

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

APPLICATION OF TOM M. RAGSDALE TO REVOKE
ORDER NOS. R-20924 & R-20924-A OR, IN THE
ALTERNATIVE, TO DECLARE UNREASONABLE CERTAIN
COSTS IMPOSED BY MEWBOURNE OIL COMPANY.

CASE NO. 21324

REPORTER'S TRANSCRIPT OF PROCEEDINGS

DE NOVO HEARING

THURSDAY, JANUARY 13, 2022

FRIDAY JANUARY 14, 2022

This matter came on before the New Mexico
Oil Conservation Commission on Thursday,
January 13, and Friday January 14, 2022, via Webex
Virtual Conferencing Platform hosted by the New
Mexico Department of Energy, Minerals and Natural
Resources

PRESENT:

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COMMISSIONER WILLIAM AMPOMAH	NMENMRD DESIGNEE
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1 (Time noted 9:20 a.m.)

2 COMMISSION CHAIR SANDOVAL: All right. Well,
3 let's proceed on Agenda Item No. 6. Again that was Case
4 No. 21324.

5 Do we have -- let's see, both of -- I see
6 Ms. Shaheen. I do not see the other party.

7 Mr. Bruce, are you on?

8 MS. SHAHEEN: Madam Chair, Mr. Bruce usually
9 particpates by telephone.

10 COMMISSION CHAIR SANDOVAL: There is one Call-In
11 User. Let me unmute.

12 MR. BRUCE: Yes, this is --

13 COMMISSION CHAIR SANDOVAL: Okay. There we go.

14 MR. BRUCE: Yeah, this is Jim Bruce. And I'm
15 not set up for video so I'm doing this by phone.

16 COMMISSION CHAIR SANDOVAL: Well, I cannot make
17 you a panelist, but I can leave you unmuted, which means
18 you're going to have to mute and unmute yourself.

19 MR. BRUCE: Yeah, I do that regularly at the
20 Division. Thank you.

21 COMMISSION CHAIR SANDOVAL: Okay. Great.

22 All right. Well, with that, so the
23 Applicant, Mr. Tom Ragsdale, and then Mewbourne it looks
24 like you're both here.

25 Ms. Shaheen, would you like to make a brief

1 opening statement on behalf of your client?

2 MS. SHAHEEN: Yes. Thank you, Madam Chair.

3 Sharon Shaheen on behalf of Tom M.

4 Ragsdale. I would just note in the beginning that Mr.

5 Ragsdale is on his way to my office to participate in the

6 hearing.

7 I thought it might be helpful -- I'm hoping

8 that everyone got the exhibits that the parties submitted,

9 and I thought it might be helpful for us just to take a

10 look at what we have in the exhibits to get started.

11 Would that be acceptable?

12 COMMISSION CHAIR SANDOVAL: Do you need to share

13 screen? Is that what you're asking?

14 MS. SHAHEEN: Yes, I would like to share screen,

15 if I can figure that out.

16 COMMISSION CHAIR SANDOVAL: Let me -- you should

17 be able to now, or shortly.

18 MS. SHAHEEN: Okay. Yeah. Looks like I can.

19 Can everyone see that?

20 COMMISSION CHAIR SANDOVAL: Yes. If you can

21 maybe make it a smidge bigger, that would be helpful.

22 MS. SHAHEEN: How's that?

23 COMMISSION CHAIR SANDOVAL: Better. Thank you.

24 MS. SHAHEEN: So Mr. Ragsdale submitted a

25 Prehearing Statement, and attached to that Prehearing

1 Statement was a list of material facts that are not in
2 dispute that we had previously submitted to the Division.
3 We have since revised that set of material facts and it
4 was filed yesterday and submitted to the Commission
5 yesterday. So we would refer you to those lists of
6 undisputed facts.

7 Also attached to Prehearing Statement is
8 Mr. Ragsdale's Direct Testimony and his exhibits. His
9 exhibits are Exhibits 1 through 10, and I will attempt, as
10 we go through today's hearing, to share my screen and
11 direct you to the .pdf page numbers, as well, if that
12 would be helpful.

13 And then Mewbourne's exhibits were --

14 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, I'm
15 going to interrupt you just real quick.

16 You said you filed this yesterday?

17 MS. SHAHEEN: We filed the exhibits a week ago.

18 COMMISSION CHAIR SANDOVAL: The updated versions
19 you filed yesterday?

20 MS. SHAHEEN: The updated version of undisputed
21 facts. The parties conferred over the past week and
22 reached agreement on a revised set of undisputed facts.

23 And, Mr. Bruce, please weigh in if you
24 would like.

25 MR. BRUCE: No need to at this time.

1 COMMISSION CHAIR SANDOVAL: Ms. Davidson, I
2 think you tried to forward this maybe this morning, but I
3 don't see the attachment.

4 MR. MOANDER: Madam Chair, I can forward those
5 to you right now.

6 COMMISSION CHAIR SANDOVAL: Thank you. Maybe I'm
7 the only one missing them.

8 Oh, maybe not.

9 Okay. Thanks. Go ahead.

10 MS. SHAHEEN: Thank you.

11 So getting back to my opening argument, Mr.
12 Ragsdale asks that the Forced Pooling Orders 20894,
13 20894-A be revoked, or in the alternative certain well
14 costs that were imposed by Mewbourne be declared
15 unreasonable.

16 The bottom line is Mewbourne imposed the
17 costs of two failed attempts to drill one well that were
18 incurred prior to a Forced Pooling Order being issued and
19 prior to Mr. Ragsdale having an opportunity to elect to
20 participate.

21 Mewbourne is imposing those costs of
22 drilling on a different well. The first well that they
23 attempted to drill we call the 10/15 2H. The well that
24 they have imputed the costs for the failed attempts to
25 drill the 10/15 2H were imposed. They were shoehorned

1 into the estimated costs for the drilling the 15/10 2H.
2 Mewbourne included \$3.1 worth of additional costs for
3 those two failed attempts in the AFE that was delivered to
4 Mr. Ragsdale with the Pooling Order.

5 Mewbourne's actions were contrary to the
6 express provisions of 19.15.13.8B NMAC regarding well
7 costs. These wells relate to two previous Forced Pooling
8 cases. The first one is 20580 that addressed what we call
9 the 10/15 wells; -0809 addressed the 15/10 wells.
10 Mewbourne failed to provide Notice of its intent with
11 respect to Case 20809, the latter case, in accordance with
12 19.15.4.9A (6) NMAC, and thus violating Mr. Ragsdale's
13 right to due process under the Houston and Johnson cases.

14 Ultimately Order No. 20894-A superseded
15 Order No. 20894 and pooled all four wells. It pooled two
16 10/15 wells and two 15/10 wells.

17 Most if not all of the material facts
18 appear to be undisputed. There may be some
19 inconsistencies between the Written Testimony and the
20 Statement of Undisputed Material Facts. I think we may
21 have cleared that up, but if not we will clear it up in
22 testimony today.

23 Most of the facts will come out during the
24 testimony or are already set forth in the undisputed
25 facts, but I would like to point out a few key facts at

1 the outset: Mr. Ragsdale never had the opportunity to
2 elect to participate in the 10/15 2H wells under either
3 Forced Pooling Order.

4 Mr. Ragsdale never received a copy of Order
5 No. 20924 in Case No. 20580. Mewbourne never informed the
6 Division nor Mr. Ragsdale of its intent to impose the cost
7 of two failed attempts to drill the 10/15 2H on the cost
8 to drill the 15/10 2H.

9 Mewbourne's applications in Case No. 20809
10 did not state that it would seek to pool the 10/15 and the
11 15/10 wells in one Order, and Mr. Ragsdale never had
12 Notice of Mewbourne's intent in this regard. The Notice
13 Letter regarding that case did not provide that
14 information either.

15 The AFE that was submitted for the 15/10 2H
16 to the Division in Case No. 20809 did not include the cost
17 for those failed attempts to drill the 10/15 2H. Mr.
18 Ragsdale did not know until he received Mewbourne's
19 Election Letter on March 11, 2020, that Mewbourne intended
20 to collect those actual costs for the 10/15 2H failed
21 attempts as estimated costs for the 15/10 2H.

22 Mewbourne's attempts to shoehorn the costs
23 of two failed efforts to drill the 10/15 2H onto the
24 estimated costs of the 15/10 2H are improper under these
25 circumstances. Mewbourne took a business risk when it

1 drilled prior to getting a Forced Pooling Order and
2 providing Mr. Ragsdale with an opportunity to elect to
3 participate. Mewbourne should be held accountable.

4 With that, I'll -- if I could take a second
5 to double check whether my witness is online. He was
6 unable to join through the panelist.

7 COMMISSION CHAIR SANDOVAL: I show him online.

8 MS. SHAHEEN: Oh, good. Let me see if I can
9 just double check.

10 COMMISSION CHAIR SANDOVAL: Before we go to
11 witnesses, I would like to hear if Mr. Bruce has an
12 opening statement.

13 MS. SHAHEEN: Oh, yes. My apologies for that.

14 COMMISSION CHAIR SANDOVAL: Mr. Bruce.

15 MR. BRUCE: Yeah, very briefly, Madam Chair.

16 These wells involve the east half/east half
17 of Sections 10 and 15 in the pertinent Township and Range.
18 Mewbourne has drilled many wells in this area. When they
19 attempted to drill the 10/15 B1 well they hit an
20 impermeable barrier, and so they moved the rig and drilled
21 from that location; again they hit an impermeable barrier.
22 And that's where the \$3 million in costs was incurred that
23 Mr. Ragsdale is complaining about.

24 The fact of the matter is -- Ms. Shaheen
25 said he never had a chance to join in the well. If he had

1 when the Order came out, would there have been any
2 difference in the outcome? Waiting -- getting a sooner
3 election period would not have cured the incurring of the
4 \$3 million in costs for that well.

5 Moreover, what the Division does when it
6 pools an interest, it pools the well unit not the
7 particular wells. And what happened is once the first two
8 attempts to drill below this impermeable barrier occurred,
9 Mewbourne decided to flip the surface locations. Instead
10 of drilling from the north to the south, flip it to the
11 south to the north, which was a prudent move, because they
12 drilled the well successfully and completed it, and the
13 well is producing.

14 The Division regulations provide for a
15 substitute well, and that's what this is.

16 And I put this forth: Because it's a
17 substitute well, anything for the original wells, those
18 costs should be imputed to the substitute well. And what
19 if just in drilling the first well, the very first attempt
20 to drill the well, what if Mewbourne had hit that
21 impermeable barrier but decided to keep on drilling and
22 they had to spend another three or four million dollars
23 just to drill that well to get it through the impermeable
24 barrier? Would those costs have been reasonably assessed
25 against the working interest owners for that 10/15 well?

1 I believe they would be.

2 So since the Division held that the 15/10
3 well, the one well we are here for today was a substitute
4 well under Division regulations and under general
5 practices in the business, those \$3 million are imputed to
6 the well which was successfully drilled.

7 And I would point out that there are a lot
8 of interest owners in this well. Mr. Ragsdale was treated
9 like all of the other interest owners, dozens of them, and
10 none of them have raised any issue with respect to the
11 well costs.

12 We believe that Mewbourne acted properly,
13 drilled a good well, and that Mr. Ragsdale's claim should
14 be dismissed. Thank you.

15 COMMISSION CHAIR SANDOVAL: Thank you, Mr.
16 Bruce.

17 Ms. Shaheen, would you like to call your
18 first witness?

19 MS. SHAHEEN: Madam Chair, could I take just a
20 minute to call him on the phone, because I'm not seeing
21 him in the room there.

22 COMMISSION CHAIR SANDOVAL: Who is it?

23 MS. SHAHEEN: Mr. Ragsdale.

24 COMMISSION CHAIR SANDOVAL: Mr. Ragsdale is
25 listed here as a panelist on my screen.

1 MS. SHAHEEN: I see that our conference room is
2 represented there for Mr. Ragsdale, but I don't see Mr.
3 Ragsdale in the room. So do you mind -- I apologize. Let
4 me just double check.

5 COMMISSION CHAIR SANDOVAL: All right.

6 (Note: Pause.)

7 MS. SHAHEEN: My apologies, Madam Chair. He's
8 in the parking lot, so he's walking up to the room now.

9 It maybe be helpful for us to talk briefly
10 about how the Commission would like us to present the
11 written testimony.

12 We can walk through the written testimony,
13 if you would like, or we can simply go through the
14 preliminaries of having that written testimony accepted
15 into the record. Mr. Bruce may want to weigh in on his
16 preference there, but I thought that we should ask what
17 you prefer.

18 COMMISSION CHAIR SANDOVAL: Mr. Bruce, do you
19 have anything to state on that?

20 MR. BRUCE: Well, I was planning on introducing
21 my witnesses and asking them to adopt their written
22 testimony, but I would like a chance to ask them some
23 questions up front and then turn it over to Ms. Shaheen
24 and, of course, the Commission.

25 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, do you

1 have a response?

2 MS. SHAHEEN: That's acceptable to me.

3 I don't know that I'll have -- that I'll
4 have many questions for Mr. Ragsdale other than what's in
5 his written testimony, but we'll walk through it briefly.

6 COMMISSION CHAIR SANDOVAL: Commissioners, do
7 you have any questions regarding that?

8 Commissioner Bloom?

9 COMMISSIONER BLOOM: I do not, Madam Chair, no.

10 COMMISSION CHAIR SANDOVAL: Dr. Ampomah?

11 COMMISSIONER AMPOMAH: Yes, Madam Chair, it
12 would be good if they can walk through so I can follow.

13 COMMISSION CHAIR SANDOVAL: Okay.

14 So for the written testimony, we need to,
15 obviously, introduce it for the record, get it entered in
16 as an exhibit. I think that we should -- if you are not
17 going do additional questions or cover pieces of it, at
18 least kind summarize it. We don't need to go through it
19 word for word, we have it in written form, but at least
20 provide an overview of the testimony.

21 MS. SHAHEEN: I will make an effort to do that
22 efficiently.

23 COMMISSION CHAIR SANDOVAL: All right. Should
24 we maybe take like a brief five-minute break, let Mr.
25 Ragsdale get it together? So why don't we come back --

1 it's 9:33 right now. Why don't we come back at 9:38. Do
2 you believe that's enough time?

3 MS. SHAHEEN: It should not take more than five
4 minutes to get from the parking lot to the office.

5 COMMISSION CHAIR SANDOVAL: Okay. We'll come
6 back at 9:38.

7 (Note: In recess from 9:33 a.m. to 9:38 a.m.)

8 MS. SHAHEEN: All right. Thank you.

9 COMMISSION CHAIR SANDOVAL: Let me make sure we
10 have all the commissioners and then we can get going.

11 Mr. Bloom, are you back?

12 COMMISSIONER BLOOM: I'm here.

13 COMMISSION CHAIR SANDOVAL: All right. Let me
14 get the recording going and then we can get going.

15 Okay. Ms. Shaheen, will you please
16 introduce your first witness for the record.

17 MS. SHAHEEN: Thank you, Madam Chair.

18 Tom M. Ragsdale on behalf of himself. And
19 I'm going to share my screen once again so we can all just
20 see his testimony as we walk through it.

21 COMMISSION CHAIR SANDOVAL: All right.
22 Ms. Macfarlane, would you please swear the witness.

23 TOM M. RAGSDALE,

24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. SHAHEEN:

2 Q. Good morning, Mr. Ragsdale. Can you see the
3 screen that's in front of you? It should be your Direct
4 Testimony. Do you see that?

5 A. Yes, I do.

6 Q. Okay. Can you please state your full name for
7 the record.

8 A. Tom M. Ragsdale.

9 Q. And you're the applicant in this case, is that
10 right?

11 A. Yes.

12 Q. What is your occupation?

13 A. I'm a petroleum engineer.

14 Q. Please describe your education and work
15 experience briefly.

16 A. I received a petroleum engineering degree from
17 Texas A&M in 1985. My work experience since that time is
18 as follows: I worked for a South Louisiana drilling
19 Company, Grey Wolf Drilling Company, in 1985 and '86, and
20 a Louisiana production company, Petroleum Engineers, Inc.
21 in 1987. I then worked for IP Petroleum, a wholly owned
22 subsidiary of International Paper for approximately three
23 years. Thereafter I worked for Meridian Oil for
24 approximately one year, and then went to work for Costilla
25 Petroleum for several years.

1 And beginning in 1992 I worked as an
2 independent consultant for a couple of years, two years.
3 I then started Siana Oil and Gas in 1994. In 1996 We
4 began, Siana began contract operating in New Mexico.

5 In 1998 I starting acquired and managing
6 minerals in New Mexico. I have managed minerals in New
7 Mexico since that time.

8 **Q. So is it fair to say you've been in the business**
9 **for about 35 years?**

10 A. Yes, I believe so.

11 **Q. And I would ask now that Mr. Ragsdale be**
12 **admitted as an expert witness in this matter and that his**
13 **Direct Testimony be admitted into the record.**

14 MR. BRUCE: No objection, Madam Chair.

15 COMMISSION CHAIR SANDOVAL: Commissioners, do
16 you have any questions regarding the exhibits or concerns
17 about entering them into the record?

18 COMMISSIONER BLOOM: No, Madam Chair.

19 COMMISSIONER AMPOMAH: No, Madam Chair.

20 COMMISSION CHAIR SANDOVAL: Do we need to take a
21 vote for this, Mr. Moander, to enter them into the record?
22 I can't remember.

23 MR. MOANDER: What was that, Madam Chair?

24 COMMISSION CHAIR SANDOVAL: To enter exhibits
25 into the record, do we need to take a vote?

1 MR. MOANDER: No, you've got the power to do the
2 admission for the record.

3 COMMISSION CHAIR SANDOVAL: All right. The
4 exhibits are entered into the record.

5 MS. SHAHEEN: Thank you, Madam Chair.

6 Q. Taking a look at your Direct Testimony, Mr.
7 Ragsdale, let's just briefly walk through it.

8 You own the mineral interest that's at
9 issue in this proceeding; is that correct?

10 A. Yes.

11 Q. What is the nature of that interest?

12 I own approximately 4.89 percent working interest in the
13 spacing units and wells at issue in this proceeding.

14 Q. And it's your understanding that there are
15 undisputed facts in this case, right? And we've submitted
16 a revised set of undisputed facts; is that correct?

17 A. I believe so. Mewbourne and I agreed to a
18 number of undisputed facts that were submitted in this
19 Case before the Division. I also submitted the same set
20 of undisputed facts to the Commission as an attachment to
21 my Prehearing Statement in this proceeding before the
22 Commission.

23 Q. And that, the first set, was previously
24 submitted to the Division; is that correct?

25 A. I believe so, yes.

1 Q. And the Revised Statement is -- Statement of
2 Facts is the operative Statement of Facts at this point;
3 is that correct?

4 A. I believe so, yes.

5 Q. Here in your testimony here, you describe the
6 land and the wells at issue. Can you briefly describe the
7 lands and wells at issue for the Commission?

8 A. In Case No. 20580, Order No. R-20924 pooled the
9 Bone Spring Formation underlying the east half/east half
10 of Sections 10 and 15, Township 23 South, Range 34 East,
11 New Mexico -- in Lea County, New Mexico, for the purpose
12 of drilling the Ibex 10/15 B1AP Fed Com. Well No. 2H,
13 API No. 30-025-46188 (10/15 2H), and Ibex 10/15 B3AP Fed.
14 Com. Well No. 1H, API No. 30-025-46189 (10/15 1H).

15 Q. I'm sorry. In this case we are concerned with
16 the 10/15 2H, correct?

17 A. Correct.

18 Q. And in Case No. 20809, Order No. 20924-A pooled
19 the same unit, correct?

20 A. Correct.

21 Q. And they did that for the purpose of drilling
22 what we call the 15/10 2H; is that correct?

23 A. Yes.

24 Q. And please explain to the Commission the issue
25 in this proceeding.

1 A. The issue is whether Mewbourne can allocate
2 costs for the failed attempts to drill that 10/15 1H and a
3 substitute well, the Ibox 10/15 B1AP Fed. Com. No. 2Y,
4 which were incurred prior to any related Forced Pooling
5 Order in Mewbourne's estimated costs to drill the 15/10
6 2H.

7 **Q. And you did not enter an appearance in the first**
8 **case, right, regarding the 10/15 wells. Is that right?**

9 A. Did not. We did not object to the wells as
10 proposed by Mewbourne in its Well Proposal Applications,
11 and the related Notice Letter. Entering an appearance was
12 therefore unnecessary.

13 **Q. What happened after that?**

14 A. Prior to an Order being issued in Case
15 No. 20580, Mewbourne made two failed attempts to drill the
16 10/15 2H. Subsequently, and again prior to an Order being
17 issued in Case No. 20580, Mewbourne filed its application
18 is Case No. 20809 seeking to force pool the same lands for
19 the purpose of drilling the 15/10 wells.

20 **Q. Did you receive a Well Proposal for Case No.**
21 **20809?**

22 A. I did not.

23 **Q. Did you enter an appearance in that case?**

24 A. Did not.

25 **Q. Why not?**

1 A. My review of the filings in that matter, as well
2 as the resulting Order, indicate that it is the case.

3 Q. Let me clarify. You did not seek to enter an
4 appearance in Case No. 20809, the second case; is that
5 right?

6 A. Yes, that's right.

7 Q. And you didn't object to the wells that were
8 proposed by Mewbourne in Case No. 20809; is that right?

9 A. Yes, that's right.

10 Q. So there was no need to enter an appearance.

11 A. That's correct. There was no need to.

12 Q. And when you received the Notice Letter in the
13 application for Case No. 20809, did it say anything about
14 pooling four wells or was it only seeking to pool two
15 wells?

16 A. Only seeking to pool two wells.

17 Q. And at any time were you informed by Mewbourne
18 that they intended to force pool the 10/15 wells and the
19 15/10 wells in the same Pooling Order?

20 A. No, we were not.

21 Q. And at any time did Mewbourne inform you that by
22 electing to participate in the 15/10 wells you were
23 committing yourself to pay the actual costs for two failed
24 attempts to drill the 10/15 2H?

25 A. No, they did not.

1 **Q. When did you learn that Mewbourne considered the**
2 **15/10 wells to be, quote, "substitute wells" for the 10/15**
3 **wells?**

4 **A. When we received the AFE from them that had some**
5 **inflated costs that appeared to include the failed two**
6 **drilling attempts to drill the prior wells on our AFEs.**

7 **Q. And you were a few days late in returning those**
8 **executed AFEs, is that right, for the 15/10 wells?**

9 **A. We may have been, but I believe we were**
10 **challenging those costs, and there were some other**
11 **circumstances, as well.**

12 **Q. Now, here you -- let's just briefly run through**
13 **this about the exhibits that are attached to your**
14 **testimony.**

15 **Exhibit 1, can you tell the Commission**
16 **what's there in Exhibit 1?**

17 **A. Exhibit 1 contains maps that were submitted by**
18 **Mewbourne in support of its applications in Case No.**
19 **20809. The first page indicates the separate locations of**
20 **each of the four wells that were pooled in Case No. 20809.**
21 **The second page shows the locations of the 10/15 1H as**
22 **compared to the 15/10 1H, and the third page shows the**
23 **locations of the 10/15 2H as compared to the 15/10 2H.**

24 **Q. Let's take a minute. I'm going to take us to**
25 **.pdf page 22. This is the third page that shows the**

1 location of the 10/15 2H as compared to the 15/10 2H.

2 Does everyone see that map there?

3 COMMISSION CHAIR SANDOVAL: Yes.

4 Q. And Mr. Ragsdale, can you describe what is here
5 on the map?

6 A. The map, my understanding is it shows two wells,
7 and one well is going to be oriented from the north to the
8 south, and the second well will be oriented from the south
9 to the north. Just opposing directions.

10 Q. Is it your opinion those completed laterals,
11 really they converge at one end but they're not in the
12 same location? Correct?

13 A. That's correct.

14 Q. And I'm going back to your testimony, see if I
15 can get back to the right page. I'm close.

16 Turning to Exhibit 2, Can you explain to
17 the Commission what is in Exhibit 2.

18 A. This exhibit includes the C-102s for the 10/15
19 2H and 15/10 2H that were submitted by Mewbourne to the
20 Division in Case Nos. 20580 and 20809.

21 Q. Is there any indication on Exhibit 2 -- and I
22 can take us there, let me try to do that -- that indicate
23 Mewbourne intended to drill the 15/10 2H as a so-called
24 substitute or replacement well for the 10/15 2H?

25 And I'm going to take us to those C-102s, I

1 believe. Here we go.

2 So here is the 10/15 2H, and I'll turn now
3 to the 15/10 2H.

4 Is there any indication on this C-102 --
5 I'm going to make it just a little smaller -- that
6 Mewbourne intended to use this to drill this well as a
7 substitute well for the 10/15 2H?

8 A. No, there is not.

9 Q. Going on --

10 COMMISSIONER BLOOM: I'm sorry, Ms. Shaheen.

11 Madam Chair, may I interrupt with a
12 clarifying question?

13 COMMISSION CHAIR SANDOVAL: Commissioner Bloom,
14 can we hold the questions until after Mr. Ragsdale has
15 finished his testimony?

16 COMMISSIONER BLOOM: That's fine. Thanks.

17 COMMISSION CHAIR SANDOVAL: Ms. Shaheen.

18 Q. Turning to Applicant's Exhibits 3 and 4, can you
19 describe these exhibits.

20 A. Yes. These exhibits consist of exhibits that
21 were submitted by Mewbourne to the Division in Case Nos.
22 20580 and 20809 respectively, including the Verified
23 Statements of Mr. Robb, who is Mewbourne's landman.

24 Q. Is there any indication in those two exhibits
25 that Mewbourne intended to drill that 15/10 2H as a

1 so-called "substitute well" for the 10/15 2H?

2 A. No, there is not.

3 Q. Turning to Applicant's Exhibit 5, can you
4 describe this exhibit briefly.

5 A. Exhibit 5 is a Letter Election Notice from Mitch
6 Robb at Mewbourne to myself dated March 5, 2020, to
7 which is attached a Revised AFE for the 15/10 2H which was
8 revised to include the cost of the failed attempts, the
9 two attempts to drill the 10/15 2H.

10 Q. Okay. And I am going to try to take us to that
11 AFE just so we can all take a first look at it. And I'll
12 make it a little bigger here. We'll come back to this
13 with Mewbourne's witnesses, but can you indicate to the
14 Commission where the inflated cost is reflected.

15 A. Most of the inflated costs are on the Drilling
16 Intangible side, that one column.

17 Q. Is that here? Can you see my cursor, the little
18 hand.

19 A. Yes, I can. It has TCP which means two casing
20 points, and those costs are greatly inflated over the
21 other normal regular AFE.

22 Q. And you've tried to do the math with respect to
23 some of these numbers; is that right?

24 A. Yes, we have.

25 Q. Is the math -- does it -- is the correct math

1 reflected here in the TCP column?

2 A. No, it does not.

3 Q. So just scrolling down, I'll scroll down here to
4 the bottom of the page, and what was the total well costs
5 for this 15/10 2H?

6 A. The total on this AFE is 12.49 -- 12 million --
7 approximately 12.5 million.

8 Q. And how does that differ from the AFE that was
9 submitted to the Division in Case No. 20809?

10 A. It differs in the sense that it's approximately
11 34 percent higher, about \$3 million higher than the one
12 they submitted to the Division or the Commission, about
13 \$3 million higher, 33, 34 percent higher.

14 Q. All right. Moving on to Exhibit 6, can you
15 describe what Exhibit 6 is?

16 A. Exhibit 6 is an email chain dated March 11,
17 2020, between our landman Karen Stanford and Mitch Robb at
18 Mewbourne. This email chain reflects the questions that I
19 and Ms. Stanford had about the costs for the previous
20 failed drilling attempts imposed on the estimates costs
21 for the 15/10 2H.

22 Q. And before we look at Exhibit 6 -- I want to
23 take us there, but just to clarify, Ms. Stanford was
24 employed at that time as a contract landman for your
25 company Siana Oil & Gas; is that right?

1 A. Yes.

2 Q. And you are the sole proprietor of Siana Oil &
3 Gas?

4 A. Yes, that's correct.

5 Q. And at the time she was communicating with Mr.
6 Robb she was acting on your behalf; is that right?

7 A. Yes, it is.

8 Q. Let me take us to Exhibit 7 (sic).

9 I'll start at the bottom of the page,
10 because I believe these are in reverse chronological
11 order.

12 The bottom of email dated March 11, 2020,
13 do you see that?

14 A. Yes, I do.

15 Q. Is Ms. Stanford reaching out to Mr. Robb because
16 Mewbourne didn't send the Order with the Election Letter?
17 Is that right?

18 A. Yes, that's correct.

19 Q. Then Mr. Robb does respond pretty quickly, sends
20 her the Order. That's in this next email dated March 11,
21 2020, at 5:38 p.m. Do you see that?

22 A. Yes, I do.

23 Q. And here this final email is from Ms. Stanford
24 to Mr. Robb and copying you. And what is she telling Mr.
25 Robb here?

1 A. She's saying I'm trying to understand why, you
2 know, my AFE for one of the wells includes the P&A costs.
3 You know, the failed drilling costs of the first well, the
4 two failed drilling attempts. And then she asked if you
5 can please, you know, call me tomorrow and describe this
6 or explain what's going on, she would appreciate it.

7 **Q. And turning to Exhibit 7, is it your**
8 **understanding these are Ms. Stanford's handwritten notes**
9 **reflecting her call on your behalf with Mr. Robb?**

10 A. Yes, that's my understanding.

11 **Q. So it appears that she did talk with Mr. Robb.**
12 **Is that correct?**

13 A. It is her handwriting, I know that. And yes,
14 she did. It says 3:18. She called him, yes.

15 **Q. She has some notes here indicating what Mr. Robb**
16 **told her. Do you see that there?**

17 A. Yes, I do.

18 **Q. What did he tell her to do?**

19 A. Regarding the costs she (sic) referred him --
20 suggested that he (sic) call Jim Bruce.

21 **Q. Who is Mewbourne's attorney, correct?**

22 A. I believe so, yes.

23 **Q. Do you know one way or another whether Ms.**
24 **Stanford called Mr. Bruce?**

25 A. I don't think she did, but I don't know. I

1 don't think she did, but, like I said, I don't know.

2 Q. Okay. I'm going to just -- instead of going
3 back to your testimony here, I'm just going to rip through
4 the rest of these exhibit. This one looks like it got in
5 here twice.

6 This is Exhibit 8. Can you please describe
7 to the Commissioners what this letter is.

8 A. Exhibit 8 is a later dated April 15, 2020 from
9 myself to Ken Waits of Mewbourne including the executed
10 AFEs and explaining the basis for the amount I submitted
11 to participate in 15/10 2H well.

12 Q. And did you -- you explained to them why you
13 were submitting the amount that you were submitting.
14 Correct?

15 A. Yes, that's correct.

16 Q. And just summarize your explanation that's here
17 in the letter.

18 A. I submitted the amount of costs attributed to my
19 interest, without including the costs for the two failed
20 attempts on the junked and failed 10/15 2H wells.

21 Q. So you submitted the costs that were reflected
22 in the AFE that was submitted to the Division in Case No.
23 20809; is that right?

24 A. That is correct, yes.

25 Q. Turning to Exhibit 9, can you please -- oh, and

1 here is the AFE.

2 Is this the AFE that you signed that was
3 submitted to the Division in Case No. 20809?

4 A. I believe so. 9.3 or 9.4 million and I signed
5 it? Yes, that's the amount we submitted based on that AFE
6 that was submitted to the Division and Commission. Yes.

7 Q. And there were two wells, right? There was the
8 15/10 2H which is at issue here and the 15/10 1H; is that
9 right?

10 A. Yes, that's right.

11 Q. And the AFE for the 10/15 1H, you had no
12 objections to that one; is that right?

13 A. That's correct.

14 Q. And you submitted the payment and Mewbourne
15 deemed you consenting, electing to participate in that
16 well; is that correct?

17 A. Yes, that's correct.

18 Q. But they rejected your payment for the 15/10 2H
19 because you didn't include your proportionate share of the
20 extra 3.1 million; is that correct?

21 A. That's correct.

22 Q. Turning to Exhibit 9, can you briefly describe
23 this letter to the Commission?

24 A. The letter -- I mean Exhibit No. 9 was a
25 response from that letter that we had written to Ken

1 Waits. Bruce Insalaco wrote that letter to us dated May
2 15th.

3 **Q. And I'm going to interrupt you here for a second**
4 **because I think I put a couple of exhibits in the wrong**
5 **order, so I'm going to forward to Exhibit 10, because I**
6 **believe this is an earlier letter.**

7 A. That's correct. The 15th. I believe you're
8 right. There was a prior letter.

9 **Q. So here is -- this is Exhibit 10. Let's start**
10 **with this letter describe this letter to the Commission.**

11 A. And that's Exhibit 10?

12 **Q. Yes, the April 23rd letter, 2020.**

13 A. It's -- it's a letter from Bruce Insalaco in
14 response to our letter, and it's basically a rejection of
15 our payment of the -- a payment of, you know, the inflated
16 AFE that has the additional failed-well cost on it.

17 **Q. Okay. And then he gave you another opportunity**
18 **to come up with all of the money; is that right?**

19 A. Yes. Uh --

20 **Q. Then --**

21 A. -- he --

22 **Q. I'm sorry.**

23 A. Mr. Insalaco in his letter, he stated that the
24 only election available to pooled working interest owners
25 is to elect to render payment for the costs of all three

1 attempts to drill the First Bone Spring well, including
2 the two failed attempts to drill the 10/15 2H.

3 Q. And just to clarify -- we don't have the Order
4 in front of us right now, we'll take a look at that later,
5 but there's no provision in the Order that allows them to
6 charge those, or impute those costs on the 15/10 2H, is
7 there?

8 A. No, there is not.

9 Q. So turning back to Exhibit 9 -- and I think we
10 will be done here -- is this another follow-up letter from
11 Mr. Insalaco?

12 A. Yes, it is.

13 Q. And can you summarize what he says in this
14 letter?

15 A. This is Exhibit No. 9?

16 Q. Yes, it is. And you should see it on the
17 screen. If I need to make it bigger, I can make it
18 bigger.

19 A. I believe -- from recollection, he's just
20 basically saying that we made payment on one well, it was
21 accepted, but on the second well it's not going to be
22 accepted, the AFE they rendered to us does include the
23 failed two attempts and they weren't going to accept
24 anything less.

25 So they were deeming us nonconsent if we

1 don't make the full payment, and full payment to them was
2 the prior two junked, failed drilling attempts to drill
3 that prior well nine months prior or so.

4 Q. And I'm just going to go back to the last page
5 of your Direct Testimony to confirm that this concludes
6 your testimony at this time.

7 Is that right?

8 A. Yes, it does. However, as Applicant I reserve
9 the right to present additional direct testimony at
10 hearing on this matter.

11 MS. SHAHEEN: Thank you. Madam Chair, with that
12 I'll pass the witness. I may have some redirect or
13 rebuttal later on, so he will available later for that.

14 And I'll stop sharing unless someone wants
15 me to continue to share.

16 COMMISSION CHAIR SANDOVAL: Mr. Bruce, do you
17 have questions for the witness?

18 MR. BRUCE: Yes, Madam Chair.

19 CROSS EXAMINATION

20 BY MR. BRUCE:

21 Q. Mr. Ragsdale, if the first initial attempt to
22 drill this well had been successful although they had
23 drilling problems and they had incurred a couple or \$3
24 million extra costs and you had elected to join in that
25 well, would you be liable for those extra costs?

1 A. Yes, had I elected to join in the well, yes, I
2 believe I would.

3 Q. Okay. And I guess the same thing would pertain
4 if they junked the one hole and they moved the rig
5 slightly and they tried again. If that second well had
6 been successful the answer would be the same, isn't it?

7 A. Probably so.

8 Q. In these wells, the one you're concerned about
9 is the 15/10 B1, the First Bone Spring well; is that
10 correct?

11 A. Yes, that's correct.

12 Q. And the other well that was drilled was the
13 15/10 B3, which is a Third Bone Spring well in which you
14 also owned an interest. Correct?

15 A. Yes. Can I pause for a second?

16 MR. BRUCE: Sure.

17 THE WITNESS: I don't see you up on the screen
18 at all, Jim.

19 MR. BRUCE: I'm just on the phone, Mr. Ragsdale.
20 I'm not set up for video. Sorry about that.

21 THE WITNESS: I'm looking for you and I don't
22 see it.

23 MR. BRUCE: I'm nearing an age where I soon may
24 become a ghost, so just pretend I'm a ghost in the machine
25 here.

1 Q. Anyway, but you own an interest in both wells,
2 the B1 and the B3?

3 A. I own an interest in the unit out there, that's
4 correct.

5 Q. Okay. Do you still own an interest in the
6 production from the B3 well?

7 MS. SHAHEEN: Objection, form.

8 A. He --

9 COMMISSION CHAIR SANDOVAL: Sorry. What did you
10 say after that? Objection something.

11 MS. SHAHEEN: Form. I'm happy -- the concern is
12 that he's using different terms for the wells. He's using
13 the B3 term where it's not real clear. What we are
14 talking about here is the 15/10 2H, which is -- sorry,
15 excuse me, the 15/10 1H, which is a B3 well, and then of
16 course there's the 15/10 2H, which is a B1 well.

17 I would just like to clarify that we are
18 talking 15/10 and not the 10/15. It's a tongue twister.

19 COMMISSION CHAIR SANDOVAL: Mr. Bruce, would you
20 be able to refer to the wells in those terminologies?

21 MR. BRUCE: Yes.

22 COMMISSION CHAIR SANDOVAL: Okay.

23 MR. BRUCE: And once again, I --

24 COMMISSION CHAIR SANDOVAL: Thank you.

25 MR. BRUCE: Yes.

1 COMMISSION CHAIR SANDOVAL: Thank you.

2 Q. The 15/10 1H is the Third Bone Spring well.
3 Correct, Mr. Ragsdale?

4 A. I believe so.

5 Q. And you were given a chance to elect to join in
6 that well?

7 A. Yes.

8 Q. You did not timely elect for that well, did you?

9 A. I don't know the dates. I think we were told we
10 did, but I don't know those exact dates.

11 Q. Assuming you didn't timely elect, and I'll have
12 testimony to that from my own witness, Mewbourne still let
13 you into that well after that failure to elect, did they
14 not?

15 A. Yes.

16 Q. Okay. And you still own your interest in
17 production in that well.

18 A. I own an interest in that well.

19 Q. 4.89 percent?

20 A. I don't know the interest offhand.

21 Q. Well, your testimony at page 2 at the top of
22 page 2 of your testimony is you own a 4.89 percent working
23 interest in the spacing units and wells at issue in this
24 proceeding.

25 A. Yes, it does.

1 Q. Is 4.89 correct for the 15/10 1H well?

2 A. That was the correct amount that I owned and
3 that we paid on, yes.

4 Q. Do you own it now?

5 A. Like I said, I own an interest in that well now,
6 yes.

7 Q. How much?

8 A. I don't know the amount offhand.

9 Q. Okay. You sold that interest to a third party?

10 A. That's right, and retained some interest.

11 Q. Okay. Did you try to sell your interest in the
12 15/10 2H well, the first Bone Spring well?

13 A. Yes.

14 Q. That didn't materialize, did it.

15 A. No.

16 Q. Now you're challenging the extra 3 million, plus
17 or minus, in well costs for the 15/10 2H well. When was
18 the first time you submitted a challenge to Mewbourne Oil
19 Company regarding those costs?

20 A. I believe the first challenge would have been
21 when Karen Stanford called Mitch Robb to ask him about
22 this inflated AFE and the extra three million bucks, as
23 you say, was slapped on that AFE for another well.

24 Q. I'll have Mr. Robb testify about that phone
25 call, but isn't it your --

1 COMMISSION CHAIR SANDOVAL: Mr. Bruce, can I
2 just ask you to keep the commentary to a minimum. You're
3 welcome to put your witnesses on and testify about
4 whatever they need to, but if you could at least limit the
5 commentary during your questioning, please.

