 Q. And did you look at the completion size that  
21 was used in each of these wells that you included in  
22 your study?

23 A. I did, but I did not correct anything. This  
24 is raw data.

25 Q. Okay. So you didn't specifically confirm rock

1     **quality, you didn't adjust for completion size, and you**  
2     **didn't look at the effect or normalize for lateral**  
3     **length across these wells?**

4             A.     Correct.

5             **Q.     Okay. Not very --**

6                     **(Note: Reporter inquiry.)**

7             MR. RANKIN: I'm sorry, I think I was probably  
8     mumbling to myself. But no further questions. Thank  
9     you.

10            HEARING EXAMINER BRANCARD: Thank you.

11            THE WITNESS: Thank you very much, and I'm  
12     sorry.

13            HEARING EXAMINER BRANCARD: Mr. Lowe, any  
14     questions? Mr. Rodriguez first.

15            MR. RODRIGUEZ: No questions. Thank you.

16            HEARING EXAMINER BRANCARD: Still there  
17                     Mr. Lowe.

18            EXAMINER LOWE: I have just a few questions to  
19     clarify your exhibits here.

20                                     CROSS-EXAMINATION

21     BY MR. LOWE:

22             **Q.     Good afternoon, Mr. Mitchell.**

23             A.     Good afternoon.

24             **Q.     Page 1 of your exhibits is titled Spacing and**  
25     **Waste. Did I hear it correctly that this exhibit is a**

1 conglomerate of other exhibits that were presented  
2 together, and the only think here is the undrained  
3 reservoir pool portion; is that correct?

4 A. So I wouldn't call it a conglomerate, but I  
5 had an exhibit in my direct testimony which compared on  
6 one page our development and another page Spur's  
7 development. This is that Spur development page, but I  
8 took some information off just to kind of simplify and  
9 highlight that undrained reservoir, because you can't  
10 have your cake and eat it too. You can't say the  
11 vertical wells are spaced so they perfectly drain column  
12 but then we are going to space the middle wells more and  
13 they're still going to be perfectly spaced to drain the  
14 column, even though we kept the frack size constant.

15 That was really the only thing I was  
16 trying to articulate with the slide.

17 Q. So this is Spur's initial exhibit, and you  
18 just kind of highlighted different aspects of it.

19 A. No, I'm sorry. This is an exhibit prepared by  
20 me for my direct testimony which I took some data off  
21 for purposes of rebuttal.

22 Q. Okay. Okay. Thank you will for clarifying.

23 My next question pertains to pages 4 and  
24 5, which is titled as Economic Projections.

25 That information as stated here indicates

1 on the left-hand corner a year date of 2021, and then as  
2 in the center all it indicates "As of 1-1-22."

3 I don't understand how to read this.

4 What does that mean?

5 A. Okay. No, that's very good question. Thank  
6 you.

7 So the left-hand corner indicates the day  
8 and time that the analysis was run. So that was run  
9 today at 9:45, a little bit after I listened to the  
10 direct testimony of some of the Spur witnesses. Again  
11 as purposes of rebuttal, I was taking notes, and this is  
12 a process that we went through following those  
13 testimonies.

14 In the center it says "As of 1-1-22."

15 Q. Yes.

16 A. Every economic projection needs a start date,  
17 and so that kind of sets the clock for the time/value of  
18 money calculation, because as you move forward in time,  
19 you know, dollars from 2020 are worth less than dollars  
20 in 2021, and the standard convention in reservoir  
21 engineering is a 10 percent discounting rate. So that  
22 "as of" date is we're starting the analysis assuming we  
23 are at January 1, 2022. We could have picked today.  
24 It's just usually you pick the next year. And that was  
25 just a -- you know, a holdover from the reservoir

1 engineer, probably.

