

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

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

CASE NO. 14521

APPLICATION OF WILLIAMS PRODUCTION
COMPANY, LLC FOR APPROVAL OF A
CLOSED LOPP SYSTEM FOR THE
ROSA SWD WELL NO. 2 AND FOR THE
IN-PLACE BURIAL OF DRILLING WASTES
AT ANOTHER WELL LOCATION
RIO ARriba COUNTY, NEW MEXICO.

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSIONER HEARING

July 29, 2010
Santa Fe, New Mexico

BEFORE: MARK FESMIRE: Commission Chairman
JAMI BAILEY: Commissioner
WILLIAM OLSEN: Commissioner

RECEIVED OCD
2010 AUG 10 P 4:06

This matter came for hearing before the New Mexico
Oil Conservation Division, Mark Fesmire, Commission
Chairman, for Commission Hearing on July 29, 2010, at the
New Mexico Energy, Minerals and Natural Resources
Department, 1220 South St. Francis Drive, Room 102, Santa
Fe, New Mexico.

REPORTED BY: Peggy A. Sedillo, NM CCR No. 88
Paul Baca Court Reporters
500 Fourth Street, NW, Suite 105
Albuquerque, NM 87102

E X H I B I T S

2		Page
3	APPLICANT'S EXHIBITS:	
4	Exhibits 1 - 3	24
	Exhibits 4 - 12	83
5	Exhibit 16	83
	Exhibit 18	83
6		
7	APPLICANT'S WITNESSES:	
	M. Vern Hansen	
8	Direct Examination by Ms. Munds-Dry	12
	Cross-Examination by Ms. MacQuesten	23
9		
	Michael Lane	
10	Direct Examination by Ms. Munds-Dry	33
	Cross-Examination by Ms. MacQuesten	82
11	Redirect Examination by Ms. Munds-Dry	188
	Recross-Examination by Ms. MacQuesten	200
12		
13	COURT REPORTER'S CERTIFICATE	213

A P P E A R A N C E S

16	For Williams Production	
17	Company, LLC:	OCEAN MUNDS-DRY, ESQ.
		Holland & Hart, LLC
18		110 North Gonzales, Suite 1
		Santa Fe, NM 87501
19		
		ELIZABETH JOYNER, ESQ.
20		Williams Production Co., LLC
		One Williams Center
21		Tulsa, OK 74172
22	For the OCD:	GAIL MacQUESTEN, ESQ.
		SONNY SWAZO, ESQ.
23		Assistant General Counsel
		Oil Conservation Division
24		1220 South St. Francis Drive
		Santa Fe, NM 87505
25		

1 HEARING EXAMINER: At this time, let's go on the
2 record. This is the specially set New Mexico Oil
3 Conservation Commission meeting on Thursday, July 29,
4 2010.

5 There are only two items on the docket. The
6 first is the adoption of the minutes of the July 15, 2010
7 regularly scheduled meeting of the Commission. Have the
8 Commissioners had a chance to review the minutes as
9 presented by the secretary.

10 COMMISSIONER BAILEY: Yes, I have, and I move
11 that we adopt them.

12 HEARING EXAMINER: Mr. Olson, did you get a
13 chance to review them?

14 COMMISSIONER OLSON: Yeah. I think there were
15 some edits, and I'm assuming they're all in there. So
16 I'll second that.

17 HEARING EXAMINER: All those in favor of
18 adopting the minutes as presented by the secretary signify
19 by saying "aye."

20 COMMISSIONER BAILEY: Aye.

21 COMMISSIONER OLSON: Aye.

22 HEARING EXAMINER: Aye. Let the record reflect
23 that the minutes were unanimously adopted, that the
24 Chairman borrowed a pen and signed them and conveyed them
25 to the secretary. Thank you.

1 The next item before the Commission is Case
2 No. 14521, the Applications of Williams Production
3 Company, LLC, for Approval of a Closed-Loop System for the
4 Rosa Salt Water Disposal System Well No. 2, and the
5 In-place burial of Drilling Waste on Another Location in
6 Rio Rancho County, New Mexico. Are the attorneys present
7 for that case.

8 MS. MUNDS-DRY: Yes, sir.

9 HEARING EXAMINER: Would you enter your
10 appearances, please.

11 MS. MUNDS-DRY: Good morning, Mr. Chairman,
12 Commissioner Bailey, Commissioner Olson. My name is Ocean
13 Munds-Dry with the law firm of Holland and Hart, LLP here
14 representing Williams Production Company, LLC this
15 morning.

16 With me today is Elizabeth Joyner, who is senior
17 counsel for Williams.

18 HEARING EXAMINER: Welcome, Ms. Joyner.

19 MR. SWAZO: This is Sonny Swazo for the Oil
20 Conservation Division, and Gail MacQuesten is cocounsel.

21 I'm going to object to the other attorney's
22 participation in this case. The rules require the
23 prehearing statements to identify the parties' attorneys,
24 and that was not done in this case.

25 The only attorney identified for Williams was

1 Ms. Munds-Dry. For that reason, I would object to the
2 other attorney's participation in this case.

3 HEARING EXAMINER: Ms. Munds-Dry, what exactly
4 is Ms. Joyner's participation --

5 MS. MUNDS-DRY: Mr. Chairman, Ms. Joyner is not
6 going to be directing or crossing the witnesses, she'll
7 simply be sitting here at counsel table with me today.

8 HEARING EXAMINER: Mr. Swazo, is that
9 satisfactory?

10 MR. SWAZO: I still would object.

11 HEARING EXAMINER: Okay. I'll overrule that
12 objection with the proviso that Ms. Joyner is not acting
13 as counsel in this case, but must work through
14 Ms. Munds-Dry.

15 MS. MUNDS-DRY: Thank you, Mr. Chairman.

16 HEARING EXAMINER: Mr. Swazo, do you want to
17 finish your entry of appearance?

18 MR. SWAZO: Yes. Sonny Swazo here on behalf of
19 the Oil Conservation Division. We are the respondent in
20 this case. And with me is cocounsel Gail MacQuesten,
21 also with the OCD.

22 HEARING EXAMINER: Okay. Counsel, before we
23 start, there is one issue I need to take up. I need to
24 inform Ms. Munds-Dry that on Tuesday morning, I got a call
25 from Linda Rundell, the New Mexico State BLM Director, and

1 she was talking to me about a letter that one of her
2 employees had written back in April.

3 I had read the letter but I wasn't aware of what
4 she was talking about. I didn't realize that it was part
5 of this case. I talked to her about the letter.

6 I then asked Mr. von Gotten what this letter was
7 about, and he informed me that it was on this case, and
8 later that day, I got a call from Tony Herrell, who is
9 Ms. Rundell's direct subordinate.

10 And he informed me that they were working on
11 that letter and would send it. It's essentially a letter
12 addressing the letter that was sent in April.

13 It came to us this morning, but I felt that I
14 needed to let you know that before we started. Is there a
15 problem with that?

16 MS. MUNDS-DRY: I don't think Williams has any
17 problem with that. We have not seen the letter, so I'm
18 not sure what the nature of it is, but I don't have any
19 immediate concern.

20 HEARING EXAMINER: Okay. Mr. Swazo, that letter
21 may be a rebuttal exhibit to one of their exhibits. Do
22 you intend to introduce it in your case in chief.

23 MS. MacQUESTEN: Yes. I can answer that,
24 Mr. Chairman, as we proceed.

25 HEARING EXAMINER: Okay. Then I'd ask that

1 sometime this morning, you have copies of that letter made
2 and they be provided to Ms. Munds-Dry.

3 MS. MacQUESTEN: Yes, I'll do that.

4 MS. MUNDS-DRY: Mr. Chairman, if it affects
5 even in my opening, if I could have just maybe a minute to
6 review the letter.

7 HEARING EXAMINER: Surely you may.

8 MS. MUNDS-DRY: Thank you. Thank you,
9 Mr. Chairman.

10 HEARING EXAMINER: Okay. Ms. Munds-Dry, as
11 Petitioner, I guess you get chance to open if you desire.

12 MS. MUNDS-DRY: Yes, sir. Thank you,
13 Mr. Chairman, Commissioner Bailey, Commissioner Olson, for
14 first of all, setting this matter for a special hearing
15 docket today.

16 I do realize and want you to understand that we
17 do appreciate that you have busy schedules and we
18 appreciate the effort you made to accommodate Williams
19 today. So we'd like to thank you.

20 The question before you today, we think, is very
21 simple. When an operator proposes on-site closure, does
22 that refer to where the waste is generated, or on the site
23 where the temporary pit is located?

24 Williams proposes to use a closed-loop system
25 for the Rosa Unit Salt Water Disposal Well No. 2, haul

1 that waste to the temporary pit for the Rosa Unit Well
2 No. 634-B for in-place burial which is located some ten
3 miles away.

4 So another way to think about the application is
5 whether the Pit Rule requires the temporary pit to be
6 located adjacent to the well site.

7 This is, I believe, the first time the
8 Commission has been asked to decide an issue under the Pit
9 Rule disregarding the amendments that were made to the Pit
10 Rule last year.

11 With that in mind, Williams has not brought this
12 application lightly. And you will see that it has been
13 quite a procedural adventure to get this question before
14 you today.

15 The resistance Williams has met to this point is
16 a concern, because there appears to be some mistrust in
17 the Agency of oil and gas operators, of surface owners,
18 even sophisticated owners like the BLM and the Forest
19 Service, and even of the Agency's own district offices.

20 You will hear testimony today that will discuss
21 why the Rosa Unit SWD No. 2 is critical to the Rosa Unit
22 and its operations, why Williams has made this proposal
23 today, and the negative impacts if the application is not
24 granted.

25 The Environmental Bureau has denied Williams'

1 application because, in its opinion, Williams is seeking
2 to dispose of waste, quote unquote, "off site," which in
3 its opinion, can only be done with a Rule 36 Surface Waste
4 Disposal Facility Permit. Respectfully, Williams
5 disagrees.

6 We ask you today to pay attention to the
7 language the Division has tried to use to show that, quote
8 unquote, "on site" means where the waste is generated.

9 Please note you will hear testimony today that
10 Williams is not using a drawing pad and Williams is not
11 planning deep-trench burial.

12 Once you understand that, the language they are
13 attempting to use in the Pit Rule becomes, frankly,
14 irrelevant. You will hear testimony today that Williams
15 is also not seeking an exception to the Pit Rule.

16 Williams will demonstrate for you that its
17 application complies with what we'll call Rule 17, or the
18 Pit Rule, and that the language that is used in its
19 application is the very same language it has used in the
20 past and has been approved by the District Office.