6 MR. BRUCE: Okay.

7 THE WITNESS: Thank you.

8 MR. BRUCE: Just a couple more questions, Madam
9 Chair.

10 **Q. When did you become aware that the original two**
11 **attempts to drill the First Bone Spring well were**
12 **unsuccessful?**

13 A. I believe sometime -- uh, you know, months after
14 those two failed attempts occurred, in a phone
15 conversation.

16 **Q. In a conversation with who?**

17 A. I don't recall. There were a number of people
18 that would call us with questions and ask us. I don't
19 recall who it was.

20 **Q. And did you receive information on those wells**
21 **from Tracy Anderson, from whom you acquired an interest?**

22 A. I did not receive any information from Tracy.

23 **Q. Now, during -- just one final thing.**

24 **The Election Letter was sent to you by**
25 **Mewbourne in, what, early March, is that correct?**

1 A. I believe that is correct.

2 **Q. A letter from Mitch Robb to you, your Exhibit 5;**
3 **is that correct?**

4 A. Yes, I believe that's correct.

5 **Q. Were you in your office during the month of**
6 **March?**

7 A. For most of the month we were in the office,
8 yes.

9 MR. BRUCE: That's all I have, Madam Chair.

10 COMMISSION CHAIR SANDOVAL: Thank you.

11 Commissioners, do you have questions for
12 Mr. Ragsdale?

13 COMMISSIONER AMPOMAH: Yes, I do. I don't know
14 if I could go first.

15 COMMISSION CHAIR SANDOVAL: Okay.

16 EXAMINATION

17 BY COMMISSIONER AMPOMAH:

18 **Q. Mr. Ragsdale, you know I do have a couple of**
19 **questions for you.**

20 **Mr. Bruce made question of Tracy Anderson.**
21 **I didn't see her name in any of your testimony so I want**
22 **to know who she is, and then if she has anything to do**
23 **with the well that failed.**

24 A. The last part of your question does she have
25 anything to do with the well that what? That failed?

1 Q. Yeah. Did she have any consensus -- does she
2 have agreement with Mewbourne before you took -- let's
3 see. Yes, if she had interaction with them, because I had
4 Bruce asking about her and notifying you about the
5 failed-well attempt.

6 A. That's not true at all. Let me answer that
7 question and I'll explain everything.

8 Tracy Anderson's a dear friend from Midland
9 for probably 30, 35 years. And Tracy had a number of
10 interests with us, and she went through a divorce and she
11 wanted to go ahead and -- you know, she didn't want those
12 interests any more that were with our company that we
13 operated, so we bought her out of the interests with us.

14 And then as she got deeper into the
15 Mewbourne stuff, she wasn't happy. She was spending a lot
16 of money and it wasn't making any money for her, and so
17 she wanted me -- she asked me if I would just take over
18 her interests for her.

19 Now, those two wells that were junked were
20 junked in the month of July of 2019. And I didn't even
21 acquire Tracy Anderson's interests -- it was in a number
22 of Mewbourne wells, primarily the Gazelle wells and Ibex
23 wells, the early wells that Mewbourne drilled that were
24 one-mile laterals. Nothing to do with any of these wells
25 and these Orders or what's at matter here. Tracy wanted

1 to unload them, it was costing her money. She, like I
2 mentioned, was going through a divorce. So she didn't
3 anything to do with Mewbourne, didn't want those wells.
4 She asked me if I would just take her interest from her.
5 She wanted just to give them to me. So there was no
6 mention of any failed wells. She was just very unhappy
7 with all the money she was spending and wanted to get out
8 of it.

9 Q. Thank you. I have another question.

10 On page 3 of your testimony when -- so you
11 were asked about, uh, when you did not object to the
12 appearance.

13 So I'll read that. You say that, just the
14 last part of it, just to pose my question.

15 (Reading) Seeking to force pool the same
16 lands but for the purpose of drilling the 15/10 wells.

17 You know, so don't you believe that those
18 force poolings that Mewbourne applied for in that same
19 land was specifically to drill the substitute well?

20 A. Uhm, yes, in a way. They were wells that were
21 going to be drilled and they had an Order. The prior
22 wells, they did not have an Order. We were not force
23 pooled. Mewbourne decided -- Mewbourne elected to drill
24 those wells without an Order. I didn't know about those
25 wells, I didn't have any reports on those wells, I didn't

1 know those wells were happening. I had no idea until
2 somebody, as I mentioned prior, called me months later
3 asking about these failed drills. We didn't get no
4 reports, we had no knowledge on them.

5 But the question you are asking, yes, they
6 are similar wells, but there was no indication that there
7 was going to be those failed costs, the \$3 million placed
8 on me nine months later that we think -- in which
9 Mewbourne did not have an Order for.

10 **Q. Mr. Bruce asked you if those wells were**
11 **successful would you have consented to it, and you said**
12 **yes in the cross-examination.**

13 A. Right.

14 **Q. So then why if they failed you don't want to**
15 **consent?**

16 A. We never had the opportunity -- we were never
17 force pooled. They did not have an Order.

18 **Q. So let me ask this one more -- let me ask this:**
19 **You know, Mr. Bruce talked about the other**
20 **interest owners in the -- in his opening statement that**
21 **they did not object to any of this, so they consented to**
22 **it. Why is this so different for you?**

23 A. It's different in the sense that we would have
24 made a presence, we would have appeared if we knew they
25 were going to try to slap some, you know, failed, two

1 failed costs of \$3 million bucks on us nine months later
2 that we had no knowledge of, we didn't know about. You
3 know, they didn't reach out to us, they didn't communicate
4 with us. Again, they weren't even sending daily journal
5 reports, so we didn't know what was going on.

6 Q. So back to the AFE question. You know, as the
7 aspect. You know definitely that AFE is not a static
8 document. It is dynamic, it changes. You know.

9 So you're talked about Mewbourne did not
10 notify the Division or, let's say, give them the correct
11 AFE. So do you believe that just the AFE omission, or
12 let's say the correct AFE provided to the Division
13 violates or, let's say, nullifies the Order that the
14 Commission or the Division gave?

15 A. Yes, I do. I believe it violates it, because
16 why didn't they present that AFE with the extra \$3
17 million? Why didn't they present that to the Division and
18 Commission? I think that was the right thing to do and
19 the fair thing to do, and everybody would have known about
20 it. That's what I call disclosure and accountability.

21 Yes, to answer your question, I believe
22 that's not the same AFE. It was for about 9.3 or 9.4
23 million and the one they give me is for, what, 12.5
24 million. I think that's wrong. It's not right.

25 Q. So do they present their right to also provide

1 **and AFE after a successful well is drilled to the**
2 **Division?**

3 A. No. You know, an AFE is an Estimated Well Cost.
4 It's before something happens. They were taking some
5 actual costs from the past, nine months prior, correct?
6 That AFE they sent me, the inflated one is dated March, I
7 believe, and the two junked wells were in July of '19. So
8 nine months prior they had some actual costs that they're
9 taking and just trying to slap it on the AFE, and I think
10 it was kind of deceivingly. They didn't give you all the
11 same AFE. They just mailed this one and said, "Pay this
12 amount or we're going to nonconsent you."

13 And we had some questions. That was the
14 questions that Karen Stanford was trying to ask them
15 about, "Hey, what are these costs, these additional costs
16 on these AFEs" It didn't seem right. You know?

17 **Q. My last question to you is: You know, as you go**
18 **through the testimony and the estimates that's shown to**
19 **us, it sounds to me that Mewbourne tried, you know, to**
20 **more or less reach a consent with you, but I guess you**
21 **didn't want to collaborate.**

22 A. You're saying that we didn't want to
23 collaborate?

24 **Q. Yes. Because if you look at all the testimony,**
25 **you can see how they are moving, they are trying to get**

1 you to the table. Because if you look at your evidence
2 and based on your lawyer's statement, the question was
3 asked to you that -- when Mr. Robb and Ms. Stanford, when
4 they had the initial conversation, Stanford was supposed
5 to call Mr. Bruce, and you said probably she did not.

6 So they gave you the opportunity multiple
7 times to come to the table, to come to a consensus, but it
8 sounds to like me like it all didn't work out.

9 COMMISSION CHAIR SANDOVAL: Dr. Ampomah, sorry.
10 Let me interrupt for a moment.

11 Can you make sure to frame this as a
12 question, please, if you are asking Mr. Ragsdale a
13 question.

14 COMMISSIONER AMPOMAH: Okay. Sure.

15 Q. Then the question is: It sounds to me you did
16 not want to collaborate, did not collaborate.

17 A. Let me answer. I don't think that's true at
18 all. I appreciate your question and you bring up a good
19 point.

20 We tried to collaborate. As a matter of
21 fact, we sent in the money. We sent in the money for both
22 of the wells. And on one of the wells they had the
23 inflated costs. It's not that we argued, or whatever. We
24 asked about those costs.

25 And I have to ask -- here's my answer to

1 you: Jim Bruce is not an employee of Mewbourne. I mean,
2 who concocted this idea? Who came up with this scheme?
3 You know, she asked the representative of Mewbourne, "Why
4 are these costs on here," you know, and his reply was,
5 "Call our outside attorney, he'll tell you" or something
6 or whatever. And she's wondering to herself, "What am I
7 doing calling an outside attorney?"

8 I don't think Mewbourne would ever contact
9 Ms. Shaheen, you know, our attorney, our outside attorney.
10 Mewbourne is the company. Mewbourne is who presented that
11 AFE to the Division and did not include those inflated
12 costs. She was asking them. It's their company, it's
13 their people, and she was asking the representative of
14 Mewbourne. And he obviously didn't want to answer. He
15 kept -- he hid the question, he didn't want to talk about
16 it with her. He said, "Call Mr. Bruce."

17 I think we did not -- it's not that we
18 didn't want to interact with them. We even sent our
19 check. We paid, and they rejected it. That's what this
20 whole matter is about. This whole matter is about them
21 taking the two failed wells of approximately \$3.1 million
22 and placing it on us that were force pooled owners. And
23 they did not have a CP, they went ahead of themselves.
24 For whatever reason they decided they would take that sole
25 risk of drilling those wells without getting an Order from

1 the Division, and then they went behind and submitted
2 lower AFEs than what they intended to submit to all of us
3 force pooled owners.

4 COMMISSIONER AMPOMAH: Madam Chair, thanks so
5 much. I have no further questions.

6 COMMISSION CHAIR SANDOVAL: Commissioner Bloom,
7 do you have any questions?

8 COMMISSIONER BLOOM: Yes. Thank you, Madam
9 Chair.

10 I don't know if this is for Mr. Ragsdale or
11 Ms. Shaheen.

12 Do you have in your evidence here the
13 contrasting AFEs, the ones with the lower prices that
14 apparently were sent to the Division?

15 MS. SHAHEEN: Yes, they are in the exhibits.

16 COMMISSIONER BLOOM: Can you pull those up for
17 me, please?

18 MS. SHAHEEN: I'm assuming you want to see the
19 AFE for the 15/10 2H that was submitted to the Division.
20 Is that right?

21 COMMISSIONER BLOOM: Yes. Yes.

22 MS. SHAHEEN: It will take me just a second to
23 remember what the .pdf page numbers are.

24 I am going to share my screen now. And I
25 believe this will be the one that was submitted to the

1 Division. I can make it little bigger but you won't be
2 able to see the whole thing. Oh, here we go.

3 So I'll scroll down so you can see the
4 costs and the date. And I believe this is part of
5 Exhibit 5, which are the exhibits that Mewbourne submitted
6 to the Division.

7 COMMISSIONER BLOOM: Thank you. And that's
8 Exhibit 5 and it's like 9.3 million.

9 What was the date on that? I can't quite
10 read it. Looks like 9-12.

11 MS. SHAHEEN: That's right. September 12th.
12 I'll make it a little bigger. September 10th, 2019.

13 And I'll just scroll up to the top to
14 confirm this is the 2H. (Note: Pause.)

15 Yes. You can see here it's the 15/10 2H.

16 COMMISSIONER BLOOM: Okay. Thank you. No
17 further questions at this time. Thank you.

18 COMMISSION CHAIR SANDOVAL: I just have, I
19 think, a couple of questions.

20 EXAMINATION

21 BY COMMISSION CHAIR SANDOVAL:

22 **Q. So, Mr. Ragsdale, did I hear you that you're**
23 **saying you were not notified for the pooling of the 10/15**
24 **wells?**

25 **A. Not notified. We may have been -- whenever we**

1 were notified it was well after they drilled the two --
2 they made two, not one but two failed drilling attempts in
3 July of '19.

4 We were notified of a hearing maybe weeks
5 or months -- months later, or when the Order came out.

6 Q. So you're saying you -- it looks like, what, the
7 initial Well Proposals for the 10/15 wells were mailed out
8 on March 19th, 2019, and it indicates you received them
9 on the 21st. So are you saying you never received those?

10 A. No, we received those. I'm sorry, I thought you
11 were talking about an Order.

12 Q. Okay. So you received that.

13 And then let's see. Did you receive the
14 Notice to Pool in Case No. 20580 on June 6th?

15 A. On June 6th? I don't know.

16 Q. Of 2019.

17 A. I'd have to see that document. I don't know
18 that date offhand.

19 Q. This may be general. Did you receive the Notice
20 to Pool and Application for Case No. 20580?

21 A. I believe we would have received the Notice,
22 yes.

23 Q. And then you did not make an appearance in that?

24 A. Correct.

25 Q. So your contention is that you never received

1 **the Final Order, not that you were not aware of the wells;**
2 **is that correct?**

3 A. We were not -- that's basically correct. We
4 were not aware of the wells. They didn't send us daily
5 reports, we had no idea they were drilling the wells, we
6 had no idea they had failed on the two wells and spent all
7 that money. They didn't send any daily reports.

8 **Q. Is that a requirement?**

9 A. You know, Ms. Sandoval, I don't know the
10 requirements, but the way Mewbourne does things their own
11 way, and if you own an interest and you're going to be
12 force pooled they generally will keep you off the reports.
13 They refuse to send you any reports or share any
14 information until you paid your money after the Forced
15 Pooling Order and after they've (inaudible).

16 They can be drawing wells -- if you --
17 you're going to participate and you paid, or -- and
18 they're not going to send you reports until either you ask
19 for them or they've received your money. They do not send
20 reports. We generally have to ask them, request them, and
21 sometimes numerous times, and they finally put us on
22 reports, to receive the daily reports to know what's going
23 on out there.

24 So we had no idea of the two, the two --
25 the 10/15 wells, we did not know.

1 Q. So if that was your understanding on how
2 Mewbourne operates, why did you not enter an appearance in
3 that original Case No. 20580 when you had gotten Notice
4 about the forced pooling?

5 What I'm asking -- do you understand what
6 I'm asking?

7 A. Not really.

8 Q. Okay. What you just stated to me sounds like
9 you have concerns with Mewbourne's operating practices and
10 reporting, et cetera, through the drilling process. Is
11 that correct?

12 A. Yes, that's correct.

13 Q. Okay. So if you have concerns about how
14 Mewbourne operates and the type of reporting that they
15 provide during the drilling process, why did you not
16 participate up front in the Forced Pooling Application to
17 say that you had an issue with being force pooled?

18 A. Uh, well, you know, we generally don't have an
19 issue. What's at issue are the difficult JOAs that they
20 present us. The JOAs are not acceptable, so thus we don't
21 sign them and thus we get force pooled.

22 To kind of answer, so we signed the JOA
23 with Mewbourne back in 2016 and we've never signed one
24 with them since, and we've probably been in 20, 25 wells
25 with them. So attend a hearing, then it probably -- first

1 off it would have been Ms. Stanford's recommendation.
2 She would have had a cooperation with Ms. Shaheen, and
3 they would have told me they thought it was a good idea.

4 We generally try to work with Mewbourne.
5 We call them, we ask them and try to get things done. A
6 lot of times, they don't do stuff, I have to call Ken
7 Waits, the president, who I've known for about 30 years,
8 and he makes it happen for us in the past.

9 So we try to work, we try to exhaust -- I
10 mean, we try to work hard with them to get the things that
11 we need, the things we like to have.

12 And back to your question. I don't know
13 what's required on reports. That's a good question.
14 Maybe in the future -- I mean, I guess we need to come to
15 Santa Fe to a hearing just to get our drilling reports or
16 to have Mewbourne correct them from now on.

17 Yeah, I mean, As I stated to you, they
18 refuse to send reports until -- what they've told us is
19 they can be drawing a well, and you're in the well and
20 you're force pooling, you're going to pay them. Until
21 they receive your monies, then they put you on reports.
22 And the well could have already been finished, you know,
23 by the time you paid, and you didn't know what happened
24 and couldn't monitor the daily progress nor monitor the
25 costs.

1 **Q. I guess I'm just confused about the contention.**

2 **You're still contending you didn't know**
3 **about the wells, yet you were notified about the**
4 **applications. Correct?**

5 A. Correct. We didn't know the wells were being
6 drilled at the time. You know, we just received some
7 paperwork from them. You know, as you mentioned, the
8 Notice to Drill. But we didn't know they were being
9 drilled. They happened without our knowledge, and we
10 didn't find out -- there was no polling the partners, no
11 asking the partners. They encountered a lot of drilling
12 difficulties. I mean, this wasn't just a couple of
13 hundred thousand dollars. They'd gotten down to a couple
14 of thousand feet on each well. They encountered a lot of
15 difficulties, and they elected to dry drill, which is, you
16 know, a very dangerous practice, and they ended up losing
17 both wells.

18 They didn't poll the partners, they didn't
19 talk to anybody, they just did everything at their own
20 sole risk when they didn't have an Order. They didn't ask
21 us anything or mention anything.

22 **Q. Is it common practice for operators to poll the**
23 **partners on how they are going to drill the wells if**
24 **Mewbourne is the operating, the one who is operating and**
25 **drilling the wells? Is that common practice?**

1 A. When Mewbourne's operating that's not common
2 practice. They don't reach out to anybody, they don't
3 share information, they don't poll partners. They do
4 everything their way. Most other operators when they run
5 into problems they'll notify the partners, and every once
6 in a while they send out election ballots. You know, do
7 you-all want -- we'll give you election right here: Do
8 you want to do this, do you want to do that? We're at a
9 difficult point right here. We're at a decision point.
10 Do you guys want to have a say-so in what we decide to do
11 next?

12 With Mewbourne that's not the case.

13 **Q. And how -- is this prior knowledge that this is**
14 **how Mewbourne operates?**

15 A. Yes. We're in -- we probably have 30 or 40
16 other operators that we deal with, so most reach out and
17 most, you know, want a good relationship with all their
18 working interest owners.

19 **Q. So if you had a concern about being force pooled**
20 **by Mewbourne ahead of time because you know their standard**
21 **operating practices and you don't prefer them, why would**
22 **you not make an appearance during the pooling application,**
23 **or any point during the process?**

24 A. I mean, we don't have a problem with -- we -- we
25 don't ever have a problem with the pooling process,

1 because we get force pooled, because we're not going to
2 sign the JOA. It's too egregious, it's too difficult the
3 JOA. But it's never been brought up that we need to go to
4 a forced pooling hearing, to go and discuss like receiving
5 drilling reports or getting better communication from
6 Mewbourne during the drilling completion process.

7 That's a good point you bring up, though.

8 **Q. But aren't you contending that -- I guess two**
9 **pieces, one that the Order should be revoked because there**
10 **was not proper Notice, or that there should be relief on**
11 **the costs. Correct?**

12 A. That's correct. I mean, we always thought it
13 was black and white you have to have an Order before you
14 drill, otherwise you do so at your own risk and own peril.
15 And they did not have an Order before they drilled. It's
16 very clear right here.

17 When they have the Orders, you know, we are
18 forced to pay, forced to prepay up front.

19 So that was one of the -- you're right.
20 That's one component of it, and then the second component
21 is they took that \$3.1 million and they're of masking it
22 on another AFE. I say masking it. You know, that was not
23 the AFE that was presented to you-all, to the Division or
24 Commission. It's a different AFE they presented to
25 you-all.

1 And I think accountability being clear, and
2 being -- I mean, if they wanted to present a higher one, I
3 don't know if you-all would have agreed to that or
4 (inaudible) to that, but they did not do that. They
5 presented a lower AFE, the actual well costs, whereas in
6 my case they took that -- they're taking -- I mean, what
7 they presented to you-all is going to be an estimated well
8 cost for one well. What they presented to me is going to
9 be an estimated well cost plus actual well costs for the
10 two failed attempts.

11 **Q. For the 15/10 wells, were you notified for those**
12 **pooling applications?**

13 A. I believe so, yes.

14 **Q. Did you participate in that compulsory pooling**
15 **hearing?**

16 A. No, we did not.

17 **Q. And that was where the original AFE of the**
18 **nine-million-something dollars was presented, correct?**

19 A. That's correct. The 9.3. You're right, that's
20 the original that was presented to y'all, that's correct.

21 COMMISSION CHAIR SANDOVAL: And maybe this is
22 for Ms. Shaheen. What was the date of the second AFE
23 again? The first one was, I think, 9-12 of '19. What was
24 the second date of the AFE that you received?

25 MS. SHAHEEN: As exhibit -- I'm sorry,

1 Mr. Ragsdale. Sounds like he has the answer.

2 THE WITNESS: No, she asked you, but -- I'm
3 sorry.

4 MS. SHAHEEN: I believe it was in March of 2020
5 when he received the Election Letter for the 15/10 wells.

6 Q. Is it not -- have you seen before where an AFE
7 differs from what was presented to the Division, as
8 opposed to what's presented to you later with actual
9 costs?

10 Mr. Ragsdale.

11 A. Oh. No, I have never seen that before. That's
12 the first time ever in our history of seeing that.

13 Q. So all the wells you have participated in, all
14 of the AFE costs are down to the dollar the same as the
15 original AFE which is presented to the Division, which is
16 usually an estimate?

17 A. Yes, it's the estimate, you know, of one well.

18 I've never seen multiple well, attempts for
19 some past actual costs being placed on an AFE, you know,
20 for another well. I've never seen that before.

21 Q. So you've never had a failed well attempt in
22 your history?

23 A. We have had failed well attempts, but we've had
24 the Forced Pooling Order where we paid. They had an Order
25 beforehand, yes, and you paid.

1 Q. Have you done any research of either surrounding
2 wells or similar situations to this where initial drilling
3 failed and what the costs were that were passed on to
4 operat- -- uh, some of the participants in those wells?

5 Have you done a sampling either -- of
6 surrounding or of situations that are similar to this, and
7 what occurred with the costs in those situations?

8 A. You know, we've had just numerous discussions,
9 and most of the discussions they lead to, it's back to the
10 Order. When you have an Order then you can go ahead and
11 proceed and drill. If you don't have an Order you're
12 drilling at your own peril and own risk.

13 That's what most people will say in the
14 business and industry, is that that happens.

15 And yes, to answer your question.
16 That's -- with the people we talked to, that was the
17 conclusion.

18 Q. I don't think that answered my question.

19 My question was: Are there situations
20 where a well has failed on drilling in the surrounding
21 area, or similar wells, and that cost was then passed on
22 later?

23 Did you do any research into other similar
24 situations and how that was managed?

25 A. Not in the similar area, like in this little

1 immediate area of New Mexico. We didn't do any, like,
2 study on that.

3 But, yeah, there are mechanical failures
4 happen and drilling failures do happen, and, like I noted
5 earlier, then a lot of times the operator reaches out to
6 the partners when you reach a decision point. You know,
7 who wants to proceed? We've lost circulation, we are not
8 able to regain circulations but we're going to try to.
9 They give you an election at certain points: Do you want
10 to go ahead, or do you want to go ahead and opt out of
11 this one?

12 So you're getting --

13 **Q. That's not -- I'm sorry. Go ahead.**

14 A. No, I'm sorry.

15 **Q. But that's not required, correct?**

16 A. Yeah, I believe you're correct. I mean, It's
17 not required. I think if it were required it would be
18 either a JOA or be required by the Division or Commission.

19 COMMISSION CHAIR SANDOVAL: Okay. I don't have
20 any further questions at this time.

21 Ms. Shaheen, do you have any redirect?

22 MS. SHAHEEN: I'd like to make an effort to
23 clear up the questions about Notice. I don't think it
24 would take me too long, if you don't mind.

25 COMMISSIONER BLOOM: Madam Chair, can I ask just

1 a couple of more questions, please, either before or after
2 redirect?

3 COMMISSION CHAIR SANDOVAL: Let's go ahead, and
4 Ms. Shaheen you can do redirect at the end.

5 COMMISSIONER BLOOM: Thank you, Madam Chair.

6 Let me look at my notes here real quick.

7 EXAMINATION

8 BY COMMISSIONER BLOOM:

9 Q. Mr. Ragsdale, this is a question I'll have for
10 Mr. Bruce and his witness later, but I want to give you a
11 chance just to speculate on this.

12 There was Order 20580 and 2 -- this failed
13 well was drilled. And if substitute wells are allowed,
14 why include them in a subsequent forced pool?

15 A. That's a good question. That's a very good
16 question. Are you asking me just to elaborate or
17 speculate on it?

18 Q. Yes. Thank you.

19 A. We operate a lot of properties, and I think -- I
20 want to clarify.

21 It's not the law, I don't think, but if we
22 had drilled a well without an Order we are at our own risk
23 and our own peril and we would have to absorb those costs.
24 And if we went to the Division or the Commission for a
25 second Order there wouldn't be any inflating costs and

1 there wouldn't be trying to go, you know, grab some costs
2 or pool some costs from the past, in which was our error,
3 and our error being not having an Order.

4 So it would simplify the process.
5 Evidently here Mewbourne does not want to absorb those
6 costs despite the fact that they did not have an Order.

7 I think the Division would be happy with
8 that, the Commission would be happy with that is what I
9 believe. But that's what I think most operators would
10 have done. It was a mistake they made and they are not
11 owning up to it. I think that's what's at heart right
12 here.

13 I think that kind of speculates on your --
14 I'm trying to give you a little of my color on your good
15 question there. We would probably have just absorbed the
16 costs because we made the mistake.

17 **Q. Thank you. I probably should have started with**
18 **a question I wrote down later, which is: Is it common**
19 **industry practice to take failed-well costs and insert**
20 **them in a subsequent forced pool?**

21 A. No, I don't believe so at all. That's not
22 common practice. As a matter of fact, this is the first
23 time I've ever seen it happen in all my years of
24 experience.

25 **Q. Thank you. And then one last question, I**

1 **believe.**

2 **Just to clarify, both AFEs, the \$9 million**
3 **one from September of '19 and the subsequent one, these**
4 **are both just estimates before drilling, correct?**

5 A. Yes and no. The first one is an estimate
6 because it's just about the one well. The second one is
7 not an estimate, because it has actual costs from two
8 prior attempts nine months prior. The AFE was done in
9 March and the two failed attempts were in July of '19.

10 The second one is not estimated costs, it's
11 a combination of estimated and actual costs. I want to
12 clarify that, if I could, please.

13 **Q. Yes. Right. Estimated plus the cost of the two**
14 **failed wells.**

15 A. Actual.

16 COMMISSION CHAIR SANDOVAL: Yes. Thank you.

17 No further questions. Thank you.

18 THE WITNESS: Thank you, Madam Chair.

19 COMMISSION CHAIR SANDOVAL: Thanks. I just --
20 sorry, I have one more follow-up.

21 **Q. So you, in response to Commissioner Bloom's**
22 **question, I think his first question, you said something**
23 **along the lines of, you know: If they don't have an Order**
24 **you would have just eaten the costs because that's the**
25 **right thing to do. Correct?**

1 A. As an operator, yes. If I took the sole risk,
2 if our company did, yes.

3 **Q. That's, I think -- it sounds like that would be**
4 **best practice. Correct?**

5 A. That's very well said, yes.

6 I believe that's what -- I believe if it
7 was an Exxon, XTO, or a Chevron, they would have known the
8 rules and knew they violated the rules, and they wouldn't
9 have made a fuss about this and tried to slap some costs.

10 MR. BRUCE: I'd object. That's pure
11 speculation. I object.

12 COMMISSION CHAIR SANDOVAL: To his response?

13 I think he can -- Mr. Moander, I think he
14 can speculate in his response.

15 MR. MOANDER: Yeah. Well, I think that
16 objection is not to the question, it's to the response,
17 and then the Commission can weigh that in terms of how
18 they view the statement made by the witness.

19 COMMISSION CHAIR SANDOVAL: Mr. Bruce, I still
20 have a follow-up question. Can I ask my follow-up
21 question, and let me know if you still have an issue.

22 MR. BRUCE: Sure.

23 **Q. So while that may, in your mind, Mr. Ragsdale,**
24 **be best practice, is that rooted in law or regulation?**

25 A. Uh, I don't believe so, to answer your question.

1 That's another good question. And it may be addressed in
2 a JOA but, again, we're force pooled.

3 But I don't believe -- to answer your
4 question, I don't believe it's rooted in law, and law
5 would probably refer back to a JOA, a contract.

6 **Q. And then I think you said --**

7 **Mr. Bruce, do you still have an objection**
8 **that we need to address?**

9 MR. BRUCE: No further objection. I'll just ask
10 my own witnesses.

11 COMMISSION CHAIR SANDOVAL: Thank you.

12 **Q. And then I think you responded, Mr. Ragsdale, to**
13 **Commissioner Bloom's question regarding, you know, have**
14 **you seen before if prior compulsory -- I'm sorry, prior**
15 **costs from failed wells have been add into a secondary**
16 **compulsory pooling application, and you said from your**
17 **knowledge they hadn't. Correct?**

18 A. Yes, ma'am, that's correct. From my knowledge.
19 I've never seen it before. And generally -- an AFE is
20 just a proposal for one well that has not been drilled,
21 and it's an estimated cost, you know, when the well -- you
22 know, for the future when the well will be drilled.

23 So I've never seen actual costs in the past
24 placed on an AFE, and for other wells, as well.

25 **Q. Did you or Ms. Shaheen do any broad research to**

1 **see if there have been other cases where this has happened**
2 **in the past?**

3 A. I had just talked to a number of people in the
4 industry, and they gave the same answer. The Division,
5 they think -- not the law but the Division. You have an
6 Order, and if you drill prior to an Order, you drill at
7 your own risk.

8 But I can't speak for the research that Ms.
9 Shaheen did. I'm not sure at this time.

10 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, did you
11 do any research to see if there are other instances where
12 failed drilling attempts have been incorporated in a later
13 compulsory pooling application, or down the road?

14 MS. SHAHEEN: I have not, but my understanding,
15 and I was going to clarify this with Mr. Ragsdale, is it's
16 a fundamental principle and it's an industry practice that
17 if you do not have an Order, which by the way is a law,
18 right, you're required to comply with an Order, and if you
19 don't have an Order then you can't do certain things. You
20 cannot impose the costs of failed attempts to drill a well
21 on persons who have not had an opportunity to elect to
22 participate under an Order. It's a fundamental principle
23 in industry practice, and that's what I believe Mr.
24 Ragsdale is trying to explain.

25 If Mr. Bruce has some case or some, you

1 know, research that he's done that says you can do that?
2 Because I've never seen it. And I think what Mr. Ragsdale
3 has just testified to is in his 35 years of experience
4 he's never seen it.

5 MR. BRUCE: I would like to respond, Madam
6 Chair.

7 COMMISSION CHAIR SANDOVAL: I think, Mr. Bruce,
8 unless you have an objection I think you're going to have
9 a response to call your own witnesses in a little while.

10 MR. BRUCE: Okay. But at that point I'd like to
11 mention a couple of things, and they're in the Division's
12 Order in this matter, that shows that there is law
13 allowing recovery of costs.

14 COMMISSION CHAIR SANDOVAL: Okay. You will get
15 your opportunity. The opportunity is not yet, though.

16 MR. BRUCE: Thank you.

17 COMMISSION CHAIR SANDOVAL: Thank you.

18 Ms. Shaheen, any further questions?

19 COMMISSIONER AMPOMAH: Actually, I do have.

20 COMMISSION CHAIR SANDOVAL: I'm sorry.

21 Dr. Ampomah.

22 COMMISSIONER AMPOMAH: Yes. Okay.

23 FURTHER EXAMINATION

24 BY COMMISSIONER AMPOMAH:

25 Q. So, Mr. Ragsdale, I do have a question. So what

1 we are discussing here now I want to know: Even if you
2 can add your failed attempt to a substitute well, if you
3 violate an Order, let's say you drilled a well prior to
4 issuing of the Order, you know, does that still equate to
5 the fact you can still add that cost?

6 A. I don't believe you can add those costs. I
7 don't believe you can if you drill it as you stated,
8 before you have an Order.

9 Q. You know, why did you not -- so in what
10 condition would you have made an appearance? You know,
11 because you have seen all of this, so in what condition
12 would you have made an appearance when these applications
13 were brought to, let's say, the Division to drill the
14 substitute well?

15 A. If we had known they were going to try to place
16 those two failed costs, the \$3.1 million, you know, on us
17 as force pooled owners, then we would have definitely made
18 an appearance at the hearing.

19 COMMISSIONER AMPOMAH: Thank you, Madam Chair.
20 No further questions.

21 COMMISSION CHAIR SANDOVAL: All right. Now, Ms.
22 Shaheen, I think you can redirect.

23 MS. SHAHEEN: Thank you. I think actually Dr.
24 Ampomah might have clarified the issue that I was going to
25 address, but I'll take a quick run at it.

1 REDIRECT EXAMINATION

2 BY MS. SHAHEEN:

3 Q. Mr. Ragsdale, you don't have a concern about
4 being force pooled; is that right?

5 A. No, we do not. Not at all, no.

6 Q. And you don't dispute that you had Notice of the
7 applications; is that right?

8 A. That's right, yes.

9 Q. The issue is you did not have Notice of their
10 intent to impose the costs of the junked wells on the
11 15/10 2H. Correct?

12 A. Yes, that's correct.

13 Q. And as you just explained to Dr. Ampomah, if you
14 had known that that's what they intended to do, you would
15 have entered an appearance. Correct?

16 A. Absolutely. We would have been there.

17 Q. But that information wasn't in the application,
18 right?

19 A. That's right. That's correct.

20 Q. It wasn't in the Notice Letter, was it?

21 A. No, it was not.

22 Q. And if you had entered an appearance you would
23 have received a Prehearing Statement. Right?

24 A. That's right. Yes.

25 Q. Did Mewbourne inform the Division in the

1 Prehearing Statement that it intended to impose those
2 costs of the junked well on the 15/10 2H?

3 A. No, they did not.

4 Q. And we, you and I, have both reviewed the
5 exhibits and the transcript from that previous hearing.
6 Did Mewbourne inform the Division at the hearing that it
7 intended to impose the costs of the junked wells on the
8 15/10 2H?

9 A. No, they did not. No.

10 Q. So even if you had entered an appearance you
11 couldn't have known that Mewbourne intended to impose
12 those costs, right?

13 A. That's correct. That's right, yes.

14 Q. And Dr. Ampomah also asked you about a
15 substitute well, correct?

16 A. Yes.

17 MS. SHAHEEN: And if you don't mind, Madam
18 Chair, I'd like to share one document, because I would
19 like to look at the regs for substitute wells. And I need
20 to move some things around here.

21 Okay. Let's see if I can share this now.
22 Sorry it's taking me a minute here. Let me just try this.

23 Does everyone see that?

24 COMMISSION CHAIR SANDOVAL: Yes.

25 MS. SHAHEEN: Okay. So this is 19.15.13.8 NMAC

1 that I copied and pasted from the official website for the
2 regs.

3 And if you turn to subsection B(5), I've
4 highlighted the language that pertains to a substitute
5 well.

6 **Q. Mr. Ragsdale, would you just read that into the**
7 **record, the highlighted language.**

8 A. (Reading) Substitute well is located within 330
9 feet of the original well and the operator commences
10 drilling within 10 days of the original well's
11 abandonment.

12 **Q. So was this well, the 15/10 2H, located within**
13 **330 feet of the original well?**

14 A. No, it was not.

15 **Q. And did the operator commence drilling within 10**
16 **days of the original well's abandonment?**

17 A. No, they did not.

18 **Q. So this would not qualify as a substitute well**
19 **under New Mexico law; is that correct?**

20 A. Yes, that's correct, it would not qualify as a
21 substitute well.

22 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, are you
23 going to be putting on another witness to talk about that
24 further?

25 MS. SHAHEEN: I am not planning to put on

1 another witness to talk about the law, but I am planning
2 to ask Mewbourne's witnesses about the location of the
3 well. And it's not disputed that it was several months
4 down the road that -- actually, I don't believe either of
5 those facts are disputed, although I think there's a spin
6 on it, if you will, when Mewbourne's witnesses talk about
7 a so-called mirror well or so-called replacement well.
8 And I plan to ask them questions about that.

9 But I do not have another witness.

10 COMMISSION CHAIR SANDOVAL: Mr. Bruce, are your
11 witnesses planning to testify about that?

12 MR. BRUCE: Yes.

13 COMMISSION CHAIR SANDOVAL: I guess, Mr.
14 Moander, I'm just wondering. This is sort of the first
15 time we're talking about replacement wells at this point.
16 And the Commission may have questions for Mr. Ragsdale
17 based on the redirect and the issue that just came up just
18 now. Can we go back and ask Mr. Ragsdale questions about
19 this, or what's the procedure?

20 MR. MOANDER: That's appropriate so long as you
21 don't release him after this is concluded. If you want to
22 ask additional questions of him you should be able to, as
23 a party, the primary party in the case.

24 So if you want to reserve questions and
25 examination for further examination of the witness for

1 later on in the hearing, you can certainly do that.

2 COMMISSION CHAIR SANDOVAL: Okay. So we could
3 recall him.

4 MR. MOANDER: You can recall him. As long as
5 you don't release him from testimony, then you should be
6 okay.

7 COMMISSION CHAIR SANDOVAL: Okay. I think that
8 would likely be the most appropriate.

9 Okay. I'm just doing a time check. I
10 think we should probably at least take a five-minute
11 break, but we are at 11:07, at least. Well, almost 11:10.

12 Thinking about sort of timing with lunch,
13 Mr, Bruce how long do you expect your first witness'
14 testimony to be without questions?

15 MR. BRUCE: Very brief without questions. I
16 mean, even the questions I ask will be pretty direct, so I
17 don't think my questioning of him would take maybe 10
18 minutes.

19 COMMISSION CHAIR SANDOVAL: Okay. So why don't
20 we take a five-minute break now. We'll come back.

21 So we are not excusing Mr. Ragsdale yet.
22 He may be recalled later.

23 So we will do a five-minute break. We'll
24 start with your witnesses and get through as many
25 questions before noon-ish, and then we can take a break

1 for lunch and come back.

2 Okay. So it's 11:08 right now. Why don't
3 we come back by 11:15.

4 MS. SHAHEEN: Thank you, Madam Chair.

5 THE WITNESS: Thank you.

6 (Note: In recess from 11:08 a.m. to 11:15 a.m.)

7 COMMISSION CHAIR SANDOVAL: All right. Let's get
8 started.

9 Oh, dear. I just got a computer restart
10 notification. Perfect timing.

11 Well, let's go ahead and get started.

12 Mr. Bruce, would you like to call your
13 first witness.

14 MR. BRUCE: Yes, Madam Chair. I would call
15 Travis Cude. And I guess I need him sworn in first.

16 COMMISSION CHAIR SANDOVAL: Mr. Cude, can we
17 hear you? I just moved you to a panelist, so you should
18 be able to control your video and audio.

19 You look muted. (Note: Pause.)

20 Mr. Cude, I unmuted you.

21 MR. BRUCE: Madam Chair, did you unmute them?

22 COMMISSION CHAIR SANDOVAL: I did. He should be
23 able to do everything on his own.

24 Mr. Cude? (Note: Pause.) Uhm.

25 MR. BRUCE: You might have unmuted the --

1 Oh, okay. My next witness is Mitch Robb. He is also on
2 Mitch Robb's computer, so if you could unmute.

3 (Note: Discussion held off the record.)