2 EXAMINER LOWE: Thank you for clarifying  
3 that. That's all the questions I have. Thank you

4 HEARING EXAMINER BRANCARD: Thank you,  
5 Mr. Lowe.

6 Mr. Mitchell, let me ask some dumb  
7 questions here.

8 CROSS-EXAMINATION

9 BY HEARING EXAMINER BRANCARD:

10 Q. So your slide Middle Blinebry Bench 3.

11 A. Yes.

12 Q. So the column EUR Oil, is that current  
13 cumulative production or is that projected production?

14 A. That's cumulative plus all future projected to  
15 the economic limit of the well.

16 Q. Okay. So it is projected. Thank you.

17 Your previous slide where you're talking  
18 about production interference, I believe you mentioned a  
19 100-foot distance can cause this. Did I hear that  
20 correctly?

21 A. So in my testimony, if I remember correctly --  
22 so these wells are spaced very similarly to the upper  
23 and lower benches in the proposed Aid North. So they  
24 are about 400 feet vertically spaced, and the 50 well,  
25 it being the deeper well, is about 100 feet east/west

1 offset from the well directly above.

2 So if you take from the 10 to the 50, you  
3 would go 400 feet approximately down and 100 feet  
4 approximately over, which is very similar to the  
5 proposals of the Aid North Unit.

6 Q. Okay. Thank you. I didn't think you were  
7 talking about a 100-foot vertical because we don't have  
8 100-foot vertical in these wells.

9 All right. So finally I noticed that you  
10 did not discuss anything about the frack rate debate  
11 that has gone on here, so I assume you are just sticking  
12 with your prior testimony on that.

13 A. Yeah. I mean, I guess I was -- I'm very new  
14 to the legal proceedings like this. I have done some in  
15 Oklahoma, some in other capacities, but, you know, I was  
16 trying to present counters to direct testimony that I  
17 heard, and during the direct testimony there was not a  
18 lot of discussion around different frack designs and  
19 different outcomes, and so I restricted my rebuttal  
20 testimony to the direct testimony.

21 Q. Okay. Thank you. But let me just, then,  
22 finish off the with the same question I asked  
23 Mr. Lipinski, which is: If you go from a 60-whatever  
24 barrel per foot, I believe that's the -- to a 90 barrel  
25 per foot, what is the impact underground? What are we

1 talking about? More fractures, wider fractures, longer  
2 fractures? Do we know?

3 I mean, obviously I haven't thought this  
4 out, so I assume you have some sort of sense and maybe  
5 even some data, maybe even some microseismic or  
6 something.

7 A. So we don't have any of our own microseismic.  
8 We have looked at microseismic from other operators in  
9 the area that they shared with us, but we don't have  
10 public ability to share with anybody else.

11 So what happens down underground? Kind  
12 of like I made a comment about if you get 10 geologists  
13 or you get 10 completion engineers, you'll have a very  
14 similar outcome of disagreement.

15 What happens in these rocks, to the best  
16 of our knowledge -- so we've taken core data, we've  
17 built these set of models based on the breaking strength  
18 of rock, and where we see the -- the -- there's not  
19 really barriers but baffles, so how the frack actually  
20 broke.

21 The more fluid you put in is important,  
22 but also add the speed you put that fluid in is also  
23 important. And so, you know, we pump our fracks at a  
24 higher rate than Spur. We were trying to get to 150.  
25 We settled at about 135 barrels per minute. Spur is

1 about 118 the last time I was at one of their jobs.

2 So the rate will translate to height and  
3 length, because friction is a component as fluid moves  
4 down a fracture. The further away the fluid gets the  
5 fracture friction pressure increases as you move back  
6 towards the well. So if you can pump at higher rates  
7 with more volume you can get longer frack lengths and  
8 more geometry.

9 If you think about what your water is  
10 doing, your water is creating the volume with which you  
11 are going to fill up with rock. So your water creates  
12 your geometry, your proven (phonetic) creates flow paths  
13 for hydrocarbons. That's in the very simplest terms.