21 This application, although perhaps not
22 contemplated before and Williams will admit that to you,
23 absolutely meets the intent and spirit of the Pit Rule, to
24 protect human health and to protect the environment.

25 We have the full support -- and I'm not sure I'm

1 understanding this new letter that's come to light this
2 morning, but it's been our understanding at least that --
3 until today that we had the full support of the two
4 surface management agencies that have responsibility for
5 these areas in Rosa Unit that we'll be talking about
6 today.

7 We also have something unique in this
8 application that we hope to convey to you today, in that
9 all of this activity will occur on a federal unit where we
10 talk about unit operations.

11 The Division is worried about what effect
12 Williams' application may have on Rule 36 and what effect
13 this application may have on future administration of the
14 Pit Rule.

15 It's very easy to predict dire consequences, but
16 if Williams can demonstrate that it complies with the Rule
17 and that it will protect the environment, then my question
18 is, what prevents The Commission from granting the
19 application.

20 Plus, we will argue for you today that the
21 Division has already set a precedent of allowing multiple
22 wells to use a common temporary pit for waste disposal.

23 Now, not just because Ms. Joyner and I
24 coordinated with our pink today, but I feel it's necessary
25 for me to address the pink elephant in the room.

1 We understand the weight of the decision before
2 you given how politicized the Pit Rule has become,
3 however, we ask you to keep politics out of this room, and
4 instead, consider that there is a real operator in front
5 of you with a real practical problem.

6 Williams believes its application is approvable
7 under the Pit Rule because there was no language that
8 prevent you, the Commission, from granting the application
9 as proposed.

10 Finally, because of the critical timing issues
11 that you will hear testimony about today, Williams
12 respectfully requests that you deliberate and issue an
13 order as soon as possible granting Williams' application.
14 Thank you very much.

15 HEARING EXAMINER: Mr. Swazo, do you want to
16 give your opening statement now, or reserve it, or what?

17 MR. SWAZO: Mr. Chairman, at this time I'd like
18 to reserve my opening statement until my case in chief.

19 HEARING EXAMINER: Okay. Ms. Munds-Dry, how
20 many witnesses do you have?

21 MS. MUNDS-DRY: We have three witnesses today.

22 HEARING EXAMINER: Would you ask them to stand
23 and be sworn, please?

24 (Note: The witnesses were placed under
25 oath by the court reporter.)

1 MS. MUNDS-DRY: We'd first like to call
2 Mr. Hansen.

3 HEARING EXAMINER: Mr. Hansen, would you take
4 the stand, please, and state your name and spell it?
5 Mr. Hansen, counsel has asked me to swear in each of the
6 witnesses individually. So I'm sorry we wasted your time
7 there. Can we do it again?

8 (Note: Mr. Hansen was placed under oath by.
9 the court reporter.)

10 MS. MUNDS-DRY: May I approach, Mr. Chairman?

11 HEARING EXAMINER: You may.

12 MS. MUNDS-DRY: I apologize to the Commission.
13 Apparently we didn't get these exhibits and binders to
14 you, and I'm just noticing that now. So I apologize for
15 making it harder on you than it needed to be.

16 HEARING EXAMINER: I was going to complement the
17 OCD on how well they prepared their exhibits, but this is
18 good enough.

19 MS. MUNDS-DRY: Okay. Thank you.

20 M. VERN HANSEN,
21 the witness herein, after first being duly sworn
22 upon his oath, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MS. MUNDS-DRY:

25 Q. Would you please state your full name for the

1 record?

2 A. Morgan Vern Hansen.

3 Q. And Mr. Hansen, where do you reside?

4 A. Tulsa, Oklahoma.

5 Q. And by whom are you employed?

6 A. Williams.

7 Q. What is your position with Williams?

8 A. Senior Staff Landman.

9 Q. Mr. Hansen, have you previously testified before
10 the Commission?

11 A. No, I have not.

12 Q. Would you please review your education and work
13 history for the Commission starting with your education,
14 please?

15 A. I went to West Texas State University for four
16 years. And during that same four year period, I worked
17 for Donald C. Slawson Oil Producer three years as a
18 geological technician, and one year as a lead records
19 analyst.

20 I started with Northwest Pipeline in 1987 as a
21 land clerk, and I've held various titles, but they've all
22 been in the position of landman.

23 Q. What are your duties as a landman?

24 A. I handle the New Mexico side of the San Juan
25 Basin. In addition to the many duties I have, I make sure

1 that Williams is in adherence to all of our agreements
2 that we are party to. I propose well and project
3 proposals, I work on acquisitions and divestitures, and I
4 draft various agreements relating to land.

5 Q. You say that part of your main duties as a
6 landman, you're responsible for the New Mexico side of the
7 San Juan Basin; are you then responsible for the Rosa
8 Unit?

9 A. Yes, I am responsible for the Rosa Unit.

10 Q. How long have you had responsibility for the
11 Rosa Unit?

12 A. Since about the day I started with Williams.

13 Q. So if I can ask, how long has that been?

14 A. I'm in my 24th year.

15 Q. Do you do you hold any certifications or
16 registrations?

17 A. I'm a Certified Professional Landman.

18 Q. Are you familiar with the application that
19 Williams has filed in this case?

20 A. Yes, I am.

21 Q. And are you familiar with the status of the
22 lands that are the subject of the application?

23 A. Yes, I an.

24 MS. MUNDS-DRY: Mr. Chairman, we would tender
25 Mr. Hansen as an expert in petroleum land matters.

1 HEARING EXAMINER: Mr. Swazo, any objection?

2 MR. SWAZO: Ms. MacQuesten will be handling
3 this.

4 MS. MacQUESTEN: No objections, Mr. Chairman.

5 HEARING EXAMINER: His credentials are so
6 accepted. Continue, please.

7 MS. MUNDS-DRY: Thank you.

8 Q. Mr. Hansen, would you briefly summarize what
9 Williams seeks in its application today from the
10 Commissioner?

11 A. We seek approval of a closed-loop system at the
12 Rosa Salt Water Disposal Well No. 2, and we wish to haul
13 and bury the waste in a temporary pit at the Rosa Unit
14 634-B Well site within the Rosa Unit.

15 Q. Thank you, Mr. Hansen. If you could turn to
16 what's been marked as Williams Exhibit No. 1, identify
17 this document, please.

18 A. This is a map showing boundaries and the types
19 of lands within the Rosa Unit. The areas indicated in
20 Brown are state lands. The areas in gray -- there's gray
21 and then there's gray, but the areas in gray are the
22 federal lands, and the areas in white are the fee Lands
23 within the unit.

24 Q. How many acres total is the Rosa Unit?

25 A. 54,209.29.

1 Q. And how much of that acreage is federal?

2 A. 91 percent of the acreage is federal.

3 Q. And what about state?

4 A. Five percent is state, and the remaining three
5 percent is fee.

6 Q. Now, I know it's not marked on here, so we're
7 going to have to strain our eyes a little bit, would you
8 locate for the Commission where the Rosa Unit SWD Well
9 No. 1 is on this map?

10 A. The Rosa Unit Salt Water Disposal Unit No. 1 is
11 located in the southeast quarter of Section 23, 31 North,
12 6 West.

13 Q. So is that fairly central here in the Rosa Unit?

14 A. It is towards the west-southwest portion of the
15 unit.

16 Q. And where is the Rosa Unit SWD Well No. 2?

17 HEARING EXAMINER: Ms. Munds-Dry, would you have
18 him point out exactly where it is on the unit so that --

19 MS. MUNDS-DRY: Do you want him to draw it
20 maybe on the --

21 HEARING EXAMINER: Please, on the copy that will
22 stay with the court reporter.

23 MS. MUNDS-DRY: We will have another exhibit
24 that shows that indicated on there.

25 HEARING EXAMINER: Okay. Could you give me that

1 location again?

2 MS. MUNDS-DRY: For the Rosa No. 1?

3 HEARING EXAMINER: Yes.

4 THE WITNESS: It is located in the southeast
5 quarter of Section 23, 31 North, 6 West.

6 HEARING EXAMINER: Southeast quarter?

7 THE WITNESS: Yes.

8 Q. And Mr. Hansen, if you could do the same thing
9 for the Rosa Unit SWD No. 2.

10 A. The Rosa Salt Water Disposal Unit Well No. 2 is
11 located in the northwest quarter of Section 25, 31 North,
12 5 West.

13 Q. And because that gray is sort of hard to read on
14 the map, what is the surface and mineral ownership at that
15 location?

16 A. The mineral ownership is federal, and the
17 surface agency is the US Forest Service.

18 Q. And Mr. Hansen, if I could ask you to look at
19 one more well on the map, where is the Rosa Unit Well
20 No. 634-B located?

21 A. The surface location is in the northeast quarter
22 of Section 22, 31 North, 6 West, and the horizontal
23 portion of that well extends from west to east across
24 Section 23 of 31 North, 6 West.

25 Q. And what is the surface and mineral ownership at

1 that well location?

2 A. The mineral ownership is federal, and the
3 surface agency is the Bureau of Land Management.

4 Q. Thank you. Mr. Hansen, if you could turn to
5 what's been marked as Williams Exhibit No. 2, what is this
6 document?

7 A. It is the unit agreement for the development and
8 operation of the Rosa Unit area, Counties of San Juan and
9 Rio Arriba, State of New Mexico.

10 Q. And are there certain provisions in here that
11 you would like to review for the Commission today?

12 A. Yes.

13 Q. What are those?

14 A. I won't read all of them, but we'll start with
15 the recitals which set forth the purpose of this
16 agreement.

17 There's Article I, which is the enabling act and
18 regulations of the federal government, and also says that
19 this will be applicable to all state laws. Section 2
20 describes the unit area.

21 Section 3 describes what substances are covered
22 under this agreement, being oil, gas, natural gas,
23 gasoline, and other associated hydrocarbons.

24 Section 7 sets forth the rights and obligations
25 of the unit operator. And I'd like to read some of the

1 following sections as we go through them.

2 "Except as otherwise specifically
3 provided herein, the exclusive right,
4 privilege and duty of exercising any
5 and all rights of the parties hereto
6 which are necessary or convenient for
7 prospecting for, producing and storing
8 the unitized substances are hereby
9 vested and shall be exercised by the
10 unit operator as provided herein."

11 Q. Okay. The next article?

12 A. Further, in that same article --

13 Q. Oh, I'm sorry.

14 A. It states that:

15 "The development and operation
16 of land subject to this agreement under
17 the terms hereof, shall be deemed full
18 performance by the unit operator of
19 all obligations for such development
20 and operation with respect to each and
21 every part of separately owned tract of
22 land to this agreement, regardless of
23 whether there is any development in any
24 particular part or tract of the unit area,
25 notwithstanding anything to the contrary

1 in any lease, operating agreement, or
2 other contract by and between the parties
3 hereto or any of them."