4 COMMISSION CHAIR SANDOVAL: I just moved Mr.
5 Robb to Panelist, so...

6 MR. CUDE: This is Travis Cude. We have one
7 computer set up, and Mitch Robb walked in.

8 COMMISSION CHAIR SANDOVAL: Okay. Gotcha. Ms.
9 Macfarlane, would you mind -- well, first of all, Mr. Robb
10 would you state your name and spell it, please, for the
11 record.

12 MR. BRUCE: Mr. Cude is up first.

13 COMMISSION CHAIR SANDOVAL: Oh, gosh. I'm
14 looking at the name under you.

15 Mr. Cude, would you please --

16 MR. BRUCE: I'm sorry.

17 COMMISSION CHAIR SANDOVAL: That's all right.

18 Would you state your name and spell it for
19 the record, please.

20 THE WITNESS: Travis Cude. T-r-a-v-i-s,
21 C-u-d-e.

22 COMMISSION CHAIR SANDOVAL: All right. Now
23 would you swear him in, please.

24 TRAVIS CUDE,

25 having been duly sworn, testified as follows:

DIRECT EXAMINATION

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BY MR. BRUCE:

Q. Mr. Cude, who do you work for and in what capacity?

A. I am a reservoir engineer for Mewbourne Oil Company in Midland Texas.

Q. And did you have a major part in the drilling of the Ibex wells?

A. Yes.

Q. Have you previously testified before the Division, not the Commission?

A. Yes, sir.

Q. And were your credentials as an expert engineer accepted as a matter of record?

A. They were.

Q. Have you previously testified before the Commission?

A. I have.

Q. And were your credentials as an expert recognized?

A. They were.

Q. Uhm, and just how long have you been working for Mewbourne Oil Company?

A. I've been at Mewbourne Oil Company for approximately ten years since I graduated from the

1 University of Oklahoma. I've been working our Permian
2 asset in Southeast New Mexico for approximately eight
3 years.

4 **Q. So are you familiar with the drilling of the**
5 **wells at issue here today?**

6 A. I am.

7 MR. BRUCE: Madam Chair, I'd ask that Mr. Cude
8 be recognized as an expert engineer by the Commission.

9 COMMISSION CHAIR SANDOVAL: Commissioners, do
10 you have any questions for Mr. Cude regarding the
11 certification?

12 COMMISSIONER BLOOM: No, I do not.

13 COMMISSIONER AMPOMAH: No, Madam Chair.

14 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, do you
15 have any comments or objections?

16 MS. SHAHEEN: No objection.

17 COMMISSION CHAIR SANDOVAL: Okay. Mr. Cude is
18 tendered as an expert in this matter.

19 MR. BRUCE: Okay.

20 **Q. Mr. Cude, did you prepare what I have marked as**
21 **Exhibit 1, a Self-Affirmed Statement regarding the basics**
22 **of the drilling of these wells?**

23 A. I did.

24 **Q. And do you adopt that testimony today?**

25 A. I do.

1 Q. And just briefly let's look at the timing, which
2 is kind of set out in paragraphs 3, 4 and 5 of your
3 statement.

4 When was the first well commenced?

5 A. The first well --

6 Q. The 10/15 2H.

7 A. July 7th of 2019.

8 Q. Did Mewbourne -- and I can get Mr. Robb to
9 testify more about this, but did Mewbourne have drilling
10 obligations that required it to commence the well in order
11 to save leases or assignments?

12 A. We did. And Mr. Robb would be better familiar
13 with those pertinent details.

14 Q. Now, you junked that hole. And what is the
15 basic reason? Loss of circulation that you couldn't do
16 anything with?

17 A. Yes, sir, that's correct. After we set 13 and
18 3/8 surface casing we encountered loss circulation below
19 that unconsolidated, uh, the Red Bed Formation, and we
20 stuck our drill string and were unable to fish it out of
21 the hole after multiple attempts. And so because of that
22 we decided to junk that hole and start again.

23 Q. Do you think that was a prudent decision?

24 A. Yes, our two recovery attempts were
25 unsuccessful. There was nothing to make us think that we

1 would be able to get it if we continued to try.

2 Q. Then the 10/15 2HY well, you just moved the
3 surface location slightly, correct?

4 A. Yes, I believe it was about 30 feet.

5 Q. And you had similar results there?

6 A. Yes, that is correct.

7 Q. And so after that was a determination made to
8 switch the surface hole location from the
9 northeast/northeast of Section 10 to the
10 southeast/southeast of Section 15 and drill to the north?

11 A. Yes, sir, that's correct. We reviewed, you
12 know, what we determined was the shallow-drilling hazard
13 and that surfacing from the south would minimize that
14 risk.

15 Q. Okay. This is mostly federal land in this well
16 unit?

17 A. Yes, sir. I believe it is entirely, 100 percent
18 federal minerals.

19 Q. And so because of the new surface location --
20 it's one thing to skid a rig over a short distance, as
21 opposed to moving a surface location a couple of miles
22 with BLM, is it not?

23 A. That is correct.

24 Q. And in obtaining a new APD from the BLM for the
25 drilling the subsequent -- what we have called the

1 substitute well or replacement well, approximately how
2 many months did it take?

3 A. Uhm, I'm not -- let me --

4 Q. Is --

5 A. Well, it can take from six months to a year is
6 pretty standard.

7 Q. Okay. But under the OCD regulation about moving
8 away from a junked hole, getting approval to drill within
9 10 days was not reasonable; is that correct?

10 A. That's correct.

11 Q. Now let's get into this situation about the
12 wellbore itself, of the completed 15/10 2H well.

13 Is Mewbourne -- do you consider this to be
14 a mirror location of the wells that were spudded up in
15 Section 10?

16 A. Yes.

17 Q. It's the same Bone Spring zone that's being
18 tested in these two wells, correct?

19 A. Yes.

20 Q. And was the wellbore virtually the same drilling
21 south to north as was proposed drilling north to south?

22 A. Yes. I think, you know, in the world of
23 horizontal wells, uh, you know, we typically look at where
24 our first take point is and where our last take point
25 is -- and within that, you know, perspective I believe

1 that the, you know, first take points and the last take
2 points of the 10/15 2H and 2HY and the 15/10 2H are within
3 150 feet of each other.

4 Q. So that's well within the 300 feet for having a
5 substitute or replacement well in your opinion?

6 A. In our opinion, yes.

7 Q. Okay. Now, in drilling a well, an AFE is simply
8 an estimate; is that correct?

9 A. Yes.

10 Q. Problems can be encountered, increased well
11 costs?

12 A. Yes.

13 Q. Let me ask: Mewbourne has drilled other wells
14 nearby the well at issue here today, correct?

15 A. Yes, sir. I think we probably operate close to
16 30, if not more, horizontals within this Township, drilled
17 and --

18 Q. And, uh, were there any problems encountered in
19 drilling those wells like you encountered with this
20 particular well?

21 A. No, sir, this is the only one.

22 Q. So it was completely unexpected?

23 A. Yes.

24 Q. And I'll ask you the same question I asked Mr.
25 Ragsdale: When you first encountered problems with the

1 10/15 2H, if you had continued drilling trying to get
2 through the issues that you had and had made a well, do
3 you believe -- and you spent X amount, whatever that may
4 be, \$500,000, 1.5 million, whatever, do you believe that
5 cost could have been reasonably recovered as part of the
6 AFE costs?

7 A. Yes, absolutely.

8 Q. And same thing after the second attempt was
9 made?

10 A. Yes.

11 Q. Do you believe that those costs are reasonable
12 well costs?

13 A. Yes, sir.

14 Q. Just a couple more final well questions.

15 The costs on the 15/10 2H AFE as originally
16 submitted, do you think those were proper?

17 A. When you say originally submitted, are you
18 referring to Case No. 20809?

19 Q. Yes, sir.

20 A. Yes, sir. We viewed those as the costs going
21 forward to successfully drill and complete the 15/10 2H.

22 Q. Okay. Because the other costs have already been
23 incurred, correct?

24 A. That's correct.

25 Q. And was the 15/10 2H well successfully drilled?

1 A. It was.

2 Q. Is it still producing?

3 A. Yes, sir. We began producing that well, I
4 believe in December of 2020, and it is still producing.

5 Q. Has it paid out?

6 A. I don't know that it has quite reached payout, I
7 know our accounting system is probably a couple of months
8 behind as far as revenue goes, but it would be very close.

9 Q. So it should pay out and make a well.

10 A. Yes, sir, absolutely.

11 Q. And based on that do you think Mewbourne's
12 decision to junk the first two holes and drill from south
13 to north were reasonable?

14 A. I do.

15 Q. And Mewbourne acted as a prudent operator?

16 A. Yes.

17 Q. And when you're talking payout, you're talking
18 payout of the total \$12 million, plus or minus, correct?

19 A. Yes, sir. 100 percent payout of the costs.

20 Q. Do you have anything further to add at this time
21 before I turn you over, Mr. Cude?

22 A. No, sir.

23 MR. BRUCE: Okay. With that, Madam Chair I will
24 turn the witness over for cross-examination, and I would
25 move the admission of Mewbourne's Exhibit 1, which is Mr.

1 Cude's Self-Affirmed Statement.

2 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, any
3 objections to admitting Exhibit 1?

4 MS. SHAHEEN: No objection.

5 COMMISSION CHAIR SANDOVAL: Commissioners, any
6 objections or questions on Exhibit 1's admission?

7 COMMISSIONER BLOOM: No, Madam Chair.

8 COMMISSIONER AMPOMAH: No, Madam Chair.

9 COMMISSION CHAIR SANDOVAL: Mewbourne's Exhibit
10 1 is entered for the record.

11 MR. BRUCE: Thank you.

12 COMMISSION CHAIR SANDOVAL: All right. Ms.
13 Shaheen -- Oh.

14 MR. BRUCE: I -- yes, I was just saying I have
15 no further questions, Madam Chair.

16 COMMISSION CHAIR SANDOVAL: Thank you.

17 Ms. Shaheen, would you like to cross the
18 witness?

19 MS. SHAHEEN: Yes. Thank you.

20 May I share my screen?

21 COMMISSION CHAIR SANDOVAL: Yes, I think you
22 still have permission.

23 MS. SHAHEEN: Can everyone see that? I'll make
24 it a little bigger.

25 COMMISSION CHAIR SANDOVAL: Yes.

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CROSS EXAMINATION

BY MS. SHAHEEN:

Q. Mr. Cude, let's just take a look first at paragraph 3. You explain when that first attempt was made to drill the 10/15 2H, correct?

A. Yes.

Q. And it was commenced on July 7, 2019.

A. Yes.

Q. And at that time there had been no Order force pooling these wells; is that correct?

A. I believe that to be correct.

Q. When you had these issues that you discussed, did you talk to any of your -- any of the working interest owners about the issues that you had run into?

A. Personally I did not.

Q. Well, let me ask that in a better way.

Did Mewbourne reach out to any of its working interest owners to discuss the issues that it was having?

A. I believe we did. That probably would have fallen under Mr. Robb's purview.

Q. Oh, okay. So I should can Mr. Robb about that?

MR. BRUCE: Ms. Shaheen, I was going to ask Mr. Robb about that, so you will have your chance.

MS. SHAHEEN: Okay. Thank you.

1 Q. So turning to that fourth paragraph here, you
2 were explaining when the second attempt was made to drill
3 the 10/15 2H. And I understand that was on July 26th. Is
4 that correct?

5 A. When we spud the second well, yes.

6 Q. And again there was no Order entered at that
7 time, correct?

8 A. Correct.

9 Q. And Mr. Ragsdale had not had an opportunity to
10 elect to participate under a forced Pooling Order; is that
11 right?

12 A. I'll defer to Mr. Robb, but I believe that would
13 be correct.

14 Q. Okay. Now, in paragraph 5 you talk about a
15 replacement well. Now, we looked at the regulation
16 earlier that relates to a substitute well. Were you
17 present for that testimony?

18 A. Yes.

19 Q. Okay. And let's just take another look at it
20 while you're here. Let me see if I can find it here.

21 Can you see that?

22 A. Yes.

23 Q. And you see the language highlighted in yellow?

24 A. Yes.

25 Q. And what are the requirements for a substitute

1 well?

2 A. (Reading) Substitute well is located within 330
3 feet of the original well and the operator commences
4 drilling within 10 days of the original well's
5 abandonment.

6 Q. So you agree that this doesn't, the 15/10 2H
7 doesn't fall within the purview of this regulation
8 regarding a substitute well. Do you agree with that?

9 A. I believe that our horizontal well is, you know,
10 located within 330 feet of the original well.

11 Q. Well, we are going to take a look at that in a
12 minute.

13 Did the operator commence drilling within
14 10 days?

15 A. We were not able to do that.

16 Q. So you would agree that the well, the 15/10 2H,
17 does not satisfy as the requirements of this particular
18 regulation; is that correct?

19 A. That is correct.

20 Q. So you talk about a so-called replacement well
21 on paragraph 5. Do you see that? And that's the first
22 paragraph 5.

23 Oh, wait. Let me go back to that.

24 Your first paragraph 5 here, you talk
25 about -- and it's right here where my little hand is --

1 "Replacement well." Do you see that?

2 A. Yes.

3 Q. Is there a regulation that addresses replacement
4 well?

5 A. I suppose there's -- I don't know if it's
6 defined as a replacement well.

7 Q. So -- well, let me rephrase that.

8 Are you aware of any regulation that
9 defines a replacement well?

10 A. I am not.

11 Q. Are you aware of any regulation that provides
12 that an operator can impose the costs of a replacement
13 well when a Forced Pooling Order was not previously
14 entered?

15 MR. BRUCE: I'd object because it calls for a
16 legal conclusion.

17 MS. SHAHEEN: Well, let me ask it differently.

18 Q. Are you aware of any regulation that pertains to
19 replacement wells?

20 A. I believe I testified about that essentially --
21 I mean, a substitute well, whether or not it's an
22 interchangeable term or not.

23 Q. Are you aware of any regulation that
24 specifically refers to a replacement well?

25 A. No.

1 Q. Turning to your paragraph 5, your second
2 paragraph 5, here you're referring to what you call a
3 mirror well. Do you see that?

4 A. Yes.

5 Q. Are you aware of any regulation that refers to a
6 mirror well?

7 A. I'm not aware.

8 Q. Let me ask you this: How often has Mewbourne
9 drilled a well that resulted in a junked well without a
10 Forced Pooling Order?

11 A. I don't have that information.

12 Q. Are you aware of any other time when Mewbourne
13 had a failed attempt to drill a well without a Forced
14 Pooling Order?

15 A. Without a Forced Pooling Order?

16 Q. Right. Sorry. I'm taking a long time to get my
17 question out.

18 A. Not off the top of my head.

19 Q. So would it be fair to say this is the only
20 instance which you know of that Mewbourne drilled a well
21 that failed prior to getting a Forced Pooling Order?

22 A. I don't know.

23 Q. To your knowledge.

24 A. To my knowledge.

25 Q. And just to clarify: To your knowledge, this is

1 the only time when Mewbourne has had a failed attempt to
2 drill a well without a Forced Pooling Order. Is that
3 right? Is that to your knowledge?

4 A. Uh, to my knowledge. You know, I know Mewbourne
5 has been around since 1965, and I came to New Mexico and
6 I've been here since 2014. So to my knowledge in that
7 time -- I haven't been involved in every single well that
8 Mewbourne has drilled in that time, but yeah, personally
9 I'm not aware of that.

10 Q. Do you know of any other time when Mewbourne
11 would have imposed the cost of drilling a failed -- a
12 failed drilling attempt on something other than a
13 substitute well?

14 A. Could you ask that --

15 Q. Yeah, that wasn't a very good question.

16 Are you aware of any instance in which
17 Mewbourne has attempted to drill a well and failed,
18 without a Forced Pooling Order, and then subsequently
19 imposed those costs on a well that did not fall within the
20 requirements for a substitute well under New Mexico
21 regulations?

22 A. I mean, I'm sure that there are instances where
23 we've imposed the costs of a failed well that was not
24 subject to a Forced Pooling Order onto those parties.

25 Is that what you're asking?

1 Q. I think so. Again that wasn't a very good
2 question, but let me see if I can explore it a little
3 further with you.

4 So the circumstance is a little
5 complicated, but in some ways it's pretty simple. Right?
6 Mewbourne drilled a well, it wasn't successful, they had
7 no Forced Pooling Order.

8 And let me ask it this way: Has Mewbourne
9 ever assumed the risk and absorbed the cost of a failed
10 drilling attempt?

11 A. I'm not sure what you mean by assumed the risk.

12 Q. Were you present for Mr. Ragsdale's testimony?

13 A. I was.

14 Q. If you did not have a JOA and you drilled a well
15 that was unsuccessful and you subsequently got a JOA,
16 would you be able to impose those costs on the JOA
17 parties?

18 MR. BRUCE: I would object because JOAs are
19 handled by landmen like Mr. Robb, and not by the
20 engineers.

21 MS. SHAHEEN: Okay. So I should ask that
22 question of Mr. Robb.

23 MR. BRUCE: Yes, please.

24 MS. SHAHEEN: Okay. Let me make a note of that.

25 Sorry, I'm still sharing. I got to be

1 careful here.

2 Q. Okay. We were talking about whether you talked
3 to -- oh, that was another question you referred to Mr.
4 Robb. Sorry.

5 Now, you testified earlier about the AFEs.
6 Do you recall that testimony?

7 A. From Mr. Bruce?

8 Q. Yes.

9 A. Yes.

10 Q. Okay. Let me go back here to your affidavit.
11 That might be helpful. Let's try this one.

12 Okay. You testified about the AFEs. Are
13 you familiar with the AFEs in this matter?

14 A. I am familiar with the AFEs, yes.

15 Q. Okay. Did you testify in either of the previous
16 hearings?

17 A. I did not.

18 Q. Did --

19 A. Well, excuse me. Let me rephrase that.

20 I did not testify in Case 20580 or Case
21 20809. I did previously testify in Division Case 21324.

22 Q. Okay. Thank you for that clarification.

23 So with respect to the applications for the
24 10/15 wells and the 15/10 wells, you did not testify or
25 provide an affidavit or any evidence in those proceedings;

1 is that correct?

2 A. I did not.

3 Q. So did -- going back to your paragraphs 2 to 3
4 here -- or, sorry, 3 and 4 -- was this information
5 provided to the Division in either Case No. 20580 or
6 20809?

7 A. I would need to look at the timing of Case No.
8 20580. I believe that that case occurred before these
9 drilling attempts.

10 Q. Good point. So do you know whether this
11 information was presented to the Division in Case No.
12 20809?

13 A. I did not testify in that case. I'm not aware.

14 Q. So you're not aware that this information was
15 presented to the Division?

16 A. I am not aware whether it was or was not. I was
17 not a part of that case.

18 Q. Is that a --

19 A. I would imagine that this explicit statement is
20 not part of the record.

21 Q. And why is that?

22 A. We typically, you know, don't share confidential
23 well information with parties that haven't elected had to
24 participate in wells.

25 Q. So you're saying you don't share this

1 information until after someone has elected to
2 participate?

3 A. Mr. Robb could probably, you know, answer this
4 better and more fully than I can, but, you know, that's my
5 understanding.

6 Q. And the reason I'm asking you is because you're
7 the one that has it in your affidavit here. Right?

8 A. I mean, I testified as to what happened on the
9 drilling rig.

10 Q. Right. But you don't know whether this
11 information was provided to the Division except for today,
12 is that right, and the last hearing before the Division
13 that Mr. Ragsdale brought.

14 A. Yes. Yes.

15 Q. Okay. Let's take a look at the AFEs. I brought
16 that up earlier -- I have to switch gears here -- when Mr.
17 Bloom asked about -- let me see if this is it. No.

18 Here we go.

19 Okay. Here is the AFE for the 15/10 2H
20 that was submitted to the Division. Do you see that?

21 A. I see the top portion there, yes. I just --
22 sort of keep scrolling down. I assume that's correct.
23 Yes.

24 Q. It looks like this was prepared by Jacob Maxey.
25 Who's Jacob Maxey?

1 A. He works in our operations office in Hobbs, New
2 Mexico.

3 Q. And it was prepared on September 10th, 2019,
4 correct?

5 A. Yes.

6 Q. And this does not include the cost of the junked
7 wells, correct?

8 A. I do not believe so.

9 Q. And did you participate or assist Mr. Maxey in
10 any way in developing this AFE?

11 A. I did not.

12 Q. Do you know who determined those costs for the
13 junked wells shouldn't be included in the estimated costs
14 for the 15/10 2H?

15 A. Can you repeat the question? I'm sorry.

16 Q. Yes. Do you know who at Mewbourne decided that
17 the junked well costs should not be included in the AFE
18 that was submitted to the Division?

19 A. I do not explicitly know.

20 Q. When you say "explicitly," what does that mean?

21 A. I couldn't point to one person. I mean, yeah,
22 Jacob Maxey prepared the AFE, but it was approved by our
23 Vice President of Operations.

24 Q. And who is the Vice President of Operations?

25 A. Monty Whetstone.

1 Q. And that's his signature there where it says
2 Company Approval?

3 A. Yes, ma'am.

4 Q. Did you look at this AFE before it was submitted
5 to the Division?

6 A. That's a good question. I would assume I
7 probably did.

8 Q. Do you know whether at the time this AFE was
9 submitted to the Division Mewbourne had already decided
10 that it was going to charge the costs for the junked wells
11 on the 1/10 2H?

12 A. I'm not certain about that.

13 Q. Who would know?

14 A. I guess we could ask, you know, Mr. Robb.
15 Probably, you know, our Vice President Bruce Insalaco, who
16 has since retired.

17 Q. Let's turn now to the Revised AFE that was sent
18 to Mr. Ragsdale. So you can see here this is the 15/10
19 2H, and if you scroll down you can see the date on this
20 one. Do you see that there?

21 A. Yes.

22 Q. And what is the date on this one?

23 A. March 2nd, 2020.

24 Q. And this was prepared by L. Jackson?

25 A. Levi Jackson is an engineer in our Hobbs, New

1 Mexico operations office.

2 Q. And do you know whether someone at Mewbourne
3 instructed Mr. Jackson to include the estimated costs
4 for -- sorry, to include the actual costs for the junked
5 wells in this AFE for estimated costs?

6 A. Do I know? Can you...

7 Q. Do you know who told Mr. Jackson to include
8 those junked well costs in this AFE?

9 A. No.

10 Q. Do you think that he did that of his own accord?

11 A. No.

12 Q. Have you reviewed this AFE previously?

13 A. Yes.

14 Q. Let's take a look up at the top here.

15 Were you present for the testimony of Mr.
16 Ragsdale when he testified that what he called inflated
17 costs, the charges for the junked wells are in this
18 portion of the AFE, the column that's TCP.

19 A. Yes.

20 Q. Do you know who determined to include those
21 costs in this TCP column for the intangible costs?

22 A. No. And I guess I was assuming this is our, you
23 know, standard AFE procedure for sending this out, so it
24 just runs through our operations office.

25 Q. It's your standard procedure to include the

1 costs for junked wells in the TCP column of intangible
2 costs?

3 A. I'm saying as far as -- you're asking me who
4 determined to prepare this AFE. I don't -- you know,
5 outside of the just kind of the standard procedure we have
6 for preparing AFEs, I don't know anything further than
7 that.

8 Q. Did you review the math that relates to this
9 AFE?

10 A. I have not.

11 Q. Let's take a look at Row 4 here,
12 Daywork/Turnkey/Footage Drilling?

13 Do you see that?

14 A. Yes.

15 Q. 30 days drilling. And then there's a rate,
16 \$21,500 a day. Do you see that?

17 A. Yes.

18 Q. And so is it correct that you would multiply
19 \$21,500 times 30 days to arrive at the amount in this
20 column, the TCP?

21 A. I mean, I guess potentially there's also taxes
22 involved, and I think there is a, uh, few other things
23 that go into it.

24 Q. You're saying -- have you ever prepared an AFE?

25 A. I have.

1 Q. Do you calculate taxes and include that in the
2 TCP column?

3 A. Yes.

4 Q. So when you multiply 30 times \$21,500 you're
5 saying there is additional taxes that would be tacked onto
6 that?

7 A. Yes, there's, I believe, sales tax.

8 Q. So sales tax is what, about 8 percent?

9 A. (Note: No Response.)

10 Q. Is that right?

11 A. Yes.

12 Q. That's what you use when you prepare AFEs?

13 A. Correct.

14 Q. So if you were to calculate 30 times 21,500,
15 you're saying that results in a number of \$645,000?

16 And you could check my math if you want. I
17 used my calculator.

18 So are you telling me that the extra here
19 for the -- the difference between the 1,116,000 and the
20 645,000 is sales tax?

21 A. No, that's not what I'm saying.

22 Q. Okay. What is the difference between the
23 645,000 plus tax and the \$1,116,000?

24 A. I believe it's the drilling cost incurred on the
25 original wells. You know, the sum costs that we'd already

1 spent included in there.

2 Q. So this is where they added the costs for the
3 junked wells?

4 A. Yes.

5 Q. Is that explained anywhere here on the AFE?

6 A. You know, I'd probably defer to Mitch Robb. We
7 typically don't just send out AFEs to parties. There's
8 usually a Proposal Letter which he would have prepared
9 that would cover some of your questions on this.

10 Q. Let's take a look at that Proposal Letter, or do
11 you think I should wait on Mr. Robb to look at the
12 Proposal Letter?

13 MR. BRUCE: I would object to any testimony
14 because that's Mr. Robb -- he testified about that at the
15 prior hearing.

16 MS. SHAHEEN: Hopefully I'm going to remember
17 all these questions for Mr. Robb.

18 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, I just
19 want to do a quick time check. How much longer do you
20 think you have in terms of questioning? And that will
21 dictate when we take a break. We can take a break now or
22 wait until you're done.

23 MS. SHAHEEN: Well, since it seems like Mr.
24 Crude is deferring many of these questions to Mr. Robb,
25 I'm going to go out on a limb here and speculate that I

1 won't be any more than 10 or 15 minutes with Mr. Cude.

2 COMMISSION CHAIR SANDOVAL: Okay. We will go
3 ahead and finish your questioning, then, and then we will
4 take a lunch break and then we can come back for
5 Commission questions.

6 Go ahead. Continue.

7 MS. SHAHEEN: Thank you.

8 Q. Now I want to go back to your previous testimony
9 about the location of the well, and I'm going to turn now
10 to the Order that was entered in 20809. I believe Mr.
11 Bruce attached that as Attachment C.

12 I'll switch documents here. Try this one.

13 A. Is it maybe D?

14 Q. Was it D? Which one is it?

15 No, I think it's C, and I think it's at
16 .pdf page 10.

17 Okay. So here's the Order that was
18 entered -- oh, this is the Order that was entered in
19 20580. Am I getting my numbers mixed up. Oh, it's D.
20 You were right. It's D. Sorry about that.

21 Okay. Here we go. It's 20809, Order
22 R-20924A. So here we have the Order and the Findings of
23 Facts. What I want to take a look at is Exhibit A. It's
24 Exhibit A that describes the wells that are being force
25 pooled.

1 Here we have Proposed Wells. So this Order
2 pooled all four wells. It pooled the 10/15 1H, the 10/15
3 2H, the 15/10 1H and the 15/10 2H; is that correct?

4 A. Uh.

5 Q. Oh, here. Wait. Now. Does that help?

6 A. Yeah. I guess we pooled the spacing unit and
7 then the proposed wells here are the ones that you listed,
8 yes.

9 Q. Right. So this Order was dedicated -- this unit
10 is dedicated to these four proposed wells. Would you
11 agree?

12 A. Yes.

13 Q. And in your experience when you have a Forced
14 Pooling Order or Compulsory Pooling Order and there are
15 multiple wells, isn't it true that you send out an AFE for
16 each well?

17 A. I mean, I typically don't deal with the Notice
18 or the force pooling process. That's usually handled by
19 our landmen.

20 Q. Okay. That sounds like another question for Mr.
21 Robb. But let's look at the locations of the wells,
22 because I think this pertains directly to your testimony.

23 So here we have the Ibex 10/15 2H. Do you
24 see the surface hole, 375 feet from the north line and
25 1107 feet from the east line.

1 A. Yes.

2 **Q. And if I understand correctly, these are**
3 **flipped, right? So that the surface hole would be**
4 **analogous -- the surface hole of the 10/15 2H would be**
5 **analogous to the bottomhole of the 15/10 2H.**

6 **Do you I understand that correctly?**

7 A. Uh, not particularly. You know, I know that we
8 would have filed directional surveys in our exhibits for
9 these pooling cases which would have outlined where our
10 first and last take points for each well is. And so I
11 don't know that the surface location is particularly, I
12 think as you said, a mirror to the bottomhole location,
13 but as far as the first take point and the last take
14 point, you know, of our well, where that well is
15 traversing, yes, those are effectively mirrors of each
16 other.

17 **Q. In your opinion.**

18 A. In my opinion.

19 **Q. So are the first take points or the last take**
20 **points provided on this Exhibit A?**

21 A. I don't know that -- I don't see them on
22 Exhibit A, but, as I mentioned, you know in the case files
23 for 20580 and 20809 we would have submitted a directional
24 survey which would show those take points. And taking
25 those into account, I mean they are within 330 feet of

1 each other.

2 Q. Let's take a look at that, because, uhm, I know
3 I have C-102s in a couple of different places here. Let
4 me see if I can find the ones we need.

5 Okay. This appears to be the 10/15 2H.
6 Can you identify the take points here?

7 A. This is our C-102. This is not our
8 directionals.

9 Q. Okay. So let me go to the exhibits, see if you
10 can direct me to those directional surveys.

11 So I'm going to go to Exhibit 3. And this
12 is kind of a long -- if I put "survey" in here, would it
13 pop up? Or as I scroll, you tell me if you see it?

14 Here's the C-102 again.

15 MR. BRUCE: Excuse me. Just for ease of
16 reference, directional pooling plans would be right at the
17 end of the geologist's testimony.

18 MS. SHAHEEN: Okay. That's helpful.

19 Let's go to the geologist. Okay.

20 MR. BRUCE: Past all of the geologic plats.

21 MS. SHAHEEN. Okay.

22 Q. Am I getting close?

23 A. Uh, Yes. Yes. So right there you have the
24 first take point 100 feet from north line and 450 feet
25 from the east line, and then our bottomhole location

1 there, 100 feet from south line, 450 feet from east line.

2 Q. It's interesting. So the first take point and
3 the surface location. Okay.

4 And where is the last take point?

5 A. Well, you know, generally it's probably pretty
6 close to the bottomhole location. So I don't specifically
7 see the last take point on here, but I mean our bottomhole
8 location there is 100 feet from south line and 400 feet
9 from east line.

10 Q. So the last take point is not reflected here.
11 Is that correct?

12 A. It may show up, you know, in more -- this is a
13 pretty long document.

14 Q. I think this is the end of it.

15 A. If you were to keep going there. Okay.

16 You know, I don't have our exhibits that we
17 filed in this case right in front of me.

18 Q. Okay. It looks like I might have to do a little
19 homework over lunch to explore this a little, but let me
20 just take a minute to see if I'm done here. (Note:
21 Pause.)

22 You previously talked about a payout for
23 this well. Do you remember that?

24 A. Yes.

25 Q. When do you expect to reach payout in this well?

1 A. You know, I guess that's subject to a lot of
2 factors, but, you know, assuming like consistent pool
3 price and operating costs, uh, being modeled, that we
4 would achieve payout -- you know, if nothing were to
5 change, I'm sure certainly within the next year.

6 **Q. So that would be a year and a half to two years**
7 **after drilling?**

8 A. Yeah, certainly after the well came online,
9 December 28th of 2020.

10 **Q. Have you provided the participating parties a**
11 **payout statement?**

12 A. You know, I don't deal with that. I'm not sure.
13 But, I mean, if the well hasn't paid out, I don't know
14 that we would have sent one. But I'm not sure.

15 **Q. Okay. I'm going to stop sharing just for a**
16 **minute so I can make sure I'm done here. (Note: Pause.)**

17 Okay. You know, I think that covers my
18 questions here unless if I need to follow up with you
19 about the first take points and the last take points, I
20 would ask that you be available. But if Mr. Robb can
21 testify to that, I'm fine with that, too.

22 **And I pass the witness.**

23 COMMISSION CHAIR SANDOVAL: Thank you.

24 All right. It is 12:12. Why don't we take
25 an hour for lunch and come back at 1:15. We will continue

1 with Mr. Cude when we start back up, with Commission
2 questions.

3 Mr. Moander, would you mind staying on for
4 a minute while we figure out this computer restart thing,
5 please.

6 MR. MOANDER: Absolutely, Madam Chair. Happy
7 to help.

8 COMMISSION CHAIR SANDOVAL: All right.
9 Everybody else, we will see you back at 1:15.

10 (Note: In recess from 12:13 p.m. to 1:18 p.m.)

11 COMMISSION CHAIR SANDOVAL: All right. I think,
12 Mr. Cude, you're still up.

13 Ms. Shaheen, it sounded like you might have
14 a follow-up question.

15 MS. SHAHEEN: No, I'm good. Thank you.

16 COMMISSION CHAIR SANDOVAL: Okay. Great.

17 Well, Commissioners, do you have questions
18 for the witness?

19 COMMISSIONER AMPOMAH: Yes, Madam Chair, I do.

20 COMMISSION CHAIR SANDOVAL: Go ahead.

21 EXAMINATION

22 BY COMMISSIONER AMPOMAH:

23 Q. Mr. Cude, I know you're an engineer. I guess I
24 can ask the technical questions.

25 In No. 3 three of your testimony, at the

1 end of it, the one that is showed, the well commenced July
2 7, 2019, and I want to know was the Order received, you
3 know in terms of the forced pooling, received prior to the
4 drilling this well on July 7, 2019?

5 A. Uh, let me look through my history here. I
6 believe the Order was received after that date.

7 Q. So are you saying the Order was received prior
8 to this date or after this date?

9 A. After.

10 Q. So then it means you commenced drilling before
11 having the Forced Pooling Order?

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

13 Q. In No. 5, the first No. 5, you have talked about
14 after the failed attempt Mewbourne decided to move to a
15 good location where they feel it's the best location to
16 drill this well to avoid the same problems that you guys
17 encountered in the two failed attempts. Now my question
18 to you is -- and if you cannot, I guess Bruce or any of
19 the witnesses can respond to that. Do you recall, with
20 the law, you know, clarifying with the Division before
21 moving to the new location to still make sure that you
22 guys were, that Mewbourne was in compliance?

23 A. That's a good question, and I'm not sure about
24 that, whether we did consult the Division or not.

25 Q. Now, in No. 5, so the second No. 5, and we all

1 understand that there could be some delays, especially
2 when dealing with BLM so definitely there was a little bit
3 of delay there, but I want to ask: Is there any
4 accommodation under New Mexico state law to account for
5 these potential delays to avoid that 10-day lapse for the
6 well to qualify for the substitute?

7 A. Yeah, I guess it's my understanding -- I think,
8 you know, the administrative code as it relates to that
9 probably hasn't been updated since 2008 -- you know, prior
10 to really modern horizontal development in New Mexico --
11 so I don't believe it does.

12 Q. So do you believe then that the Division or
13 Commission needs to look into that?

14 A. Uh, yes, sir, I think that would be reasonable.
15 You know, I think most rigs nowadays, uh, you know, we are
16 drilling multiple horizontal wells from a single location.
17 You know, our rigs have walking packages that are maybe
18 150 feet, you know, of lateral movement there. So I don't
19 even know that it's feasible to, you know, be able to spud
20 a new well within 10 days within 330 feet, as that's
21 stated.

22 And then obviously, again with, you know,
23 just the BLM and the backlog that they have as far as
24 permitting goes, you know I've never seen an APD been
25 issued in 10 days from them, at least, you know, in the

1 last few years. And certainly, you know, I think that you
2 would, I mean, absolutely have to apply for a new APD if
3 you were to move quarter/quarter sections, which even
4 under the Division's rules, you know, could still be
5 within 330 feet, and you would need to apply for a new
6 permit there.

7 So, you know, I think you're right. I
8 guess just to answer your question, I do think this is
9 something that should be looked at.

10 **Q. Okay. Now to the engineering questions.**

11 **You talked about like potentially on lapses**
12 **in the deadline for the lease, so that's why Mewbourne had**
13 **to drill the well, probably before receiving the Order.**

14 **Now, I want to ask: Did Mewbourne rush**
15 **into drilling this well without doing due diligence, you**
16 **know, to seal the deadline, the lease deadline, where it**
17 **did not really account for potential drilling hazards that**
18 **may have caused the failure of the wells?**

19 **A. I, I -- I don't think so. You know, I'd have to**
20 **check my, you know data on this.**

21 **But these were the 7th and 8th wells, at**
22 **least what's called the 10/15 1H and 2H, they were the 7th**
23 **and 8th wells that Mewbourne had drills in these two**
24 **sections. And so we had a history drilling here. You**
25 **know, we'd done our homework over a number of years here.**

1 You know, we just encountered, you know, the hazards that,
2 you know, we obviously weren't able to work through, and,
3 you know, just by flipping the locations, you know, we
4 were able to just solve that. I think it ws just -- you
5 know, if you want to call it a sweet spot or the opposite
6 of a sweet spot, whatever that would be. But I don't
7 think that we rushed into drilling these.

8 **Q. So do you know in terms of the substitute law**
9 **that was shown to us today, do you know if there is a**
10 **different description with regard to, let's say, on the**
11 **BLM, or is it the same with New Mexico, do you know, where**
12 **one can qualify to be a substitute well?**

13 A. What the federal regulations would state?

14 **Q. From the state. Do you know?**

15 A. I don't know off the top of my head whether they
16 have specific regulations as to what a substitute or
17 replacement well would be.

18 **Q. Now let me ask: So with regards to you talked**
19 **about the horizontal well probably just rule needs to be**
20 **amended here and there, so from your opinion what do you**
21 **feel in this situation we are dealing with qualifies as a**
22 **substitute well?**

23 A. I think that, you know, certainly the Division's
24 standoff, you know, I think in my opinion the 330 feet
25 probably has something specifically to do with the source

1 of supply that you are drilling to produce from, and that,
2 you know, if you were to move more than 330 feet away from
3 your original location, you know there's a possibility
4 that the geology could change. And I think that's, you
5 know, the premise of the law and why that's written, is
6 that, you know, it's probably not the same well and the
7 produced formation, you know, could be different.

8 And so from this standpoint, I do think
9 that our application of first take point and last take
10 point, you know, being within the same 330 feet, you know
11 mitigates that, it complies with the spirit of the law
12 there, as we interpreted it. And so, you know, really I
13 think it's just a matter of, you know, continual
14 operations, diligent operations to spud a replacement
15 well. You know, there are a lot of things that go into,
16 you know, drilling a 2-mile lateral here, and so as long
17 as, you know, you're diligently getting the appropriate
18 approvals from the regulators, be it BLM, be it be NMOCD,
19 and that you're -- you know, that you work to spud a well
20 within a very reasonable manner, that that should be a
21 substitute or replacement.

22 **Q. In your testimony you talked about how Mewbourne**
23 **will not share well information or even the drilling**
24 **process, whatever concern with that particular well, with**
25 **parties that have not elected to participate. You know.**

1 **So why do you guys do that? Why does**
2 **Mewbourne do that?**

3 A. Well, I mean obviously everyone has an
4 opportunity to elect to participate in a well before we
5 spud it. I mean, we send out Well Proposals, they can
6 voluntarily sign a JOA. So certainly the parties that are
7 subject to the JOA that have elected to participate in the
8 well, we share all the well data with them. And they're
9 an owner, they've paid their bills, and so they, you know,
10 have a right to the data.

11 I guess in the matter of forced pooling I
12 think it's pretty industry standard not to share, you
13 know, confidential well information with parties that
14 haven't elected to participate, you know, in those wells
15 at that point.

16 You know, I think that's probably the risk
17 that a party takes when they don't consent to join a well
18 under a JOA.