14 So when you're pumping larger jobs, one  
15 of the important things you also have to consider is how  
16 many fractures you initiate from the wellbore. It's not  
17 like it's just one fracture. In our designs I believe  
18 there is 250 individual fractures being initiated from  
19 the wellbore. In Spur's it's about 150. So there is  
20 some nuance there, as well.

21 And I'm not going to sit here and say our  
22 way is definitely superior and their way is definitely  
23 inferior. There are different methods for maximizing  
24 recovery in the reservoir. Our belief and our studies  
25 are pointing us in one way and their belief and their

1 studies are pointing them in another, and ultimately the  
2 well results will dictate who's right.

3 Q. Okay. You know, I'm sort of asking this  
4 question sort of from a regulator's perspective here,  
5 perhaps more looking forward for our own agency, but my  
6 concern is: Are we getting longer and longer frack  
7 lengths?

8 A. Not actually particularly. What we're trying  
9 to do it get more and more fractures closer and closer  
10 together, actually tighter and tighter to the well.  
11 That's the ultimate objective of these stimulations is  
12 we're actually trying to -- so I presented oil in place  
13 data, they had an oil in place map, which didn't  
14 disagree completely, but what we are trying to do with  
15 the stimulation is to create a recovery factor, as high  
16 of a recovery factor of that oil in place as possible.  
17 So if you can create more fractures closer to the  
18 wellbore, that can increase the recovery factor as much  
19 as possible. That maximizes the oil that you can  
20 harvest from the volume of rock.

21 So that's what these larger frack jobs  
22 are trying to do. They'e creating more fractures, not  
23 bigger, longer, wider fractures.

24 There is certainly a height element  
25 difference, because ours are pumped at higher rates, and

1 the rate at which you inject fluid and the height of the  
2 fracture are related, and so that also -- the higher  
3 your fracture throughout, also the wider it is slightly,  
4 but we are not talking about -- there's a limit to how  
5 these go.

6 And I don't know how much detail you want  
7 me to go into, but there is one more component I could  
8 address, but if that is sufficient, I can stop.

9 HEARING EXAMINER BRANCARD: That's fine. I'm  
10 more concerned with fracture length, and from a  
11 regulatory perspective we have setbacks that are based  
12 on certain assumptions about fracture length, so I was  
13 just sort of curious as to whether those assumptions are  
14 getting blown up here. That's all.

15 THE WITNESS: Okay. Great. Thank you very  
16 much.

17 HEARING EXAMINER BRANCARD: Thank you.

18 Anything further for the good of the  
19 cause here? Where are we?

20 I believe you're done, Ms. Shaheen.

21 MS. SHAHEEN: Yes. I believe you can hear me.  
22 I can't get my video.

23 Yes, that concludes Longfellow's case  
24 today.

25 And, uhm, it would be helpful for us to

1 talk about logistics of closing statement and that kind  
2 of thing. I'm sure Mr. Rankin wants to weigh in on  
3 that.

4 HEARING EXAMINER BRANCARD: It sounds like you  
5 both already discussed the possibility of written  
6 statements. I think they would be helpful here. We've  
7 had a lot of testimony. We have some guidance with  
8 Commission and Division Orders about completing factors.

9 So what's your thoughts? I'll start with  
10 Ms. Shaheen since you're on screen

11 MS. SHAHEEN: I'll let you know what I spoke  
12 about with Mr. Rankin. And he suggested that we brief  
13 this legal issue with respect to title and how ownership  
14 should be presented to the Division for force pooling  
15 cases. And I agree that issue should be briefed

16 And then the only question is whether  
17 that should be part of our closing statement with  
18 respect to the facts and that kind of thing and the  
19 criteria, or whether it should be a separate legal  
20 brief.