4 Q. And Mr. Hansen, is that the last paragraph on
5 Page 6 that we were just reading?

6 A. Yes.

7 Q. Okay. Sorry. Please go ahead. The next one,
8 please?

9 A. The next article would be Article 14, which is
10 on Page 12, and it is the conservation provision. And it
11 states:

12 "The operations hereunder and product-
13 ion of unitized substances shall be con-
14 ducted to provide for the most economical
15 and efficient recovery of said substances
16 to the end that the maximum efficient
17 yield may be obtained without waste as
18 defined by or pursuant to state or federal
19 law or regulation; and production of the
20 unitized substances shall be limited to
21 such production as can be put to benefi-
22 cial use with adequate realization of
23 fuel and other values."

24 Article 16 on Page 13 is the leases and
25 contracts that are conformed to this agreement. And

1 there are two portions of that that I would like to read
2 into the record. It states that:

3 "Said parties," which means the
4 State of New Mexico, the Federal Govern-
5 ment, "further consent and agree and
6 the Secretary and Commissioner by their
7 approval hereof, determine that during
8 the effective life of this agreement,
9 drilling and producing operations per-
10 formed by the Unit Operator upon any
11 unitized land will be accepted and deemed
12 to be operations under and for the benefit
13 of all unitized leases embracing land of
14 the United States and the State of
15 New Mexico."

16 And in the following paragraph, it states:

17 "The State of New Mexico and the
18 parties hereto holding interest in land
19 within the unit area other than federal
20 land, consent and agree to the extent of
21 the respective interests of the drilling
22 and producing operations conducted upon
23 any tract of language committed to this
24 agreement shall be deemed to be performed
25 upon and for the benefit of each and

1 every tract admitted hereto, except as
2 otherwise provided herein, and that all
3 leases or other contracts concerning such
4 land shall be modified to conform to the
5 provisions of this agreement shall be
6 continued in force and effect during the
7 life of this agreement."

8 Further, Article 17 states that the covenants
9 run with the land.

10 "The covenants herein shall be
11 construed to be covenants running with the
12 land with respect to the interest of the
13 parties hereto and their successors in
14 interest until this agreement terminates,
15 and any grant, transfer, or conveyance of
16 interest in land or leases subject hereto
17 shall be and hereby is conditioned upon
18 the assumption of all privileges and obli-
19 gations hereunder by the grantee, trans-
20 feree, or other successor in interest, and
21 as to Federal land, shall be subject to the
22 approval by the Secretary, and as to State
23 land, shall be subject to approval by the
24 Commissioner."

25 Q. Mr. Hansen, given what you've just reviewed,

1 those parts of the provisions of the unit agreement that
2 you felt applicable to the hearing today, what is your
3 opinion of what "off site" means with regard to the Rosa
4 Unit?

5 A. Off site would be outside the boundaries of the
6 Rosa Unit.

7 Q. Let's turn to Williams' Exhibit No. 3. Is this
8 evidence of the notice that was provided to the surface
9 owners of this application as required by the Rule?

10 A. Yes, it is.

11 MS. MUNDS-DRY: Mr. Chairman, we move the
12 admission into evidence of Williams' Exhibits 1 through 3.

13 HEARING EXAMINER: Any objection?

14 MS. MacQUESTEN: No objection, Mr. Chairman.

15 HEARING EXAMINER: Exhibits 1, 2 and 3 will be
16 admitted.

17 MS. MUNDS-DRY: That concludes my direct
18 examination of Mr. Hansen. Pass the witness.

19 HEARING EXAMINER: Ms. MacQuesten?

20 CROSS-EXAMINATION

21 BY MS. MacQUESTEN:

22 Q. Good morning, Mr. Hansen.

23 A. Good morning.

24 Q. I'd like to ask you a few follow-up questions.

25 A. Okay.

1 Q. You gave us the acreage for the Rosa Unit. I
2 want to make sure I got it right. Was it 54,000 acres?

3 A. 54,209.29.

4 Q. And it's Williams' position that anything within
5 that 54,209 acres would be considered on site?

6 A. The operation of the unit is a single unit. It
7 is no different from the operation of a 320 acre spacing
8 unit. So yes.

9 Q. Is there -- can you point me to anything in
10 Part 17 of the first two spacing units, what are units for
11 determining on site and off site?

12 A. There is no -- nothing that would indicate on
13 site or off site. The operations of the Rosa Unit is
14 operations of the unit area as a whole. Whether a unit be
15 230 acres, or 54,000 acres, it's still a unit.

16 Q. In Exhibit No. 1, when reading the key to the
17 exhibit, it identifies the mineral ownership?

18 A. Yes.

19 Q. What is the surface ownership?

20 A. The surface ownership is either fee, Federal or
21 State.

22 Q. Does the surface ownership correspond to the
23 mineral ownership?

24 A. There is no separate estates in the Rosa Unit.
25 So yes. To my knowledge. I will say to my knowledge.

1 Q. How many actively producing wells are there in
2 the Rosa Unit?

3 A. I believe that to be a question for Mr. McQueen,
4 our engineer.

5 Q. I'd like to ask you about Exhibit No. 3, the
6 notice of hearing. This was sent to the Bloomfield
7 ranger's station of the Forest Service and the BLM field
8 office?

9 A. Yes.

10 Q. And that's according to the second page, the
11 green cards. Was any notice sent to the State or district
12 level offices of the BLM or Forest Service?

13 A. No. We notified the service agencies
14 responsible for where the Rosa Unit SWD No. 2 is located,
15 and also, where the Rosa Unit No. 634-B is.

16 Q. I'd like you to look at the first paragraph of
17 that letter, and it describes what the application seeks.
18 I'd like you to look at the language that says the
19 application is asking to haul the waste to a nearby well
20 location for on-site burial.

21 A. Yes.

22 Q. Does the letter say where that nearby well
23 location is?

24 A. No, it does not.

25 Q. Does it indicate that the on-site burial we're

1 talking about is ten miles away from the place where the
2 waste is generated?

3 A. No, it does not.

4 Q. From the language that the disposal is nearby
5 and on site, we could we assume that the disposal would be
6 on or near SWD Well No. 2?

7 A. One could.

8 Q. The letter indicates that the application was
9 attached to the letter. Is the application that's
10 referred to, the application for hearing?

11 A. The application attached is the application for
12 permit to drill and reenter for the Rosa Unit Salt Water
13 Disposal Unit No. 2.

14 Q. So it's the application for the --

15 A. The closed loop --

16 Q. -- closed-loop system and the disposal at the
17 Federal well, it's not the application for hearing?

18 A. It is the APD.

19 Q. Could you tell me if the application for the
20 disposal that you say is attached to this would alert the
21 reader as to what was meant by a nearby disposal?

22 A. Could you repeat the question?

23 Q. You say the application that was attached to
24 this letter was the application for the closed-loop system
25 and disposal at the 634-B?

1 A. The application that was attached to this letter
2 is for the Rosa Unit Rosa SWD No. 2 of closed-looped
3 system. It's the application and permit to drill.

4 Q. Okay. Could you show me in that document where
5 you tell the reader that the disposal was going to be
6 taking place two miles away?

7 A. I cannot show you in that document.

8 Q. Why not?

9 A. I don't know if it exists in that document. The
10 application -- the notification simply states that it will
11 be -- excuse me --

12 Q. If you like, you could turn to Exhibit No. 8,
13 which I believe is the application that we're talking
14 about, the application for the SWD Well No. 2 that's the
15 subject of the hearing.

16 HEARING EXAMINER: It's Williams' No. 8?

17 MS. MacQUESTEN: Yes.

18 A. I'm not familiar with this particular
19 application. I mean, I understand what we're trying to do
20 here, but this was not prepared by me or under my
21 direction. So. I can read through it as you ask me
22 questions.

23 Q. Well, you are the one who is introducing the
24 document that provided notice to the Forest Service and
25 the BLM of the hearing today, and I'm trying to find out

1 whether that notice told the Forest Service and the BLM
2 that what Williams was asking for is disposal at a site
3 ten miles away.

4 A. I believe that there will be testimony provided
5 by Mr. Lane, and also Mr. McQueen, that there have been
6 numerous discussions of where the waste will be buried,
7 but I don't know that I am qualified to address that.

8 Q. But you can't quote me --

9 A. In the notice.

10 Q. -- in the notice or the attachment to the notice
11 that would tell someone reading that notice that what
12 Williams was asking for was disposal ten miles away?

13 A. No.

14 MS. MUNDS-DRY: Objection. Asked and answered.

15 HEARING EXAMINER: Sustained.

16 Q. Mr. Jones just alerted me to something that I
17 want to ask you about. I was assuming that when you said
18 that the application that was attached to this, I was
19 assuming that you meant to the application to the OCD
20 for --

21 A. I'm sorry, I made a mistake there. It is not.
22 I can only look at the exhibit and what is attached here,
23 and I do not see any attachment as far as the application
24 on the notice for hearing.

25 Q. So you can't tell us today what was attached to

1 the notice for hearing?

2 A. I do not know what was attached to the notice
3 for hearing.

4 MS. MacQUESTEN: Mr. Chairman, I have to change
5 my position on whether this exhibit should be admitted.
6 The person who is introducing it can't tell us what was
7 provided for notice. I have to object to the notice
8 provided in this case.

9 HEARING EXAMINER: Ms. Munds-Dry?

10 MS. MUNDS-DRY: Mr. Chairman, this notice was
11 obviously provided by counsel, by me, and we did not
12 attach the attachments to the notice. I can represent to
13 you that it was the application for hearing and the
14 June 18 C-144 that was attached to the notice.

15 I did not attach it because I didn't realize it
16 would be an issue as to the application for hearing, and
17 the C-144 was attached to the application for hearing, and
18 that simply what was attached to the notice.

19 Mr. Hansen didn't send that letter, so he's not
20 familiar with it.

21 HEARING EXAMINER: I do have a bit of a problem
22 in that we're admitting something under Mr. Hansen's
23 verification that he apparently has no knowledge of.

24 MS. MUNDS-DRY: Well, it was compiled under his
25 direction, and that's what I asked him, if it was compiled

1 under his direction, which it was.

2 HEARING EXAMINER: Okay. Is that document
3 available to you?

4 MS. MUNDS-DRY: That's what I'm trying to locate
5 here as they were having that question. As soon as I
6 locate that, I will provide that. I'm just a little
7 disorganized.