19 **Q. So then does that mean that here, not electing**
20 **to sign the JOA and probably they have not been force**
21 **pooled, that should relieve them of the financial**
22 **responsibility, if they wanted to in the future sign a JOA**
23 **or go to be force pooled?**

24 A. I'm sorry. I missed your question there.

25 **Q. So I'm asking: You don't share the confidential**

1 information with companies that have not elected to join.
2 Now I'm asking: If a company decides not to join and they
3 are not force pooled, or let's say there has not be an
4 Order received that has forced them to join, will you say
5 that -- does that not still -- let's say does that relieve
6 them from any future expenses when in the future they
7 elect to join?

8 A. I guess if you're asking as to the particular
9 well --

10 Q. Uh-huh. Yes.

11 A. -- not as to, like, potentially infill wells
12 drilled in that proration unit.

13 I think it would be our opinion, and then I
14 could defer to Mr. Robb on this, as well, to get his
15 opinion, but if you elected to participate in the well at
16 some point, you would be subject to the costs of that
17 well.

18 Q. Okay. Let's see. Now I want to ask you -- so
19 let's assume that's before the Commission. I want to have
20 your take on that; you've been in the industry for almost
21 18 years, thereabouts. So if, let's say, what the
22 Petitioner has put before the Commission, if it's allowed
23 what do you think the implication will be on the industry?

24 A. Well, you know, I guess certainly there's the
25 matter of what are reasonable well costs and, you know, a

1 lot of those decisions could be reviewed. I mean, as far
2 as revoking our Pooling Order, I don't -- you know, I
3 think that the Division has a process for parties to
4 review well costs and petition those, and for the Division
5 to determine whether they are, you know, appropriate or
6 not.

7 And so I don't -- I don't know that our
8 Pooling Order should be revoked because our well costs are
9 not deemed appropriate.

10 COMMISSIONER AMPOMAH: Thanks so much, Madam
11 Chair. I do not have any further questions.

12 COMMISSION CHAIR SANDOVAL: Thank you.

13 Commissioner Bloom, do you have questions
14 for the witness?

15 COMMISSIONER BLOOM: Sure, Madam Chair. Thank
16 you. I do have a couple.

17 Thanks for your testimony, Mr. Cude. I
18 think I'll ask both these questions to you and Mr. Robb
19 since you're covering overlapping territory here.

20 EXAMINATION

21 BY COMMISSIONER BLOOM:

22 Q. You provided an AFE for \$9 million to the OCD
23 for the 15/10 wells, and then one that was some \$3 million
24 more was sent out to the potential partners in that.

25 Uhm, is this appropriate under OCD

1 **regulation?**

2 A. I think my understanding of the AFE that
3 Mewbourne submitted in Case 20809, the one you're
4 referring to that was the \$9 million, our interpretation
5 of that AFE is that it was the costs going forward to
6 drill that particular 15/10 2H well.

7 You know, I believe that we had tried to
8 reopen Case 20580, so that's why this is an Amended Order
9 with just a different case number, and so, you know, then
10 all of the wells are included under this new Amended
11 Order. But, you know, it was the costs for drilling that
12 well going forward, and so then when we submitted those
13 costs to Mr. Ragsdale, that second AFE incorporates all of
14 the costs that had been, you know, incurred and were
15 estimated in that second AFE.

16 **Q. Did you ask the OCD for permission to pass along**
17 **those costs that pushed the AFE up to \$12 million plus?**

18 A. Specifically I did not, I was not part of that
19 hearing, but I do believe that Mr. Bruce asked for the
20 costs of all of the wells to be incorporated in the Order.

21 **Q. The one phenomenon that concerns me in**
22 **government or as a government regulator in privatizing,**
23 **really, allowing profits to pool in one area and then**
24 **costs to be spread out or socialized.**

25 **To your knowledge, Mr. Cude, is there --**

1 July 24th of 2019 that we plugged that well, and then we
2 commenced the 10/15 2HY on July 26th.

3 Q. Okay. So I'm looking at the original Order,
4 order R-20924. So this originally went before the
5 examiner on June 27th of 2019. So less than a week after
6 that hearing you spud the wells initially, correct?

7 A. I guess that would be about 10 days.

8 Q. Do you know when the original application was
9 filed?

10 A. I do not have that in front of me. I know Mr.
11 Robb would...

12 Q. All right. And this may be a question for Mr.
13 Bruce, but would it not be a violation of the Division's
14 rules to move forward in spudding wells that you don't
15 have all of the appropriate permits for yet?

16 A. Well, I didn't think that -- sorry, go ahead,
17 Jim.

18 MR. BRUCE: Madam Chair, first of all, and this
19 has been what I am was going to say a little earlier, is
20 that if you look at the pooling statute, 70.2.17C states
21 that an interest owner who has the right to drill, who has
22 drilled or proposes to drill a well on a well unit can
23 apply to the Division for a Pooling Order. You can pool
24 before, during, or after the well is drilled under the
25 statute.

1 And I don't have it in front of me but
2 there is case law from other states that says the same
3 thing.

4 Furthermore, there is a case, New Mexico
5 Supreme Court case, Bellet v. Grynberg, which is 114 New
6 Mexico 690, in which Mr. Grynberg, who is a person of some
7 notoriety in past New Mexico oil and gas history,
8 owned/operated wells on certain tracts. And he had other
9 interest owners in the tracts, and he went ahead and did
10 some work on wells, either redrilling or reworking,
11 without force pooling or anything, and the Court said
12 those people are liable, the other interest owners are
13 liable for the reasonable well costs incurred by the
14 operator of the well.

15 So there's a difference. You absolutely
16 have to get the APD, the Application for Permit to Drill
17 before commencing, but the thing is obviously for state
18 and federal lands -- state and fee lands, you get that
19 through the Oil Conservation Division. For federal lands
20 you got to go through the BLM. And yes, you need to get
21 those APDs, but it is not illegal to commence a well
22 before getting a Pooling Order, or before getting
23 everybody signed up to a JOA.

24 COMMISSION CHAIR SANDOVAL: So I just want to
25 make sure I'm understanding that you're representing under

1 70.2.17C it allows you to move ahead and start drilling at
2 any -- before you have a Pooling Order, and you can get
3 that Pooling Order at any point in time.

4 MR. BRUCE: Yes. I have -- I -- usually, of
5 course, the procedure is to get the Pooling Order before
6 you commence drilling, but I've been getting Pooling
7 Orders, just because of certain time deadlines which
8 Mewbourne had in this case, while a well is drilling, and
9 even long after a couple of wells were drilled, just due
10 to various title issues and things like that.

11 But, you know, when it comes to just
12 drilling a well, as long as you own an interest in a well
13 unit, you can drill a well and you can seek to recover
14 costs incurred in drilling that well from the other
15 working interest owners.

16 MS. SHAHEEN: I --

17 MR. BRUCE: And that was -- go ahead.

18 MS. SHAHEEN: Madam Chair, I'm not going to
19 object so long -- and I won't interfere, other than to say
20 I would like the opportunity to address these very
21 principles that Mr. Bruce is espousing at this time.

22 COMMISSION CHAIR SANDOVAL: That's fine. I'll
23 give you an opportunity. Yes.

24 MS. SHAHEEN: Thank you.

25 MR. BRUCE: The only other thing I would say is

1 that there was a big fight among several operators over in
2 Lea County. This must have been -- oh, I could look it
3 up. And it involved, like I said, three or four different
4 parties. But it was a mess, and it went up to the
5 Commission, and the Commission Order in this case said
6 that you can't -- basically said you have to own an
7 interest in each quarter/quarter section in the well unit
8 in order to drill a well, in order to commence a well, but
9 you don't need a Pooling Order beforehand.

10 And that was upheld in Lea County District
11 Court.

12 COMMISSION CHAIR SANDOVAL: Do you have --

13 MR. BRUCE: So --

14 COMMISSION CHAIR SANDOVAL: Do you have an Order
15 number for that?

16 MR. BRUCE: I do not, because it just popped
17 into my head right now. It was a -- I can get the OCD
18 case number, which would -- at that point it would be the
19 same case number before the Commission.

20 I will look into that and get that case
21 number for you, but I do not have it off the top of my
22 head. It was probably 2006 or something, 15 years ago, at
23 least.

24 COMMISSION CHAIR SANDOVAL: So a couple of years
25 before my time here.

1 MR. BRUCE: Many, many years before your time
2 here.

3 COMMISSION CHAIR SANDOVAL: Okay. Yeah, that
4 would be helpful.

5 And Ms. Shaheen, my plan would be to kind
6 of finish through Mewbourne, and then I'll give you
7 another opportunity, and we may have additional questions
8 for Mr. Ragsdale.

9 MS. SHAHEEN: Okay.

10 Q. So basically it sounds like, as you represent
11 the law and statutes, Mewbourne was well within their
12 rights to have moved forward prior to having the Pooling
13 Order.

14 A. Yes, that's our position.

15 Q. Okay. All right. You -- okay. I want to talk
16 a little bit about substitute wells. I think -- what are
17 we on? Let me pull up the right citation, as well.

18 Okay. A substitute well has to be within
19 330 feet and 10 days. And you said in your testimony, I
20 believe, that you considered the well, the mirror well, to
21 be within 330 feet. Can you explain that to me, please.

22 A. Absolutely. So, you know, we certainly have --
23 surface locations, I know many of times you can obviously
24 also circle (phonetic) off a lease and drill onto your
25 lease, and so our interpretation here is that the

1 completed interval of the wellbore, you know, being -- you
2 know, drilled two miles in a direction, you know,
3 underneath the earth, I mean complies with that statute
4 that the original first take point, you know, being our
5 first perfed part of the lateral, was originally 100 feet
6 from north line and 450 feet from east line, and the
7 bottomhole location which, you know, also in many cases is
8 your last take point, was 100 feet from south line 15, and
9 450 feet from the east line. When we moved the well
10 location to the south line of Section 15 to drill north,
11 our last take point -- excuse me, our first take point was
12 now 100 feet from south line, 450 feet from east line of
13 15, and 100 feet from the north line and 450 feet from the
14 east line of 10.

15 So from that standpoint -- and we were
16 basically -- you know, the TVDs were all the same, we were
17 drilling in the First Bone Spring Sand. You know, we
18 never got there coming from the north, but we drilled the
19 exact same lateral in the First Bone Spring Sand coming
20 from the south. So our completed wellbore certainly
21 complies with this.

22 **Q. So you're interpreting the rule to be 330 feet**
23 **from the wellbore, not the surface location?**

24 A. Yes. Yes, Madam Chair.

25 **Q. Are you familiar with any case law of previous**

1 **Division Orders on substitute wells and what the Division**
2 **has previously considered a substitute well?**

3 A. Personally I am not familiar.

4 COMMISSION CHAIR SANDOVAL: Mr. Bruce, are you?

5 MR. BRUCE: No.

6 **Q. Okay. So I think these Division rules were**
7 **written a while ago. When generally was the transition**
8 **from vertical to horizontal wells within the oil and gas**
9 **industry? I know it was a time period, but I guess when**
10 **was general adoption from horizontal to vertical, or**
11 **preference?**

12 A. I would say for New Mexico probably sometime
13 around 2012, you know, you really started to transition
14 from vertical drilling to horizontal drilling.

15 MR. BRUCE: Madam Chair, Jim Bruce again.

16 I know I did a case sometime for an old
17 client that was probably -- I think that's pretty
18 accurate. I think the initial few horizontal wells were
19 short horizontals drilled in Lea County in about 2009 or
20 2010.

21 **Q. So in looking at the date on this, it looks like**
22 **it was effective 12-1 of '08, which would have been**
23 **prior to horizontal well prevalence in this state. Do you**
24 **think that this rule translates to horizontal wells or is**
25 **it written in a way that mostly makes sense for vertical?**

1 MR. BRUCE: Who are you addressing it...

2 COMMISSION CHAIR SANDOVAL: Sorry. Mr. Cude.

3 A. You know, I think we would view that it's, you
4 know, a little bit dated. I think Mewbourne drilled, you
5 know, the same well in the same pool formation, in the
6 same drilling unit, and really at the same footages, and
7 so under that concept it is a replacement.

8 I think that the timing required under this
9 statute, you know, in just modern business, isn't always,
10 you know -- I don't know that operators can always comply
11 with that.

12 I mean, you know, we are only able to walk
13 a rig, you know, 150 feet, so now you've got 330 feet
14 here. And, you know, just the size of the rigs these
15 days, everything that's involved, if you were to move a
16 rig, you know, this may or may not be possible.

17 Q. Okay. So it looks like originally you did, for
18 the second well, which -- so you originally spud the 2H on
19 July 7th, plugged July 24th. 2HY was spud on July 26th.

20 When was the Order -- was there an
21 application date for the 15/10? I think I have that as
22 9-3, so September 3rd. Is that correct?

23 A. Uh, yes, Madam Chair, I have the same date.

24 Q. So I think earlier you said this is federal
25 land. Is that correct?

1 A. Yes. I believe it's federal surface, as well,
2 but I believe it's 100 percent federal minerals, so you
3 have to have federal permits for both the wells coming
4 from the north end, as well as coming from the south.

5 **Q. Do you know what the timing was for any of those**
6 **applications? So what I'm trying to understand is the**
7 **2HY, you spud it on the 26th. When was that plugged?**

8 A. I don't have the exact date in front of me, but
9 it would have been in August. Then I know that we filed
10 for APDs, for new APDs coming from the south August 27th
11 of 2019, and that would have been within 10 days of when
12 we plugged the 10/15 2HY.

13 **Q. Do you think you can find that date, the plug of**
14 **the 2HY?**

15 A. Yeah, I'm trying to think. I think we staked
16 the well on August 13th of 2019. And on August 10th we
17 staked the well. We plugged the 10/15 2HY on August 3rd.

18 **Q. Okay. So it was plugged on August 3rd?**

19 A. Staked on -- the newer wells were staked on
20 August 10th. We have to get plats back from the
21 surveyors, and, you know, our federal APD filled out. We
22 submitted that on August 27th.

23 **Q. Okay. Let's see if I get this right.**

24 **Uhm, for the 15/10s.**

25 A. I apologize. I was able to get my well file

1 here to have these specifics dates.

2 So you have the two 10/15s plugged, but
3 we -- for the 15/10 2H we staked the well August 6th of
4 2019. We have the onsite with the BLM August 16th of
5 2019, and then we filed the APD for that well August 28th
6 of 2019.

7 And the original 10/15 2HY was plugged on
8 August 3rd.

9 Q. Okay. Were any notifications made to the
10 Division regarding -- it sounded like you communicated --

11 Oh, my God. I'm sorry. My computer says
12 it's going to restart for a third time, but instead of
13 giving me an hour and a half it's giving me 15 minutes
14 this time. I give up in a moment.

15 I'm sorry, Mr. Cude.

16 I'm sorry guys, but let me get -- I have
17 more questions, but let me get to the whole point really
18 quick, and then I'm going to have to reboot again, and I
19 will come back.

20 So okay. So you -- so the 2HY for the
21 10/15 was plugged August 3rd, and then -- I'm sorry. My
22 question was: Did you make any notifications to the
23 Division regarding your plans, the status, any of those
24 pieces?

25 A. I do not know off the top of my head.

1 **Q. Okay. But for all intents and purposes, I guess**
2 **you -- there's no way that you could have commenced**
3 **drilling within 10 days of the well abandonment because**
4 **you would have been out of compliance due to -- because**
5 **you -- you basically have to go through a new federal**
6 **process because the surface location was further away.**

7 A. Yes, Madam Chair, that's correct. I suppose
8 that Mewbourne could have made a third attempt on the
9 original pad, third, fourth, fifth on the original pad to
10 continue to try and drill a successful well from that
11 location, but, you know, in the process of all of this we
12 determined that it would -- I think, like we previously
13 testified, we've drilled eight other wells in the -- or
14 excuse me, at the time we had drilled six other wells in
15 these two sections, we had never had an issue like this,
16 and so rather than continuing at the same location we
17 flipped to the south line of Section 15 to drill a
18 replacement well. And correct, there's absolutely no
19 possible way to do that within 10 days.

20 **Q. Okay.**

21 A. Because of the -- I mean, if it was a state
22 permit, if it was a fee permit, it is possible we probably
23 could have done that, but being a federal well, their
24 approval process, you know, is not -- it's not that quick.

25 COMMISSION CHAIR SANDOVAL: Okay. I have more

1 questions, slightly different questions than this line of
2 questioning, and my computer is apparently going to self
3 destruct in a moment. So why don't we, I apologize, take
4 a five-minute break. It's 2:03. Let's come back at 2:08,
5 assuming this doesn't take too long.

6 Mr. Moander, I'm going to give you hosting
7 ability for third time today. We will be back shortly
8 Sorry, you-all.

9 MR. MOANDER: No problem, Madam Chair.

10 (Note: In recess from 2:03 p.m. to 2:11 p.m.)

11 COMMISSION CHAIR SANDOVAL: All right. Let's
12 see. We got the commissioners.

13 Sorry everybody. I think we are ready to
14 go again.

15 Q. So going to the cost pieces, I guess I'm
16 wondering what would have happened -- if the first two
17 10/15 wells, the 2H and 2HY fail, what would have happened
18 if you had just stopped at that point, decided this is not
19 worth our effort anywhere, we are walking away from this
20 area, there are clearly problems. What would have
21 happened to the costs? Would they have still gotten
22 passed on?

23 A. Yes. I mean, if we had stopped I suppose that
24 they would have been passed on to all of the parties that
25 either elected under the JOA or, you know, participated

1 under a Pooling Order, you know as to their interest in
2 the well.

3 Q. So there potentially would have been a world
4 where the costs would have gotten passed on but the
5 parties wouldn't have been making any money so they would
6 have just had to pay?

7 A. Yes, absolutely.

8 Q. So overall -- well, never mind. Okay.

9 Have you had other wells that have failed
10 similar to this?

11 A. You know, luckily Mewbourne Oil Company doesn't
12 make a habit out of junking or abandoning wells or we
13 probably wouldn't have been sitting here. But, you know,
14 it's absolutely part of the business and we have instances
15 where we have to junk the hole and, you know, start again.

16 I can't think of any time in my career here
17 with Mewbourne that we have had any issues in the vertical
18 part of a hole and, you know, never seen it through to
19 completion. I mean, we always continue the operation and
20 get the well to TVD as well as possible.

21 Q. In situations where you have had to junk a well,
22 as you said, what has happened -- have you had any
23 situations where you have done anything identical to this
24 where you basically moved over and did "mirror wells" as
25 you termed them?

1 A. Uhm, you know, I'm not sure. I guess just maybe
2 to clarify a little bit here, you know I think on our
3 second attempt, the 10/15 2HY, you know, we ran an extra
4 string of casing to try and mitigate, you know, the issue
5 that we had in the 10/15 2H, and we still had issues. You
6 know, when we moved the location, we certainly analyzed
7 the shallow-drilling hazard that we, you know, were having
8 an issue with, but I couldn't say that it was -- the same
9 formation that we were losing circulation in on the 10/15
10 wells still was present in the 15/10, it just wasn't quite
11 as thick. And, you know, as we mentioned before, we had
12 drilled other wells in these sections and had never
13 encountered that problem.

14 I mean, just specifically to your question,
15 too, I don't know that we've ever had this occur to where
16 we just weren't able to drill the vertical portion of that
17 hole and had to pull the locations, to my knowledge.

18 **Q. So there are no other sort of instances within**
19 **Mewbourne where you could point to where you managed the**
20 **costs in a similar situation?**

21 A. Uh, not this exact particular situation, no.

22 **Q. Are there any -- are you familiar with any other**
23 **situations similar to this that other operators may have**
24 **had and how they managed the costs?**

25 A. Personally I am not, no.

1 COMMISSION CHAIR SANDOVAL: Okay. I think
2 that's all I had for questions. Do any of the
3 commissioners have more questions before I let Mr. Bruce
4 redirect?

5 COMMISSIONER BLOOM: No, Madam Chair.

6 COMMISSIONER AMPOMAH: Yeah, Madam Chair. Real
7 quick one.

8 I really want Mr. Bruce to state again the
9 regulation that says that either drilled or proposed to
10 drill you can be force pooled without the approval of the
11 Order or before the approval of the Order.

12 Can he state that one more time?

13 MR. BRUCE: Can he what? Excuse me?

14 COMMISSIONER AMPOMAH: Yeah. So you quoted a
15 regulation that -- whether once you get the APD you can
16 drill, you know, during the amount of time where you are
17 still trying to get a Pooling Order approved. Can you
18 state that one more time.

19 MR. BRUCE: That's in the New Mexico Oil and Gas
20 Act, Section 70.2.17.C explicitly states that.

21 COMMISSIONER AMPOMAH: Thank you. I appreciate
22 that.

23 Thank you, Madam Chair.

24 MR. BRUCE: May I ask a couple of follow-up
25 questions for Mr. Cude?

1 COMMISSION CHAIR SANDOVAL: I was muted. I
2 said, "Yes, absolutely." Go ahead.

3 MR. BRUCE: Before I begin, just very briefly
4 Madam Chair, I know you're putting together a timeline.
5 And I looked at my computer, and one of your questions is
6 when these applications were filed, the original two
7 applications, and if anybody wants these applications I
8 can email them to them in Word so they can see the
9 document creation date.

10 But the 10/15 Well Application, I created
11 it on May 14th of 2019, and it was filed on or about then,
12 because you have to file three days ahead of the hearing.

13 Then the 15/10 Application was created by
14 me on September 3, 2019.

15 COMMISSION CHAIR SANDOVAL: Thank you.

16 I'm not sure if I was still muted when I
17 said it, but I did say after Dr. Ampomah finished that I
18 am still interested to see if you've got the Orders you
19 can dig up. I'm not sure if I was muted or not.

20 MR. BRUCE: I was in contact in text with one of
21 my clients, and the Commission Order I was talking about
22 I'll have to look it up. I have the well name now and I
23 know where it's located, but I don't think I'll have the
24 time to look, to do it in the hearing. But I may. Let me
25 find out.

REDIRECT EXAMINATION

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BY MR. BRUCE:

Q. Mr. Cude, one thing you mentioned on this timeline, you talked about "the well staked". When you file an Application for Permit to Drill with the BLM, first they won't let you file an application for Permit to Drill until you get the well staked and the permission to drill approved; is that correct?

A. Yes, sir.

Q. So there's a little lag between getting the location staked and then getting all the other documents together for the usual 50-page-long federal APD?

A. Yes, sir, that's correct. And then BLM onsite, on the location with our natural resource specialist to a different location.

Q. Then the only other question I have is: I mean, you know, there are situations where -- you stated where Mewbourne has had well costs, some problems in drilling. Would it be Mewbourne's practice to pass on these increased costs if they were reasonably incurred in well operations?

A. Yes.

MR. BRUCE: Let me check. (Note: Pause.)

Madam Chair, I think that's it.

COMMISSION CHAIR SANDOVAL: Thank you.

1 All right, Mr. -- well, actually Mr.
2 Moander, is there a specific term in case we have
3 additional questions for Mr. Cude later?

4 MR. MOANDER: No, Madam Chair. You're not
5 releasing them from their appearance today, so if you want
6 to recall them you can reserve the right to do that.

7 COMMISSION CHAIR SANDOVAL: Okay. Thank you.

8 For the moment we are done with questions
9 for Mr. Cude. Mr. Bruce, would you like to call your next
10 witness.

11 MR. BRUCE: Yes. Yes, I would. Mr. Mitch Robb,
12 and if he could be sworn in, please.

13 COMMISSION CHAIR SANDOVAL: I think they are
14 switching chairs. (Note: Pause.)

15 All right. I think -- Mr. Robb, can we
16 hear you?

17 WITNESS ROBB: Yes. Can you hear me?

18 COMMISSION CHAIR SANDOVAL: Yes. Perfect.

19 MITCHELL ROBB,

20 having been duly sworn testified as follows:

21 DIRECT EXAMINATION

22 BY MR. BRUCE:

23 Q. Mr. Robb, please state your name for the record.

24 A. My name is Mitch Robb, Mitchell Robb.

25 Q. And who do you work for and in what capacity?

1 A. I'm a landman with Mewbourne Oil Company.

2 **Q. Have you previously testified before the**
3 **Division, not the Commission?**

4 A. No, this is my first time.

5 **Q. No, no. Have you previously testified before**
6 **the Division?**

7 A. Oh, the Division, yes.

8 **Q. As a landman, correct?**

9 A. Correct.

10 **Q. And were your credentials as an expert petroleum**
11 **landman accepted as a matter of record?**

12 A. They were.

13 **Q. But you have not testified before the**
14 **Commission?**

15 A. That is correct.

16 **Q. Could you -- first of all, submitted as**
17 **Exhibit 2 is your Affirmed Statement. You -- well, let's**
18 **get into it.**

19 **Would you give a little of your educational**
20 **employment background. Could you state for the**
21 **Commissioners what your experience is, especially with**
22 **respect to Mewbourne.**

23 A. Since -- I've been with Mewbourne since early
24 2015 and working the Permian since late '15, and I have
25 proposed many wells, gone through countless pooling

1 applications. Seven years.

2 Q. Okay. Does that include -- besides the pooling
3 and the Well Proposals, working on JOAs, Joint Operating
4 Agreements?

5 A. Yes, sending out proposals, working on JOAs, all
6 the pertinent documents --

7 (Note: Reporter inquiry.)

8 Q. Answer my question again, Mr. Robb, about
9 working on JOAs, as well as Well Proposals, et cetera.

10 A. Yes, I've sent out Well Proposals, JOAs and all
11 pertinent documents and contracts related to the drilling
12 of wells.

13 Q. And are you familiar with Mewbourne's land
14 matters involved in this particular case?

15 A. Yes, I am.

16 MR. BRUCE: Madam Chair, I would tender Mr. Robb
17 as an expert petroleum landman.

18 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, do you
19 have any objections to that?

20 MS. SHAHEEN: No objections.

21 COMMISSION CHAIR SANDOVAL: Do the commissioners
22 have any questions about Mr. Robb's credentials?

23 COMMISSIONER BLOOM: No, Madam Chair.

24 COMMISSIONER AMPOMAH: No, Madam Chair.

25 COMMISSION CHAIR SANDOVAL: Thank you. Mr. Robb

1 is an expert as a petroleum landman for the purposes of
2 this hearing.

3 MR. BRUCE: Thank you.

4 Q. And Mr. Robb I'll get into some questions, but
5 first of all, your Self-Affirmed Statement has been marked
6 and submitted as Exhibit 2. Did you prepare that
7 statement?

8 A. Yes, I did.

9 Q. Were the exhibits that are attached to the
10 statement either prepared by you or under your direction,
11 or compiled from company business records?

12 A. Yes, they were.

13 Q. Do you adopt this Self-Affirmed statement as
14 your testimony, basic testimony in this case?

15 A. Yes, I do.

16 Q. Let's get on to a question that was raised by
17 Mr. Cude.

18 COMMISSION CHAIR SANDOVAL: Mr. Bruce, we need
19 to enter the exhibits into the record.

20 MR. BRUCE: Okay. I move the admission of
21 Exhibit 2 into the record, Madam Chair.

22 COMMISSION CHAIR SANDOVAL: Thank you.

23 Ms. Shaheen, do you have any objections?

24 MS. SHAHEEN: No objection.

25 COMMISSION CHAIR SANDOVAL: Thank you.

1 Commissioners, any questions or objections?

2 COMMISSIONER BLOOM: No, Madam Chair.

3 COMMISSIONER AMPOMAH: No, Madam Chair.

4 COMMISSION CHAIR SANDOVAL: Thank you. Move
5 Mewbourne Exhibit 2 into the record.

6 All right. Please proceed, Mr. Bruce.

7 Q. Mr. Robb, let's get into a couple of questions
8 that were also asked of Mr. Cude.

9 Regarding after the second wellbore was
10 junked and you decided to move the well location, you had
11 to go to the BLM, correct?

12 A. Correct.

13 Q. To get approval for the new location, surface
14 location.

15 A. Yes.

16 Q. And really the OCD, whenever those fed lands are
17 involved like this, the OCD really doesn't have any
18 approval authority over a federal APD; is that correct?

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

20 Q. The OCD waits until the BLM approves the APD.
21 The OCD does approve an APD once it's approved by the BLM;
22 is that correct?

23 A. Yes.

24 Q. Okay. Secondly, regarding some questions I
25 think raised by Ms. Shaheen about first and last take

1 points, first of all the surface hole location really has
2 nothing to do these days -- because of land use and
3 surface locations, has very little to do with the first
4 take point; is that correct?

5 A. Yes, that's correct.

6 Q. And you were listening to Mr. Cude testify, were
7 you not?

8 A. Yes, I was.

9 Q. And he said you go to a drilling, horizontal
10 drilling proposal and you can figure out the first take
11 point from that document. Is that correct?

12 A. Uhm, yes. Yes, that's correct.

13 Q. So the surface hole location is rarely
14 equivalent to the first take point?

15 A. Uh. (Note: Pause.)

16 Q. In other words, does Mewbourne and other
17 operators get a surface location and they might drill,
18 uh --

19 A. Oh, no, sorry. I understand the question now.

20 Q. Yeah.

21 A. No, the surface location is not always exactly
22 where the first take point is going to be once we've
23 reached our TVD.

24 Q. So Mr. Cude testified about the first take
25 point, the bottomhole location or last take point. If you

1 look at the -- would that be on the C-102s, the last take
2 point?

3 A. Yes.

4 Q. I'm looking at it as one of the -- I don't know
5 the exact page number right now. It's actually on page
6 138 of the exhibits submitted by Mr. Ragsdale.

7 If you looked at that, it was the -- this
8 is not the real well at issue but it's the Ibex 15/10
9 BA1H, the other well. And I'm looking at it and it shows
10 the bottomhole location on the setbacks are 100 feet in
11 these horizontal wells, are they not, from the end of
12 the -- for the end of the producing interval.

13 A. Yes, 100 foot from the section of (inaudible).

14 Q. So I'm looking at that particular page. So it
15 shows the bottomhole location 100 feet from the north line
16 and 600 feet from the east line of Section 10.

17 Another way to get a good estimation of the
18 first take point, you just go straight south from that
19 location to 100 from the south line of Section 15.

20 Would that be a good approximation?

21 A. Uh, yes.

22 Q. Okay. Let's go on to something else.

23 During the original hearing in this
24 matter -- you attended the hearing; is that correct?

25 A. Correct.

1 Q. And did you listen to the testimony of Karen
2 Stanford?

3 A. Yes.

4 Q. And she testified about when Mr. Ragsdale
5 learned of the junked holes, did she not?

6 A. Correct.

7 Q. And what did she testify to as an approximate
8 date for learning of the junked holes?

9 MS. SHAHEEN: I'm going to object to this
10 question because Mr. Ragsdale has already testified about
11 this and I don't believe that Ms. Stanford's previous
12 testimony before the Division in a de novo case before the
13 Commission is relevant at this point. Mr. Ragsdale
14 already testified.

15 MR. BRUCE: I think it's relevant.

16 I think it's relevant. Mr. Ragsdale said
17 he didn't know anything about it until March, and you're
18 trying to establish a timeline of when he decided to raise
19 these issues.

20 MS. SHAHEEN: That's right.

21 I'm sorry. Go ahead, Jim.

22 COMMISSION CHAIR SANDOVAL: Was there more to
23 that statement, Mr. Bruce?

24 MR. BRUCE: Madam Chair, If I could, Exhibit 3,
25 Mewbourne Exhibit 3 is the Division's Order in this

1 matter. And I'm finding paragraph 29. The Division found
2 that Mr. Ragsdale was aware of the status of the 10/15 and
3 the 15/10 wells in September, 2019, based on the testimony
4 of Karen Stanford. And it does give the transcript pages
5 where she testified about that.

6 COMMISSION CHAIR SANDOVAL: So, Mr. Bruce, I
7 think Ms. Shaheen has a point. This is a de novo hearing.

8 I understand, I think, where your line of
9 questioning is going, and maybe if you rephrase to refer
10 to the Orders or hearing documents, that might be more
11 appropriate.

12 MR. BRUCE: Okay. That will be fine.

13 MS. SHAHEEN: If I may, again even with respect
14 to the Order, this is a de novo proceeding and I don't
15 think the Commission is bound by any finding made by the
16 Division.

17 This is particularly due, if I recall from
18 the transcript, Ms. Stanford wasn't sure about when Mr.
19 Ragsdale knew about the junked wells, and she eventually
20 said, "Well, I think it was at some point in September,"
21 something to that effect, if you look at the transcript.

22 But today we have Mr. Ragsdale talking
23 about his personal knowledge, so that would be more
24 reliable than Ms. Stanford's testimony, and I don't
25 believe, again, that a finding made by the Division based

1 on Ms. Stanford's testimony is relevant here.

2 MR. MOANDER: Madam Chair, let me address that.
3 De novo means essentially this is a fresh slate and the
4 Commission would have to consider evidence provided today
5 because it's a brand-new evidentiary hearing.

6 COMMISSION CHAIR SANDOVAL: Thank you, Mr.
7 Moander.

8 Mr. Bruce, can you reframe your question or
9 move on to a different line of questioning?

10 MR. BRUCE: I will just move along here, Madam
11 Chair.

12 COMMISSION CHAIR SANDOVAL: Thanks.

13 Q. Going on -- let me get the exact exhibit number.

14 Mr. Robb, in your affidavit you testified
15 and you attached Attachment G to your statement, your
16 Affirmed Statement, a letter dated March 5, 2020, to Mr.
17 Ragsdale, including the Pooling Order, and requesting him
18 to make an election. Is that your letter?

19 A. Yes, this is my letter.

20 Q. Okay. And Mr. Ragsdale testified that Karen
21 Stanford did call you -- or you called her. Which
22 occurred?

23 A. I believe she called me first, we played a
24 little phone tag, and then apparently got on the line with
25 each other. I believe her note says on the 18th.

1 **Q. And you did speak with her personally, correct?**

2 A. Yes, I did.

3 **Q. In talking to you, did she object to these**
4 **additional well pads from the junked wells?**

5 A. No. So we probably talked about this for five
6 minutes. She called and asked why these costs were
7 included, because if you look at my letter, which is, I
8 think, Exhibit 5 in their files and Attachment G in ours,
9 uhm, it says that this AFE includes estimated costs for
10 the well and realized costs of drilling per unit and
11 abandoning the first two attempts.

12 And she had some questions about that and
13 why we included those, and I explained it was because they
14 were replacement wells or substitute wells for the initial
15 well and that this new, this 15/10 B1PA Fed Com 2H, was
16 replacement to that, uh, first two wells that were junked.
17 I kind of explained our reasoning behind it.

18 Then she wasn't very familiar on the
19 legality of that, so that's when I referred her to Mr.
20 Bruce or to any other attorney that she, uhm, could talk
21 to.

22 **Q. And that letter attached at the back is -- you**
23 **sent that letter Certified Mail, correct?**

24 A. Yes.

25 **Q. And --**

1 A. Overnight.

2 Q. So that would be the second page of Exhibit D
3 shows it was delivered on March 10, 2020.

4 A. Yes, correct.

5 Q. That is correct?

6 A. Yes.

7 Q. So what was the deadline for Mr. Ragsdale to
8 elect to join in the two wells?

9 A. I believe it was April 10th.

10 Q. Did he do so?

11 A. No, he did not. He missed his election under
12 the terms of the Pooling Orders.

13 Q. And during that period of time, during that
14 30-day period, did he object -- to your knowledge did he
15 object with Mewbourne about the well costs?

16 A. No, we did not receive any objection to it.

17 Q. And he, even though he did not make a timely
18 election, therefore was he considered nonconsent in both
19 wells.

20 A. Yes, he was.

21 Q. But Mewbourne gave him the opportunity to join
22 in both wells; is that correct?

23 A. Yes, by Mr. Insalaco.

24 Q. Insalaco?

25 A. Yes.

1 **Q. And he did elect to pay on the Third Bone Spring**
2 **well, the well that's not at issue here today.**

3 A. Yes. We set out certain conditions under that
4 letter, and he met those conditions on the 15/10 1H but
5 did not meet those on the 15/10 2H.

6 And this was all after he was deemed
7 nonconsent under the original.

8 **Q. And you could have just withheld the interest as**
9 **a nonconsent interest and that -- his interest would have**
10 **been shared among you and perhaps other participating**
11 **working interest owners. Is that the way it goes?**

12 A. Yes. So since he didn't send his election in by
13 April 10th that was deemed nonconsent. He then sent us a
14 letter, and in an attempt to work something out we said,
15 Yes, you can participate with us. I mean, you would be
16 deemed consenting under the Pooling Order if you pay the
17 estimated costs that we sent.

18 So we did try to work something out. He
19 did not meet the conditions on the 15/10 2H, so we did not
20 allow him to participate.

21 **Q. And the election to participate, does that take**
22 **a long time?**

23 A. No, he just has to sign an AFE and send it back
24 to me.

25 **Q. Sign an AFE --**

1 A. Yeah.

2 Q. -- indicating that he does elect to join
3 voluntarily in the well?

4 A. Correct. And that could be sent by email, mail,
5 anything.

6 Q. There's no particular way it needs to be sent?
7 It doesn't need to be sent Certified or Fedex or anything?

8 A. No, I just have to receive it within that date.
9 Even if he mailed it and it had a stamp within the 30-day
10 period, I would still count it.

11 Q. How many working interest owners are there in
12 this well?

13 A. It's around 50.

14 Q. Are most of them subject to a JOA?

15 A. Yes, they are.

16 Q. And did all of them -- are all of them bearing
17 their proportionate share of the junked hole costs?

18 A. Yes.

19 Q. So Mr. Ragsdale isn't being treated differently
20 than any other working interest owner, is he.

21 A. No, they all have to share in that cost.

22 Q. The other thing is, you know, the questions have
23 come up about Mewbourne filing for the pooling application
24 and then having the hearing, but then starting, commencing
25 the well.

1 **Did Mewbourne have drilling obligations?**

2 A. Yes, we did.

3 **Q. Was it leases or term assignments or what?**

4 A. These are all term assignments, uhm, I believe
5 all the base leases were held.

6 **Q. So if you hadn't commenced drilling the well in
7 a timely manner you could have lost a chunk of your
8 interest; is that correct?**

9 A. Yes, that's correct.

10 **Q. And how many -- what is the approximate
11 percentage interest in the well unit owned by Mewbourne
12 Oil Company?**

13 A. I believe it's around 35 percent.

14 **Q. And what about Mewbourne and all of its JOA
15 working interest partners?**

16 A. Shoot, that's going to be closer to -- I think
17 it depends on the well, but I mean I think it's closer to
18 90.

19 **Q. 90 percent? And they were all kept informed of
20 what was going on with these wells; is that correct?**

21 A. That is correct, sir.

22 **Q. But is it industry standard not to disburse well
23 information to people who have not joined in a well and
24 paid their proportionate share?**

25 A. That's correct. We only send information to

1 parties that have elected to participate with us either
2 under a JOA or Pooling Order. We don't just randomly send
3 out information.

4 Q. Do you believe that you, and particularly
5 Mewbourne, worked with Mr. Ragsdale in good faith to get
6 him to join in these wells?

7 A. Yes, we did.

8 Q. When Mr. Ragsdale or Karen Stanford asked for
9 information, did you give them the information?

10 A. Uhm, what information, I guess.

11 Q. When they started questioning the well costs,
12 did you withhold any information from them?

13 A. No.

14 Q. And he never raised -- did he ever raise an
15 objection about the costs of the 15/10 2H well until after
16 his failure to elect in the well?

17 A. Yes. I believe we received that by a letter
18 dated April 15th.

19 Q. Okay. So a month later.

20 A. Yeah, or more.

21 Q. Several days after the election period expired.

22 A. Correct, sir.

23 Q. Have any other working interest owners objected
24 to the AFE for the 15/10 2H well?

25 A. No, they haven't.

1 Q. Did Mr. Ragsdale ever -- forget that he's
2 objecting to the inclusion of their costs in the 15/10
3 well, but has he ever questioned the reasonableness of the
4 costs incurred in the two junked wells?