21 Adam, correct me I'm wrong but I think we  
22 decided we would do whatever you preferred,  
23 Mr. Brancard.

24 HEARING EXAMINER BRANCARD: Mr. Rankin.

25 MR. RANKIN: Thank you. Mr. Brancard, I

1 think that's right. In my -- having thought about it a  
2 bit more and how these arguments have evolved and the  
3 position that Longfellow has taken, I think it's very  
4 important that the Division gets this right. And so my  
5 preference would be to get -- would be that the parties  
6 separately brief this issue. This is a -- this is a --  
7 there are analogous cases that the Division has already  
8 decided regarding the fact of an overlapping JOA as to  
9 certain issues. I'm not aware of any decisions that  
10 address this particular issue about how to handle the  
11 mineral estate within the spacing unit that's being  
12 pooled.

13                   So I think it's very important the  
14 Division get this right, and I want to make sure that we  
15 have the time and space to present the issue to the  
16 Division for decision.

17                   So my recommendation is that we have it  
18 separately briefed from any closing statement, No. 1.

19                   No. 2, given the testimony that was  
20 offered today, especially on the land issue, I think  
21 it's very important the parties have an opportunity to  
22 have the actual testimony available to them when they  
23 are preparing their closing statements, because I think  
24 we are going to want to cite the specific statements  
25 that were made by the witnesses in this case to

1 demonstrate our points.

2                   So a couple of things to consider there  
3 is timing. I'D like to make sure we that testimony and  
4 a full transcript, for one, and then we will need a  
5 little bit of time to put these legal arguments  
6 together.

7                   HEARING EXAMINER BRANCARD: I'll touch base  
8 with Ms. Macfarlane. Do we have any idea how long it  
9 will take for the transcript to be ready.

10                   (Note: Discussion off the record.)

11                   HEARING EXAMINER BRANCARD: I'll go out on a  
12 limb here and sort of prioritize this hearing. That's  
13 not very helpful to you because it's probably 85 percent  
14 of what you have transcribed in the last few days. But,  
15 you know, as far as the other cases, they are not --  
16 there is really nothing controversial going on there.  
17 The Division is preparing orders in unopposed cases  
18 without transcripts. We are just going ahead and doing  
19 them.

20                   So I would prioritize this hearing. You know,  
21 I don't think that helps you a lot.

22                   (Note: Discussion off the record.)

23                   HEARING EXAMINER brancard: But we are still  
24 looking at what, a week, two weeks?

25                   (Note: The reporter responded.)

1 HEARING EXAMINER BRANCARD: Okay. So would  
2 the parties need like two weeks after the transcript is  
3 submitted? What were you thinking?

4 MR. RANKIN: I think that's probably -- I'm  
5 just thinking about both those issues. I think if we  
6 had four weeks total, whatever that is to prepare a  
7 closing and a separate legal brief on that ownership  
8 issue, I think that would be sufficient.

9 So, you know, two weeks from -- it takes  
10 two weeks to get the transcript, two weeks to submit  
11 closing and the legal breifing, that probably is okay as  
12 long as the parties and counsel and the Division may be  
13 willing to offer a reasonable extension if the need  
14 arises.

15 HEARING EXAMINER BRANCARD: I mean, I think  
16 that should be -- Ms. Shaheen, please.

17 MS. SHAHEEN: I would agree so long as we get  
18 the transcript in two weeks. But I'm going to take  
19 advantage of that three-week break, uhm, between OCD  
20 hearings at the end of -- middle of July, and I will be  
21 on vacation for that first week in July. So as long as  
22 there's nothing due that week or soon thereafter.

23 I think four weeks from today would be  
24 July 16th, which would be perfect if we got the  
25 transcript in two weeks.

1 HEARING EXAMINER BRANCARD: Okay. I think  
2 that's fine. I mean, frankly both parties submitted a  
3 lot of really good detailed exhibits that I think can  
4 form the basis of a lot of your presentations.

5 Frankly, you know, while we had some good  
6 testimony, we also had people who got tied up in  
7 verbiage, et cetera, and I don't -- please don't use  
8 somebody's misunderstanding as a gotcha. Okay?