8 HEARING EXAMINER: Why don't we conditionally
9 withdraw Exhibit 3 pending the addition of the information
10 that was attached to it, and for the time being, we will
11 take that out of the record subject to readmission when
12 it's complete.

13 MS. MUNDS-DRY: That's fair. And Mr. Chairman,
14 on a break, I'll attempt to locate that and provide that
15 to you.

16 HEARING EXAMINER: Okay.

17 MS. MacQUESTEN: Mr. Chairman, if I could ask a
18 couple questions on these documents and the attachments?
19 I'd like to ask Mr. Hansen a few questions about these.

20 HEARING EXAMINER: You want to take Mr. Hansen
21 on voir dire?

22 MS. MacQUESTEN: Yes.

23 HEARING EXAMINER: Okay.

24 MS. MUNDS-DRY: I'm sorry, for what purpose? I
25 missed what --

1 MS. MacQUESTEN: I would like to ask him a few
2 questions about the two documents that you say were
3 attached to this notice.

4 MS. MUNDS-DRY: He's already testified that he
5 does not know what documents were attached. So I'm not
6 sure what purpose that would serve, especially since we
7 have extensive questioning that he is not familiar, and
8 you already sustained the objection that it had been asked
9 and answered and he did not know.

10 HEARING EXAMINER: I don't think on voir dire
11 she ask him about the contents of those attachments, but
12 there are questions about the documents themselves that I
13 think she's entitled to explore.

14 MS. MacQUESTEN: If you prefer that I not ask
15 Mr. Hansen questions since he doesn't seem to be
16 knowledgeable about these particular documents, I would
17 ask the Commission to take administrative notice of the
18 hearing application itself in this case, which is one of
19 the documents that Ms. Munds-Dry says is attached to the
20 notice.

21 And I'd like the Commission to read that
22 document for themselves to see if there is any indication
23 to someone reading that document that the disposal of the
24 waste was taking place ten miles away from the location
25 where the waste was generated.

1 HEARING EXAMINER: Okay. The Commission will
2 take administrative notice of that document, and it will
3 become part of the record.

4 MS. MacQUESTEN: And I would also ask the
5 Commission to look at Exhibit No. 8 for the C-144 that was
6 supposedly attached to the notice document, and we will be
7 going through it with Mr. Lucero and other witnesses, but
8 my question will be whether that document would indicate
9 to the reader --

10 HEARING EXAMINER: Why don't you bring up those
11 concerns when that Exhibit 8 is proposed for admission?

12 MS. MacQUESTEN: I will. Thank you,
13 Mr. Chairman.

14 HEARING EXAMINER: Anything else?

15 MS. MacQUESTEN: No more questions.

16 HEARING EXAMINER: Commissioner Bailey?

17 COMMISSIONER BAILEY: Based on your testimony on
18 the unit agreement, it is your position that it doesn't
19 matter if it's two miles or a quarter of a mile away?

20 THE WITNESS: That's correct.

21 COMMISSIONER BAILEY: That's all I have.

22 HEARING EXAMINER: Commissioner Olson?

23 COMMISSIONER OLSON: I have no questions.

24 HEARING EXAMINER: I don't believe I have any
25 questions either. Anything on redirect?

1 MS. MUNDS-DRY: No, sir.

2 HEARING EXAMINER: Okay. And I would remind
3 counsel that we have conditionally withdrawn Exhibit 3.

4 MS. MUNDS-DRY: With that in mind,
5 Mr. Chairman, I'd ask for your direction. Mr. Hansen has
6 another engagement at lunch today, and he was able to be
7 here in the morning, but we'd asked, if there's no
8 objection from counsel, if he may be excused at about that
9 time.

10 HEARING EXAMINER: Any objection?

11 MS. MacQUESTEN: No, sir.

12 HEARING EXAMINER: The Commission would allow
13 that.

14 MS. MUNDS-DRY: Thank you, sir. We'd like to
15 call Mr. Lane.

16 HEARING EXAMINER: Mr. Lane, on advice of
17 counsel, would you step up and stand and be sworn, please?

18 MICHAEL LANE,
19 the witness herein, after first being duly sworn
20 upon his oath, was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MS. MUNDS-DRY:

23 Q. Would you please state your full name for the
24 record?

25 A. Michael Kevin Lane, M-i-c-h-a-e-l K-e-v-i-n

1 L-a-n-e.

2 Q. And where do you reside, Mr. Lane?

3 A. Aztec, New Mexico.

4 Q. And when where are you employed?

5 A. Williams.

6 Q. What is your position with Williams?

7 A. I'm a Senior Environmental Health and Safety
8 Specialist in the San Juan Basis operations.

9 Q. Have you previously testified before the
10 Commission?

11 A. I have not.

12 Q. Would you please review for the Commission your
13 education and work history, beginning with your education?

14 A. I have a bachelor's degree in geological
15 engineering from New Mexico Tech. I received that in
16 1982.

17 Q. And after you graduated from New Mexico Tech,
18 did you go to work?

19 A. I did.

20 Q. Where did you go to work?

21 A. I initially started with the New Mexico State
22 Highway Department as a geotech engineering intern. I
23 then took a position with Shell Oil from 1983 to '87 as a
24 petrophysical and development engineer.

25 Subsequent to that, I worked for Earth Systems

1 Group in California from '88 until 1990. There I worked
2 as a consulting engineer with responsibilities in the
3 areas of geotech, environmental, and petroleum.

4 In 1991 through 1994, I worked for Envirotech.
5 There I was the principal engineer overseeing
6 environmental and laboratory services. And I helped with
7 the permitting of NMOCD land farm that Envirotech now
8 operates. The released the first of those.

9 And was the project manager with the Amoco pit
10 assessment and reclamation project that addressed some
11 2000 sites in the San Juan Basin during that time.

12 Following my time with Envirotech, I worked for
13 On-Site Technologies from '94 to 2002. There again, I
14 acted as a principal engineer overseeing environmental
15 consulting.

16 The focus was waste management, ground water
17 geohydrology, water resource management, and protection in
18 the Four Corners areas and on Indian lands.

19 In 2002, I went to work for Williams' field
20 service as a Senior Environmental Specialist overseeing
21 permitting and compliance with the gathering and treating
22 operations in the Four Corners.

23 And I transferred to Williams Production in 2004
24 to present where I've acted as a Senior Environmental
25 Health and Safety Specialist supporting and overseeing

1 permitting and compliance in the San Juan Basin production
2 operations.

3 Q. If you could, expand a little bit on what your
4 duties are as a senior environmental health and safety guy
5 at your office.

6 A. Well, I actually support -- I have a team that
7 works for me, a safety specialist that focuses
8 predominantly on safety compliance for the operations.

9 And then my role in addition to supporting that
10 is, I participate and oversee, as I said before,
11 compliance and permitting.

12 I don't do well-site permitting itself, the APD
13 packets are usually prepared by a group that works under
14 Mr. McQueen. So there I'm more as a support or consulting
15 role overseeing waste or water issues, air quality issues.

16 When we actually have operations at the
17 facilities, that's -- the bulk of my compliance work is
18 overseeing and helping to work with the operating group to
19 maintain compliance and any additional permitting that's
20 required.

21 Q. Mr. Lane, do you have any registrations or
22 certifications?

23 A. Yeah, I'm currently a registered professional
24 engineer in five states, California, Arizona, New Mexico,
25 Colorado and Utah. In New Mexico branches, I'm registered

1 as being competent in petroleum, geological and civil.

2 In addition to those registrations, I'm a
3 registered remediation specialist in Arizona. I did carry
4 certified environmental specialist -- Environmental
5 scientist is the term that the NMED used.

6 That registration has since lapsed, and I don't
7 even know if the Environmental Department offers that
8 anymore. And I'm also a UST consultant in Colorado.

9 Q. Are you familiar with the application that
10 Williams has filed in this case?

11 A. I am.

12 Q. Are you familiar with the OCD regulations
13 regarding pits?

14 A. Yes. I've been working as a consultant with the
15 Pit Rule since about 1991, 1992, helping responsibility
16 parties manage compliance.

17 Q. There happens to be an issue today about Rule
18 36. Are you familiar with Part 36 of the OCD rules?

19 A. I'm familiar with 36, but Williams Production
20 does not operate any facilities, nor has chosen to operate
21 any facilities that would be permitted under 36. So I'm
22 not well versed in the rule.

23 Q. And are you the person at Williams
24 responsibility for filing C-144s?

25 A. I am.

1 Q. How many C-144s have you submitted to the OCD
2 under Rule 17?

3 A. Well, at least 540.

4 Q. How many of those have been approved?

5 A. For temporary pits, all but this last one.

6 MS. MUNDS-DRY: Mr. Fesmire, we would tender
7 Mr. Lane as an expert witness in environmental, health,
8 and safety matters, and as a professional engineer.

9 HEARING EXAMINER: Any objections?

10 MS. MacQUESTEN: No objections, Mr. Chair.

11 HEARING EXAMINER: Mr. Lane's credentials will
12 be so accepted.

13 MS. MUNDS-DRY: Thank you.

14 Q. Mr. Lane, let's turn to the exhibits and let's
15 discuss, if we can for the Commission, the history of how
16 we got here today and begin with permitting the Rosa Unit
17 SWD No. 2. If you could turn to what's been marked as
18 Williams' Exhibit No. 4, what is this document?

19 A. This is the APD or the application for permit to
20 drill and reenter for the Rosa Unit SWD No. 2.

21 Q. And was this APD approved?

22 A. It was signed by Dave Mackovich with the BLM
23 Farmington field office on November 23, 2009.

24 Q. And I notice there is a notation at the bottom.
25 If you could read that for the Commission.

1 A. It basically -- looks like the BLM wrote this,
2 "Must have SWD order prior to spud."

3 Q. Do you know what the status is of this C-108
4 application?

5 A. It's my understanding that it's still pending,
6 but Mc McQueen prepared that and should -- he can speak to
7 that better than I.

8 Q. Let's try to trace the history. And I think
9 what we might do is, if you could turn to OCD Exhibit
10 No. 3, the Division's Exhibit No. 3, and keep that out in
11 front of you while we also review our exhibits.

12 When did Williams first submit its C-144 for the
13 Rosa SWD No. 2?

14 A. The original -- or the first C-144 submitted for
15 the SWD No. 2 was submitted in early November. It was an
16 application to utilize a temporary pit at that site.

17 Q. Okay. After you submitted the application to
18 the Aztec office, what response did you get from the
19 district office?