5 A. Uhm, no. That is until this hearing.

6 (Note: Reporter inquiry.)

7 Q. Mr. Robb, I think you said he hasn't really
8 raised it until this applications in this hearing.

9 A. Yes, that's what I said.

10 MR. BRUCE: I'm almost done here, Madam Chair.
11 Just let me check my notes.

12 COMMISSION CHAIR SANDOVAL: Okay. Thanks.

13 Q. In your opinion is the only difference between
14 the 10/15 wells and that 15/10 wells is the north/south
15 versus south/north orientation?

16 A. Correct.

17 MR. BRUCE: Madam Chair, I believe I'm finished
18 with the witness at this time. I may have some redirect,
19 but thank you very much.

20 COMMISSION CHAIR SANDOVAL: Okay. Thank you.

21 Ms. Shaheen.

22 MS. SHAHEEN: Yes.

23 COMMISSION CHAIR SANDOVAL: Do you have
24 questions for the witness?

25 MS. SHAHEEN: Yes, I do.

1 COMMISSION CHAIR SANDOVAL: All right. Go
2 ahead, please.

3 CROSS EXAMINATION

4 BY MS. SHAHEEN:

5 Q. I think I'd like to start by addressing some of
6 the testimony that Mr. Bruce elicited, and then I'll turn
7 to Mr. Robb's Self-Affirmed Statement.

8 Good afternoon, Mr. Robb.

9 A. Good afternoon.

10 Q. Nice to see you again.

11 A. You, too.

12 Q. You testified -- well, you testified and you
13 included in your Self-Affirmed Statement the proposition
14 that Mr. Ragsdale did not object to those costs for the
15 junked wells prior to the time for election.

16 Do you recall that testimony?

17 A. Yes.

18 Q. And you recall your statement in your
19 Affirmation at paragraph 13; is that correct?

20 A. Yes.

21 Q. And yet you did talk with Ms. Stanford
22 contemporaneously with the Election Letter that went out
23 March 5th which was received March 10th, didn't you.

24 A. Yes.

25 Q. And were you present today when Mr. Ragsdale

1 went over his Exhibits 8 and 9?

2 A. Yes.

3 Q. And I'll pull those up for you, so let's see if
4 I can find those here.

5 A. I've got them here.

6 Q. Well, I need them, too. Hold on one sec.

7 So it's actually Exhibits 6 and 7 where we
8 have that email chain with Ms. Stanford on March 11th. Do
9 you see that?

10 A. Yes.

11 Q. I mean her last email says, "I'm trying to
12 understand why you're including" what she terms as the P&A
13 costs of the first well.

14 I mean, do you not consider that an
15 objection to the costs that were imposed?

16 A. I consider it a question.

17 Q. Okay.

18 A. She didn't state in there that she was objecting
19 to the costs.

20 Q. So you're literally requiring her to state in
21 writing that she objects in her email. You don't consider
22 her questions about it to constitute an objection?

23 A. I don't consider a question an objection.

24 Q. And when you spoke to her the next day, did you
25 resolve that issue with her?

1 A. No, I explained my side. She said she was going
2 to go talk to Mr. Ragsdale, and that's kind where it left.

3 **Q. You agree that the issue was not resolved, the**
4 **issue that Ms. Stanford raised on March 11th was not**
5 **resolved during that 30-day election period; is that**
6 **correct?**

7 A. She never called me back. I explained our side.
8 She said, "Okay. Let me go talk to Mr. Ragsdale," and
9 never called back.

10 **Q. So you consider the fact that she never called**
11 **back to constitute a non objection? Is that the way**
12 **you've characterized it?**

13 A. Yes. I explained our reasoning. She said,
14 "Okay. Let me go back to Mr. Ragsdale," and never called
15 back. So I take that --

16 **Q. And that --**

17 A. Take that as she'll -- like, they talked about
18 what I said, they didn't object after that, or even at the
19 time. So I don't see that as an objection, no.

20 **Q. Did you feel that you had adequately explained**
21 **the issue to her?**

22 A. To my best of ability, yes.

23 **Q. Uh-huh. And do you feel like she was satisfied**
24 **with your explanation?**

25 A. She never called back. I wasn't sure if she

1 called Mr. Bruce or consulted an attorney, but I never
2 heard from her so I took that as she was satisfied.

3 Q. So you assumed, is that correct?

4 A. I didn't hear anything back, so based on our
5 conversation, yes.

6 Q. Did you ever talk to Mr. Bruce and ask him
7 whether Ms. Stanford had called him?

8 A. No, I did not.

9 Q. Why not?

10 A. Well, I don't know why I need to call Mr. Bruce
11 to see if he talked to someone.

12 Q. Do you regularly refer other working interest
13 owners to your outside counsel for advice?

14 A. When they ask about if we can do that under a
15 Pooling Order, then yes. I would in any other case.

16 Q. So you have no affirmative communication from
17 Ms. Stanford or from Mr. Ragsdale that they didn't
18 continue to question the estimated costs, do you.

19 A. They never sent me an objection, so no.

20 Q. Okay. So the answer to my question is no, you
21 never received an affirmative statement saying that they
22 no longer objected.

23 A. I never received an objection is what I'm
24 saying.

25 Q. And you don't consider questioning the cost to

1 **be an objection to the cost?**

2 A. I considered it a question. I explained it, she
3 talked to Mr. Ragsdale, or said she would, and I heard
4 nothing back. If they would have objected I feel like I
5 would have heard something back.

6 Q. You also talked about certain conditions, and
7 the certain condition here is actually the estimated costs
8 to which Ms. Stanford objected to. Correct? The certain
9 conditions were that Mr. Ragsdale had to pay those
10 estimated costs -- excuse me, they had to pay the actual
11 costs of the junked wells to be able to participate. Is
12 that correct?

13 A. So after Mr. Ragsdale missed his election period
14 under the Pooling Order, he sent us that letter, and then
15 we sent him a letter stating he had to pay all of the
16 pooling costs under the Pooling Order because he objected
17 to that in that letter. And then yes, we told him he had
18 to pay all the estimated costs under the Pooling Order.

19 Q. So my point is your conditions were that he
20 comply with a requirement that he had objected to. Is
21 that correct?

22 A. Uhm, this letter was given as a favor. His
23 interest was already deemed nonconsent.

24 Q. Excuse me. I don't think you're answering my
25 question.

1 A. Sorry. Can you repeat it?

2 Q. The conditions that you imposed on Mr. Ragsdale
3 were the exact condition that he was objecting to; is that
4 right?

5 A. Uhm, yes, that he paid the cost of the wells.

6 Q. Okay. Thank you.

7 You also testified previously, or Mr. Bruce
8 suggested that you may have shared nonconsent interests
9 with other working interest parties who were voluntarily
10 participating in the well. Do you recall that testimony?

11 A. Uhm, I don't believe I said that.

12 Q. If I recall correctly, Mr. Bruce asked you about
13 the nonconsent interest that would be claimed by
14 Mewbourne -- or "perhaps" was his language, perhaps shared
15 with working interest owners. Do you recall his
16 questioning in that regard?

17 A. Yes. So under the terms of the Joint Operating
18 Agreement, if a consent-- or a JOA partner goes nonconsent
19 in the drilling of the wells, then we would send out
20 elections to JOA partners, and then they would have the
21 option to pick up their proportionate share of that
22 nonconsented interest.

23 Q. And do you limit that to parties who are
24 participating under the JOA?

25 A. Yes, because it's a provision of the JOA.

1 Q. So you don't share those interests with parties
2 who are participating under the Forced Pooling Order?

3 A. Correct. Because they are not a party to the
4 contract that governs that nonconsent share.

5 Q. You also testified about the number of working
6 interest owners previously. Do you recall that testimony?

7 A. Yes.

8 Q. And I am going to direct you to an exhibit in --
9 that's part of Exhibit 4. Let me see if I can pull that
10 up real quick. (Note: Pause.)

11 And now I'm going to share my screen. Can
12 you see that?

13 A. Yes, I can.

14 Q. Do you recognize this?

15 A. Yes.

16 Q. Can you tell the commissioners what this is.

17 A. That is my tract ownership for the spacing unit
18 of the two Ibex wells in question, and the ownership of
19 said spacing unit.

20 Q. And in paragraph 4 of your Self-Affirmed
21 Statement you state that a pooling application was filed
22 against him, Mr. Ragsdale, and other parties in Case No.
23 20850.

24 That would actually pertain to a different
25 tract ownership, but this was the case, as well, in Case

1 **No. 20809; is that right?**

2 A. Yes.

3 **Q. And the tract ownership here that we were**
4 **looking at is the tract ownership of 20809?**

5 A. Yes.

6 **Q. Are these the other parties that were force**
7 **pooled in this matter?**

8 **Which parties here were force pooled?**

9 A. All parties with the asterisk. Again there's a
10 little footnote at the bottom that shows.

11 **Q. Okay. So how many of those were actually**
12 **pooled?**

13 A. (Note: Counting) There's 21 names on there.

14 **Q. 21 names? So the total -- you have represented**
15 **here that the total interest being force pooled is 9.4**
16 **percent. Do you see that?**

17 A. Yes.

18 **Q. Have you calculated what the percentage of**
19 **interest owners is that is being force pooled here?**

20 A. About 9.4 percent.

21 **Q. Well, that's the total interest being force**
22 **pooled, but the number of parties being force pooled out**
23 **of 20, approximately.**

24 A. So all these parties with the zeroes by them.

25 **Q. Uh-huh.**

1 A. Those are all record title owners that are being
2 force pooled. They are not working interest owners in
3 these wells. So parties with working interests, it
4 amounts to 12.

5 Q. Okay. So Mewbourne and Challenger, which are
6 parties that own 9 percent. Then we have another well who
7 were actually force pooled; is that right?

8 A. That's correct.

9 Q. So you would be force pooling approximately 86
10 percent of the interest owners in this well?

11 A. It says 9.4.

12 Q. Well, that's the interests. I'm talking about
13 the interest owners. How many parties were force pooled?

14 A. I just said it, (Counting) 12.

15 Q. Right. And so my point is the percentage of
16 parties that were pooled is approximately 86 percent.

17 Do you understand what I'm...

18 A. What's the 86? How do you get there?

19 Well, you have got one, two -- two parties
20 here.

21 A. No, that says Mewbourne Oil Company, Operator
22 Challenger Cude, Limited, et al. So 50 parties total, 12
23 were pooled. So 38, roughly.

24 Q. 38 percent of the interest owners?

25 A. 38 -- I don't know exactly the number but it's

1 roughly 38 parties make up that 90 percent. That's what
2 the "et al" is for.

3 Okay. So my next question relates to these
4 other pooled parties. Did they all received an AFE that
5 had been adjusted by adding the inflated costs?

6 A. Yes.

7 **Q. Or the costs for the junked wells?**

8 A. Yes.

9 **Q. How many of those voluntarily participated in**
10 **the well?**

11 A. All of the parties that were locatable, outside
12 of Mr. Ragsdale. I'd have to check the number but it's a
13 majority.

14 **Q. How many were unlocatable?**

15 A. I'm not sure.

16 **Q. So your testimony here today is that all of**
17 **these parties that were force pooled, except for those who**
18 **unlocatable?**

19 A. Or that didn't respond. Uh, every party that I
20 sent this to that participated under the terms of the
21 Pooling Order accepted those costs.

22 **Q. And how many of these force pooled parties**
23 **voluntarily participated or --**

24 A. Like I said, it's not in these files, but...

25 **Q. Who would know?**

1 A. I would know if I had the right files.

2 Q. Uh-huh. Could you ballpark it?

3 A. (Note: Pause.) Seven, eight of the parties
4 participated.

5 Q. I'm sorry, you said seven other parties
6 participated?

7 A. Seven or eight, yeah.

8 Q. Seven or eight of the 12?

9 A. Of the 12.

10 Q. And it seems here that Mr. Ragsdale has the
11 greater interest of all those parties that were force
12 pooled. Right?

13 A. Yes.

14 Q. He's got 4.89 percent?

15 A. Right.

16 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, I think
17 we've probably been on this line of questions for a little
18 while and it's unclear to me the relevance. If you could
19 maybe try to frame the questions in a way wherein it's
20 relevant to the case at hand.

21 MS. SHAHEEN: Yes. I will be happy to do that.

22 I think this goes to Mr. Robb's testimony
23 that no other parties objected to those estimated costs,
24 and -- or excuse me, to the addition of the costs for the
25 junked wells on the estimated costs.

1 That's what this line of questioning goes
2 to. I'm obviously not doing a very good job of linking
3 it. I think maybe we should go through his Self-Affirmed
4 Statement and walk through that. That might be the best
5 way to tie it to his testimony, so I'm going to go to his
6 Self-Affirmed Statement.

7 Do you see that there?

8 A. Yes.

9 Q. Okay. So this goes to paragraph 4. The pooling
10 application was filed against him and other parties in
11 Case No. 20580, and, as Mr. Robb testified, also in Case
12 No. 20809.

13 Turning to your paragraph 6, here you
14 testify that due to drilling issues the original case was
15 reopened in Case No. 20809.

16 Does the Application in Case No. 20809
17 explain that you were reopening Case No. 20580?

18 A. Do you have a copy of the application in the
19 exhibits here?

20 Q. I don't. You don't recall what was in the
21 application.

22 A. I didn't prepare the application.

23 Q. Did you provide Mr. Bruce with the information
24 to prepare the application?

25 A. With the parties, yes.

1 **Q. Let me see if I can pull that up pretty quickly**
2 **here.**

3 COMMISSION CHAIR SANDOVAL: Just so you know, we
4 can see your screen.

5 MS. SHAHEEN: That's good. I'm going to take
6 you to the application here, is my hope.

7 COMMISSION CHAIR SANDOVAL: All we see is our
8 beautiful new website.

9 MS. SHAHEEN: I finally figured out how to
10 navigate it.

11 COMMISSION CHAIR SANDOVAL: You're not the first
12 person to say something similar to that.

13 MS. SHAHEEN: Okay. So here we have the
14 application. And I believe the commissioners can take
15 judicial notice of this in a previous case.

16 If you want to take a minute, Mr. Robb, to
17 review it, then I'll ask my question. Let me know when I
18 should forward the document.

19 A. Yes. (Note: Pause.)

20 **Q. Okay. So I'll ask my question again. Does the**
21 **application in Case No. 20809 refer to reopening on Case**
22 **No. 20580?**

23 A. That letter doesn't but I believe Mr. Bruce's
24 statement, uh --

25 **Q. Okay. Your answer is nonresponsive. I'm asking**

1 whether the application refers to reopening of Case No.
2 20580.

3 A. I don't believe it says that.

4 Q. Do you know -- well, let me go now to...

5 So would you agree that when Mr. Ragsdale
6 received this application in the Notice Letter that he
7 would not be on Notice that you were reopening Case No.
8 20580?

9 A. I believe Mr. Ragsdale testified that he would
10 consider it a replacement well when he saw this
11 application.

12 Q. I think that's misrepresenting Mr. Ragsdale's
13 testimony and it's also nonresponsive.

14 My question is: Wouldn't you agree that
15 looking at this application Mr. Ragsdale would not be
16 aware that you were reopening Case No. 20580.

17 A. It doesn't state that on this letter.

18 Q. It's not a letter, is it. Is it an application?

19 A. Sorry, the application.

20 Q. Thank you. And still on paragraph 6 in your
21 Self-Affirmed Statement, the last sentence, Case No. 20809
22 was heard on October 3, 2019, before the entry of an Order
23 in Case No. 20580. Do you see that?

24 A. Yes.

25 Q. And there's been previous testimony about

1 drilling before an Order was issued. Do you recall that?

2 A. Yes.

3 Q. And you've testified that there were lease
4 obligations or assignment obligations that required you to
5 drill before the Order was entered. Do you recall that
6 testimony?

7 A. Yes.

8 Q. What was the specific obligation that required
9 you to drill before the Forced Pooling Order was entered?

10 A. If we didn't drill by a date then we would lose
11 acreage.

12 Q. If you didn't drill by what date?

13 A. I don't have that date off the top of my head,
14 but it was right around the time that we spud on the
15 initial well.

16 Q. It was a term assignment with whom?

17 A. There were multiple parties.

18 Q. You had more than one term assignment with a
19 deadline that was expiring in June of 2019?

20 A. Pretty close. That was at least the first one.

21 Q. And how long had Mewbourne held these term
22 assignments?

23 A. I'd have to check, but we've drilled six wells
24 on these lands. I'm not sure if those six wells in 10 and
25 15 all apply to those term assignments, but we've had it a

1 long time.

2 **Q. Your answer to my question how long have you had**
3 **these term assignments is, "A long time"; is that right?**

4 A. Yes because if they had continuous development
5 clauses, which means if we keep the drilling, we keep --
6 and as Mr. Cude testified, we drilled three wells in
7 Section 10, all the east half/east half of these wells
8 are, three wells in Section 15. So a bunch of those term
9 assignments were being kicked by the drilling of those
10 wells, and the continuous drilling, continuous development
11 obligation was coming up.

12 **Q. And who at Mewbourne made the decision to drill**
13 **before the Forced Pooling Order was entered?**

14 A. It was a Mewbourne management decision.

15 **Q. Who constitutes Mewbourne management?**

16 A. A lot of people.

17 **Q. Give me an example.**

18 A. Who our management is?

19 **Q. Yes.**

20 A. Well, Mr. Mewbourne owns the company, Mr. Waits
21 is the President and CEO, Mr. Insalaco was the Vice
22 President of Exploration at the time. There's a ton of
23 people above me.

24 **Q. Okay. So it's your testimony that all of those**
25 **people weighed into this decision to drill before the**

1 **Forced Pooling Order was entered?**

2 A. No. I'm not sure who-all had a say in that. I
3 was just explaining the Mewbourne management, at least at
4 the time.

5 Q. Okay. And then still in your paragraph 6 it
6 says: It was heard -- meaning Case No. 20809 was heard --
7 on October 3, 2019, before the entry of an Order in Case
8 20580.

9 This occurred after the drilling problems
10 that resulted in the junked wells, correct?

11 A. I believe so.

12 Q. Turning to your paragraph 10. That's on the
13 next page. You say here that Mewbourne satisfied the
14 pooling notice requirements of Section 9.15.4.8 --

15 I believe that's a typo, it's 19.15.4.8; is
16 that correct?

17 A. Yes, that is correct.

18 Q. -- in Case 20809 when notifying Mr. Ragsdale of
19 the common sources of supply in the area affected by the
20 proposed wells.

21 Let's take a look at those regs here.
22 19.15.4.8A.

23 Do you see the highlighted section there?

24 A. Yes.

25 Q. So the application shall include the general

1 nature of the Order sought?

2 Then 19.15.4.9A(6) further requires that
3 the Hearing Notice published by the Division shall include
4 a reasonable identification of the adjudicating subject
5 matter that alerts persons who may be affected if the
6 Division grants the application.

7 In your review of the application, do you
8 believe that application actually alerts Mr. Ragsdale as
9 to his -- to the effect that he would be required to pay
10 the costs for those junked wells?

11 A. I believe that Mewbourne satisfied all Notice
12 requirements of 19.15.4.8, yes.

13 Q. That was not my question. My question was: Do
14 you believe that the application that we've just reviewed
15 would have alerted Mr. Ragsdale that he would be
16 responsible for costs related to those junked wells if he
17 participated in the wells that were pooled in Case No.
18 20809?

19 A. Like I said, I think we did all the contract
20 Notice requirements for this application.

21 Q. So you're saying that the application we just
22 looked at would have alerted Mr. Ragsdale of Mewbourne's
23 intent with respect to imposing those costs for the junked
24 wells on the 15/10 wells?

25 A. It was the exact same spacing unit, exact same

1 formation, exact same lateral length. With his experience
2 I would think that someone would infer that.

3 **Q. You're suggesting that Mrs. Ragsdale should have**
4 **looked at that application -- and perhaps should we go**
5 **back to it.**

6 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, I
7 believe you've asked the question no less than three or
8 four times. I believe the witness has answered it.
9 You're welcome to ask it once more, but after that I think
10 we need to move along.

11 MS. SHAHEEN: Okay. Well, I just feel like I'm
12 not actually getting an answer to my question, but if you
13 want me to move along, I'm happy to do so.

14 We will go back to Mr. Robb's Self-Affirmed
15 Statement. All right.

16 **Q. In paragraph 11 you refer to Ms. Anderson and**
17 **her Election Letter under the JOA, which was January 23,**
18 **2020, and you refer to Attachment E. Then you also refer**
19 **to a similar letter that was sent to Mr. Ragsdale as**
20 **Attachment F.**

21 **Do you recall why you sent that same letter**
22 **to Mr. Ragsdale at that point?**

23 A. Let me pull up these letters so we know what
24 we're talking about.

25 **Q. Let me see if I can pool them up, too. (Note:**

1 **Pause.)**

2 **Attachment E doesn't have Ms. Anderson's**
3 **name on it, but --**

4 A. She was part of the "See Attached" list.

5 Q. Okay. And then this is her Certified Mail.

6 **All right. Then here Attachment F is the**
7 **letter that was sent to Mr. Ragsdale. And my question is:**
8 **Why was this letter sent to Mr. Ragsdale?**

9 A. Because he requested it.

10 Q. Mr. Ragsdale requested this letter?

11 A. Yes.

12 Q. Do you have some documentation of his request
13 for this letter?

14 A. Uhm, no, but I remember it. I sent the letter
15 to Tracy, she informed me that she had sold the interest
16 to Mr. Ragsdale, and then I believe they reached out and
17 asked us to repropose it.

18 Q. You believe who reached out?

19 A. Ms. Stanford.

20 Q. Ms. Stanford reached out to you and asked you to
21 send this letter to Mr. Ragsdale?

22 A. I was unaware that Ms. Anderson had sold the
23 interest to Mr. Ragsdale. They brought that to my
24 attention and, I believe, requested a well proposal under
25 the JOA.

1 Q. I'm going to stop sharing.

2 A. In Mr. Ragsdale's name instead of Ms. Anderson.

3 Q. Do you know when that sale was effected?

4 A. I have some -- if I can just -- after the wells
5 were junked, probably.

6 Q. Let's see. We have --

7 A. I think Mr. Ragsdale may have a better...

8 Q. -- a rebuttal exhibit here somewhere, I just
9 need to find it.

10 A. Yeah, it looks like in the last testimony Ms.
11 Stanford said that Mr. Ragsdale knew that the wells had
12 been junked.

13 Q. You know, I didn't ask a question, so if you're
14 referring to Ms. Stanford's testimony, which I have
15 already made an objection to here.

16 A. I was just getting back to --

17 Q. So I would ask you not to volunteer information
18 if there's not a question pending.

19 A. Okay.

20 Q. I'm having trouble finding this rebuttal
21 exhibit. I circulated it to everyone -- oh, here it is.
22 I found it. Okay. And now I'll share my screen with
23 everyone again.

24 Do you see this, Assignment, Conveyance,
25 and Bill of Sale?

1 A. Yes, I do.

2 Q. And you'll see there in bold letters, "between
3 TRACY ANDERSON.... signs and conveys into TOM RAGSDALE..."

4 Do you see that?

5 A. Yes.

6 Q. Do you see the effective date there?

7 A. June 1st, 2020.

8 Q. So would you agree that Mr. Ragsdale didn't
9 acquire an interest from Mr. Anderson until several months
10 after this letter that was sent to him?

11 A. I haven't had time to review the title here. I
12 don't think I got a copy of this.

13 Q. Well, we'll scroll through here now. Do you
14 want to take a look at it?

15 A. Uh, I'd like to see the entire chain of title,
16 because a lot of time multiple assignments were...

17 I'm not sure if that's the case here.

18 Q. Let's take a look at the Exhibit A. Maybe that
19 would be helpful for you.

20 MR. BRUCE: You know what, I don't know whether
21 to object or not, but what is the point of this testimony?

22 MS. SHAHEEN: The point of this testimony is
23 that Mr. Ragsdale purportedly told them to provide him
24 with a letter under the JOA even though he had not yet
25 acquired this interest, and I'm trying to explore why --

1 sorry, I'm sharing the screen of my grandkids here.

2 And I'll ask -- if I have a question I'll
3 ask it, but right now I'm just addressing Mr. Bruce's
4 question.

5 MR. BRUCE: He's testified that he was asked,
6 told to contact her. What more is there to say?

7 MS. SHAHEEN: I'm just asking him to explain why
8 when the interest wasn't acquired until June of 2020.

9 THE WITNESS: I can (inaudible) on this a little
10 bit.

11 A. If this is the case then the interest that we
12 credit Ragsdale to should actually be nonconsent, so he
13 should have known that. Because Tracy Anderson never made
14 a timely election.

15 So if that's something we -- I can look
16 into that, if you want, but the interest we had credited
17 to Mr. Ragsdale is from Tracy Anderson. She never made an
18 election. Mr. Ragsdale did, because he told us he
19 acquired this interest. If he didn't actually acquire
20 it -- like I said, I'll have to review the entire chain of
21 title before making assumptions, but if this is true, then
22 the interest we have credited to him is actually
23 nonconsent, if he didn't acquire it until June.

24 But he signed the AFEs and sent them back
25 within the 30 days, so I don't know why he would do that.

1 As I say, I'll do more research into the
2 title chain.

3 Q. You're saying that Ms. Anderson didn't elect to
4 participate under the JOA? Is that your testimony today?

5 A. Under this specific election that you just
6 showed me, or well proposal.

7 Q. Okay. We will go back to your Affirmed
8 Statement. (Note: Pause.)

9 Sorry. Turning back to the JOA, did you
10 send a JOA to all of the interest owners?

11 A. Yes.

12 Q. And was that JOA the one that was proposed in
13 the Well Proposal Letter for the 1280-acre unit?

14 A. Yes. The JOA was two sections.

15 Q. Was there a Well Proposal and a JOA that
16 pertains specifically to the spacing unit that was
17 ultimately force pooled?

18 A. No, that's what the Order is for.

19 Q. So there was no opportunity to participate under
20 a JOA with respect to only the spacing unit that was
21 ultimately force pooled; is that right?

22 A. That's incorrect.

23 Q. So you're -- okay. I'm a little confused.

24 Are you saying there was a JOA that
25 pertained only to the east half of the east half of

1 **Sections 10 and 15?**

2 A. Um, there was not a JOA. But you have asked if
3 there was an opportunity.

4 **Q. Was there an opportunity to participate in a JOA**
5 **that pertained only to the east half of the east half of**
6 **Section 10 and 15?**

7 A. Mr. Ragsdale never asked me about one. We might
8 have been able to work something out, but he stated that
9 he would never sign another JOA with Mewbourne, so --

10 **Q. That's --**

11 A. -- he --

12 **Q. Excuse me. I'm going to object, because you're**
13 **nonresponsive. You are not answering my question. You're**
14 **answering --**

15 MR. BRUCE: I believe he's --

16 **Q. My question was: Did you provide an opportunity**
17 **to anyone to participate in the JOA that pertained only to**
18 **the east half of the east half of Sections 10 and 15?**

19 A. I did not put that together. I sent a
20 two-section --

21 **Q. Thank you. Thank you.**

22 MR. BRUCE: I would like him to fully respond to
23 the question.

24 MS. SHAHEEN: The question was a simple yes or
25 no answer, and he gave me the answer and additional

1 information I have not requested.

2 COMMISSION CHAIR SANDOVAL: Mr. Bruce, if you're
3 interested in a full answer you can ask on redirect.

4 MR. BRUCE: I'll skip that. I've got a few
5 other questions but I won't take the Commission's time
6 right now.

7 Q. I'd like to turn now to the AFEs that we looked
8 at earlier with Mr. Cude. Do you recognize this AFE, Mr.
9 Robb?

10 A. Scroll up. Where is this at? Is this in yours?

11 Q. Yes. It's part of Exhibit 3 attached to our
12 Prehearing Statement.

13 A. Uh, I can't quite read it on the screen.

14 Q. I can make it bigger.

15 A. I've got a copy.

16 You can continue. I'll find it.

17 Q. Okay. So this is the AFE for the 15/10 2H that
18 was submitted to the Division; is that correct?

19 A. Can you scroll up? I'm still trying to find it.

20 Q. It's attached to your affidavit in the previous
21 case, the 20580 case. And that was Exhibit 3. (Note:
22 Pause.)

23 A. Which exhibit is this?

24 Q. Exhibit 3.

25 A. Oh, sorry. There's exhibits within exhibits.

1 I'll just look at it on here. You can...

2 Q. Do you want me to scroll down?

3 A. Yeah. You might have to go back and forth,
4 but...

5 Q. Yeah. And then we are going to go to the other
6 AFE so it will be a lot of back and forth.

7 So here's the date on it, September 10,
8 2019, and the total well cost 9.389 million. Do you see
9 that?

10 A. Yes.

11 Q. And why did -- do you assist in putting together
12 these AFEs?

13 A. No.

14 Q. Did you review them before you attached them to
15 your exhibits in the cases?

16 A. As they pertain to land matters.

17 Q. Were you aware that this did not include the
18 costs for the junked wells?

19 A. Uhm, yes. That was our AFE for the costs moving
20 forward on that particular well.

21 Q. And why didn't you include the cost of the
22 junked wells if Mewbourne intended to charge those to the
23 parties who were force pooled?

24 A. Uhm, I'm not sure if we even had the costs at
25 this point, but I --

1 Q. You would attach your daily drilling reports,
2 right?

3 Our costs don't come in on the -- or costs
4 through vendors don't come in on the drilling reports.

5 Q. Your estimated costs aren't revealed on drilling
6 reports?

7 A. I thought you were asking about actual costs.

8 Q. Well, the actual costs and expense -- the
9 anticipated costs of the expenses as they are drilled are
10 included on the drilling reports, are they not?

11 A. I'm not sure what that number is, if that's
12 bills to date, because I know bills don't come in -- we
13 don't get them every single day as we're drilling.

14 Q. Well, the wells were drilled in July, right?

15 A. Yeah, sorry. We didn't get those -- if you can
16 date your question.

17 Q. So you would have had an idea what the costs
18 were a couple of months later.

19 A. I'm not sure.

20 Q. You don't know whether you're aware of what the
21 costs were for drilling two months prior to submitting
22 your AFE?

23 A. That's not in the landman's job, it's all in
24 drilling costs.

25 Q. Is that something I should have asked Mr. Cude?

1 A. Uh, yeah. I mean, he does reservoir work. I'm
2 not sure if he tracks the daily costs, --

3 **Q. So if I recall correctly --**

4 A. -- but I definitely don't do that.

5 **Q. If I recall correctly, he deferred to you when I**
6 **was asking him questions about the AFE.**

7 A. Uh, okay. I can tell you this does not include
8 the actual drilling costs. This is our estimate of costs
9 moving forward for that well.

10 **Q. And why didn't you include those costs for**
11 **drilling the junked wells?**

12 A. I feel like I have answered this like twice now.

13 **Q. Okay. Well, one more time and I'll move on.**

14 A. Because it was the estimated cost of the well
15 moving forward.

16 **Q. Okay. So you would agree that an AFE is for**
17 **estimated costs?**

18 A. Yes. It's an authorization for expenditures.
19 It typically lists estimated costs.

20 **Q. Okay. We are turning now -- this is in**
21 **Exhibit -- excuse me, this is in Exhibit 5. I believe**
22 **it's attached to the Election Letter that was sent to Mr.**
23 **Ragsdale.**

24 A. Okay.

25 **Q. You can see at the top this is again the**

1 15/10 2H. And if you scroll down you will see the date
2 here is March 2nd, 2020, and the total amount has
3 increased by approximately three million from previously.
4 The well was estimated to be 9.-some-odd, 9.5 million, and
5 here it's closer to 12.5 million. Do you see that?

6 A. Yes.

7 Q. What is the difference between this AFE and the
8 previous AFE?

9 If you scroll to the page directly above this it tells you
10 everything included on that AFE. And reading this, about
11 three lines down the second paragraph: (Reading) AFE is
12 an estimated cost for the well and the realized cost of
13 drilling and plugging and abandoning the Ibex B1AP Fed No.
14 2H well and the substitute Ibex 10/15 Fed No. 2HY well,
15 which were drilled in accordance with 19.15.8 NMAC.

16 (Note: Reporter interruption.)

17 THE WITNESS: I apologize. I thought about that
18 halfway through.

19 Q. So turning back now to the AFE, at the bottom
20 here it's prepared by L. Jackson. Do you see that?

21 A. Yes.

22 Q. And Mr. Cude previously testified this is Levi
23 Jackson.

24 And I asked the question I believe he
25 deferred to you: Who instructed Mr. Jackson to include

1 **those costs for the junked wells in this AFE?**

2 A. I believe this was a management decision.

3 **Q. So that would include all the folks you**
4 **identified previously?**

5 A. Some of them, most likely, but after reviewing
6 the OCD rules I also believe that this should have been
7 included.

8 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, I just
9 want to the jump in real quick and do a time check. I
10 know the court reporter -- we have all been going for a
11 little while at this point. Do you have an estimate as to
12 how much longer your line of questioning will take, and
13 your answer will dictate kind of when we take a short
14 break.

15 MS. SHAHEEN: I am going to estimate that I have
16 about 10 minutes and then I'd like to confer with my
17 client before I conclude my questions of Mr. Robb, if that
18 would be acceptable.

19 COMMISSION CHAIR SANDOVAL: All right. Let's go
20 ahead and go for another 10 minutes and finish up your
21 questions, and then we can take a break while you confer
22 with your client.

23 MS. SHAHEEN: Thank you.

24 COMMISSION CHAIR SANDOVAL: Actually, just to
25 check, Ms. Macfarlane, are you okay?

1 (Note: Reporter responded.)

2 COMMISSION CHAIR SANDOVAL: Thank you. Please
3 proceed, Ms. Shaheen.

4 MS. SHAHEEN: Thank you.

5 **Q. Going to paragraph 15 in your Self-Affirmed**
6 **Statement, and I'll go back to that now.**

7 **You say, "In my experience a Pooling Order**
8 **is the equivalent of an Operating Agreement..."**

9 **Do you see that?**

10 A. Yes.

11 **Q. What do you mean by that?**

12 A. They are two governing documents that we operate
13 wells under. As an operator it's either a Joint Operating
14 Agreement or Pooling Order are the means that we can
15 recoup costs and distribute revenue and everything to
16 operate a well.

17 **Q. And why is the Pooling Order equivalent to an**
18 **operating agreement?**

19 A. It's the governing document that we operate
20 under, and the OCD version of it, I guess.

21 **Q. And Mr. Ragsdale is not subject to the JOA,**
22 **correct?**

23 A. Incorrect.

24 **Q. Well, let me say this: Mr. Ragsdale is not**
25 **subject to the JOA with respect to the interests at issue**

1 in this proceeding.

2 A. Correct.

3 Q. And so would you agree that the JOA has many,
4 many additional provisions of even those that are provided
5 in, for example, the Order that was issued in 20809?

6 A. Yes. It's much longer.

7 Q. So when you say Mr. Ragsdale has not been
8 treated any different than interest owners subject to the
9 JOA, should he be treated the same as interest owners
10 subject to the JOA?

11 A. Uhm, they say slightly different things but I
12 guess it depends on the situation.

13 Q. Well, give me an example of what you mean.

14 "They say slightly different things." I
15 mean, you just testified there are many more pages in a
16 JOA. I believe the Order is seven pages.

17 A. For example, in a Pooling Order you're required
18 to pay the estimated costs when you receive -- or under
19 the Pooling Order you're required to prepay the costs;
20 under JOA you're not, in most circumstances.

21 Q. So that would be a difference between the two,
22 correct?

23 A. Yes.

24 Q. And here again we talked before about how the
25 JOA actually covers the 1280-acre unit and not the east

1 **half of the east half of Sections 10 and 15. Correct?**

2 A. Correct.

3 MS. SHAHEEN: Madam Chair, at this time if we
4 want to take a short break I can confer with my client and
5 come back and finish up quickly any other questions that
6 we have for Mr. Robb.

7 COMMISSION CHAIR SANDOVAL: Okay. It is 3:48.
8 Why don't we come back at 3:55, so seven minutes.

9 MS. SHAHEEN: Thank you.

10 (Note: In recess.)

11 COMMISSION CHAIR SANDOVAL: It is 3:56 p.m.

12 Ms. Shaheen, are you back?

13 MS. SHAHEEN: I am. And just a few more
14 questions I asked Mr. Cude and I believe he deferred to
15 Mr. Robb on.

16 COMMISSION CHAIR SANDOVAL: Sorry. Wait. Hold
17 on. Let me start recording.

18 Okay. Just to make sure I understood that,
19 you have more questions for Mr. Robb or Mr. Cude?

20 MS. SHAHEEN: For Mr. Robb. They were questions
21 that Mr. Cude deferred to Mr. Robb.

22 COMMISSION CHAIR SANDOVAL: Got it. Mr. Robb,
23 are you ready?

24 WITNESS ROBB: I am.

25 COMMISSION CHAIR SANDOVAL: All right. Go

1 ahead, Ms. Shaheen.

2 MS. SHAHEEN: Thank you.

3 Q. Mr. Robb, do you know of any instances in which
4 there has been a similar circumstance for Mewbourne where
5 there's been failed attempts to drill and those costs have
6 been subsequently imposed through an Order that was
7 entered after the failed attempts to drill the wells?

8 A. No.

9 Q. And when the drilling issues occurred did
10 Mewbourne confer with its partners about next steps?

11 A. With our JOA persons, yes.

12 Q. Did you reach out to any of the parties that you
13 were attempting to force pool?

14 A. No. We are required under the terms of the
15 Joint Operating Agreement to do that. The terms of an
16 Order does not require that.

17 Q. Well, there was no Order, correct?

18 A. Uhm, I had done a ton of pooling cases around
19 this time and no Order that I have seen before that or
20 after ever states that.

21 Q. Well, wouldn't you be required to share that
22 information with a party who elected to participate under
23 a Forced Pooling Order?

24 A. Uhm I've read the Order and I don't see where it
25 states that.

1 Q. Again, there was no Order at that time, but --

2 A. Any Order before and after that I have seen, I
3 have not seen that requirement.

4 Q. If I understood correctly your previous
5 testimony, you said that you shared information with
6 parties under the Forced Pooling Order who elected to
7 participate. Is that correct?

8 A. Yes.

9 Q. Okay. So --

10 A. Who elected to participate.

11 Q. Right. But there was no Order so there was no
12 opportunity for the force-pooled parties, or the parties
13 who you attempted to force pool, there was no opportunity
14 for them to elect to participate; is that right?

15 A. No, I sent the Forced Pooling Order with the
16 proposals and then I sent all the well info to the parties
17 who elected on participate under the Order.

18 Q. I think we are talking about two different time
19 periods. I'm focused on the time period when you drilled
20 the junked wells. And there was no Order at that time,
21 correct?

22 A. Correct.

23 Q. And you did not share any information about the
24 junked wells with the parties that you were intending to
25 force pool at that time, and in fact were in the process

1 **of force pooling. Correct?**

2 A. They were not entitled to information, so no, I
3 did not send that. They were not participants with us at
4 the time. Once they become participants then we share the
5 info.

6 **Q. And isn't it true they couldn't have become**
7 **participants because there was no Order. Is that right?**

8 MR. BRUCE: I object to this. This has been
9 asked and answered about six times today. Let's move on.
10 Let's get the hearing over with.

11 A. They could have signed the JOA and then elected
12 to participate, so yes, they had an opportunity.

13 COMMISSION CHAIR SANDOVAL: Mr. Bruce, I think
14 Mr. Robb answered the question, but...

15 MR. BRUCE: That's fine. Thank you, Madam
16 Chair.

17 COMMISSION CHAIR SANDOVAL: Mr. Robb has
18 answered the question, so we can move on to the next.

19 MS. SHAHEEN: Yes. That may conclude my
20 questions this morning. Just one sec here.

21 No more questions for Mr. Robb. Thank you.

22 COMMISSION CHAIR SANDOVAL: Thank you, Ms.
23 Shaheen.

24 All right. Commissioners, do you have
25 questions for Mr. Robb?

1 COMMISSIONER AMPOMAH: Yes, ma'am, I do.

2 Mr. Robb, I do have a few questions for
3 you.

4 EXAMINATION

5 BY COMMISSIONER AMPOMAH:

6 Q. The first one, I just want to understand this
7 clip, so I want to know from your perspective, what is the
8 significance of the JOA and the Forced Pooling to the oil
9 and gas industry?