9 So, you know, to the extent that, you  
10 know, we've some good testimony, that's great, but I  
11 think the exhibits also cover a lot of this ground here

12 You know, we have some issues here  
13 regarding plan of development, which I see as key. And  
14 if you look at our Orders on compulsory pooling, the  
15 original Order that I cited earlier focuses on the plan  
16 of development as the key. And failing that, while  
17 there are some other smaller factors, the next, the  
18 backup default is control of interests.

19 And those are the two, I think the two  
20 issues really in this case here.

21 So if we can focus on that. And I'll  
22 turn it over to Mr. Lowe if you have any comments about  
23 what you would like to see in an Order.

24 EXAMINER LOWE: I'm pretty much in the same  
25 format as basically what was stated, what was discussed.

1 Yeah, I'm pretty much on board with what you have  
2 stated, Mr. Brancard

3 HEARING EXAMINER BRANCARD: Okay. This is a  
4 tough one. The parties are not that far apart in a lot  
5 of issues here in terms of what they are proposing,  
6 where they are proposing to do it. You know, even the  
7 interest ownership is not if terribly far apart  
8 depending on how you calculate it.

9 So, you know, it will be a little bit of  
10 challenge for you-all.

11 MR. RANKIN: It will be.

12 MS. SHAHEEN: I wonder -- if I may. I  
13 wonder -- I assume that we are talking about submitting  
14 legal briefs on the same day, as opposed to having a  
15 brief that we get a response to.

16 And Mr. Rankin I think did a fairly  
17 detailed job today of laying out what Spur's position is  
18 here, but, you kow, I don't want to be surprised by  
19 additional arguments with respect to the title issues  
20 that I have not been able to anticipate.

21 So I don't know if we want to have maybe  
22 some sort of, possible -- maybe I would have to move if  
23 I wanted to file a response to Spur's brief, but I would  
24 like to at least know that there's a possibility that I  
25 could respond if I wasn't able to anticipate all of

1 Spur's argument in this regard.

2 HEARING EXAMINER BRANCARD: Well, I'd like to  
3 see something in the nature of a Proposed Order. You  
4 don't have to do all the Order findings about compulsory  
5 pooling. It's more, you know, who wins who loses.  
6 Okay?

7 And use the factor -- the argument should  
8 be focused on the factors that are in traditional  
9 Division cases, and then basically facts in the record  
10 to back that up.

11 I guess, and I'll tip my hand here a bit,  
12 that I don't frankly see as big an issue around title as  
13 you all may. First of all, I don't think I would even  
14 call it a title issue, because that's not what the OCD  
15 does. We don't decide who owns what and who has title,  
16 and we don't transfer title from one party to another.  
17 What we are dealing with here with compulsory pooling is  
18 operations. Okay? Who gets to operate a unit and who  
19 has to answer to that operator, either voluntarily or  
20 involuntarily.

21 So that's why the working interest  
22 definition that Mr. Rankin pointed out is key, because  
23 it talks about operating interest. Okay? And so  
24 therefore what seems to me the issue, really the crux of  
25 it is how do these pre-existing JOAs play into the

1 concept of an operating interest, and are they, as the  
2 question I asked, are they a committed interest. Okay?  
3 Because that's what it's all about. How much of the  
4 interest is committed to your client as prospective  
5 operator.

6 And so the less we have to pool the  
7 better, obviously, and that's why we focus on that, so  
8 that if somebody comes in and they say we have 80  
9 percent of the interest committed to us, well, like:  
10 Great. We'll go with you. You know.

11 So that's not the case here. We have a  
12 much tighter situation, much closer, and two parties  
13 each have significant interests already in this unit.  
14 And so sort of working through those numbers and in  
15 laying out the interest of who's -- you know, as I said,  
16 how do these operating interests, these operating  
17 agreements play into the current definition of who is a  
18 committed -- who has committed interest on their behalf,  
19 is sort of what's at stake here.