20 A. Well, I spoke with Brandon Powell in the
21 District 3. He was concerned that the evidence we
22 provided as a demonstration for the depth to ground water,
23 that it was not close enough in proximity to the proposed
24 location.

25 This is -- the disposal well itself is not

1 located adjacent to or colocated on a existing well pad,
2 so we didn't have cathodic data, and he felt that our
3 application needed additional evidence to demonstrate that
4 the depth to ground water was at least greater than 50
5 feet in order to utilize the temporary pit.

6 Q. Did Williams do some additional testing?

7 A. We did. I arranged to drill at the proposed
8 well site using an air rig. I believe the date was around
9 December 8th. And during that drilling, we found that the
10 depth to water ground was about 35 to 38 feet below the
11 site grade. And this would make the application temporary
12 pit impractical without on exception to the Rule.

13 Q. Mr. Lane, I'm sorry to interrupt you. I notice
14 on OCD Exhibit No. 3, there's an entry for November 30th
15 stating that the OCD office is denying the application.
16 Did you receive the denial of the application on
17 November 30th?

18 A. I didn't receive a denial, it was more of a
19 verbal, we would need to demonstrate that the depth to
20 ground water was sufficient for us to actually -- for
21 Brandon to accept or approve our application.

22 But the drilling wasn't done until December 8th,
23 and I didn't receive any formal denial that I recall.

24 Q. Once you received additional data from the
25 drilling, what did Williams do with that application?

1 A. Well, I discussed it with Brandon, but it was
2 kind of a foregone -- It was -- We were going to pull the
3 application because we could not use a temporary pit at
4 that location.

5 Q. Okay. If you would turn to Williams' Exhibit
6 No. 5, would you review and identify this document for the
7 Commission.

8 A. This is the second C-144 that -- or a
9 resubmittal of a C-44 for the Salt Water Disposal No. 2.
10 It was submitted and received by the district office
11 January 28, 2010.

12 Q. It may be fairly obvious on the front cover
13 here, but what was the disposition of that C-144
14 application?

15 A. It was denied.

16 Q. Do you know the date that that was denied?

17 A. It's not stamped on here, but looking at the
18 chronology -- and I think there may be something further
19 in the exhibits -- I believe it was March 11, 2010.

20 Q. And why was it denied, if you could read the
21 language there on that first page.

22 A. If I can back up just a second, I think I need
23 to explain what's different about this application and the
24 C-144.

25 Q. Please do, please explain the reason for the

1 change.

2 A. In this second application, since Williams could
3 not use a -- could not permit a temporary pit at the SWD
4 No. 2, what we proposed in this application was to utilize
5 essentially a hybrid system. I'll call it a hybrid
6 system.

7 It would consist of a temporary pit on the well
8 location, and then the utilization of a -- Excuse me, I
9 said that wrong. Would utilize a closed-loop system at
10 the well location, and utilize a temporary pit on an
11 adjacent -- I shouldn't say adjacent, on another well
12 location that was being drilled this year.

13 Q. And what was the other well that we identified
14 in the C-144?

15 A. At the time of this application, we had
16 identified the Rosa Unit No. 394.

17 Q. And where was the 394 located with respect to
18 the SWD No. 2?

19 A. It was approximately 1.1 miles north of the well
20 location.

21 Q. Okay. Now, if you could turn to why the C-144
22 was denied and if you could review the language on this
23 first page.

24 A. I'll go ahead and just read the denial, that
25 would make it easier.

1 "The OCD District Office reviewed
2 the permit, and due to the complexity, the
3 District Office also contacted the OCD
4 Environmental Bureau regarding the permit.

5 "As a result of the discussions, the
6 OCD hereby denies Williams' permit appli-
7 cation. Williams' closure plan proposed
8 hauling the drilling cuttings and materials
9 to an off-site location for burial and dis-
10 posal.

11 "Pursuant to 19.15.13.7D, NMAC,
12 approved closure methods for closed-loop
13 systems include transferring waste material
14 and the drawing pad liner to a Division-
15 approved facility or on-site burial.

16 "Pursuant to the on-site closure
17 method provisions of 19.15.17.13F NMAC, an
18 operator may use in-place burial, burial in
19 the existing temporary pit for closure of a
20 temporary pit, or bury the contents of the
21 drawing pad associated with a closed-loop
22 system in a temporary pit that the operator
23 constructs in accordance with Paragraphs 1
24 through 6 and 10 of Subsection F of
25 19.15.17.11 NMAC.

1 "For closure of a drawing pad
2 associated with a closed-loop system on
3 site, off-site disposal would require the
4 operator to obtain a surface waste manage-
5 ment facility permit landfill permit in
6 accordance with 19.15.36 NMAC, unless the
7 waste material is hauled to a division-
8 approved facility."

9 Q. Okay. If you could then summarize for the
10 Commission, in your opinion, what was the basis of the
11 denial of this application?

12 A. I think in simple terms, disposal of cuttings at
13 a temporary pit and not adjacent to the well.

14 Q. Was there any reason given in this denial that
15 was based on a particular well site under the SWD No. 2 or
16 the 394?

17 A. In the denial statement, no, there was no
18 mention of problems with the application, siting of the
19 pits, design, operation and/or the proposed closure plans.

20 Q. I'd like to back up to the sentence that reads,
21 "Pursuant to the on-site closer
22 method, an operator may use in-place burial
23 for closure of a temporary pit, or bury the
24 contents of the drawing pad associated with
25 a closed-loop system for a temporary pit."

1 Do you see that?

2 A. Yes.

3 Q. When would Williams use a closed-loop system in
4 its drilling?

5 A. Well, we used closed-loop systems, and we would
6 use a closed-loop system when we had a sensitive site; in
7 this case, a site where ground water is too shallow. Or
8 we might use one where the waste would not allow in-place
9 burial in a temporary pit.

10 An example is, we're currently using a oil-base
11 drum system, so those cuttings won't be able to meet the
12 criteria for in-place burial.

13 And the last example is, workovers where we
14 don't -- where we have an existing facility and no longer
15 have room to dig a temporary pit to support workover
16 activities.

17 Q. Since this sentence contemplates a closed-loop
18 system and drawing pad into a temporary pit, where would
19 the temporary pit have to be located then?

20 A. To support the closed-loop system? It would
21 have to be on another well location, or at least some
22 other site.

23 Q. Was the 394, the Rosa Unit 394, in a -- what we
24 might call an environmentally sensitive area, or more to
25 the point, where ground water was too shallow pursuant to

1 the rules?

2 A. Well, this application actually includes
3 demonstration that the Rosa 394 would meet the siting
4 criteria, not only for the ground water, but distance to
5 surface water, not in a municipality -- all of the siting
6 criteria.

7 Q. Okay. Let's go forward now in our time line.
8 If you could refer back to OCD Exhibit 3, did Williams
9 apply for hearing based on that March 11 final of the
10 C-144?

11 A. We did.

12 Q. When did we apply for hearing?

13 A. March 16th.

14 Q. Okay. Let's then turn to Williams' Exhibit
15 No. 6, if you could identify and review this document for
16 the Commission.

17 A. This is another C-144 application for the Rosa
18 SWD No. 2. In essence, it's -- it proposes again an
19 identical -- Well, it's an identical proposal to the
20 hybrid system proposed in the previous application, which
21 is a closed-loop system at the SWD No. 2, and then a
22 temporary pit at a new drill location.

23 Essentially, the only difference -- the only
24 substantial difference is that we have now identified the
25 temporary pit on the Rosa Unit No. 634-B.

1 Q. Mr. Lane, was the application for hearing of the
2 March 11th denial, was that still pending?

3 A. Yes.

4 Q. Why then did Williams decide to submit this
5 April 20th C-144?

6 A. Mr. McQueen can speak to the significance of the
7 site and the constraints regarding timing for drilling
8 this. But Williams learned that BP, which is the working
9 interest owner on the 394 and the 394-A wells, had pulled
10 funding, would not be drilling the well this year. So
11 therefore --

12 Q. I'm sorry, which well are you referring to?

13 A. Would not be drilling the 394 this year.

14 Q. Thank you. Sorry to interrupt.

15 A. Therefore, there would be no temporary pit or no
16 location built for the temporary pit. And that would make
17 essentially a temporary pit component of this earlier
18 application irrelevant or not available.

19 However, Williams was hoping that we could go to
20 hearing and get resolution about the core issue, which is,
21 does the temporary pit have to be adjacent and an integral
22 part of the location where the well that needs to utilized
23 it is.

24 And if a decision was made favorable, then we
25 needed a permit application that was approved, or

1 approvable and approved, as soon as possible, because
2 this -- the SWD No. 2 is in a wildlife sensitive portion
3 of the Farmington field office BLM lands.

4 And there's winter closure restrictions for
5 wildlife that exists for five months. They vary, but --
6 between the Forest and the BLM, but it's a five month
7 closure in which there is no construction activity.

8 So, if we don't spud the well this year and get
9 the facilities built between now and -- Well, closure
10 ended March 31st. Closure will again begin in November,
11 and we basically have a seven month window here to drill
12 and construct this entire facility.

13 And so, I elected to submit an application that
14 we felt should be approvable so that we could move ahead
15 with spuding the well and utilizing the pits
16 appropriately.

17 Q. Mr. Lane, did the April 20th C-144 that you
18 submitted contain the same language that you have utilized
19 and submitted in the past to the Division?

20 A. In both these latter applications that we're
21 talking about, the closed-looped system, the language for
22 construction, design, and operation, and closure is
23 comparable, if not almost identical, to approved
24 closed-loop permits that we already have with the
25 Division.

1 On the temporary pit, the way we prepared our
2 exhibits or our attachments for demonstration of meeting
3 siting criteria, meeting closure criteria, the plans, the
4 design, the construction, the operation, maintenance and
5 closure plans, the language was consistent with earlier
6 approved C-144 permits for temporary pits.

7 Q. And did the district office review the April
8 20th C-144?

9 A. No, they did not.

10 Q. Why not? Were you given a reason?

11 A. When I spoke to Brandon Powell of Charlie, they
12 told me that they could not and would not act on this
13 because essentially it was identical to the earlier permit
14 and the attempted use of a hybrid system and that they
15 were waiting for direction based on the pending hearing
16 and the Environment Bureau.

17 Q. Was the April 20th application eventually
18 reviewed by the Division?

19 A. It was.

20 Q. Who reviewed it?

21 A. Best I can tell, the Environmental Bureau here
22 in Santa Fe.

23 Q. What is the normal process followed under Rule
24 17, or the Pit Rule, for submitting a C-144?

25 A. Well, the process that we follow to date, with

1 this being the exception, has been that we've submitted
2 C-144s to the District Office for review and approval.