10 A. They allow oil and gas to be developed. Without
11 the two everything would just be handshake deals, no one
12 would be held accountable for costs, we wouldn't have a
13 means of distributing revenue. It would definitely hinder
14 development without JOAs and Pooling Orders.

15 Q. Now, would you recommend companies going ahead,
16 you know, without receiving Pooling Orders, you know, to
17 embark on drilling? Would you recommend companies to do
18 that?

19 A. Everything is circumstantial. In a perfect
20 world, it would be best to have all parties signed up
21 under a JOA. In a less-perfect world, there would be the
22 JOA and Pooling Order, --

23 Q. But --

24 A. -- but in -- go ahead.

25 Q. Go ahead. Sorry.

1 A. But in our case it was a little different. We
2 knew the regulations, we knew what we were doing was
3 legal. We had 90 percent of the people signed up, and of
4 those 9.4, I believe, that were under there, a bunch of
5 those parties had communicated to me that they wanted to
6 participate under the Pooling Order.

7 So our risk was -- it wasn't like we were
8 risking 100 percent. It was Mr. Ragsdale's piece and
9 maybe some smaller other pieces. So we took that risk in
10 order to save our term assignments.

11 So most of it was tied up under the JOA, so
12 we took that risk knowing that the Pooling Orders can
13 still be issued after a well has been drilled.

14 You know, so, uh -- uh, okay. Now let me ask
15 you: So you talked about where there was no consent, or
16 more or less there was no -- Mr. Ragsdale did not contest
17 the cost. You know, he did not contest the cost, because
18 he did not -- you guys did not -- or let's say Mewbourne
19 did not receive any official communications, whether
20 through phone calls or let's say through emails, to assert
21 that. Now my question to you is: Why would you also want
22 to say that Mr. Ragsdale knew about the junked wells when
23 there was no official communication to him. But you are
24 certain that he responded, so why would you also have said
25 the same thing?

1 A. Ms. Stanford stated that in her last testimony,
2 and she knew about the wells. I know. It's Ms. Stanford
3 and we've already talked about that.

4 I spoke with Tracy Anderson on numerous
5 occasions, every single time we junked the wells, and she
6 wasn't super familiar with oil and gas so I was explaining
7 a bunch of that to her. And I was under the impression
8 that she was in communication with Mr. Ragsdale or Ms.
9 Stanford.

10 Yeah, but -- so I think you wanted to make it
11 more clearer to us that he did not contest. And according
12 to his testimony, Mr. Ragsdale also talks about he didn't
13 know about this. You know. So I'm just trying to draw
14 the line here, and if you are saying he did not,
15 Mr. Ragsdale did not contest the cost because there's no
16 substantial evidence in term of calling, or, let's say,
17 writing to prove that, why would you also believe, because
18 I didn't get the answer from your statement, how would you
19 also believe that he's saying he didn't hear, but you are
20 saying he heard about it. I mean -- and your
21 justification is that is (inaudible). So how would the
22 Commission agree with what you're saying rather than not
23 agreeing with what Mr. Ragsdale is saying?

24 A. I mean, we are two people saying two different
25 things. He knew about the costs when I sent the proposal

1 to him, because it was stated on there. So it wasn't just
2 an escalated AFE and he had no idea why. It states on
3 that letter that I sent him why those costs were escalated
4 and what provisions we were applying those costs under.

5 **Q. So based on Mewbourne's practice and also the**
6 **practices in the industry, do you usually receive Orders,**
7 **you know, let's say Forced Pooling Orders, before**
8 **proceeding with the drilling?**

9 A. Nowadays the process has become a lot more
10 smoother and Orders get pushed out a lot quicker. When I
11 first started it was sometimes over six months, now it's a
12 week or two. So if we would have had this hearing today
13 we would have the Order before we would have drilled.
14 That's no fault of the OCD. I do like how everything has
15 changed, but we don't know -- at that time we didn't know
16 how fast the Orders were going to be issued. It took
17 about, I think, four months.

18 So it all depends on -- like you said, it
19 was about a 5 percent risk to us that wasn't signed up
20 that we would have to clean up later.

21 **Q. So are you saying that there were instances,**
22 **let's say with Mewbourne, where they have gone ahead and**
23 **drilled or performed an activity prior to receiving a**
24 **Forced Pooling Order?**

25 A. Yes, we did that.

1 Q. I'm saying that have you done that before? So
2 not just with this case but has that happened in the
3 past --

4 A. Yes.

5 Q. -- where you have not received the Order but you
6 still went ahead and drilled it --

7 A. Yes.

8 Q. -- prior to receiving the Order?

9 A. Yes. When I first started they took sometimes
10 six months to get issued, so we were definitely drilling
11 without Orders then, as well.

12 Q. Okay. So, you know, I also want to know, so
13 there are two laws backing each other's claim here, so I
14 want to have your take on how you would view the
15 substitute rule? You know, because that one I saw that's
16 the (inaudible), right? So before you can assess the
17 costs, that's the one to (inaudible). So then from that
18 my understanding, I understand is that you need to have
19 the Order first before you can, more or less, talk about a
20 substitute.

21 Now, Mr. Bruce also brought out another
22 issue where he said, like you're saying, you don't have to
23 get your Order beforehand, you can go ahead and drill
24 prior to the issuance of the Order. Now I want to have
25 your take. Compare these two and tell me what you

1 **believe.**

2 A. Uhm, sorry. I don't think that we need an Order
3 to drill because, uhm, I believe that provision is part of
4 the Oil & Gas Act, not the Orders themselves.

5 In terms of substitute wells, is that in
6 the Orders, as well? I don't -- Mr. Bruce might be able
7 to confirm what I'm about to say but I don't believe it
8 speaks to substitute wells in the Orders themselves. It's
9 in the rules and regulations.

10 Q. I'm not sure but let me move on.

11 So in Mr. Ragsdale's testimony he talked
12 about, on page 5 of his testimony, he talked about the
13 phone call between yourself and then Ms. Stanford.

14 A. Yes.

15 Q. And he talked about you advised Ms. Stanford to
16 talk to Mr. Bruce. But based on your testimony it sounds
17 like that never happened. Can you confirm that?

18 A. The way she described the events was not how it
19 went. Like I said, we talked for at least five minutes
20 about the issue at hand. She did not call, and then I
21 said you have to talk to Mr. Bruce. We explained
22 everything, and talked about it.

23 That's when he was just reading what was
24 written on that letter, which --

25 Q. Did you -- okay. Sorry.

1 A. Which in this case I'm actually the one that
2 said it, so I feel like I have a better knowledge of the
3 events than Mr. Ragsdale.

4 **Q. My last question is to the AFE.**

5 **So when did Mewbourne decide to add the**
6 **additional costs from the junked wells, you know, to the**
7 **AFE, and then why did Mewbourne not notify the OCD about**
8 **this in that particular application?**

9 A. Uhm, so if you look at the previous Order, I
10 believe Mr. Bruce actually touched on this in Case 20809
11 when he presented it, which is on page 5, paragraph 32.

12 So at the hearing he did present that to
13 the OCD Order, the objective was...

14 **Q. So are you saying that Mewbourne actually**
15 **notified the OCD about including the new cost as part of**
16 **the new AFE for the subsequent well?**

17 A. Uhm, we notified the Commission of our issues
18 and plans to drill from the south on the north, but I
19 don't know if we -- I don't think we were required to let
20 the OCD know that we were including these, because under
21 OCD rules we were allowed to drill substitute wells.

22 **Q. But you say that you don't know, you are not**
23 **aware. Let's say you're saying that you were not supposed**
24 **to notify OCD that you're going to impose that cost, you**
25 **know, as part of the substitute well. You were not -- you**

1 **don't necessarily have to do that; is that right?**

2 A. There's rules and regulations that state you're
3 allowed to drill substitute wells, so with those rules and
4 regulations in place we didn't see the need to notify the
5 OCD since it was allowed to do, and to impose those costs.
6 That's in the rules, as well.

7 **Q. Okay. But during the application you still**
8 **submit the AFE.**

9 A. Yes.

10 **Q. So then why did you not disclose that on the**
11 **AFE? Because Mr. Ragsdale is saying Mewbourne did not add**
12 **the costs to the new AFE, that's why he did not appear to**
13 **contest.**

14 A. So -- sorry.

15 **Q. So I'm trying to understand. If you wanted to**
16 **be in good faith, why did you not just add it so it says**
17 **this substitute well, and this is the new cost because you**
18 **are allowed to recoup your cost and add it to the new AFE?**

19 A. So when we provided Notice the AFEs weren't part
20 of that. Those came later to when we presented the case,
21 and we were presenting the case of this is the cost of
22 these wells moving forward; we had encounters, we had the
23 problems drilling the first two. Mr. Bruce stated that at
24 the trial.

25 And by the time -- when I submitted all

1 that I personally did not know the total costs that were
2 incurred from those first two wells, so we just included
3 the cost of the well moving forward.

4 COMMISSIONER AMPOMAH: Thank you, Madam Chair.
5 No further questions at this time.

6 COMMISSION CHAIR SANDOVAL: Commissioner Bloom,
7 do you have questions for the witness?

8 COMMISSIONER BLOOM: Madam Chair, no.
9 Commissioner Ampomah certainly covered everything I was
10 going to ask. Thank you very much.

11 COMMISSION CHAIR SANDOVAL: Thanks.

12 So I have some questions, there's still
13 redirect for Mr. Bruce of Mr. Robb. I think -- do we want
14 to, Mr. Moander, talk about the schedule right now before
15 I go into questions?

16 MR. MOANDER: Madam Chair, I think that might be
17 a good idea because it is my sense that this matter is
18 probably not going to wrap up completely today. I'm not
19 sure whether witnesses will be taken care of, but at this
20 point I think we could start with availability tomorrow
21 morning to get this finished, because I understand, Madam
22 Chair, that you have got obligations in the afternoon, as
23 do I. So I think, yeah, let's have a talk about that.

24 COMMISSION CHAIR SANDOVAL: It seems there is a
25 chance we could finish up with the witnesses today,

1 closing seems more realistic tomorrow at this point, and
2 then there's still deliberations.

3 I also -- I don't think we've closed the
4 door on recalling potential witnesses from before, so
5 depending on that piece and if the Commission feels that
6 that is necessary, that, I guess, would need to be
7 tomorrow, as well.

8 I can be available tomorrow morning, the
9 majority of the morning. Greg, I know we had something
10 tomorrow, I think at 11:00, but I could bump that to other
11 people on the call, if necessary, and go from like 8:00,
12 8:30 to 12:00, 12:30, if necessary, but that's about the
13 max for me.

14 MR. MOANDER: I will not be available after
15 12:00 so that would be --

16 COMMISSION CHAIR SANDOVAL: Commissioner Bloom
17 and Dr. Ampomah, what do your schedules look like
18 tomorrow?

19 COMMISSIONER BLOOM: Madam Chair, I could do
20 from whatever time in the morning, 8:00 to noon, as well,
21 or even go up to about 12:30, but with Mr. Moander's
22 limitations 8:00 to 12:00 would work on my calendar.

23 COMMISSION CHAIR SANDOVAL: Dr. Ampomah?

24 COMMISSIONER AMPOMAH: Yeah, I can be available
25 from 8:30 to 12:00.

1 COMMISSION CHAIR SANDOVAL: Okay. All right.

2 Mr. Bruce and Ms. Shaheen, what about your
3 schedules tomorrow morning?

4 MR. BRUCE: I'll ask my client, mainly Mr. Robb,
5 if he's available, but I am available any time the
6 Commission pleases. My follow-up with Mr. Robb is about
7 three questions long, but I would ask Mr. Robb and Mr.
8 Cude to talk about their availability. I haven't had a
9 chance to --

10 MR. ROBB: We are good at any time tomorrow.

11 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, what
12 about your witness, if necessary?

13 MS. SHAHEEN: I actually -- let me try to...

14 Mr. Ragsdale, are you on now?

15 MR. RAGSDALE: Yes, I believe so.

16 COMMISSION CHAIR SANDOVAL: We can hear you.

17 MS. SHAHEEN: What is your availability tomorrow
18 morning?

19 MR. RAGSDALE: Well, I'm in Santa Fe at your
20 office. And I missed my flight today, but this is very
21 important to me.

22 COMMISSION CHAIR SANDOVAL: Sorry.

23 MR. RAGSDALE: No, no, no, no. It's a lot of
24 money at stake for me personally, it's a lot of money. So
25 you got my complete availability, the Commission has my

1 complete availability to wrap this up and do it right.

2 COMMISSION CHAIR SANDOVAL: Okay. So it's
3 sounding like everybody is available tomorrow morning from
4 8:30 to noon. What is the process, Mr. Moander? Do I
5 just need to send a Webex to Ms. Davidson and Ms. Davidson
6 get...

7 MR. MOANDER: Let me check one thing here. We
8 should probably get this on the record properly.

9 My apologies here. I'm a little fried.

10 MS. SHAHEEN: Madam Chair, if I may, just for a
11 minute.

12 You raised a number of questions regarding
13 research, and I'm wondering if it might be acceptable to
14 the Commission for us to do our closings in a written
15 form. For example, after we get the transcript.

16 I don't know if Mr. Bruce would be amenable
17 to that, but that might save us quite a bit of time
18 tomorrow if the parties agreed to written closing
19 statements and if the Commission was amenable to that.

20 MR. MOANDER: Ms. Shaheen, when would you
21 anticipate having those filed? Because what I'm hearing
22 is that the parties' counsel would be working on this and
23 submit tomorrow morning or late this evening. Is that
24 what you're thinking?

25 MS. SHAHEEN: No, I was thinking more along the

1 lines of after we get a transcript and some time to
2 research the issues that Madam Chair raised that we would
3 submit closing statements a little ways down the road.

4 MR. MOANDER: So, Madam Chair, admittedly this
5 case seems like it's unique from some of the other issues
6 the Commission has dealt with. I know you have a
7 preference for being pretty decisive. There may be some
8 value in considering that, given that it seems like
9 there's been requests for a lot of legal authority that,
10 putting it bluntly, no attorney at this meeting has had
11 luck finding, or the issue doesn't appear to have been
12 anticipated.

13 So I think there is value in that. I'm not
14 saying that there is a correct answer here, but from a
15 standpoint of, as Mr. Ragsdale said, getting it done
16 right, I think there's merit there.

17 Thank you.

18 COMMISSION CHAIR SANDOVAL: So just thinking out
19 loud: If we were to do that, would we need tomorrow
20 morning? I guess depends on if we need to recall
21 witnesses.

22 MR. MOANDER: That's probably the extent
23 tomorrow, because what would happen, I would anticipate
24 under those circumstances then you would close the
25 evidentiary record, and then at that point there would

1 need to be some discussion about when to continue this for
2 deliberation. Because, you know, under let's see -- wait.
3 Oh, yeah, 19.15.4.15, the adjudication rules for the OCC,
4 the Commission can continue this hearing so long as the
5 Commission identifies on the record the date, time and
6 location where the hearing will be reconvened, and we
7 don't need to post Notice. But that's also making some
8 assumptions about timeliness of the record being produced,
9 the transcript being produced to the parties, as well as
10 the Commission.

11 So that would be a decision that, you know,
12 would have to be clear, the Commission would have to be
13 very clear about it.

14 COMMISSION CHAIR SANDOVAL: Commissioners, or I
15 guess Mr. Moander, at this point can the commissioners
16 discuss whether or not we believe we need additional
17 testimony or should we wait?

18 MR. MOANDER: I think there's nothing wrong --
19 my suggestion here is let's finish with Mr. Robb at least.
20 Are we on redirect now?

21 COMMISSION CHAIR SANDOVAL: No, I have
22 questions.

23 MR. MOANDER: I think we need to try to get --
24 it's almost 4:30. Now we probably need to make that call,
25 because 4:30 is sort of the witching hour where these

1 decisions need to get made. So discussion about that now
2 would not be inappropriate.

3 COMMISSION CHAIR SANDOVAL: Okay. Commissioner
4 Bloom and Ampomah, do you have additional questions at
5 this point for either Mr. Ragsdale or Mr. Robb? I'm
6 sorry, Robb is up. Mr. Cude.

7 COMMISSIONER BLOOM: Madam Chair, I do not. One
8 of the things that occurred to me is do we have a court
9 reporter for tomorrow?

10 COMMISSION CHAIR SANDOVAL: Oh, yeah. You know,
11 that's important.

12 MR. MOANDER: Good thought, Commissioner.

13 COMMISSION CHAIR SANDOVAL: Ms. Macfarlane?

14 (Note: The reporter responded.)

15 COMMISSION CHAIR SANDOVAL: Good thought,
16 Commissioner Bloom.

17 COMMISSIONER BLOOM: No, I do not have further
18 questions of Mr. Ragsdale or Mr. Cude at this point. I
19 anticipate that, but see how we wrap up.

20 COMMISSION CHAIR SANDOVAL: Commissioner
21 Ampomah?

22 COMMISSIONER AMPOMAH: I do have some questions,
23 but I guess I believe I can wait tomorrow, I don't need to
24 ask Mr. Ragsdale today. But there is more than one
25 question that I have for him.

1 COMMISSION CHAIR SANDOVAL: So it sounds like
2 you might have more questions for Mr. Ragsdale tomorrow.
3 Okay.

4 I probably have a couple more that might be
5 helpful, just trying to line up all of the pieces, so it
6 sounds like tomorrow is probably necessary.

7 Let's see if we can get through Mr. Robb
8 today and then we will come back tomorrow at 8:30
9 virtually on our lovely Webex platform and recall any
10 witnesses, and then determine what's most appropriate for
11 closing.

12 Does that sound like a play?

13 MR. BRUCE: Sounds fine to me, Madam Chair.

14 MR. MOANDER: That sounds fine.

15 COMMISSION CHAIR SANDOVAL: I know we all wanted
16 to spend Day 2 together. So...

17 All right. Great. All right.

18 EXAMINATION

19 BY COMMISSION CHAIR SANDOVAL:

20 **Q. Well, Mr. Robb, one of the things I don't know**
21 **that we've discussed at this point is whether or not the**
22 **additional rig costs are appropriate. I'm sorry, costs**
23 **for the junked wells are appropriate. We've talked about**
24 **whether or not they should have been included in the AFE**
25 **and whether or not that was appropriate, but not really**

1 about whether or not that -- I think it was around \$3
2 million was appropriate.

3 Is there any information that you could
4 provide the Commission regarding those additional costs
5 surrounding if \$3 million was appropriate to plug and
6 manage those two junked wells?

7 A. Yes. For those two junked wells, I believe
8 those are reasonable costs. That's -- is that it?

9 Q. Why?

10 A. I mean, are you asking should we have kept
11 drilling in that same side, or...

12 Q. No, what I'm asking for is, and maybe this is
13 more appropriate for Mr. Cude, but for those reasonable
14 costs to have plugged and abandoned those wells and moved
15 the rig and all of those pieces for those two wells before
16 moving to the 15/10 ultimately, basically what you're
17 saying is costs of around \$3 million we're passing this
18 off to the parties, but I haven't heard anything
19 regarding, like, was the \$3 million -- what made that cost
20 appropriate.

21 A. Uhm, so I don't deal in costs very much, but I
22 do deal with all of our partners, and not one of our other
23 50 partners, outside of Mr. Ragsdale, brought issues,
24 whatever, brought issues to our costs. They deemed
25 everything reasonable. They paid for those costs through

1 the JIBs.

2 So that's I think the best that I can
3 answer it, is: None of the other parties brought issue to
4 this.

5 Q. Are there any -- I'm assuming -- or I guess has
6 Mewbourne, it sounds like in the past has had to
7 occasionally junk wells. Is that correct?

8 A. This was not our first ever, no.

9 Q. Do you have costs from those situations that
10 would be comparative, to demonstrate that these were
11 appropriate costs?

12 A. Uhm, that's kind of a tough question. Like Mr.
13 Cude said, we try not to make a practice of it, so the few
14 that we have had to junk -- I don't know exactly where in
15 the drilling process we did junk those, so say if it was
16 at 400 feet, that would be less expensive than ours,
17 because we drilled a lot deeper.

18 Q. Do you -- okay. Maybe it's more appropriate for
19 Mr. Robb tomorrow -- I'm sorry, you're Mr. Robb. I'm
20 totally thrown off by the name thing now.

21 Mr. Cude tomorrow.

22 MR. BRUCE: This is Jim Bruce. I think it's
23 more appropriate for Mr. Cude, but, you know, if we are
24 going to do a written closing, perhaps -- and Mr. Ragsdale
25 might want to do this, too: If it can't be done by

1 tomorrow morning, perhaps submit a supplemental affidavit
2 if we can find those costs, along with the written
3 closing.

4 COMMISSION CHAIR SANDOVAL: Okay. Yeah. What
5 I'm trying to understand is are the costs appropriate.
6 The applicant is asserting that they're not.

7 Q. Okay. What portion of the \$3 million would
8 have -- I just want to understand how this works.

9 So if the costs -- so it's now \$12 million.
10 There were those parties that were listed on the document
11 that Ms. Shaheen put up. Does the cost get distributed
12 based upon their ownership percentage?

13 A. Yes. So the well was \$12 million. On that
14 exhibit we looked at earlier it had the percentages of
15 every owner. Mr. Ragsdale's was 4.89 and some change, so
16 his share of that would be the \$12 million times the 4.8
17 percent.

18 Q. So around 580,000-ish, 585 maybe, something like
19 that? Okay.

20 And the way that can be paid is either
21 through production -- like, payments once the well starts
22 making money, it could be paid through that or an up-front
23 cost?

24 A. Yes. He's required to pay, if presented the
25 Order -- I believe this one has changed a few times since

1 I started. He has 30 days to sign the AFE, and then once
2 he signs the AFE within the 30-day period then he can
3 prepay his estimated share of those costs. But in this
4 case he never elected in the first part, so the second
5 part kind of doesn't apply.

6 Q. Okay. I know there were a lot of questions
7 about this earlier but I feel like I never got a clear
8 answer. Did any of the other parties object to the junked
9 costs addition, the change from the 9 to the 12?

10 A. No, none of the parties did.

11 Q. Okay. Now, do -- so I think we established that
12 for both cases -- I don't have the numbers off the top of
13 my head. In Case No., what was it, 20580, which was the
14 10/15, and then in Case 20809, which was the 15/10.

15 So normally, like for a standard compulsory
16 pooling application where it's the first one, like it's
17 the first Notice, I guess maybe for example like for
18 20580, what is the normal Notice process for the parties?
19 Can you walk me through that?

20 A. I guess sort of in proposing the wells?

21 Q. Yes.

22 A. So typically I'll find out who the owners are,
23 and I'll propose them wells, send a copy of our Joint
24 Operating Agreement, speak with the parties throughout the
25 whole process, and then we will apply for the pooling

1 hearing.

2 Then that Notice gets sent to all of the
3 parties, and then a pooling date is set. We have the
4 hearing.

5 Can I keep going?

6 Q. No, I think up until that point is good.

7 So I believe in Mr. Ragsdale's testimony
8 earlier he noted that he did receive the Notices. What
9 I'm trying to understand is whether or not -- how a party
10 or an owner would know that they should participate based
11 off of the Notice. An initial Notice, is it just, you
12 know, like some sort of Section/Township/Range indication,
13 and based off of the Section/Township/Range information
14 plus the fact that you got Notice, you should understand
15 that that is something you might want to participate in?

16 Like, I'm trying to understand how parties
17 should know that they need to be involved and it impacts
18 them.

19 A. Yes. So the Notice includes the applicant, his
20 address; common source of supply, Bone Spring Formation;
21 the areas affected, which in this case was the east
22 half/east half of 10 and 15; and that we were seeking to
23 pool it.

24 The Notice doesn't require all of the stuff
25 that we put in the exhibits. And someone with Mr.

1 Ragsdale's experience would most likely know that we were
2 drilling wells in this proration unit and formation based
3 on the Notice and just his experience.

4 Q. Okay. So even if it's somebody who is unfamiliar
5 with the oil and gas industry, the information, one,
6 because they received a mailed Notice; and two because the
7 legal notice for the hearing contains that it exists in
8 Section/Township/Range, et cetera, that they own property
9 in or minerals, they should understand that they need to
10 participate, or they might want to participate or pay
11 attention?

12 A. Yeah. So the Notice just notices them of this
13 hearing, that they have an interest that is uncommitted to
14 our unit -- or to a unit. It doesn't give them any
15 economics or -- we don't tell them, "Hey, you should
16 participate in these wells." It just gives them Notice of
17 the hearing, the formation, spacing unit, what's going to
18 be drilled, but we don't tell people if they should
19 participate or not.

20 Q. Okay. And then I think what Dr. Ampomah, some
21 of his questions, and some of Ms. Shaheen's questions were
22 trying to elicit as to whether or not you received any
23 such objections by any parties for the cost. So but
24 you -- and just to confirm, like formally in the Orders,
25 like for Order 2094, I think that's Condition 12. So when

1 you say you didn't receive any objections, you're saying
2 you didn't receive any objections pursuant to No. what, 12
3 I believe it is in the Order? (Note: Pause.)

4 A. Sorry, I'm looking at the wrong exhibits.

5 Q. That's okay.

6 A. Yeah, I never received a formal objection, or
7 any objection.

8 Q. So walk me through this process, because it
9 almost reads here like if no objection to the actual well
10 costs for any well is received by the Division...

11 Are you familiar -- okay, let me take a
12 step back. Sorry.

13 Have you been through a process where you
14 have got a formal objection to the costs?

15 A. Yes. Mr. Ragsdale objected on our Ibex 10 B3NC
16 Fed. Com No. 1H well, I believe, which was the well
17 drilled two spacing units away from this one in question.

18 Q. So what does that look like? What does that
19 process look like when there is a formal objection that's
20 received?

21 A. Uhm, I'm trying to remember. This was three
22 years ago.

23 So we have a hearing, and in that hearing
24 the OCD determined that our costs were reasonable, against
25 Mr. Ragsdale's objection.

1 Q. Could you walk me through the front part of
2 that, the receipt of the objection piece.

3 Is it the Division that receives it, is it
4 also the operator that receives it?

5 A. Yeah, I believe y'all received the objection.

6 Q. So in order for it to be a formal objection it
7 has to be to the Division?

8 A. I believe so.

9 Q. Did the Division receive a formal objection
10 within 45 days?

11 A. Oh, sorry, I was talking about the old well that
12 he objected the costs on.

13 Q. Right. I'm trying to understand the process and
14 understand, like, how that...

15 For this well did an objection get filed to
16 the Division?

17 A. I believe the last case was to declare
18 unreasonable certain costs, and that was ruled against.
19 But I'm not -- I'm not sure if you-all got that.

20 Q. But not for the original case, the 20580. That
21 would have been in 20809?

22 A. Yes, 20809 superseded 20580.

23 And it's -- let's see. December 17. So
24 this Order supersedes and replaces Order R-20924.

25 COMISSION CHAIR SANDOVAL: Okay. I believe

1 that's all I have for the moment.

2 Uhm, Mr. Bruce -- I'm sorry. Commissioners
3 do you have any additional questions? (Note: Pause.)
4 Okay.

5 COMMISSIONER BLOOM: I do not.

6 COMMISSION CHAIR SANDOVAL: Mr. Bruce, do you
7 have any redirect for the witness?

8 We can't hear you if you are speaking.

9 MR. BRUCE: Whoops. Sorry. I basically have
10 three questions just to address a couple of things raised
11 by Ms. Shaheen, if I may.

12 COMMISSION CHAIR SANDOVAL: Please proceed.

13 MR. BRUCE: First and foremost before I forget,
14 I have talked with Karen Stanford but only at the prior
15 hearing in this matter. She never called me about the
16 well costs. I just want everyone to know that.

17 REDIRECT EXAMINATION

18 BY MR. BRUCE:

19 Q. Mr. Robb, when Ms. Shaheen was asking you about
20 the number of parties, working interest owners in the well
21 unit, in your exhibits on interest ownership, you
22 agglomerated Mewbourne's and all of the other people who
23 signed the JOA in that 90 percent figure, correct?

24 A. Yes, correct.

25 Q. So even though you force pooled a number of

1 parties, that does not -- whatever that number was, 10, 12
2 14, that does not include all of the other working
3 interest owners who joined by signing a JOA.

4 A. Correct.

5 Q. And then she asked you, I believe, whether or
6 not there was a separate JOA covering this particular well
7 unit. And I don't know whether there is, but just in
8 general terms do a lot of JOAs cover more than one well
9 unit?

10 A. Uh, yes. Most of the JOAs that we have cover
11 more than one well unit.

12 Q. Now, Mewbourne isn't averse to having a JOA for
13 one well unit, but that's not necessarily what occurred
14 here?

15 A. Correct. And no one requested a JOA after I'd
16 sent the original one that only covered the east half/east
17 half, or the spacing unit in question.

18 Q. And then finally, this situation is -- you've
19 never been involved in a situation like this. Is that
20 fair to say?

21 A. Correct.

22 Q. But final well costs in many instances, due to
23 various contingencies, may well be higher or lower than
24 AFE well costs. Is that a fair statement?

25 A. Correct. They're very fluid.

1 **Q. And it just depends on what happens during the**
2 **drilling of the well.**

3 A. Yes.

4 MR. BRUCE: That's all I have, Madam Chair.
5 Thank you very much.

6 COMMISSION CHAIR SANDOVAL: Thank you.

7 All right. At this point I think we break
8 until the morning, or "continue" is the term, until the
9 morning.

10 MR. MOANDER: That's the correct term, Madam
11 Chair.

12 COMMISSION CHAIR SANDOVAL: Right. And we will
13 reconvene at 8:30.

14 MR. MOANDER: Madam Chair, if I might ask this
15 of you, as well the parties, if we can get everyone
16 roughly available about 5 to 10 minutes before we start so
17 we can maximize our time tomorrow since we've got some
18 hard stops, I think that would be a good idea. That's
19 just my recommendation for case management purposes, Madam
20 Chair.

21 COMMISSION CHAIR SANDOVAL: That's fair. Okay.
22 So I will create a new Webex, I will send it to Ms.
23 Davidson, and then the lawyers and the party expect
24 another panelist invite from me -- well, and the
25 commissioners, et cetera, et cetera, expect another

1 panelist invite for me tonight.

2 And we will see you in the morning.

3 (Time noted 4:51 p.m.)

4 (Whereupon the evening recess was taken and
5 proceedings resumed on Friday, January 14, 2022)

6 (Time noted 8:31 a.m.)

7 COMMISSION CHAIR SANDOVAL: Good morning,
8 everybody. It's 8:31 on January 14, 2022, and this is the
9 second day of hearings in Case -- oh, I should have that
10 in front of me. Hold on. Sorry. I've lost the case
11 number.

12 COMMISSIONER BLOOM: I think it's --

13 MR. MOANDER: I think it's 21902.

14 COMMISSIONER BLOOM: I have 21324.

15 COMMISSION CHAIR SANDOVAL: Thank you. This is
16 the second day in the Continuance Case No. 21324, De Novo
17 Case No. 21902, which is the Application of Mr. Tom
18 Ragsdale to revoke Orders R-2094 and R-2094A, or in the
19 alternative to declare unreasonable certain costs proposed
20 by Mewbourne Oil Company.

21 We started the hearing yesterday and will
22 continue it today. I am Adrienne Sandoval, Chair of the
23 Oil Conservation Commission and Director of the Oil
24 Conservation Division.

25 Will the other commissioners please

1 introduce themselves for the record.

2 COMMISSIONER BLOOM: Sure. Good morning. Greg
3 Bloom. I am the Designee of the Commissioner of Public
4 Lands.

5 COMMISSIONER AMPOMAH: I am Dr. William Ampomah,
6 Designee for the Secretary of Energy.

7 COMMISSION CHAIR SANDOVAL: Thank you. Also
8 with us today is counsel Chris Moander, and then clerk for
9 the Commission Florene Davidson.

10 I think where we left off yesterday was we
11 finished sort of the initial testimony and witnesses from
12 both of the parties, but it sound like the commissioners
13 may have additional questions for some of those witnesses.

14 Mr. Moander, is there a certain -- like,
15 what's the procedure to either recall witnesses...

16 MR. MOANDER: So under the circumstances since
17 the witnesses have been sworn in and are still under oath,
18 you can just recall them and you can say, for example,
19 "The Commission recalls," you know, "Joe Smith for
20 continued examination by the Commission."

21 My suggestion is that is the parties be
22 allowed respectively to conduct any additional examination
23 after the Commission is done, so that way any issues are
24 fully fleshed out and the Commission is as informed as it
25 can be.

1 COMMISSION CHAIR SANDOVAL: Okay. Following
2 that, I think we can have a discussion with the parties
3 about the path forward, closing arguments, deliberations,
4 et cetera.

5 MR. MOANDER: That would be fair, because I
6 think right now the goal needs to be first to get the
7 evidentiary record completed and closed, and then there
8 can be a transition to discussing procedure and so on for
9 the remainder of the matters.

10 COMMISSION CHAIR SANDOVAL: Okay.

11 Commissioners, I think we spoke briefly
12 yesterday regarding there were, I think, some additional
13 questions for Mr. Cude, as well as Mr. Ragsdale. Are
14 those still the two primary witnesses who there are
15 remaining questions for?

16 COMMISSIONER AMPOMAH: Yeah, Madam Chair. So
17 from my side it will be more like for Mr. Bruce to decide
18 who he wants to respond to the questions that I do have,
19 so it's not strictly to Mr. Cude.

20 COMMISSIONER BLOOM: I might have a couple of
21 questions, Madam Chair, for Mr. Ragsdale.

22 COMMISSION CHAIR SANDOVAL: Okay. Mr. Moander,
23 I'm assuming we go in the same order, start with the
24 Applicant.

25 You're muted.

1 MR. MOANDER: Yes, Madam Chair, that would make
2 sense. It would be procedurally consistent, so I think
3 that would be the way to go.

4 COMMISSION CHAIR SANDOVAL: All right. Well,
5 then the Commission recalls Mr. Ragsdale. I will remind
6 you, Mr. Ragsdale, that you are still under oath. You
7 were sworn in yesterday, and so that still prevails.

8 So I think we'll start with -- well,
9 actually I'll just ask: Ms. Shaheen, do you have any
10 questions for the witness before the Commission does?

11 MS. SHAHEEN: I do not, but I would appreciate
12 an opportunity for, more or less, redirect or rebuttal
13 after the commissioners are done. Thank you.

14 COMMISSION CHAIR SANDOVAL: Absolutely. I'll
15 give you and Mr. Bruce when we speak to the Mewbourne
16 representatives, afterwards for you have to have an
17 opportunity.

18 MS. SHAHEEN: Thank you.

19 COMMISSION CHAIR SANDOVAL: Let's make sure, Mr.
20 Ragsdale, can we hear you. I can't hear.

21 MS. SHAHEEN: I think I see someone there
22 assisting him. Maybe I'll give him a call and see what's
23 going on.

24 COMMISSION CHAIR SANDOVAL: Okay. We will give
25 it a couple of minutes.

1 MS. SHAHEEN: Madam Chair, they are having some
2 technical difficulties so I've asked them to call in.

3 COMMISSION CHAIR SANDOVAL: Thank you. They
4 could use the video capacity and just call in on the
5 phone.

6 MS. SHAHEEN: That's my thought, so hopefully
7 they'll be calling in here shortly.

8 COMMISSION CHAIR SANDOVAL: Okay. I'll watch.

9 MS. SHAHEEN: Thank you.

10 (Note: Pause. Discussion off the record.)

11 MR. RAGSDALE: Thank you.

12 COMMISSION CHAIR SANDOVAL: Do you want to try
13 again and make sure we can hear you, Mr. Ragsdale?

14 MR. RAGSDALE: Yes. Can you hear me?

15 COMMISSION CHAIR SANDOVAL: I can.

16 Ms. Macfarlane, can you hear him?

17 (Note: The reporter responded.)

18 COMMISSION CHAIR SANDOVAL: All right. Great.

19 Well, with that, Commissioners do you have
20 questions for Mr. Ragsdale?

21 COMMISSIONER BLOOM: Madam Chair, I do, if you
22 will allow me.

23 COMMISSION CHAIR SANDOVAL: Yeah. Please go
24 ahead.

25 COMMISSIONER BLOOM: Thank you.

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TOM M. RAGSDALE,

previously sworn, testified further as follows:

FURTHER EXAMINATION

BY COMMISSIONER BLOOM:

Q. Mr. Ragsdale, good morning. (Note: Pause.)

Mr. Ragsdale, I cannot hear you. I'm sorry.

A. Good morning.

Q. All right. There we go.

Mr. Ragsdale, as I was just going over my notes from yesterday, uhm, I had some questions. And I don't know that you necessarily have answers for these, and they may just be things that Ms. Shaheen would want to address in her closing statement and that Mr. Bruce would want to address, as well, but I'm wondering what -- you know, if the OCC is sympathetic to your case what that would look like for you. I know you're looking to have the \$3 million in junked well cost, and then I would imagine that you would want to be reinstated into the Pooling Order so that you could benefit from these wells if they end up being profitable.

I'm wondering, first of all, if that's certain, and then what would -- if that's allowable, or if there is any precedence for these things, that you're aware of.

1 A. The last question -- well, let me answer your
2 first question.

3 Yes, we're interested in participating in
4 the well, and we're interested in participating in the
5 cost of the sole well on an individual basis, not the ones
6 that were -- not the ones that were failed when Mewbourne
7 did not have an Order, the \$3 million, as you mentioned.
8 We are interested in paying the \$9.3 million. And we
9 offered to do that in the past. We did pay them and they
10 deposited our check, and then they said we owed the
11 additional moneys in our proportionate share, which was
12 about \$160,000.

13 That's what's really at stake here, is that
14 \$160,000. That would be my proportionate share of the 3.1
15 million. Yes, and then they would put us back in the well
16 retroactive Day One. We'd pay them -- we'd pay them
17 actual costs, probably is what would happen now. It
18 becomes an accounting matter.

19 That's a very good question. Yes, sir, we
20 would want to be placed back in the well, and we would pay
21 our costs, and it's under whatever Order that you-all, the
22 Commission would stipulate to us, if you-all had such
23 verbiage in a decision here.

24 But they would have to go back and make it
25 retroactive on Day 1 and place us back, and what we pay --

1 we pay our full well costs, and then they would have to go
2 and pay us all of our revenues to date that they have
3 suspended or withheld or, you know, placed in their other
4 numerous, you know, other limited partnerships that they
5 have.

6 Q. Thank you, Mr. Ragsdale.

7 A. There was a last question. I wanted to answer
8 that, too, if you could just rephrase that last part of
9 your question.

10 Q. Of course. Thank you, Mr. Ragsdale.

11 I think that question is: Is there any --
12 you know, what rules and regs would you point us to that
13 could allow for this to happen?

14 I don't know that it's something that -- I
15 guess I believe it's something that the OCC can do, but
16 how we get there is of interest to me, and basing it in
17 rules and regs would be most helpful.

18 I haven't had time to do that research, so
19 I'll give you this opportunity to point us in that
20 direction, and I'm sure the attorneys will address this in
21 their closing statements, as well.

22 A. And now I remember the question you asked me, if
23 we knew of precedent or so. That's a very good question,
24 an excellent question.

25 I do not. I wish I had an answer for you.

1 I wish I knew about some precedent. And I do not, but I
2 wish I could answer your question. It's probably best if
3 I defer that to Ms. Shaheen and see maybe in the written
4 statements she can go ahead and put in some case law or
5 some precedent, as you mentioned.