20 Sort of brought back all those memories  
21 of teaching this oil and gas course three years ago at  
22 the law school.

23 MS. SHAHEEN: Wish I'd been there.

24 MR. RODRIGUEZ: I remember it all too well.

25 HEARING EXAMINER BRANCARD: Mr. Rodriguez can

1 tell you all about it. One of my star students.

2 So that's what I'm talking about in terms  
3 of that. You know, it would be nice if we had a page  
4 limit here. I don't know if that's worthwhile or not.

5 MS. SHAHEEN: I think it might be worthwhile.  
6 Are you -- do you want a separate legal brief from the  
7 closing statement or do you want it all in one packet?

8 HEARING EXAMINER BRANCARD: You know, I think  
9 you can lay it out as a series of paragraphs within your  
10 closing statement. You know, leading to a conclusion.  
11 Here are the facts. You know, based on these facts and  
12 this legal analysis, we win. Kind of like a court case.

13 (Note: Reporter inquiry.)

14 HEARING EXAMINER BRANCARD: I would prefer  
15 everything I said to be left out of the transcript, but  
16 I think that might be helpful to the parties, to have it  
17 in the transcript.

18 MR. RANKIN: Agree.

19 HEARING EXAMINER BRANCARD: All right. So we  
20 are looking at July 16, two days after Bastille Day.  
21 And hopefully you will have a little bit of time to look  
22 at the transcript in advance to help you with laying out  
23 some of the facts.

24 Other questions, concerns?

25 Mr. Rodriguez, I'm expecting a great

1 argument from you. That's all I can say.

2 MR. RODRIGUEZ: Can't wait to provide that.

3 HEARING EXAMINER BRANCARD: Mr. Rankin, you're  
4 pondering deeply.

5 MR. RANKIN: That may be true. No, that  
6 sounds good to me, Mr. Brancard. I think we could  
7 probably get it into one document of a reasonable  
8 length, and I look forward to submitting it on July  
9 16th.

10 HEARING EXAMINER BRANCARD: Ms. Shaheen.

11 MS. SHAHEEN: That sounds doable to me. Do  
12 you want to set a page limit?

13 HEARING EXAMINER BRANCARD: I don't know. 25  
14 pages? How's that? Is that workable?

15 MR. RANKIN: That's plenty.

16 HEARING EXAMINER BRANCARD: Okay.

17 MR. RANKIN: Hope to use far less than that.

18 HEARING EXAMINER BRANCARD: I'm not saying 25  
19 is worth shooting for, I'm saying anything beyond a  
20 little much.

21 MS. SHAHEEN: I'm assuming you mean 25 pages  
22 double spaced.

23 HEARING EXAMINER BRANCARD: Yeah. Yeah.

24 MS. SHAHEEN: Okay.

25 HEARING EXAMINER BRANCARD: It doesn't have to

1 be 14 point Court of Appeals. You know.

2 All right. Anything else?

3 (Note: Proceedings concluded.)

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1 STATE OF NEW MEXICO ) .

2 ) SS

3 COUNTY OF TAOS )

4 REPORTER'S CERTIFICATE

5 I, MARY THERESE MACFARLANE, New Mexico  
6 Reporter CCR No. 122, DO HEREBY CERTIFY that on  
7 Thursday, June 17, 2021, and Friday, June 18, 2021, the  
8 proceedings in the above-captioned matter were taken  
9 before me; that I did report in stenographic shorthand  
10 the proceedings set forth herein, and the foregoing  
11 pages are a true and correct transcription to the best  
12 of my ability and control.

13 I FURTHER CERTIFY that I am neither employed  
14 by nor related to nor contracted with (unless excepted  
15 by the rules) any of the parties or attorneys in this  
16 case, and that I have no interest whatsoever in the  
17 final disposition of this case in any court.

18 /s/ Mary Macfarlane

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