3 If there's any problems identified -- and the
4 November 9th C-144 is an example, the District Office
5 would discuss that with me, or with Williams, and we would
6 -- Basically, it was either they would deny or have us
7 pull the application and resubmit it such that they could
8 approve it, but we handled that at the district level.

9 I do know that on a number of occasions -- and
10 we'll probably get to it later in my testimony, that the
11 district does consult with the Environmental Bureau before
12 they make approvals on those applications.

13 Q. Let's turn to Williams' Exhibit No. 7. What is
14 this document?

15 A. This is a June 9, 2010 certified letter -- or
16 letter mailed certified. Essentially, it is the denial of
17 the April 20th C-144.

18 Q. And who signed this letter?

19 A. It was signed by Mr. Glenn von Gotten.

20 Q. And what is his position in the letter?

21 A. On the letter, his title is Acting Environmental
22 Bureau Chief.

23 Q. And I don't think we need to go through this in
24 detail. If you could perhaps read for us on the first
25 page of this letter the second paragraph, the reasons for

1 denial.

2 A. "OCD denies Williams' permit application because
3 it is inadequate. The permit application is incomplete.
4 Williams inappropriately proposes to dispose of oil field
5 waste off site, and parts of Williams' permit application
6 are either unclear or deficient, or contain proposals that
7 may require Williams to submit a request for
8 administrative approval for an alternative, or an
9 exception to a requirement of the Pit Rule. Please note
10 that OCD did not review Williams' permit application as an
11 application for an alternative or an exception to a
12 requirement of the Pit Rule because Williams did not
13 identify it as such.

14 HEARING EXAMINER: Ms. Munds-Dry, would this be
15 a good place to break, take about a ten minute break?

16 MS. MUNDS-DRY: Sure.

17 HEARING EXAMINER: Why don't we do that and
18 reconvene at 10:25.

19 (Note: A break was taken.)

20 HEARING EXAMINER: The record should reflect
21 that this is the continuation of Case No. 14521. That we
22 were in the middle of the direct examination of Mr. Lane.
23 Ms. Munds-Dry, would you like to proceed?

24 MS. MUNDS-DRY: Yes, please. Thank you,
25 Mr. Chairman.

1 HEARING EXAMINER: Before we do, I also need to
2 put on the record that all three commissioners are present
3 and we have a quorum. Go ahead.

4 MS. MUNDS-DRY: Thank you.

5 Q. Mr. Lane, you just, I think before the break,
6 reviewed for us the reasons for denial in Exhibit No. 1
7 and Exhibit No. 7, did Williams submit an application for
8 hearing from this June 9th denial?

9 A. No.

10 Q. Why not?

11 A. Well originally, we had hoped to submit an
12 application for hearing but received the seven-page denial
13 letter stating that the application was incomplete.

14 Since we were concerned with these deficiencies
15 and that they might sidetrack the core issue or concern
16 that we had with this, we decided to meet with the
17 Environmental Bureau at OCD to resolve as many of the
18 issues that were raised in this application, such that we
19 wouldn't be asking for an exception and that it would get
20 back to the core question of a closed-loop system
21 utilizing a temporary pit not adjacent to the well.

22 Q. Did you actually meet with members of the
23 Environmental Bureau?

24 A. I did not, I was on leave in June and
25 Mr. McQueen met with the Environmental Bureau.

1 Q. And we'll be calling Mr. McQueen should counsel
2 or the Commission have any particular questions about that
3 meeting.

4 A. Right, we'll need to visit with Mr. McQueen
5 about that.

6 Q. Do know, though, as a result of that meeting,
7 did Williams amend its application?

8 A. We did.

9 Q. What is Williams' Exhibit No. 8?

10 A. Exhibit 8 is the amended C-144 application
11 submitted -- or hand delivered on June 18th to the OCD
12 Environmental Bureau.

13 Q. And would you review some of the changes. If
14 you would turn to Williams' Exhibit 9, and would you
15 please identify that for the Commission?

16 A. Exhibit 9 is a June 24, 2010 letter certified
17 mail. Essentially, it's a denial letter related to the
18 previously mentioned June 18th C-144 amended application.

19 Q. And who signed this letter?

20 A. It was again signed by Mr. von Gotten.

21 Q. And we'll go through these in more detail.
22 Could you summarize for the Commission, what are the
23 reasons for the denial? Perhaps if you would look at the
24 first page.

25 A. Basically -- I'll read the denial, reason for --

1 denial summary that was given in this letter. It says:

2 "The OCD denies Williams' permit
3 application because it is inadequate.
4 The permit application is incomplete.
5 Williams inappropriately proposed to
6 dispose of oil field waste off site, and
7 parts of Williams' permit application
8 are either unclear, or deficient, or
9 contain proposals that may require
10 Williams to submit a request for
11 administrative approval for an
12 alternative, or an exception to the
13 requirement of the Pit Rule.

14 "Please note that OCD did not
15 review Williams' permit application as
16 an application for an alternative or
17 an exception to a requirement of the
18 Pit Rule because Williams did not
19 identify it as such."

20 Q. Is this similar language to what was contained
21 in the June 9th denial letter?

22 A. I may be mistaken, but I believe it's identical.

23 Q. Let's go and look through Exhibit 9 and go
24 through the reasons for denial. If you could turn to
25 Page 2 at the top there, I believe it gives the first

1 basis of denial in the first paragraph, if you could read
2 that for the Commission?

3 A. It's entitled "Incomplete Status of Williams'
4 Permit Application."

5 "As noted above, OCD denies
6 Williams' permit application, because,
7 among other reasons, it is incomplete.
8 Specifically, Williams' permit application
9 does not contain an additional closure
10 method other than on-site closure as
11 required by 19.15.17.9C1 NMAC."

12 Q. Okay, let me stop you there. First, is Williams
13 seeking an alternative or an exception under the Pit Rule?

14 A. We are not.

15 Q. Has the language you used in the June 18th C-144
16 been approved by the Division in the past?

17 A. Yes, that language is consistent with previous
18 ones.

19 Q. If Williams cannot meet the closure criteria,
20 what is their other option?

21 A. At this point, without asking for an exception
22 or an alternative, it's excavate and haul off site for
23 off-site disposal.

24 Q. Is there language in the application in the
25 C-144, the June 18th C-144, that addresses what happens if

1 Williams cannot meet the closure criteria?

2 A. Give me a second to make sure. It does not
3 specifically discuss an alternative.

4 Q. If the Commission deems it advisable, will
5 Williams add language that satisfies the commission that
6 Williams intends to comply with the Rule?

7 A. Yes, we would address the alternative or -- Yes.

8 Q. Let's go back to Exhibit 9, and if you would
9 continue at the top of that paragraph where I stopped you
10 and read that for the Commission.

11 A. "When a permit does not contain proof of notice
12 to surface owner of Williams' proposal for an on-site
13 closure method as required by 19.15.17.13F1B NMAC."

14 Q. Is Williams required to provide notice of this
15 application to the surface owner?

16 Well, the rule requires it, but the practice has
17 been to provide them provide them a courtesy proof of
18 notice and -- Well, to take it a little bit further, there
19 is a memo of understanding between the OCD and the
20 Farmington field office that notes that having an APD is
21 evidence of notification.

22 Q. Let's go back to Williams' Exhibit No. 4; what
23 is being approved?

24 A. The SWD No. 2.

25 Q. Does this meet the memorandum of understanding

1 between the OCD and the BLM?

2 A. I would believe so, yes.

3 Q. What is Williams' Exhibit No. 10?

4 A. This is an e-mail that I forwarded to -- or not
5 forwarded, I sent to John Reidinger of the US Forest
6 Service and Bill Liess of the New Mexico BLM Farmington
7 field office notifying of them of our intent to use the
8 closed-loop temporary pit systems. Attached was this
9 application.

10 Q. When you say this application --

11 A. Attached was a copy of the June 18th application
12 that was hand delivered to OCD. You might note that I had
13 also made a similar notification to them once before and
14 it's in the e-mail string of April 20th.

15 Q. I'm sorry, did you say any changes you made, you
16 usually provided a copy to the Forest Service and the BLM?

17 A. Yes, of this notice, and then when asked, a copy
18 of this C-144 application.

19 Q. On Exhibit 10, if we could go down to that first
20 string from you to Mr. Reidinger, if you could go down to
21 the second paragraph and the last sentence in that
22 paragraph and read that to the Commission.

23 A. "The closed-loop portion of this
24 system will be located immediately
25 adjacent to the drilling completion rig

1 for solids and fluids handling and to
2 prevent impacts to the immediate environ-
3 ment surrounding the well site.

4 "The temporary pit portion of the
5 system will be needed to provide addition
6 fluid storage for pressure control, full
7 stability, and solids management.

8 "The temporary pit will be located
9 at a less environmentally sensitive new
10 well location, Rosa Unit 634-B, API
11 30-039-3937, within ten miles west of
12 the SWD No. 2."

13 Q. Thank you. If you could turn back to Williams'
14 Exhibit No. 9, and we can skip over a minute the
15 discussion about off-site disposal and turn to Page 4.

16 A. Okay.

17 Q. Towards the bottom of that page, the last
18 paragraph, if you could read that to the Commission?

19 A. "Williams' permit application
20 proposes to remove the front side of
21 the fence for the temporary pit during
22 drilling completion operations.

23 "This would require that Williams
24 submit an exception request because the
25 proposed temporary pit at Rosa Unit

1 No. 634-B is not located adjacent to
2 the drilling or workover rig at the
3 Rosa Unit SWD No. 2."

4 Q. If you could stop there, please. If you could
5 explain to the Commission first, what is Williams'
6 operational practice regarding the use of fences around
7 its temporary pits?

8 A. Well, the entire -- for compliance with this
9 rule and also stipulated by the surface management
10 agencies, Williams must completely fence all of our pits.

11 The only exception to that is when we have a
12 drilling workover rig that is adjacent to the pit and that
13 the site is manned.

14 During the time when the rig is adjacent to the
15 pit, the front side -- or at least the rig side of the
16 fence, is removed to allow safe access to the pit for both
17 the waste and the fluids management. The fence is
18 immediate replaced following completion of any rig
19 operations.

20 Q. And is your operational practice in compliance
21 with the Pit Rule?

22 A. It is.

23 Q. What happens when a rig is not on site and you
24 need to use the pit?

25 A. Well, the fence will be removed while the site

1 is manned. For example, during the initial pit closure
2 operations, we have to remove the fence so that we can
3 start to dewater the salts or whatever.