6 COMMISSIONER BLOOM: Thank you, Mr. Ragsdale.
7 No further questions at this time, Madam Chair.

8 COMMISSION CHAIR SANDOVAL: Thanks, Commissioner
9 Bloom.

10 Dr. Ampomah, do you have questions for Mr.
11 Ragsdale?

12 COMMISSIONER AMPOMAH: Yes, Madam Chair, I do.
13 Sorry.

14 FURTHER EXAMINATION

15 BY COMMISSIONER AMPOMAH:

16 Q. Yeah. So Mr. Ragsdale, good morning once again.

17 My question to you is that was there -- you
18 know, we've gone through all the testimonies, but I just
19 want to be clear for myself here. Was there, at any point
20 in the Notice, you know, for the new well that is in
21 contention, did Mewbourne state that that particular well
22 is a substitute well? Was that any point that they
23 specified in the Notice or the Application that the well
24 that they added here, the actual well that we are talking
25 about now, was a substitute well?

1 A. Good morning to you, Dr. Ampomah.

2 I don't know the answer to that. I don't
3 want to give you a wrong answer. I do not know of any
4 mention to the Division or the Commission of a substitute
5 well that was mentioned. I don't know of that, but I
6 don't want to give you a wrong answer and say I know for
7 sure that there was not, and that there was.

8 I don't believe that there was.

9 Q. Okay. So then I will take that answer as you
10 don't know. But I really want an answer to that.

11 So let me also put it this way, that if at
12 any point in time you saw, or let's say was reported to
13 the Commission, to the Division that this particular well
14 is a substitute well for the two failed, already failed
15 attempts, would there be this hearing?

16 A. I'm sorry. You said at this hearing?

17 Q. No, I'm saying that -- I'm asking you that if
18 Mewbourne had included in the Notices and also
19 the application to the Division that the 15/10 well is a
20 substitute for the 10/15 wells, would we have been here?
21 You know, at this hearing.

22 A. Yes. Okay.

23 Let me say my understanding is whether they
24 said a substitute well or not, the mistake was made back
25 in July of 2019. When they drilled those two wells they

1 did not have an Order, so whether they say "substitute" or
2 not, which I believe they do not even mention a substitute
3 well, but, you know, the mistake was made. They made
4 their mistake back in 2019 in July when they drilled the
5 wells without a Division (sic).

6 I don't think they can lump those costs on
7 a future well.

8 I don't know if I'm answering your
9 question, though.

10 **Q. Yeah, it's not clear. You know, it's not clear**
11 **to me.**

12 A. Okay. You know, I want to, I do want to answer,
13 so ask me again so I can understand the question.

14 **Q. I'm just asking you, because if they included in**
15 **the Application that this particular well, the 15/10 is a**
16 **substitute well to the previous failed drilled wells --**
17 **you know?**

18 A. Yeah.

19 **Q. -- do you believe we would be having this**
20 **hearing?**

21 A. Yes, I do believe we would be having this
22 hearing. Yes, absolutely. Because I don't believe --
23 it's not -- I don't believe the Division would allow them
24 to place this cost in the very simple matter that they did
25 not have an Order.

1 Q. But according to the rules, according to the
2 rules, if it is a substitute well, then they do have, you
3 know, the opportunity to recover the cost from the failed
4 ones, according to the rules we went through yesterday.

5 A. Okay. Then like I stated earlier, I do not
6 believe they ever mentioned substitute well. And I
7 believe Ms. Shaheen talked about the definition of a
8 substitute well yesterday, and it was actually the
9 Division's or Commission's definition of a substitute
10 well.

11 Q. So let me ask you your interest in the junked
12 wells. Do you have any interest in the junked wells?

13 A. Yes, sir.

14 Q. And why you don't want to pay for it?

15 A. Okay. I'm sorry. I had a -- okay. The very
16 simple rule is they have -- if we did not sign a JOA the
17 rule is -- and we did not sign a JOA -- then we have to be
18 force pooled. And they did not have a Pooling Order, and
19 they drilled the wells.

20 And the Pooling Order would stipulate about
21 the costs. That's the rule that we have to follow. And
22 they did not follow the rules here. They drilled those
23 wells at their own risk. And they knew, Dr. Ampomah, that
24 they did not have an Order. They've given multiple
25 excuses and reasons or doing so, but, you know, they broke

1 the rule.

2 And, you know, that's why I don't think
3 that we should be obligated for the costs. We did not
4 know they were drilling the well, they didn't share the
5 drilling reports, they didn't mention anything to us. We
6 didn't have the opportunity to participate with a Pooling
7 Order.

8 And that's what this is all about.

9 Q. So let me give you a chance to respond to what
10 Mr. Robb said yesterday as part of his testimony. He
11 talked about -- you know, they went ahead with a Pooling
12 Order still not -- they went ahead to proceed, knowing
13 that it can take about 5 percent risk, knowing that
14 they've already been able to pool about -- like they say,
15 they have an agreement with about 95 percent with all the
16 interest owners in there, so they were able to take the
17 risk of that remaining 5 percent.

18 Can you chime in on that statement so you
19 can tell to the Commission what type of risk he's talking
20 about.

21 A. That's a very good question. I'm glad you
22 brought that up.

23 Mr. Robb did bring that up yesterday. He
24 said, "We proceeded and we took the risk or assumed the
25 risk, and we knew the risk of drilling without a Forced

1 Pooling Order." I think he mentioned there was about 10
2 percent of the people, of which Mr. Ragsdale owned about 5
3 percent of the 10 percent.

4 So when saying the risk is they had to
5 assume the risk of any -- you know, the risk of a failure.
6 Which doesn't happen that often but it happened here.

7 And that's the very statement that he made
8 yesterday, that they knew they were taking that risk. And
9 as I mentioned, those costs, they should absorb those
10 costs. That risk is on them. We were not signed up, we
11 were not given the chance, the opportunity to participate.
12 We did not want to sign the JOA so we have to wait to be
13 force pooled. And they jumped the gun and they took that
14 risk, as Mr. Robb stated yesterday.

15 Q. And --

16 A. The risk is -- the risk is they would pick up
17 any costs of problems or failures. It's all about risk
18 and money, as you say, in drilling these wells, right?

19 He did say we knew the risk and we took
20 that risk. And you're right. It's about cost and money.
21 Because we were not signed up to take that risk. We had
22 not been given the chance to participate to take that risk
23 and share in the risk, it is as though they assumed that
24 risk themselves. That 10 percent that wasn't signed up,
25 if there were going to be any problems, that risk was

1 theirs.

2 COMMISSIONER AMPOMAH: Thank you, Mr. Ragsdale.
3 Madam Chair, I don't have further questions from my side
4 for Mr. Ragsdale.

5 COMMISSION CHAIR SANDOVAL: Thank you, Dr.
6 Ampomah.

7 I just have a couple of questions.

8 FURTHER EXAMINATION

9 BY COMMISSION CHAIR SANDOVAL:

10 **Q. From your perspective, Mr. Ragsdale, are none of**
11 **the additional approximately \$3 million appropriate?**

12 A. Yes, ma'am, that's correct. None of that 3.1
13 million -- whatever cost, 3.1 million associated
14 with whatever cost that Mewbourne had before getting the
15 Order should be at their own risk, as Mitch Robb stated
16 yesterday. Yes, ma'am.

17 **Q. So you're -- I just want to make sure I fully**
18 **understand. So you're not saying it shouldn't have been**
19 **1 1/2 million instead of 3.1, you're saying the entire 3.1**
20 **was inappropriate and we are seeking relief from the**
21 **entire 3.1 million.**

22 A. Yes, ma'am, that's correct. To us it didn't
23 matter if they spent \$10,000 or \$10 million. Whatever
24 they spent at their own decision at their own risk before
25 they had an Order, should have been their own risk, their

1 own liability.

2 Yes, ma'am, everything they spent prior to
3 the Order, yes, ma'am.

4 COMMISSION CHAIR SANDOVAL: Okay. Sorry. I'm
5 just trying to make sure I don't have any other questions.

6 I think that's it for me. Ms. Shaheen, do
7 you have any redirect for your witness?

8 MS. SHAHEEN: I don't have any redirect based
9 on -- well, actually, I do.

10 Let me start with some of Dr. Ampomah's
11 question.

12 FURTHER REDIRECT EXAMINATION

13 BY MS. SHAHEEN:

14 Q. Mr. Ragsdale, Dr. Ampomah asked you about the
15 fact that Mewbourne claims to have had the right to drill.
16 Do you recall that questioning?

17 A. Yes, I do.

18 Q. And it's my understanding that the question here
19 is not whether Mewbourne had the right to drill. Right?

20 A. That's correct. That's not the question here.
21 That's not what is at stake here. That's correct.

22 Q. The question is: Can they impose the costs of
23 the failed attempts when they didn't have a Pooling Order.
24 Right?

25 A. Absolutely. Yes, ma'am, that's correct.

1 Q. He also asked you about whether the
2 Commission -- if Mewbourne had informed the Commission or
3 Division that this was a substitute well would we be at
4 this hearing today. Do you recall that question?

5 A. Yes, I do.

6 Q. And I believe -- I want to turn to the list of
7 undisputed facts here. I should have done a little
8 preliminary work so that I could find it. (Note: Pause.)

9 The disputed (sic) facts -- I'm going to
10 share my screen here. They don't directly address the
11 question --

12 COMMISSION CHAIR SANDOVAL: I think I need
13 to give you permission. Hold on.

14 MS. SHAHEEN: Okay.

15 COMMISSION CHAIR SANDOVAL: All right. You
16 should be good now.

17 MS. SHAHEEN: Okay. Thank you. All right.

18 Q. All right. So this is the revised list of
19 undisputed facts, and here at Paragraph 21 begins the
20 discussion about the application in Case No. 20809, in
21 which Mewbourne sought to pool the same acreage that it
22 previously sought to pool in Case No. 20580, and these
23 series of paragraphs address that question.

24 So, Mr. Ragsdale, if you could just take a
25 look at this and I'll ask you a few questions about them.

1 (Note: Pause.)

2 Sorry, I'm going a little fast. Tell me to
3 stop if you need me to. (Note: Pause.)

4 So I think paragraphs 21 through 29 address
5 the application in Case No. 20809. And, Mr. Ragsdale,
6 just let me know when you're ready to entertain a few
7 questions about this.

8 A. I'm ready. I think.

9 Q. Okay. So in paragraph 21 the parties have
10 agreed the application in 20809 sought to pool the Bone
11 Spring Formation, the same acreage as Case No. 20580, for
12 the purpose of drilling the 15/10 wells. Do you see that?

13 A. Yes, I do.

14 Q. And then paragraph 22, and I believe it's the
15 same information stating that the application informed the
16 parties that Mewbourne was seeking to pool the Bone Spring
17 Formation for the purpose of drilling the 15/10 wells.

18 Do you see that in paragraph 22?

19 A. Yes, I do.

20 Q. So you received Notice of that case and that
21 application but you didn't enter an appearance. Correct?

22 A. Yes, that's correct.

23 Q. And you didn't enter an appearance because there
24 was no mention in that application about a substitute
25 well. Is that correct?

1 A. Yes, that's correct.

2 Q. And in fact -- we are going to paragraph 23
3 again of the parties' undisputed facts -- Mewbourne's
4 application did not even reference 10/15 wells, did it.

5 A. No, it did not.

6 Q. And in fact, going to paragraph 24, the
7 application didn't request that all four wells be pooled
8 together, did it.

9 MR. BRUCE: Madam Chair, I object. This is in
10 black and white in writing. Why waste the time on what
11 has already been stipulated to?

12 MS. SHAHEEN: Well, if I may, Mr. Bruce, it
13 appears that not every- -- this is a lot of information
14 we've thrown at the Commission, and it appears that maybe
15 they haven't been able to review the revised statement
16 which I admit we submitted on Wednesday so they haven't
17 had the time to fully appreciate what undisputed facts
18 have been submitted for the record, and in light of Dr.
19 Ampomah's questions, I think it's perfectly proper for me
20 to highlight those undisputed facts for the Commission.

21 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, I think
22 it's fine to go over some of this briefly, but since it is
23 in writing let's make it somewhat brief. But if you want
24 to highlight a handful of them, go ahead.

25 MS. SHAHEEN: I'm almost done. Paragraph 29 is

1 the last one.

2 COMMISSION CHAIR SANDOVAL: Okay.

3 Q. So it wasn't until the Prehearing Statement was
4 filed in Case 20809 that Mewbourne asked that the Division
5 pool all four wells together, the 10/15 wells and the
6 15/10 wells?

7 And that's paragraph 25. Do you see that,
8 Mr. Ragsdale?

9 A. Yes, I do.

10 Q. Then in paragraph 26 it goes on to explain that
11 the Notice Letters didn't inform the interested parties
12 about Mewbourne's intent to include all four wells.
13 Correct?

14 A. Correct.

15 And at no time, we are looking now at paragraph
16 27, did Mewbourne inform Mr. Ragsdale that Mewbourne
17 intended to incorporate the 10/15 wells in the same case
18 with the 15/10 wells. Correct?

19 A. Yes, that's correct.

20 Q. And then finally in paragraph 29 Mewbourne's
21 counsel, this is Mr. Bruce -- and I won't read this into
22 the record, I'll just highlight it here for the
23 Commission. Paragraph 29 is what Mr. Bruce told the
24 Division at the hearing in Case No. 20809, and I will note
25 that it does not refer to a substitute well, it simply

1 **says they want all four wells in the same application.**

2 **Do you see that, Mr. Ragsdale?**

3 A. I do, yes.

4 MS. SHAHEEN: So that concludes my line of
5 questioning there. I'll stop sharing now.

6 COMMISSION CHAIR SANDOVAL: Thanks. I have --

7 MR. BRUCE: May I --

8 MS. SHAHEEN: I do have a few more questions.

9 COMMISSION CHAIR SANDOVAL: Okay. Go ahead.

10 MS. SHAHEEN: Sorry.

11 **Q. Dr. Ampomah also asked you about whether you had**
12 **an interest in the junked wells. Do you recall that**
13 **question?**

14 A. Yes, I do.

15 **Q. And I believe you explained to him that at the**
16 **time that those -- uhm, you had an interest in the**
17 **minerals that were being, -- uh, that were intended to be**
18 **produced in those junked wells. Correct?**

19 A. That's correct. I had an interest in the
20 minerals out there. Yes, that's correct.

21 **Q. And you had received a well proposal to pool a**
22 **1280-acre unit which included that well, the 10/15 2H**
23 **well, correct?**

24 A. Yes.

25 **Q. And you chose not to sign that JOA, correct?**

1 A. That's correct, yes.

2 Q. Instead you preferred to be force pooled on that
3 specific spacing unit. Correct?

4 A. Yes. That was the only other option versus not
5 signing the JOA.

6 Q. But there was never an Order entered prior to
7 them drilling. I think that's clear, right?

8 A. There was not an Order, that's correct.

9 Q. So you never had an opportunity to participate
10 in the drilling of the 10/15 2H. Correct?

11 A. Yes, that's correct.

12 Q. There was quite a bit of testimony yesterday
13 about March of 2020 and the letter, the Election Letter
14 and the timing of the Election Letter, and the timing of
15 your response to the Election Letter. This was in March
16 of 2020; is that correct?

17 A. Yes. Yes, ma'am, it was.

18 Q. And there were some unique circumstances going
19 on in March of 2020; is that right?

20 A. There was a number of multiple unique
21 circumstances, yes, ma'am.

22 Q. And one of those was -- that was the onset of
23 Covid. Do you recall that?

24 A. Absolutely I do, yes.

25 Q. And there was a lockdown at that time. Even in

1 **Texas, right?**

2 A. Yes, there was.

3 **Q. And were there some personal circumstances that**
4 **concerned Ms. Stanford at that time.**

5 A. Yes, there were.

6 **Q. Can you tell the Commission about what was going**
7 **on with Ms. Stanford?**

8 A. Yes. This has not been brought up yet, but Ms.
9 Stanford's parents that she was very close to lived out in
10 California. And they were both elderly, and her father
11 had fallen sick at the time, a few months prior, and
12 eventually he went off into hospice. And Karen, Ms.
13 Stanford, was trying to get out there as soon as possible
14 to spend time with them, so, you know, she wasn't always
15 at the office. And her father did pass away, I believe it
16 was March 31st. So she was out for a few weeks, family
17 matters, two or three weeks, and so she wasn't around our
18 office very often in that period of time.

19 **Q. So in addition to your questions that you had**
20 **that were unanswered by Mewbourne with respect to those**
21 **junked wells being imposed on the 15/10 2H, in addition to**
22 **those questions that you had that had not been resolved,**
23 **you also had -- there were, if you will, an Act of God**
24 **with respect to Covid and Ms. Stanford's personal**
25 **difficulties that were at play during that time.**

1 MR. BRUCE: Object to the editorial content of
2 this little discussion.

3 MS. SHAHEEN: Okay. If you heard my question.

4 MR. BRUCE: It wasn't an Act of God, it was an
5 act of the Chinese, if you want to know.

6 MS. SHAHEEN: That's debatable.

7 COMMISSION CHAIR SANDOVAL: Editorial comments
8 on both ends to a minimum, please.

9 MS. SHAHEEN: Okay. Can Mr. Ragsdale answer the
10 question?

11 THE WITNESS: I'm sorry, I forgot what it was.
12 I'm sorry.

13 Q. Just to clean up the record, I was just asking
14 you to summarize the fact that there were extraordinary
15 circumstances at the time during March of 2020 when this
16 Election Letter went out and there were questions about
17 the costs, correct?

18 A. Yes, there were extraordinary circumstances and
19 events going on with the Covid, and then with the
20 personal -- with the death in the family of Ms. Stanford's
21 father. Yes, there were.

22 MS. SHAHEEN: Those are all the questions I have
23 for Mr. Ragsdale. Thank you for the opportunity.

24 COMMISSION CHAIR SANDOVAL: Mr. Moander, I
25 actually remember some other questions I have. Is it too

1 late to circle back?

2 MR. MOANDER: The whole point of this hearing,
3 Madam Chair, is to get to the bottom of things, so if you
4 have got some additional questions or any question, you
5 should ask. And then I would see if the parties have
6 anything else they want to ask, and you could probably
7 wrap it up at that point.

8 COMMISSION CHAIR SANDOVAL: Okay.

9 FURTHER EXAMINATION

10 BY COMMISSION CHAIR SANDOVAL:

11 Q. All right. Mr. Ragsdale, so yesterday I believe
12 there was testimony, when I asked, I think it was Mr.
13 Robb, that if Mewbourne had just stopped with the two
14 failed wells and not then done the substitute wells, the
15 costs would have still gotten passed on to the parties, so
16 there would have still been a situation where you might
17 have had to pay a share of the \$3.1 million.

18 Is that your understanding, as well?

19 A. No, that's not my understanding at all. It was
20 just the simple fact that there's rules and laws with the
21 Division and Commission, rules, should I say, and the rule
22 was, you know, you drill at your own risk when you drill
23 without an Order. And we were -- we had not been given a
24 chance to participate in those wells.

25 And I don't think they should be allowed to

1 place any of those costs, because it's just a very simple
2 rule, it's black and white, to us. And it's you-all's
3 rules that they broke, that they violated.

4 **Q. Okay.**

5 A. So I don't believe any of costs --

6 **Q. Go ahead.**

7 A. I don't see that they can pass along any of the
8 costs until they have an Order and it's an agreed-upon
9 Order submitted by the Division or Commission.

10 **Q. So really the crux of your issue comes down to**
11 **if there isn't an Order then they can't pass along costs**
12 **of the failed wells; if there had been be an Order they**
13 **could have passed on costs of the failed wells. Is that**
14 **correct?**

15 A. Yes. The real meaning to us is that if you do
16 not have an Order, you're drilling at your own risk and
17 own peril, so you take those risks and thus the costs
18 associated with it.

19 **Q. Okay. That was --**

20 A. Whenever we do have the Orders we're always
21 forced, if he want to participate, to prepay, and which we
22 do, we prepay.

23 COMMISSION CHAIR SANDOVAL: Okay. Thank you.
24 That was my last question.

25 Ms. Shaheen, I will give you one last

1 opportunity to redirect if you have any questions
2 specifically about what I asked.

3 MS. SHAHEEN: I have no further questions.
4 Thank you.

5 COMMISSION CHAIR SANDOVAL: Thank you.

6 All right. Thank you, Mr. Ragsdale.

7 MR. BRUCE: Madam Chair, may I ask some
8 questions?

9 COMMISSION CHAIR SANDOVAL: Uhm, Mr. Moander? I
10 mean, I think --

11 MR. MOANDER: My question is, and I just
12 realized this may not have happened, I don't believe
13 counsel had the opportunity -- did he ask some follow-up
14 questions after Ms. Shaheen? He should be given the
15 opportunity to ask some questions since we are doing a
16 whole round of this.

17 COMMISSION CHAIR SANDOVAL: Okay. Go ahead, Mr.
18 Bruce.

19 FURTHER CROSS-EXAMINATION

20 BY MR. BRUCE:

21 Q. Uhm, regarding Ms. Stanford, she testified about
22 that at the last hearing, and that was a tough situation
23 for her, but you previously testified that you and your
24 assistant, somebody other than Ms. Stanford, were in the
25 office for most of March, did you not?

1 A. I did testify to that. I believe I did.

2 **Q. Okay. Couldn't you have made your own decision?**

3 **You own the company. I mean, you own the interest.**

4 **Couldn't you have made the decision to elect and send a**

5 **timely Notice of Election in?**

6 A. You know, you're asking this question and Ms.

7 Stanford works for us in that land capacity. That's her

8 job. I don't think Curtis Mewbourne knows about these

9 Orders. I don't think Curtis Mewbourne knows about any of

10 these. Jim --

11 MR. BRUCE: I would object to the speculation.

12 A. I would --

13 **Q. Just answer the question.**

14 A. I --

15 **Q. You were in the office.**

16 A. No. I --

17 **Q. You made an election.**

18 A. The answer is --

19 (Note: Reporter interruption.)

20 COMMISSION CHAIR SANDOVAL: Yeah, let's --

21 MR. BRUCE: Go ahead with your answer.

22 A. The answer is no. Ms. Stanford had that
23 information. Ms. Stanford is our representative who
24 worked with Mewbourne. In particular I believe it was Mr.
25 Robb that Ms. Stanford was working with. And I always

1 relied on Ms. Stanford to tell me what the situations
2 were. She works for us and that is her job description.

3 So I did not have those documents and I was
4 not aware of all of them. She talked to me here and
5 there, she talked to me when she could, and I don't
6 remember getting any election dates. And I know she was
7 questioning those costs and trying to gets answers.
8 That's what I recall.

9 And so if she had told me we had a
10 deadline, then she would give me the documents and we'd
11 sign them and send them in. And I believe she was waiting
12 on these answers to these inflated costs or these junked
13 well costs being inserted on our AFEs after the fact, that
14 were in violation of Division rules.

15 MR. BRUCE: It's not in violation of Division
16 rules. I'll state that flat out.

17 COMMISSION CHAIR SANDOVAL: Mr. Bruce, ask
18 questions, please.

19 MR. BRUCE: I just have a couple more questions.

20 **Q. If you had received an Election Notice for the**
21 **10/15 2H well prior to commencement of drilling, would you**
22 **have elected to join in that well?**

23 A. The Election Letter being a Forced Pooling
24 Order?

25 **Q. Yeah. Yeah, the Forced Pooling Order. Plus,**

1 like if Mr. Robb sent in a Notice to you in, what, March,
2 March of 2020, an Election Letter and an AFE and a Pooling
3 Order, would you have signed the AFE denoting your
4 interest in joining voluntarily in the well?

5 A. Yes, we would have.

6 Q. And again assuming there had been well costs due
7 to problems in drilling, you would have been subject to
8 those increased well costs?

9 A. With a Forced Pooling Order yes. We would have
10 been subject to those, yes.

11 MR. BRUCE: I'm just looking at one final thing
12 here.

13 Q. Have you -- you've read the Order that you're
14 objecting to, have you not?

15 A. I have read bits and pieces of it when certain
16 sections were pointed out to me.

17 Q. Yesterday Madam Chair was asking some questions
18 about a provision that where the Pooling Order provides an
19 opportunity for any interest owner who objects to well
20 costs to object to the Division. Just assume that as a
21 given for now. I forget the paragraph number; I don't
22 have the Order right in front of me.

23 MS. SHAHEEN: I'd just like to clarify for the
24 record which Order Mr. Bruce is referring to.

25 MR. BRUCE: The -A, the second one.

1 MS. SHAHEEN: Okay. Thank you.

2 MR. BRUCE: Okay.

3 Q. You could have paid your 4.89 percent of
4 whatever the well cost was, a little over 12 million, I
5 believe, and then you could have paid your share of that
6 and you still had the right to go to the Division to
7 object to well costs under the Pooling Order, would you
8 not?

9 A. Uhm, I think that's a -- that's -- oh, was
10 somebody interjecting?

11 MS. SHAHEEN: Well, I was just going to object
12 on the basis that this is something that's in writing that
13 is being asked a question about, and if Mr. Bruce wants to
14 ask a question about particular language in the Order, we
15 should be looking at the particular language in the Order.

16 COMMISSION CHAIR SANDOVAL: Mr. Bruce, do you
17 want to reframe that or answer regarding -- in relation to
18 the Order?

19 MR. BRUCE: Well, let me...

20 I have looked up the Order. Now I can't
21 find it.

22 MS. SHAHEEN: I believe it's Attachment D to
23 Mewbourne's exhibits.

24 MR. BRUCE: Attachment?

25 MS. SHAHEEN: D as in dog.

1 MR. BRUCE: Oh, Okay. Thank you, Ms. Shaheen.

2 It would be on page 3 of the Order,
3 paragraph 28.

4 MS. SHAHEEN: If you like, I can share my screen
5 so everyone can see it.

6 MR. BRUCE: Oh, go ahead.

7 MS. SHAHEEN: Let me just find the page here.

8 Is this the correct -- oh, wait. Sorry.
9 Let me share.

10 Is that the language you are looking for,
11 Mr. Bruce.

12 MR. BRUCE: Paragraph 28. I can't see it.

13 COMMISSION CHAIR SANDOVAL: All we see is your
14 desktop.

15 MS. SHAHEEN: Oh, really. You don't see the
16 document? I must have somehow...

17 COMMISSION CHAIR SANDOVAL: No.

18 MS. SHAHEEN: Let me try that again. Okay. So
19 I'm going to back up to paragraph 28.

20 MR. BRUCE: Yes, please.

21 MS. SHAHEEN: Mr. Bruce, I believe everyone can
22 see it now.

23 MR. BRUCE: I'm not going to read it but you can
24 see it says in the middle of the paragraph a pooled
25 working interest owner can file a written objection and

1 then the Division will determine the reasonableness.

2 Q. So could you not have paid under protest the
3 share of the 12 million bucks and then sought, just like
4 you're doing now, to object to the well costs?

5 A. You know, there's a lot of things we could have
6 done, and that's one of the things we could have done. We
7 did something similar. You know, we paid the well costs
8 of the original AFE that was submitted to the Division.
9 We paid our 4.89 percent, or 5 percent basically, of the
10 \$9.3 million, the one that was the proper AFE. And we did
11 submit that to Mewbourne. We paid them.

12 Q. Just one final question. Two questions, I
13 guess.

14 You are subject to that JOA because of that
15 working interest you bought from your old friend, right?

16 A. Now you're talking about two different sets of
17 interests that, you know, that I own in the property.

18 Q. And I'm not -- but you are subject to that JOA
19 that covers this well and other acreage.

20 A. Yes, I am from that interest that I derived from
21 Tracy Anderson, which is --

22 Q. That's all I'm asking. That's all I'm asking.

23 But as a result you received for, what, a
24 couple of years now almost, you have been receiving Joint
25 Interest Billings on these -- on the 15/10 2H well.

1 A. I believe so. That assignment was the middle
2 of, what, 2020, so maybe for the past year and a half,
3 maybe.

4 **Q. But by receiving those Joint Interest Billings,**
5 **those are for actual well costs, right, so you know what**
6 **the actual well costs have been for quite some time.**

7 MS. SHAHEEN: Okay. Object to foundation.

8 A. I don't --

9 COMMISSION CHAIR SANDOVAL: Hold on a second.

10 MR. BRUCE: Yes or no, and that's my final
11 question.

12 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, you're
13 objecting to the yes-or-no question, or...

14 MS. SHAHEEN: Well, I thought that Mr. Bruce
15 referred to the 2H, and I don't believe he's receiving...

16 MR. BRUCE: Then I'm sorry, I'm confused. Is it
17 the 1H? Whatever --

18 MS. SHAHEEN: No, it is the 2H. And I might be
19 getting myself confused. I apologize.

20 MR. BRUCE: Anyway, I'm talking about the \$12
21 million well, whatever well that is.

22 MS. SHAHEEN: Right. That's the 15/10 2H. My
23 apologies for interrupting.

24 **Q. So the question is simply: You received JIBs**
25 **with actual well costs for a year and a half now, so don't**

1 **you know what the actual well costs are?**

2 A. Yes. But I'd like to clarify for the
3 commissioners.

4 When you say well costs, I mean you're
5 mixing this up a lot. The JIBs that I received are what
6 we call LOE or Lease Operating Costs. They're production
7 costs. They have nothing to do with the drilling or
8 completion. The well costs that I received from Ms.
9 Anderson for my interest for my interest in the well was
10 after it was drilled.

11 And so the well costs that I receive when
12 you said that general term "well costs," it would probably
13 be better if you specified for the commissioners and
14 myself, are you talking about drilling and completion
15 costs or are you talking about, you know, producing-well
16 costs, what it costs to procedure the well on a monthly
17 basis. There's a difference. There's a big difference.

18 MR. BRUCE: Thank you, Mr. Ragsdale.

19 COMMISSION CHAIR SANDOVAL: Was that your final
20 question, Mr. Bruce?

21 MR. BRUCE: Yes. Yes, Madam Chair.

22 COMMISSIONER CHAIR SANDOVAL: Mr. Moander,
23 technically should we allow Ms. Shaheen to redirect?

24 MR. MOANDER: I would ask if there's anything
25 additional from anybody at this point and let's wrap up

1 Mr. Ragsdale's examination.

2 COMMISSIONER CHAIR SANDOVAL: Commissioners, do
3 you have anything additional?

4 MS. SHAHEEN: I only have one question about
5 paragraph 28.

6 COMMISSIONER BLOOM: Madam Chair I have no
7 further questions for Mr. Ragsdale.

8 COMMISSIONER AMPOMAH: No further questions from
9 me. Thank you.

10 COMMISSION CHAIR SANDOVAL: Go ahead and wrap it
11 up, Ms. Shaheen.

12 FURTHER REDIRECT EXAMINATION

13 BY MS. SHAHEEN:

14 Q. Mr. Ragsdale, taking a look at paragraph 28, it
15 says that no later than 180 days after operator submits a
16 Form C-105, which is the completion report for the well,
17 the operator shall submit to OCD and each owner of a
18 pooled working interest an itemized schedule of the actual
19 well cost.

20 Do you have any recollection of ever
21 receiving an itemized schedule of the actual well costs
22 from Mewbourne?

23 A. No, we do not.

24 MS. SHAHEEN: Thank you. That's all I have.

25 COMMISSION CHAIR SANDOVAL: All right. Thank

1 you.

2 All right, Mr. Ragsdale. Thank you for
3 your time this morning.

4 THE WITNESS: Thank you.

5 COMMISSION CHAIR SANDOVAL: All right. With
6 that I think let's move to Mr. Cude.

7 MR. BRUCE: Okay.

8 COMMISSION CHAIR SANDOVAL: Mr. Cude, are you
9 there?

10 MR. CUDE: Yes.

11 COMMISSION CHAIR SANDOVAL: Okay. Great.

12 I just want to remind you that you are
13 still under oath as you were sworn in yesterday.

14 Commissioners, do you have questions for
15 Mr. Cude?

16 COMMISSIONER BLOOM: Madam Chair, I do not.

17 COMMISSION CHAIR SANDOVAL: Mr. Ampomah, do you?

18 COMMISSIONER AMPOMAH: I'm not sure whether
19 these questions would be appropriate for Cude or for Robb,
20 but I can go ahead and ask, and just in case Robb needs to
21 respond to them, I guess he can.

22 COMMISSION CHAIR SANDOVAL: Okay. Yeah. Ask
23 Mr. Cude, and then Mr. Cude, if that is not an appropriate
24 question for you, it's more appropriate for Mr. Robb,
25 please let the Commission know.

1 WITNESS CUDE: Yes, Madam Chair.

2 COMMISSIONER AMPOMAH: Okay. Thank you.

3 TRAVIS CUDE,

4 previously sworn, testified further AS follows:

5 FURTHER EXAMINATION

6 BY COMMISSIONER AMPOMAH:

7 Q. So, Mr. Cude, do you know -- the same question
8 that I asked Ragsdale. Do you know at what point -- or do
9 you know why Mewbourne did not add the substitute, you
10 that name "substitute" in the new well -- you know for the
11 old wells that was consequently drilled, in the Notice
12 when they served the OCD and then also the parties
13 informed. Do you know why?

14 A. Dr. Ampomah, to my knowledge Mewbourne complied
15 with the Notice statutes, you know, and what is required
16 to be included in the Notice. You know, for the most part
17 it really just identifies the common source of supply and
18 the proration unit that's being pooled. I mean, that's
19 the regulation.

20 And I think in all three Pooling Orders we
21 have, you know, the Notice requirement has been satisfied,
22 as to what's required in the Notice. I think as we
23 pointed out earlier, you know some of that commentary is
24 included in the Prehearing Statement and in the actual
25 hearing itself, but as to the particular Notice, Mewbourne

1 complied with the Notice requirements.

2 Q. Yeah, because I know for Notices, you know, and
3 we are all in the industry, because if, let's say,
4 Mewbourne has included that these wells, this particular
5 well that we are going to drill is going to be a
6 substitute for these particular wells that were junked
7 wells, to be honest I guess Mewbourne would have been in a
8 better position, you know, in this particular situation.

9 So I guess -- so your answer is that not
10 adding the "substitute" in your Notices doesn't
11 necessarily mean anything. Right?

12 A. Uh, yes, Dr. Ampomah. To my knowledge. You
13 know, Mr. Bruce sends out the Notices on Mewbourne's
14 behalf, and so, you know, he includes within that Notice
15 Letter, you know, what is required per the statutes.

16 Q. Thank you. Thank you.

17 So do you know the timeline when Mewbourne
18 decided to add the junked costs to the new well fee? Do
19 you know?

20 A. I would believe that it would be, you know,
21 after the time that we received the Amended Order for our
22 hearing. So I guess I think it's the -A where all four
23 wells were included in that Order, we deemed that we had
24 drilled a substitute well, because at that point the
25 regulations state that, you know, historical costs that

1 are reasonable for the junking and abandonment of the
2 wells, because that's a reasonable cost that can be
3 imposed, we added that cost to the AFE that was sent out
4 to the parties at that point.

5 So it would have been after we received the
6 Pooling Order.

7 **Q. So that is after you received the Pooling Order.**

8 A. Yes, sir.

9 **Q. And so does that mean that the OCD is aware of**
10 **the situation of imposing this additional cost on the new**
11 **well?**

12 A. I believe that Mr. Bruce testified, and it is in
13 our exhibits that that was brought up at the pooling
14 hearing, you know, for the 15/10 2H wells, that we seek to
15 recover, to have an Order encompassing all of those wells,
16 to recover those costs, as well, in that Order.

17 **Q. And that Order has been approved?**

18 A. Yes, sir. Yes.

19 COMMISSIONER AMPOMAH: Okay. Thank you. No
20 further questions, Madam Chair.

21 COMMISSION CHAIR SANDOVAL: Thank you.

22 Commissioner Bloom, did you say you didn't
23 have questions, or did I make that up?

24 COMMISSIONER BLOOM: You heard me correctly,
25 Madam Chair. I have no questions. Still haven't.

1 COMMISSION CHAIR SANDOVAL: Okay. Thank you.

2 I just have maybe a couple of questions,
3 Mr. Cude.

4 FURTHER EXAMINATION

5 BY COMMISSION CHAIR SANDOVAL:

6 Q. So the \$3.1 million additional costs, do you
7 have any comparison, from either other wells within
8 Mewbourne or other companies that demonstrate that that
9 additional \$3.1 million to junk those two wells was
10 appropriate?

11 A. You know, I know that -- I mean, every situation
12 is different, but, you know, from our end we're not
13 imposing anything that didn't occur in the operations of
14 those wells. I mean, we spent over 20 days on location
15 with a drilling rig, we have strings of casing, we have
16 cement. I mean, those were the actual costs that
17 Mewbourne incurred.

18 And so I don't know that I have a
19 comparison for you, but, you know, like we said, no other
20 party has objected to the reasonableness of those costs,
21 and I think including Mr. Ragsdale himself. You know,
22 that those weren't the dollars that we spent in those
23 attempts.

24 Q. But you don't have any examples or comparisons
25 to show that that would be a reasonable cost and it

1 shouldn't have maybe been 1 1/2 million as opposed to
2 three, or two as opposed to three, or...

3 A. I don't know that I have any examples. I mean,
4 those were the costs that Mewbourne incurred.

5 Q. Okay. And those were actual costs?

6 A. Yes. Yes. I mean, at the point that we
7 provided those costs to the -- well, I mean obviously our
8 JOA partners would have paid those via our billing system,
9 but as we sent the Notice out under our Second Amended
10 Pooling Order, we identified those as the actual costs
11 incurred, not an estimate. I believe it's in Mr. Robb's
12 Proposal Letter with the 15/10 2H AFE.

13 Q. And in those costs you don't pass on any sort of
14 upscale, like you're operat- -- they're the actual costs,
15 there's no upscaling of the costs?

16 A. That's correct. They are the actual costs.

17 COMMISSION CHAIR SANDOVAL: Okay. All right.
18 That's all of the questions that I had.

19 Commissioners, any further questions before
20 we go to Ms. Shaheen?

21 COMMISSIONER AMPOMAH: One quick one.

22 So I remember yesterday you brought the
23 costs up, and Mr. Bruce was going to add an appendix for
24 us to know the costs. I remember there was a statement on
25 that that they were going to give us some examples of the

1 costs. So I don't know if that is still the case.

2 MR. BRUCE: I don't -- what was I supposed to
3 do? I can't recall.

4 COMMISSIONER AMPOMAH: I recall that Madam Chair
5 asked about the reasonable costs, and Mewbourne was going
6 to provide as an attachment, as I recall, all the costs.

7 MR. BRUCE: Well --

8 COMMISSIONER AMPOMAH: Breakdown.

9 MR. BRUCE: Oh. What I said was, we would
10 try -- I mean, we would try to do something. But, you
11 know, we only had a night to do it, not a full night. I
12 don't have that. I said we would continue to try to look
13 for some case law on that issue, which we would provide to
14 the Commission, is I believe what I said.

15 And I'm not much of a research wizard, so
16 I've handed that out to someone else, and I haven't heard
17 back yet.

18 COMMISSIONER AMPOMAH: Thank you.

19 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, do you
20 have any additional questions for Mr. Cude?

21 MS. SHAHEEN: I do have some follow up with
22 respect to Dr. Ampomah's questions. I have a vague
23 recollection that I started to ask Mr. Cude these
24 questions and he deferred them to Mr. Robb, but I'm happy
25 to try with Mr. Cude, and if he can't answer, perhaps I

1 could ask them of Mr. Robb. But they relate directly to
2 Dr. Ampomah's about the Order and Mr. Cude's response to
3 his questions.

4 COMMISSION CHAIR SANDOVAL: Go ahead.

5 FURTHER CROSS EXAMINATION

6 BY MS. SHAHEEN:

7 Q. Mr. Cude, do you recall Dr. Ampomah's questions
8 about the Pooling Order just now?

9 A. Yes.

10 Q. And you referred to three Pooling Orders, I
11 believe, but do you mean three Pooling Orders or two
12 Pooling Orders? What order are you actually referring to?

13 A. I believe I was referring to the three orders
14 that we've received. So there are two Pooling Orders and
15 then there's the Order No. R-21632, the Division's case,
16 or the Division's Order on this Case 21324.

17 Q. Okay. But the Pooling Order I think that you
18 were testifying about is the Order No. R-20894-A; is
19 that right?

20 A. Yes.

21 Q. That's the Order in which all four wells were
22 pooled together in one Order, correct?

23 A. Yes.

24 Q. And is it unusual for Mewbourne to receive a
25 Forced Pooling Order in which multiple wells are included?

1 A. No.

2 **Q. What is Mewbourne's practice with respect to**
3 **sending out an Election Letter and AFEs for each of those**
4 **wells?**

5 A. You know, that's probably best asked of Mr.
6 Robb. I believe my response to Dr. Ampomah just referred
7 to, you know, that in the Orders that I have reviewed that
8 we've met the Notice requirements in those Orders. But as
9 to our process for proposing wells, I mean that's Mr.
10 Robb's territory.

11 **Q. What are the Notice requirements that are in**
12 **those Orders?**

13 A. Well, I suppose if we could pull up the Order
14 No. R-21631.

15 **Q. That's not the Order that's at issue here. The**
16 **Order we're discussing is 20894-A.**

17 MR. BRUCE: I would object because I don't think
18 that Order talks anything about what's -- about Notice,
19 other than the fact that Notice was mailed to the parties
20 being pooled.

21 MS. SHAHEEN: I think that's right. That's why
22 I'm trying to clear this up, because I don't know of any
23 Notice requirements in the Forced Pooling Orders.

24 A. I believe that what my response was, was that
25 Mewbourne satisfied the Notice requirements.

1 Q. Okay. I think that clears it up for the record,
2 then.

3 Is it your understanding that Mewbourne
4 will send out a separate AFE for each well in an Order?

5 A. I'll defer that back to Mr. Robb.

6 Q. Is it Mewbourne's practice --

7 A. He's --

8 Q. Excuse me. I'm sorry. I didn't mean to
9 interrupt.

10 A. I just said that he would be the expert as to
11 our process there.

12 Q. Do you know of any other time in which Mewbourne
13 has used one well that's been approved in a Compulsory
14 Pooling Order to substitute for another well that's been
15 approved in a Compulsory Pooling Order? Has that ever
16 occurred with respect to any other Forced Pooling Orders
17 that Mewbourne has received?

18 A. I believe, as I testified to you yesterday, that
19 I am not aware of this situation occurring in the past.

20 Q. And I believe you -- if I misunderstood your
21 testimony, please correct me, but I thought I heard you
22 say that the Order approved that Mewbourne could recover
23 the costs for the failed wells.

24 Did you make that statement earlier in
25 response to Dr. Ampomah's questions?

1 A. I believe my response was that all four wells
2 were included on the Order.

3 **Q. Okay. So there's no specific provision in the**
4 **Order that allows Mewbourne to recover the costs for the**
5 **junked wells as costs for the 15 2H, right?**

6 A. Yes, I believe my response was that's in the
7 regulations.

8 **Q. What's in the regulations?**

9 A. That Mewbourne is able to recover reasonable
10 costs from a junked and abandoned well if a substitute
11 well is drilled.

12 **Q. Why didn't Mewbourne ask the Division to approve**
13 **the recovery of its costs for the junked wells?**

14 A. I did not testify at that hearing. I can't
15 answer that question.

16 MS. SHAHEEN: Those are all the questions that I
17 have for Mr. Cude. If there's an opportunity to ask Mr.
18 Robb the questions that Mr. Cude couldn't answer, I'm
19 happy to do that, but that of course will be at the
20 Commission's discretion.

21 Thank you.

22 COMMISSION CHAIR SANDOVAL: Thank you.

23 Mr. Cude -- oh, actually, Mr. Bruce, do you
24 have redirect?

25 MR. BRUCE: Uhm, I could ask him a question or

1 two. Maybe -- you know, if it's okay with the Commission,
2 recall Mr. Robb, and Ms. Shaheen could get answers to the
3 questions that Mr. Cude didn't know.

4 COMMISSION CHAIR SANDOVAL: Yes, I think we are
5 planning to call Mr. Robb next.

6 MR. BRUCE: Okay. Then I really only have one
7 question for Mr. Cude.

8 FURTHER REDIRECT EXAMINATION

9 BY MR. BRUCE:

10 Q. I think I've asked you this before but I can't
11 remember, but the junked well costs, you said they are
12 actual costs incurred in the drilling and the plugging and
13 abandonment of those wells. Do you professionally
14 consider them to be reasonable well costs?

15 A. Yes.

16 MR. BRUCE: Thank you. That's all I have, Madam
17 Chair.

18 COMMISSION CHAIR SANDOVAL: All right. Thank
19 you.

20 Thanks, Mr. Cude, for your time today and
21 yesterday.

22 Mr. Robb. (Note: Pause.)

23 Good morning, Mr. Robb. I just want to
24 make sure we can hear you.

25 MR. ROBB: Are we good now?

1 COMMISSION CHAIR SANDOVAL: All right. Great.
2 Just want to remind you you're still under oath and were
3 sworn in yesterday.

4 MR. ROBB: Okay.

5 COMMISSION CHAIR SANDOVAL: All right.
6 Commissioners, do you have any questions for Mr. Robb?

7 COMMISSIONER AMPOMAH: Madam Chair, I just want
8 to clarify this with Mr. Robb.

9 MITCHELL ROBB,
10 previously sworn, testified further as follows:

11 FURTHER EXAMINATION

12 BY COMMISSIONER AMPOMAH:

13 **Q. So I just want to know, just to be clear because**
14 **it was a little bit confusing to me just now, that**
15 **Mewbourne did not ask OCD to recover costs from the junked**
16 **wells on the new AFE.**

17 A. On the new AFE, no. We considered all the
18 wells, the two junked wells and the new one, the same.

19 **Q. So did Mewbourne actually secure like an**
20 **agreement from OCD that the 15/10 well is a substitute for**
21 **the two junked wells? Was there any agreement?**

22 A. Uhm, we didn't obtain one but it's in the rules
23 and regulations that our wells qualify as substitute
24 wells, so after reviewing that we didn't see where we had
25 to notify of substitute wells since we had the right to do

1 it under the rules and regulations.

2 COMMISSIONER AMPOMAH: Well, actually I want to
3 clarify.

4 So under Mewbourne Oil Company (inaudible)
5 since we do have the Division Order, are we considering
6 that as part of this case? This one is to Madam Chair.

7 COMMISSION CHAIR SANDOVAL: Which Order?

8 COMMISSIONER AMPOMAH: So Mewbourne's evidence
9 or their statements. You know, they do have the
10 witnesses, so they need a landman and their (inaudible) and
11 that's the Division Order. And it was not entered and
12 received, so I don't know, are we considering that?

13 COMMISSION CHAIR SANDOVAL: So this is a de
14 novo case, which means basically we do not consider what
15 was decided from the Division level. It's a new case.

16 COMMISSIONER AMPOMAH: So can they take that
17 out? Because it's still in the document.

18 COMMISSION CHAIR SANDOVAL: I guess I'm not --
19 take out the Order?

20 COMMISSIONER AMPOMAH: So in here, you know in
21 the document that has all the evidence that we are
22 reviewing for the case, it is there as part of the
23 evidence. So if we are not considering that, is it fair
24 for the parties to cross that so that the Commission
25 doesn't need to refer to that at all for records?

1 THE WITNESS: Madam Chair, if I may, it's
2 Mewbourne Exhibit 3.

3 COMMISSIONER AMPOMAH: Yeah, it is. So that is
4 why I questioned that, that it is acceptable to be in
5 evidence in this case.

6 COMMISSION CHAIR SANDOVAL: Let me pull that one
7 up real quick. I have so many documents up right now.

8 Okay. So this, then, is the previous Order
9 for the case at the Division. I, mean I think, Mr.
10 Moander, this should not be part of the consideration for
11 this, because this is a de novo case. Correct?

12 MR. MOANDER: Which document is it? Because
13 I've got a lot up, too.

14 MR. BRUCE: It's Mewbourne Exhibit 3, sir.

15 COMMISSION CHAIR SANDOVAL: It starts on -- of
16 the Case 21902 De Novo Mewbourne Exhibits, it starts on
17 page 36.

18 MR. MOANDER: Let me --

19 COMMISSION CHAIR SANDOVAL: Basically it's Order
20 21631. It was the decision on this matter from the
21 Division.

22 MR. MOANDER: So the hope in this hearing is to
23 have the parties put on the case independent of the lower
24 level. I would advise the Commission that those
25 findings -- I understand why there is a desire to discuss

1 them. I would suggest that it's inappropriate because the
2 merits that are presented in this hearing alone should
3 form the basis for the Commission's ultimate decision, and
4 the lower level -- and I apologize, because I tend to call
5 all this the lower court out of habit. But the
6 lower-level decision from the Division should not be part
7 of the record or the evidence considered by the
8 Commission.

9 MR. BRUCE: My only comment is I'm not sure what
10 Mr. Robb was going to refer to in this Order, but if it
11 was simply the regulation itself, I see no objection I see
12 why he couldn't just point to the regulation, because
13 that's not a finding, that's in the rules.

14 MR. MOANDER: Madam Chair, I would agree with
15 that statement assessment. If Mr. Robb is just going to
16 testify about the reg, then that would be appropriate.

17 COMMISSION CHAIR SANDOVAL: I don't even
18 remember where we were questionwise.

19 THE WITNESS: Nor do I.

20 COMMISSIONER AMPOMAH: Yes, so I was asking the
21 question and I wanted to have some clarification on that
22 evidence, whether it is admissible as part of the case.

23 So I guess I did not have any further
24 questions for Mr. Robb.

25 COMMISSION CHAIR SANDOVAL: Commissioner Bloom?

1 COMMISSIONER BLOOM: No questions.

2 MR. BRUCE: If you were all -- excuse me.

3 COMMISSION CHAIR SANDOVAL: Sorry. What did you
4 say, Commissioner Bloom?

5 COMMISSIONER BLOOM: No further questions.

6 There is one thing kind of left hanging
7 that I -- that was yesterday we related to this, and I got
8 cut off. But kind of back to what Dr. Ampomah had
9 mentioned, there was talk yesterday about a supplemental
10 affidavit being filed regarding the well costs of the
11 junked wells, and I would just like to put that to rest
12 now. I don't think we want that coming in after we close
13 today, because there would be no ability to discuss it and
14 have the sides weigh in on it.

15 So if we could agree, I think that ship has
16 sailed and we will not be receiving another affidavit
17 about those well costs.

18 COMMISSION CHAIR SANDOVAL: I mean, generally I
19 agree, because if it wasn't presented in the case it
20 wasn't presented in the case.

21 COMMISSIONER BLOOM: Yes. And nobody had the
22 ability to examine it and discuss it, we would not have
23 ability to ask questions about it, so I think we could
24 just let that go.

25 MR. MOANDER: Is it the Commission's position

1 that that evidence might have been foreseeably needed but
2 it wasn't put in the record?

3 COMMISSION CHAIR SANDOVAL: Yep.

4 MR. MOANDER: Okay.

5 COMMISSION CHAIR SANDOVAL: But we don't make
6 parties's cases.

7 COMMISSIONER BLOOM: I have no further questions
8 of Mr. Robb. Thank you.

9 COMMISSION CHAIR SANDOVAL: Thanks.

10 I guess my one question -- and I sort of
11 asked this yesterday, and then I asked Mr. Ragsdale this
12 this morning, and just want to make sure I recall
13 Mewbourne's response correctly.

14 FURTHER EXAMINATION

15 BY COMMISSION CHAIR SANDOVAL:

16 Q. If Mewbourne had decided to just stop at the
17 point of the two junked wells and not proceed to doing the
18 substitute or mirror wells, or whatever we are calling
19 them at this point, those costs, the additional \$3.1
20 million, those costs would still have gotten passed off to
21 the parties because of the risk that was assumed by them
22 as well as Mewbourne; is that correct?

23 A. Uhm, yes. So in as this case, they would have
24 been proposed under the original Order very soon after we
25 junked the well, so no one would have known if the well

1 was junked or not, we would probably still be drilling.
2 So then they would have a -- a -- sorry, a chance to
3 elect, and Mr. Ragsdale testified that he would have
4 participated before knowing about the junked wells. And
5 he said that he didn't know about the junked wells at this
6 time. So, yes, they would have been passed on in
7 proposals.

8 Q. Okay. So, first, there -- so there could have
9 been a world where parties just -- if Mewbourne had just
10 stopped at that point and not proceeded with the
11 additional wells, there could have been a world where
12 parties were just having to pay out and not getting
13 anything in return down the road.

14 A. Yes. But I believe we acted as a prudent
15 operator and continuing to drill. If we just stopped,
16 then yeah, the costs would have been where they were.

17 Q. And parties would have still had to pay those
18 costs, they just wouldn't be making any profits on the
19 back end.

20 A. Right.

21 COMMISSION CHAIR SANDOVAL: Okay. That's all I
22 have.

23 Ms. Shaheen, do you have any questions for
24 Mr. Robb?

25 MS. SHAHEEN: I do. And let's start with his

1 testimony just now.

2 FURTHER CROSS-EXAMINATION

3 BY MS. SHAHEEN:

4 Q. Mr. Robb, are you saying that Mewbourne, after
5 having attempted to drill those two junked wells without
6 an Order, that Mewbourne would have used a subsequent
7 Order and not informed the force pooled parties of the
8 junked wells, and thereby attempted to impose the costs of
9 those junked wells on there?

10 A. In the hypothetical.

11 Q. Well, I think -- let's go back and ask, and
12 review the questions that Ms. Sandoval asked you.

13 She asked you: If Mewbourne had decided
14 after it had the two failed attempts that it wasn't going
15 to drill a mirror well would you have passed the costs on
16 to the parties. Do you recall that question?

17 A. After -- we would have proposed the wells
18 pursuant to the Orders, because we are required to.

19 Q. You would have proposed wells that you had
20 already junked after you got an Order?

21 A. We are required to, yes.

22 Q. And would you have informed the parties that
23 those wells had already been attempted -- that you had
24 already attempted to drill and those well attempts had
25 failed?

1 A. Probably not. But, like I said --

2 Q. So you're saying --

3 A. Like I said, this isn't the case. These are
4 substitute wells. We kept drilling the same well.

5 Q. Well, I'm just going back to Ms. Sandoval's
6 hypothetical, which was: If you had not decided to drill
7 the mirror well, would Mr. Ragsdale have been required to
8 pay those costs?

9 This is how I interpret her question so let
10 me ask that to you.

11 A. His requirement would be to make an election
12 under a proposed Order or proposed well.

13 Q. So are you saying that you would have proposed
14 those wells to Mr. Ragsdale after you had failed in your
15 attempts to drill them, and you would not have informed
16 him of those failed attempts but you would have asked him
17 to elect to participate, even though you had no plans to
18 drill a replacement well?

19 A. We are required to propose the well. In a
20 different hypothetical, if it would have been a good well
21 I still would have had to propose the well to him. I have
22 to propose the wells under the Order. I have to.

23 Q. I don't think you're answering my question. My
24 question is: Would you have sent an Election Letter to
25 Mr. Ragsdale after you got an Order and after you had

1 failed to drill those two wells, failed in your attempts
2 to drill the two wells, and after Mewbourne had already
3 decided not to do a replacement well, would you have asked
4 Mr. Ragsdale to elect to participate so you could recover
5 those junked costs?

6 A. Yes. I have to.

7 Q. And would you inform Mr. Ragsdale that you
8 already had tried twice and failed, and had no intent to
9 drill another well?

10 A. No. After the -- after he makes an election,
11 yes, we would.

12 Q. So you would hide the fact that Mewbourne had
13 incurred \$3 million worth of costs trying to drill two
14 wells. You would hide that fact, ask Mr. Ragsdale if he
15 wanted to participate, and after he elected to participate
16 you would say, "You owe us your share of \$3.1 million, and
17 we are not going to drill a substitute well"?

18 A. It's --

19 Q. Is that what you would have done?

20 A. It's industry standards. I do it on both sides.
21 We don't provide well info until a party has elected to
22 participate. I can't make certain -- I can't go one way
23 this way, one way this way. I keep it consistent. We
24 provided information to participating parties.

25 Q. Has that circumstance ever occurred to

1 **Mewbourne? Has Mewbourne ever been sent an Election**
2 **Letter by an operator who has failed in its attempts to**
3 **drill the well that's the subject of the Election Letter?**

4 A. We don't have well interests, so we're not
5 subject to any Pooling Orders. We are strictly an
6 operator.

7 **Q. So when you say on both sides, you don't mean**
8 **when you're operating and when you're not operating.**

9 A. I mean successful or not successful, I don't
10 share information. It's not fair to the participating
11 parties who had paid for that information for me to just
12 share it to parties who have not paid for their share of
13 the costs and the information.

14 **Q. Is it fair for you to hide critical information**
15 **from a party who has been force pooled when you send them**
16 **an Election Letter and ask them whether they want to**
17 **participate in a well in which you have already incurred**
18 **\$3 million for failed drilling attempts? Is that fair?**

19 A. I'm not hiding it, I'm just not giving
20 information to people who haven't paid for that
21 information. Like, that information could be valuable to
22 someone else who wants to drill in that area.

23 **Q. But you're asking them to commit to something in**
24 **which you've already failed, and you've incurred \$3**
25 **million in your failures, and you're asking them to elect**

1 to participate to drill a well that you have already
2 drilled and failed to actually drill a produced well?

3 I mean, are you saying that's okay?

4 A. It's industry standard to propose a well after
5 an Order has been issued, before, during or after the
6 drilling. I can't -- I try to do it by the book every
7 time and propose it as I'm supposed to.

8 Q. Is there an industry standard that you can refer
9 me to? Is it like an AAPL principle that I can find in
10 the landman's handbook?

11 A. Uhm, a standard to propose a well before it's --
12 like, the standards that we propose wells and then
13 withdraw them.

14 Q. But here -- I'm sorry to interrupt you. But
15 here what you did is you drilled them and then you
16 proposed them.

17 A. I proposed -- this well is considered one well
18 with the substitute wells. I proposed it March 19 of
19 2019. We have a substitute well that's still classified
20 as the same, and we have a second substitute, so it's
21 still classified as the same well.

22 I proposed it. I gave them the
23 opportunity. It's not like I never proposed the well. He
24 had the opportunity to participate. If he would have
25 signed the JOA he would have had all this information.

1 Q. So you're saying --

2 A. He would --

3 Q. So you're saying if you don't sign the JOA then
4 you're just out of luck? You don't get the information
5 you should have like when you're entitled to participate
6 under a Forced Pooling Order?

7 A. So information, you get entitlement to
8 information once you're a participant. That's 100 percent
9 industry standard. We don't give our information out
10 to -- we don't have like a website, here is all of
11 Mewbourne's information.

12 I'm not sure where that question is going.

13 Q. Well, let me ask you this, just a hypothetical.
14 You're qualified as an expert here.

15 Say you didn't work for Mewbourne.

16 A. Okay.

17 Q. Say you worked for another company and that
18 company was a nonoperating working interest, and there was
19 another operator and they failed in their attempts to
20 drill two wells. After you sent out the well proposal and
21 asked them if they wanted to join the JOA and they said,
22 "Oh, no, we're going to get Force Pooled then we'll elect
23 to participate." But before it gets force pooled that
24 operator, who you don't work for, makes two failed
25 attempts to drill the well and incurs \$3 million in costs.

1 And then subsequently after they have failed in their
2 attempts they get a Forced Pooling Order, and they come to
3 you and they don't tell you anything about the failed
4 attempts but they ask you whether you want to elect to
5 participate. You're effectively representing -- or I'm
6 going to say not you. The operator it effectively
7 representing that we're going to drill those wells and
8 this is your opportunity to participate. Okay? But if
9 you've already drilled the wells and failed, you're
10 misrepresenting by sending them that Forced Pooling Order
11 and asking them if they want to participate in the well
12 being drilled --

13 MR. BRUCE: I'm objecting to that
14 characterization. Go ahead and answer.

15 Q. How would you feel -- how would you feel as the
16 non-operator?

17 COMMISSION CHAIR SANDOVAL: I think, Ms.
18 Shaheen, can you -- you're bordering on testifying at this
19 point. Can you please ask a question of Mr. Robb.

20 MS. SHAHEEN: I'm sorry. I'm just so astounded
21 by his answers, I'm flabbergasted.

22 Maybe I'm just -- I think I made my point
23 there. I would like to go back to the questions that I
24 was asking Mr. Robb.

25 Q. When Mewbourne receives a Pooling Order that

1 pools a unit for the purpose of multiple wells -- let me
2 he back up.

3 Mewbourne often receives Orders that pool
4 multiple wells; is that correct?

5 A. Yes.

6 Q. And when you get such an Order and you propose
7 it to the parties who have been force pooled, do you send
8 out an AFE for each well?

9 A. For separate -- if they are classified as
10 separate wells, then yes, because they are different
11 wells.

12 Q. Okay. So let's take a look at the Order in this
13 case. That's R-20895 and I'll just put it up for you. I
14 believe that's Attachment D.

15 And I'll share my screen. Can you see
16 that, Mr. Robb?

17 A. Yeah, I have it in front of me.

18 Q. So this is the Order, R-20924-A. Do you see
19 that?

20 A. Yes.

21 Q. And scroll down, we'll get to the Exhibit A that
22 I'm assuming Mr. Bruce provided to the Division here.

23 Do you see that?

24 A. Yes.

25 Q. Do you see kind of in the middle of the page it

1 **says Proposed Wells?**

2 A. Yes.

3 Q. And it's got the 10/15 1H, the 10/15 2H, and
4 scrolling to the next page continues on, the 15/10 1H, the
5 15/10 2H. Do you see that?

6 A. Yes.

7 Q. So this Order pooled that unit for the purpose
8 of drilling four wells; is that correct?

9 A. Uhm, yes, there are four wells listed.

10 Q. And did you send out an AFE for each of those
11 wells?

12 A. Uhm, no.

13 Q. And yet that -- I believe if I understand your
14 previous testimony, you just told me that Mewbourne's
15 practice is to send out an AFE for each well that's pooled
16 by an Order. Is that right?

17 A. That we plan to drill, yes.

18 Q. Did you plan to drill all four of these wells?

19 A. Uhm, at one point, yes. So we drilled the 10/15
20 B1AP, the 10/15 B1AP No. 2H. That's a substitute for the
21 other one. And then we drilled the 15/10 B3PA No. 1.

22 Since we did not propose the 10/15 B3AP
23 No. 1 within with the allotted time, we cannot drill that
24 well.

25 Q. Why didn't you propose it within the allotted

1 **time?**

2 A. Because we made it to the 15/10s.

3 Q. So you never -- Mewbourne never intended to
4 **drill all four of these wells; is that correct?**

5 A. That's incorrect.

6 Q. Tell me at what point Mewbourne decided it was
7 **going to drill all four of these wells.**

8 A. Well, we intended to drill the first two, and
9 then we planned to drill the next two. We were still kind
10 of deciding what our plans were here. Uh, and like we
11 said, this is the first time we've ever done this, so we
12 weren't sure on the exact practice, so we thought better
13 safe than sorry to include every well in the unit that had
14 the potential to be drilled.

15 Q. Have you ever in the past when you have an Order
16 **that identifies two or more wells -- or have you ever used**
17 **one of those wells as a so-called substitute well for a**
18 **different well in that Order?**

19 A. This was the first time.

20 Q. Who at Mewbourne made the decision that you
21 **could do that?**

22 A. It's not us. It's the regulations that decided
23 we could do that.

24 Q. And can you tell me what regulation allows you
25 **to take one well in a series of multiple wells in an Order**

1 **and decide that you're going to use that as a substitute**
2 **well?**

3 A. I believe I testified to this yesterday, if we
4 can just pull that. I've said it at least enough times in
5 this testimony.

6 **Q. Are you saying that an Order that pools multiple**
7 **wells, that you can just simply decide that one of those**
8 **multiple wells is going to be substitute well? Is that**
9 **what you're saying?**

10 MR. BRUCE: I object. The question has been
11 asked over and over and over again, and both he and Mr.
12 Cude have referred to the regulations about drilling
13 substitute or replacement wells. It's found in the
14 Division's regulations.

15 MS. SHAHEEN: I understand that, but it's
16 inconsistent with his previous testimony and that's why
17 I'm just trying to explore it a little bit more.

18 MR. BRUCE: You say it's inconsistent.

19 MS. SHAHEEN: Let me go back and look at my
20 notes here.

21 **Q. Are you aware, Mr. Robb, that the Statute**
22 **70-2 -- I believe it's 70-2-17 actually refers to "the**
23 **well that's pooled."**

24 A. Isn't that that you can pool a well before,
25 during or after drilling?

1 Q. I'm not the person who's testifying here, so you
2 don't get to ask me questions. If you want me to clarify
3 my question, I'm happy to do that.

4 A. Can you clarify your question, please?

5 Q. Are you aware of Section 70-2-17?

6 A. Yes, I'm looking at it right now.

7 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, do you
8 know you're sharing your notes?

9 MS. SHAHEEN: Oh, no. I'm sorry. Thank you so
10 much. Let me stop sharing. Thank you for letting me
11 know.

12 Q. And that's a statute that allows a party to seek
13 to forced pool other mineral interest owners; is that
14 correct?

15 A. Uhm, yes.

16 Q. And it refers to "the well," correct?

17 A. It refers to a common source of supply.

18 Q. Elsewhere in the language.

19 A. I don't think it responds to a specific well,
20 though.

21 Q. But isn't it industry practice, let's call it
22 industry practice, and I think you testified earlier that
23 it's Mewbourne's practice, to propose, to send an AFE out
24 for each well that's pooled in a Pooling Order, correct?

25 A. That we intend to drill, yes.

1 **Q. And didn't you represent to the Division that**
2 **you intended to drill all four wells?**

3 A. Uhm, at the time, but then we decided to flip
4 the surface locations.

5 **Q. So there was a time when you intended to drill**
6 **all four of these wells.**

7 A. Uhm, at least three of them. We drilled, I
8 guess, the B1 -- at the end of the day we did not drill
9 the B3 10/15 No. 1. And that was our decision. The
10 Orders do not state that we have to drill every well that
11 we pool.

12 **Q. But the Orders state -- the Orders require, and**
13 **it's a practice, that you send out an AFE for each well**
14 **that you will try to drill, right?**

15 A. Yes.

16 **Q. Did you ever send out an AFE for the 10/15 2H?**

17 A. 10/15 2H?

18 **Q. Let me clarify that. Did you ever send out an**
19 **AFE -- other than in the Well Proposal, did you ever send**
20 **out an AFE with an Election Letter to Mr. Ragsdale for the**
21 **10/15 2H?**

22 A. Yes. It was included in the substitute well AFE
23 that we sent. They were all classified as one well
24 because they were substitute wells. And my --

25 **Q. Did the Notice Letter say that?**

1 A. My Proposal Letter said that to Mr. Ragsdale for
2 that well.

3 **Q. Okay. So he never got an AFE for the 10/15 2H**
4 **until after you had decided not to drill it.**

5 A. We drilled it.

6 **Q. Sorry. Until after you had drilled it.**

7 A. He received it in March of '19, as well, before
8 we drilled.

9 **Q. He received it as part of a Well Proposal,**
10 **right?**

11 A. Yes.

12 **Q. He didn't receive it as part of an Election**
13 **Letter under a Forced Pooling.**

14 A. He did receive it. It was part of the -- when I
15 sent my proposal to him the 15/10 2H was a substitute well
16 for that, so they were all -- they were all classified as
17 one well.

18 **Q. That's Mewbourne's position, that's your**
19 **position, but when I look at the election letter --**

20 MR. BRUCE: I ob- -- of course it's Mewbourne's
21 position. Move on and ask a question rather than rehash
22 what's already been testified to for hours yesterday.

23 MS. SHAHEEN: Well, Mr. Bruce, I'm not getting
24 an answer to my question. I'm asking him whether Mr.
25 Ragsdale ever got an AFE for the 10/15 2H with an Election

1 Letter under a Forced Pooling Order, and he's trying to
2 tell me yes by referring to the 15/10 2H.

3 MR. BRUCE: He said --

4 COMMISSION CHAIR SANDOVAL: Okay. Guys, stop.

5 MS. SHAHEEN: Okay. I apologize. I apologize.

6 COMMISSION CHAIR SANDOVAL: Ms. Shaheen, if you
7 want a yes-or-no question I suggest you ask for a
8 yes-or-no. Otherwise, we have gone over some of these
9 things multiple times at this point.

10 The witness is not obligated to give you
11 the answer you would like. He's providing the answer that
12 he can. So if -- I suggest reframing your questions, if
13 necessary, but can we move on, or at least reframe the
14 question, please.

15 MS. SHAHEEN: Yes. And this will be my last
16 question, I think. I'll just try to ask the same question
17 one more time but in a better way.

18 **Q. Did Mewbourne ever send Mr. Ragsdale an Election**
19 **Letter and an AFE for the 10/15 2H?**

20 A. Yes.

21 **Q. Can you show me in the record that Election**
22 **Letter with the AFE for the 10/15 2H that was sent to Mr.**
23 **Ragsdale after the Forced Pooling Order was entered?**

24 A. I believe it's Exhibit 5.

25 **Q. And that's Exhibit 5 in your exhibits, in**

1 **Mewbourne's exhibits, or in Mr. Ragsdale's exhibits?**

2 A. Yours.

3 MS. SHAHEEN: Let me see if I can pull that up.

4 I'll share my screen. Can you see that?

5 COMMISSION CHAIR SANDOVAL: Yes.

6 **Q. Okay. So it's your testimony that this Election**
7 **Letter included an AFE for the 10/15 2H; is that correct?**

8 A. Yeah. You can read the second paragraph.

9 **Q. Well, I'm not looking at the paragraph here. I**
10 **want to see the AFE for the 10/15 2H.**

11 **So here's the first AFE. Which well is**
12 **this for?**

13 A. Uhm, this includes the 10/15 B1PA No. 2H, No.
14 2HY, 15/10 No. 2H.

15 **Q. Can you tell me where on this it refers to the**
16 **10/15 2H?**

17 A. Second page. Or sorry, the first page.

18 **Q. Can you tell me where on the document it refers**
19 **to the 10/15 2H?**

20 A. You got to scroll it up.

21 **Q. Scroll up? Here, if you see my cursor, Ibex**
22 **15/10 B1PA Fed Com No. 2H.**

23 A. You can't just pick single documents out of a
24 multi-document that was sent.

25 **Q. Do you want me to look at the next page?**

1 A. Previous page.

2 Q. The previous page is the letter. I'm looking
3 for the AFE not the letter.

4 A. I can't answer this if you can't scroll up. I'm
5 sorry.

6 Q. If you can point me to the AFE for the 10/15 2H
7 I'll go to it, but I have not seen it. And I'll just
8 scroll down to the other AFE that's here.

9 A. Okay.

10 Q. And can you tell me what AFE this is?

11 A. Yeah. That's the 15/10 B3PA.

12 Q. So it's not the 10/15 2H, correct?

13 A. Nope.

14 MS. SHAHEEN: Let's scroll a little farther.

15 That's the end of the AFEs.

16 Okay. I have no further questions. Thank
17 you.

18 COMMISSION CHAIR SANDOVAL: Thank you.

19 Mr. Bruce, do you have any redirect?

20 MR. BRUCE: Very briefly.

21 FURTHER REDIRECT EXAMINATION

22 BY MR. BRUCE:

23 Q. Mr. Robb, if Mewbourne had -- well, they did
24 commence the 10/15 2H, and then junked it and did a
25 substitute well. Once that was junked, if Mewbourne had

1 decided just not to drill the well and wait out For a
2 couple of years before doing anything, and you did get the
3 Pooling Order on those, on that well, in October, I
4 believe, would you have sent Mr. Ragsdale an Election
5 Letter?

6 A. Yes, I would have been required to.

7 Q. But it wouldn't have been for the full \$9
8 million, would it? It would have been for the \$3 million
9 that was spent.

10 A. Correct.

11 Q. Okay. Just one other thing. And this goes back
12 to Mr. Ragsdale's testimony this morning. He was talking
13 about the right to drill, et cetera, et cetera.

14 Mewbourne, when it commenced the wells, it
15 had a working interest in every quarter/quarter section in
16 the working unit, did it not?

17 A. Yes, we did.

18 Q. And Mr. Ragsdale said something else that -- uh,
19 that you -- he stated that you testified that Mewbourne
20 assumed the risk of all those costs. He said that you
21 testified that.

22 Did you ever say that?

23 A. I did not. We assumed the risk that Mewbourne
24 would not be deemed operator at the Division. The costs
25 were -- are recoverable under the previous rules and

1 regulations that we pointed out earlier.

2 MR. BRUCE: That's all I have, Madam Chair.

3 COMMISSION CHAIR SANDOVAL: Thank you. And
4 thank you, Mr. Robb, for your time yesterday and today.

5 I'm going to propose a five-minute break.
6 Let's come back right after 10:30, please.

7 (Note: In recess from 10:25 a.m. to 10:33 a.m.)

8 COMMISSION CHAIR SANDOVAL: Okay. Let's see.
9 So at this point I believe the commissioners should
10 probably discuss how we want to proceed.

11 I think there are a couple of options at
12 this point. And so, Mr. Moander, I just want to confirm
13 until closing arguments are made we don't close the
14 whatever, close the record. Right?

15 MR. MOANDER: We will not close the record
16 itself. We are going to close the evidentiary portion of
17 the hearing. So the record is going to remain open until
18 the final decision is made, essentially.

19 So, yeah, my advice here is to close the
20 evidentiary record at this point and then we can proceed
21 to next steps for the case.

22 COMMISSION CHAIR SANDOVAL: Okay. Well, at this
23 point the evidentiary record is closed.

24 All right, Commissioners. So I think the
25 two options at this point are to proceed with oral closing

1 statements or to direct the parties to provide written
2 closing statements by a certain date, and then deliberate
3 during potentially our next-scheduled hearing.

4 Those are kind of the two options that we
5 have. I'd like to hear feedback from both of you as to
6 how you would prefer to proceed.

7 COMMISSIONER BLOOM: Madam, Chair I prefer to
8 have written closing statements. I think it would be very
9 helpful to see some of the themes we've looked at here
10 over the past two days sorted out and elaborated upon with
11 particular attention to legal precedence and, of course,
12 our rules and regulations.

13 COMMISSIONER AMPOMAH: Madam Chair, I do share
14 the same view with Mr. Bloom. Thank you.

15 COMMISSION CHAIR SANDOVAL: Okay. I can --
16 that's not my normal preferred option, but I think for
17 this situation it makes sense.

18 Ms. Macfarlane, when do you think we can
19 get transcripts for yesterday and today?

20 (Note: Off-the-record discussion.)

21 COMMISSION CHAIR SANDOVAL: I can check with the
22 Division, as well, but this should take precedence unless
23 there is something just absolutely critical on that latest
24 Division docket. Not precedent. Priority. I don't know
25 what I said.

1 All right. So if -- I'm just looking at
2 the calendar.

3 So our next regularly scheduled OCC is the
4 22nd of February. We moved it through the Session.

5 So if we get the transcript by the 25th at
6 the latest, could we get statements, would it make sense,
7 Mr. Moander, by the 4th?

8 MR. MOANDER: If we get the transcripts. So all
9 things being equal, I would recommend like a week but no
10 more than that, because we want to be able to have all,
11 everything that the parties submit, and then the
12 Commission -- which is going to be a little crunched
13 before the next meeting due to the Legislative Session. I
14 want ample time for both the Commission and myself to
15 review the closing arguments and authorities and so on.

16 So I'd say February 1st.

17 Well, we could say seven days from the
18 receipt of the transcript. The transcript is going to --
19 if I remember correctly will arrive in Ms. Davidson's
20 inbox most likely, and she'll need to be diligent in
21 farming that out immediately, or as soon as possible.
22 Otherwise, I'm afraid to put a date certain on these sorts
23 of things given that transcripts are fluid. So I think
24 seven days from dissemination by the Commission of the
25 transcript.

1 COMMISSION CHAIR SANDOVAL: Okay.

2 I would like to put a page cap on this, as
3 well. I think probably no more than 10 pages.

4 MR. MOANDER: That would be good. Ten pages and
5 then perhaps put a limit on any attachments or exhibits.

6 COMMISSION CHAIR SANDOVAL: What page count for
7 attachments or for exhibits would be reasonable?

8 MR. MOANDER: One of the easy shortcuts is to go
9 to something like the Rules of Civil Procedure, so maybe
10 15 pages of attachments, 10 pages of writing.

11 COMMISSION CHAIR SANDOVAL: Okay.

12 MR. MOANDER: The parties can also cite to the
13 record, but if there's something in particular that
14 perhaps they want to highlight or bracket or otherwise
15 draw your attention to, that gives the parties leeway
16 there to attach those with that type of information.

17 COMMISSION CHAIR SANDOVAL: Okay.

18 Are there any other details we need to
19 discuss? I think, as Commissioner Bloom mentioned,
20 specific attention to precedent from the past, and the
21 legal pieces of OCD statutes and regulations as an
22 emphasis. But it is your closing statement so you may
23 state whatever it is you wish to state, I guess.

24 All right. Do we need to make a motion,
25 I'm assuming?

1 MR. MOANDER: Motion to what, Madam Chair?

2 COMMISSION CHAIR SANDOVAL: For the written
3 closing statements.

4 MR. MOANDER: Yes, that would be a good idea
5 just to make it nice and formal.

6 COMMISSION CHAIR SANDOVAL: Is there a motion
7 to -- well, let me pull the case number up again.

8 Is there a motion in Continuance Case No.
9 21324 or de novo Case No. 21902 to require written closing
10 statements by the parties, due to the Commission no less
11 than seven days after receiving the transcript and be no
12 longer than 10 pages of written closing argument with an
13 addition of 15 pages of exhibit attachment.

14 COMMISSIONER BLOOM: Madam Chair, I so move.

15 COMMISSION CHAIR SANDOVAL: Is there a second?

16 COMMISSIONER AMPOMAH: Madam Chair, I do second.

17 COMMISSION CHAIR SANDOVAL: Mr. Moander, would
18 you do a roll call, please.

19 MR. MOANDER: Yes, Madam Chair.

20 Commissioner Ampomah.

21 COMMISSIONER AMPOMAH: Yes.

22 MR. MOANDER: Commissioner Bloom.

23 COMMISSIONER BLOOM: Approved.

24 MR. MOANDER: Madam Chair.

25 COMMISSION CHAIR SANDOVAL: Approve.

1 MR. MOANDER: The motion carries.

2 COMMISSION CHAIR SANDOVAL: Do we need to add in
3 that motion that this will be discussed again in February?

4 MR. MOANDER: No, Madam Chair. You can just
5 make that announcement, because that's the next regular
6 scheduled meeting.

7 COMMISSION CHAIR SANDOVAL: Okay, We will
8 continue this case to be heard at our next regularly
9 scheduled meeting on February 22nd, and to deliberate as
10 necessary.

11 (Time noted 10:43 a.m.)

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1 STATE OF NEW MEXICO).

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3 COUNTY OF TAOS)

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REPORTER'S CERTIFICATE

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I, MARY THERESE MACFARLANE, New Mexico Reporter

7

CCR No. 122, DO HEREBY CERTIFY that on Thursday, January

8

13, 2022, and Friday, January 14, 2022, the proceedings in

9

the above-captioned matter were taken before me; that I

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did report in stenographic shorthand the proceedings set

11

forth herein, and the foregoing pages are a true and

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correct transcription to the best of my ability and

13

control.

14

I FURTHER CERTIFY that I am neither employed by

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nor related to nor contracted with (unless excepted by the

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rules) any of the parties or attorneys in this case, and

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that I have no interest whatsoever in the final

18

disposition of this case in any court.

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