4 But it's immediately replaced when we complete
5 those operations, or if they extend over an extended
6 period of time, every time the location is unmanned.

7 So essentially, any time there is no one on site
8 and there is no need to have the fence down to access the
9 pit area, the fence remains in place.

10 Q. Is Williams seeking an exception to the Pit Rule
11 with regard to fencing?

12 A. No.

13 Q. Has Williams agreed to provide additional
14 language to satisfy the concerns of the Division or the
15 Commission that also shares these concerns that Williams
16 be in compliance with the rule?

17 A. Yes.

18 Q. Let's turn to Page 5 of the denial letter, and
19 if you could look at the second paragraph on Page 5 of
20 Exhibit 9 and review that for the Commission.

21 A. Pit Rule 19.15.17.13F1F NMAC states:

22 "The operator shall file a deed
23 notice identifying the exact location
24 of the on-site burial with the county
25 clerk in the county where the on-site

1 burial occurs.

2 "Williams failed to address this
3 provision within its pit permit appli-
4 cation. It is unclear if Williams
5 intends to comply with 19.15.17.13.F1F
6 NMAC, or is requesting an exception to
7 this requirement."

8 Q. Let me stop you there. Is Williams seeking an
9 exception to this requirement?

10 A. They are not.

11 Q. What is Williams required to provide to the OCD
12 when you're dealing with federal lands?

13 A. There's no deed on federal lands.

14 Q. Have you attempted to provide deed notices to
15 the county in the past?

16 A. We have.

17 Q. Explain to the Commission what you attempted to
18 do in the past with regard to deed notice in this Rule.

19 We attempted to provide a deed notice for pits
20 that we had drilled and closed in 2008, and we contacted
21 the county clerks in both Rio Arriba and San Juan Counties
22 where the respective pits were located.

23 And the county clerks had absolutely no idea
24 what type of documentation or what type of deed notice --
25 what needed to be in the deed notice that we provided

1 them.

2 So, our administrative staff created the piece
3 of paper that met this requirement -- at least our read of
4 the Pit Rule requirement about the exact location of a pit
5 and where it was located, and submitted those to the
6 counties for them to put in some record, but it's not a
7 deed notice on the federal lands.

8 Q. I you believe stated Division no longer requires
9 you to provide deed notice?

10 A. Well, once we received a copy of the MOU -- and
11 that's addressed in there, what we do is mention that the
12 site's on a federal land, and so we no longer attempt to
13 file a deed notice with the counties.

14 It's not a legal document, what we've been
15 turning in, just -- just doesn't work.

16 Q. Okay. Let's go to -- again, on Page 5, if you
17 could go to the next paragraph, and I think just to try to
18 shorten this up if we can, if you could go to that last
19 sentence in that paragraph and read that for the
20 Commission.

21 A. "It is impossible for Williams to
22 meet the waste criteria specified in
23 19.15.17.13F2C for in-place burial,
24 because the Rosa Unit SWD No. 2 has not
25 yet been drilled for the waste to be

1 tested. It is unclear whether Williams
2 intends to comply with 19.15.17.13F2A
3 NMAC, or is requesting an exception to
4 this requirement."

5 Q. Let me stop you there. First of all, is
6 Williams seeking an exception to this requirement?

7 A. We are not.

8 Q. Have you used language in the C-144 when you've
9 submitted C-144s in the Rosa Unit in the past? Sorry, a
10 terrible question.

11 A. I think if you're asking, we've used similar
12 language, or almost identical language in our earlier
13 applications that have been approved.

14 Q. What is the C-144, what is the purpose of
15 submitting the C-144?

16 A. I think those are two questions, what is the
17 purpose? The purpose of the C-144 is to demonstrate to
18 the Oil Conservation Division and the public that Williams
19 intends to comply with the requirements of the Pit Rule,
20 and thereby, the OCD can grant us permission to utilize
21 the proposed pit.

22 Q. Let me ask it a different way. When in the
23 process of drilling a well do you submit a C-144 to the
24 Division?

25 A. Before we drill the well.

1 Q. So is it fair to say that you don't have -- you
2 haven't drilled wells, so you don't know what the waste
3 will look like yet?

4 A. True. The C-144 is a plan, and it is an intent
5 to operate, and design and build. It's a plan.

6 Q. If the Commission is unsatisfied with the
7 language contained in the C-144, does Williams agree to
8 submit the additional language that Williams intends to
9 comply with the Rule?

10 A. Yes, we'll make the changes.

11 Q. Let's make our way down to Page 5 to the last
12 paragraph, Mr. Lane. Would you review this with the
13 Commission?

14 A. "Williams permit application
15 does not address the reclamation of
16 the areas associated with the closed-loop
17 system. It is unclear whether Williams
18 intends to comply with 19.15.17.13G1 NMAC,
19 or is requesting an exception to this
20 requirement."

21 Q. Is Williams seeking an exception to this
22 requirement?

23 A. No.

24 Q. If you could explain to the Commission, what is
25 Williams' operational plan for the well site in the

1 closed-loop system?

2 A. The Salt Water Disposal Well No. 2 will be a
3 fairly large facility that consists of storage tanks, an
4 injection well, and pumps, and all of the loading and
5 unloading infrastructure associated with it once we get
6 the well drilled.

7 We're essentially planning on using the entire
8 well pad for those operations. Our operating plan is to
9 essentially -- or our plan is to essentially go in, drill
10 the well; once we finish drilling and completing the well,
11 come in and build the location with all of the
12 infrastructure tanks and so forth.

13 And then, as required in the APD, reclaim that
14 closed-loop system -- well, the entire well pad, including
15 the former closed-loop system location to comply with the
16 expectations of the surface management agency as far as
17 recontouring, reseeding, reclaiming that entire area. I
18 believe that's consistent with also the MOU.

19 Q. Will you turn to our June 18th C-144, Williams
20 Exhibit 8, turn to Page 10?

21 A. Okay.

22 Q. Let's go to the closure method for closed loop
23 and read that for the Commission, please.

24 A. "The closed-loop system will be closed in
25 accordance with 19.13.17.13 NMAC.

1 Q. If the Commission feels that this language is
2 not adequate, does Williams agree to submit additional
3 language to make it clear that we will comply with the APD
4 reclamation plan the closure requirements in Part 13 of
5 Rule 17?

6 A. We will.

7 Q. Let's turn to Page 6 of the Exhibit 9, the
8 denial letter. If you could review the top part of that
9 first paragraph.

10 A. "The cross-sections in A-A Prime,
11 B-B Prime, and C-C Prime of the proposed
12 temporary pit design Page 15, do not match
13 any of the other drawings or information
14 provided in the pit application."

15 Q. If you could read down to the -- read the last
16 sentence of that paragraph?

17 A. "Williams failed to provide an
18 appropriate design plan of the proposed
19 temporary pit in its permit application
20 as required by 19.15.17.9B(2) NMAC."

21 Q. First, I need to ask you, is Williams seeking an
22 exception to the requirements of submitting an appropriate
23 design plan in the C-144?

24 A. We are not.

25 Q. Did Williams submit a design plan in accordance

1 with the Rule?

2 A. We feel we have, yes.

3 Q. Can you summarize the design criteria for the
4 Commission that is required by the Rule for a temporary
5 pit?

6 A. Well, the key criteria are that the total volume
7 of the pit be less than ten acre feet, and that it always
8 allows a minimum of two foot of free board during use,
9 that it be lined with acceptable materials.

10 Seams are properly welded or manufactured, the
11 bottom of the pit is sufficiently separated from ground
12 water, and that the slopes have a two to one design.

13 Q. And does the design plan that Williams submitted
14 in its June 18 C-144 that's Williams Exhibit 8, contain
15 all of those specifications?

16 A. It does.

17 Q. Let me ask you this, Mr. Lane, are pits
18 constructed to the exact dimensions in a plan that's
19 submitted in the C-144?

20 A. Not in all cases.

21 Q. Why is that?

22 A. Dimensions can change, but all the prescriptive
23 requirements are met. And that's due to restriction by
24 surface management agencies or others when we get that --
25 that, as well as when we actually identify a drill rig and

1 those operations, the configuration of those rigs may
2 change how we actually ultimately build the pit.

3 Q. Let me ask you this, Mr. Lane. Does the June 18
4 C-144 application in your opinion meet all of the
5 provision in Rule 17?

6 A. I believe so, yes.

7 Q. Is Williams seeking an exception to any part of
8 Rule 17?

9 A. No.

10 Q. Now, let's get to into big issue in this case.
11 If you could turn to Exhibit 9, page 2 of the denial
12 letter. If we could go down to the section labeled
13 "Off-Site Disposal," if you could read that first
14 paragraph to the Commission.

15 A. "As discussed below, OCD has
16 determined that Williams' permit
17 application must also be denied because
18 Williams proposes to dispose of oil
19 field waste generated during drilling
20 operations at the Rosa Unit SWD No. 2
21 as a temporary pit located at the Rosa
22 Unit 634-B located off site approximately
23 ten miles away."

24 Q. If you would then turn to Page 3 of the denial
25 letter, Exhibit 9, and go to the third paragraph that

1 starts, "Based on the statements," and read that for the
2 Commission.

3 A. "Based on the statements made
4 by Williams (see above), OCD has
5 determined that the proposed temporary
6 pit would be only used for off-site
7 disposal of oil field waste, i.e. cuttings
8 from the Rosa Unit SWD No. 2."

9 Q. Mr. Lane, is that, in your opinion, a correct
10 statement that the temporary pit permit may be used for
11 off-site disposal on the Rosa Unit SWD 2?

12 A. No, that's not true.

13 Q. Why is that, what is it used for, what will it
14 be used for?

15 A. The temporary pit is also permitted for the Rosa
16 Unit 634-B.

17 Q. Thank you. If you would go on now to read the
18 next sentence in that paragraph.

19 A. "The disposal of the oil field
20 waste at an off-site location is only
21 allowable with a permit in compliance
22 with the surface waste management facility
23 provisions of 19.15.36 NMAC."

24 Q. Mr. Lane, is the term "on site" defined in the
25 Pit Rule?

1 A. It is not.

2 Q. Is it defined, if you know, anywhere in the OCD
3 rules?

4 A. I'm not aware of any definition in the OCD rules
5 for the term "on site."

6 Q. Does the Rule define or require a temporary pit
7 be adjacent to the well site?

8 A. No, the Rule does not. There is no language in
9 the Rule that requires it.

10 Q. Is there anywhere in the Rule that specifies
11 where a temporary pit should be located?

12 A. Except for the siting criteria, no.

13 Q. Let me ask you a question with respect to the
14 Rosa Unit 634-B. Is the Rosa Unit 634-B considered to be
15 an environmentally sensitive area?

16 A. No. If the depth to ground water is greater
17 than 50 feet, then it meets all the other site criteria.

18 Q. Is there anything in the Pit Rule that prevents
19 commingling waste from multiple wells in a common pit?

20 A. No.

21 Q. Has Williams ever submitted C-144s where
22 multiple wells use the same temporary pit?

23 A. Yes.

24 Q. Were these C-144s approved?

25 A. Yes.

1 Q. Let's turn to Williams' Exhibit 16. Identify
2 and review this display for the Commission, please.

3 A. This is just a drawing of the map of the Rosa
4 Unit outlined in red, and it identifies there in blue
5 dots, it identifies five pits and the associated wells
6 that utilize those.

7 Q. How many -- would you point out for the
8 record --

9 HEARING EXAMINER: Ms. Munds-Dry, could he be a
10 little more definitive on which exhibit he's looking at?

11 MS. MUNDS-DRY: Oh, I'm sorry, Exhibit No. 16.

12 HEARING EXAMINER: No. 16.

13 A. And they are shown as blue dots. And that's the
14 location where there is a pit and adjacent to it -- or the
15 text next to those points are the wells that utilize a
16 temporary pit at that spot. These are five examples.

17 Q. What is the surface management agency, the BLM
18 in this case, their position on sharing pits?

19 MS. MacQUESTEN: I object.

20 MS. MUNDS-DRY: I'll withdraw the question.

21 HEARING EXAMINER: Withdrawn.

22 Q. Let's turn to what's been marked as Williams'
23 Exhibit No. 11. What is this document?

24 A. This is a C-144 application for the Rosa Unit
25 No. 634-B.

1 Q. And when was it submitted?

2 A. It was submitted to the OCD district office
3 March 9, 2010.

4 Q. Was it approved?

5 A. Yes.

6 Q. What was the proposal that was accepted by the
7 Division in this C-144?

8 A. Williams proposed to utilize a hybrid temporary
9 pit and closed-looped pit system. Or we could call it a
10 hybrid system. The temporary pit was to be used for the
11 clear water or the upper portion of this well where we had
12 a fresh water drilling system.

13 And it's essentially for the vertical section of
14 the well. And then the intent was for the cuttings to be
15 buried in a temporary pit.

16 The closed-loop system was to be utilized on
17 this well. When we changed over the drilling mud system
18 to the oil-based drilling mud, the reason for the
19 oil-based drilling mud is that this particular well was a
20 horizontal well.

21 Note that Mr. McQueen can speak more to the
22 engineering on this. But essentially, that required -- in
23 order to get the horizontal section drilled effectively,
24 we needed to change to an oil-based drilling system.

25 In an oil-based drilling system, the cuttings

1 would be contaminated with sufficient hydrocarbons such
2 that we could not meet the rule in blending, and thus --
3 or at least we anticipated that, and thus, we could not
4 bury on site.

5 And so those cuttings are being managed at an
6 off-site disposal facility approved by the OCD.

7 Q. Does the C-144 for the 634-B mention the Rosa
8 Unit SWD No. 2?

9 A. It does not.

10 Q. Explain for the Commission, what is the normal
11 process followed when Williams plans to use a temporary
12 pit to service multiple wells?

13 A. Well, we typically identified essentially the
14 first well and submit a C-144 as a stand-alone document.
15 And then we'll submit a subsequent C-144 for the other
16 well as a stand-alone document. The reason --

17 Q. And why is that?

18 A. The reason being that -- and it turned out in
19 the case of 394, that we may not get funding to drill one
20 or the other of those wells, but we still need to have a
21 permit to utilize the well.

22 Q. I'm sorry, I interrupted you. After you submit
23 C-144s for each of the wells, then what's the next step in
24 the process?

25 A. Well, in essence, we have to transfer the

1 C-144 -- or at least transfer use of the pit from the
2 first well to the second well and reutilize a modification
3 of the C-144.

4 If you look at them, there's a box at the top.
5 It's the third check box that we check. We checked it as
6 modification to an existing permit, and then we basically
7 transfer that pit from one well to another.

8 It's a process that -- I submitted a modified
9 transfer plan to Brandon back in the fall of 2008 and kind
10 of pioneered and got -- Actually, Brad Jones had requested
11 some additional language changes to that document.

12 And that has been the process we do. We submit
13 a C-144 modification with the transfer.

14 MS. MUNDS-DRY: May I approach, Mr. Chairman?

15 HEARING EXAMINER: You may.

16 MS. MUNDS-DRY: I don't plan to submit this as
17 an exhibit.

18 Q. What is the document that I put before you,
19 Mr. Lane?

20 A. It's a copy of the transfer process.

21 Q. Is this what you developed with Mr. Powell and
22 Mr. Jones?

23 A. It is.

24 Q. Okay. So, once you've submitted the transfer --
25 I'm sorry, I think you were explaining to me that you did

1 the modification and then the transfer from the first
2 well.

3 A. I can give you an example.

4 Q. Yes, maybe if you could explain that.

5 A. Okay. Essentially, as an example -- and these
6 wells numbers are strictly for example purposes, but
7 Williams will submit two C-144s for temporary pits
8 drilling on, for instance say, the Rosa 100 and the Rosa
9 101.

10 When Williams receives OCD's approval of the pit
11 application, for instance, on the Rosa 100 temporary pit,
12 we're likely to also receive approval for the pit
13 application on the Rosa 101. It's in the same place, the
14 siting is the same and meets all those criteria.

15 If it's denied, we obviously don't have it. So
16 assuming that we now receive approval for both of those
17 C-144 applications, Williams would construct a pit on the
18 locations specified, drill the Rosa 100 Well, and then
19 move the rig off.

20 Williams would then file a C-144 as a
21 modification showing transfer from the drilling to a
22 completion or workover on the Rosa 100.

23 Once we get approval of that transfer, Williams
24 would then move a rig in, complete the well, and move the
25 rig off it. Williams would then file a C-144 modification

1 to transfer the pit from the Rosa 100 to the Rosa 101 as a
2 drilling pit and acknowledge the fact that we have an
3 existing C-144 for the Rosa 101. But it's predicated on
4 having approval on both of those.

5 HEARING EXAMINER: May I ask a clarification
6 question? Are these twins wells, or are these wells at
7 different locations?

8 THE WITNESS: They can be either. The
9 applications we have to date are on wells that are on a
10 contiguous or on a common pad. And then we would finish
11 that process.

12 Move the rig off after we drill it, submit a
13 C-144 as a modification transferring from drilling to
14 completion. Once that's approved by OCD, we would move a
15 completion rig on, complete the well, move the rig off,
16 close the pit in accordance with the Rule, and then submit
17 a C-144 as a closure report.

18 Q. Mr. Lane, Mr. Fesmire jumped the gun on me in
19 the question a little bit, but in your opinion, could this
20 process also be used for Williams' June 18th C-144
21 application that's been proposed?

22 A. Yes. That's the plan, I'm following the same
23 process.

24 Q. If you would turn to what's been marked as
25 Williams' Exhibit No. 12, identify and review this

1 document for the Commission, please.

2 A. This is a July 8, 2010 letter by certified mail.
3 It's an administrative modification. It came from the Oil
4 Conservation Division Environmental Bureau. It's an
5 administrative modification with additional conditions for
6 the C-144 associated with the Rosa Unit 634-B.

7 Q. And what are the additional conditions that have
8 been required by the Environmental Bureau?

9 A. One is that Williams is to comply with the
10 in-place burial standards of Subparagraph C of
11 19.15.17.13F2 NMAC.

12 These standards are the requirement that we meet
13 a fluoride standard of 500, and that if we can't meet
14 those regarding the waste, that the waste be excavated or
15 removed if we could not meet the in-place burial.

16 Q. If your opinion, could Williams meet the
17 requirements proposed by these additional conditions?

18 A. We can. We do.

19 Q. Mr. Lane, explain to the Commission, why has
20 Williams proposed this method of disposal from this SWD
21 No. 2 to this 634-B?

22 A. Well, as I mentioned earlier, ground water was
23 found at the Rosa Unit SWD No. 2 to be too shallow to
24 allows us to utilize a temporary pit. So therefore, the
25 site for ground water is considered a sensitive site and

1 does not meet the Rule criteria for in-place burial.

2 The alternative well site that we're proposing
3 to use for the temporary pit portion of this pit system is
4 in a nonenvironmentally sensitive area and meets the
5 siting criteria for a temporary pit.

6 The disposal well -- and Mr. McQueen can speak
7 more to this being a little different than just a
8 conventional or a common gas well, it's going to be
9 deeper, larger, and have a significant more amount of
10 material generated in the process of solids being
11 generated.

12 And so the cost for hauling is going to be
13 extremely exorbitant, especially since the alternative
14 that the provision is pressing us for is to take all of
15 the closed-loop cuttings and haul them to an approved
16 facility.

17 And the only approved facilities in our area are
18 distances of 50 to 75 miles, most directly, 75 miles in
19 the Bloomfield area.

20 It would result in addition truck traffic. So
21 we're looking at issues such as dust. We have a
22 tremendous amount of pressure by the BLM to be cognizant
23 of our impacts on the wildlife and the fragmentation or
24 those impacts. A lot more truck traffic and public
25 safety.

1 You've heard these same comments before in the
2 original rule. It's more effective and efficient it do
3 this. We'll be able to move waste on a very timely manner
4 from the well site if we have a need for additional space
5 in our closed-loop system to be able to manage the solids
6 from that system more easily. Mr. McQueen can provide
7 more details on that.

8 Q. Mr. Lane, let's turn to Williams' Exhibit 18,
9 and if you could review this document for the Commission.

10 A. This is just a simple comparison between --
11 looking at the options associated with managing the solids
12 for disposal from the well site.

13 And since Governor Richardson has issued several
14 executive orders challenging both state agencies and the
15 public to try and find places and ways to minimize our
16 greenhouse gas footprint, this is just a quick analysis of
17 what the differences is between -- and we really need to
18 focus just on the last two rows, what the impact would be
19 as far as the greenhouse gas emission generated during the
20 hauling of the solids from the site.

21 Q. So explain to us how you got to the totals on
22 what you're showing on here.

23 A. Okay. Well, the distances are just those that
24 were road mapped from the Salt Water Disposal No. 2 to
25 either Envirotech, or we could have used IEI in

1 Farmington. They're both comparable in distance. Or the
2 Rosa Unit 634-B.

3 The volume of cuttings is based on the whole
4 volume that is anticipated, plus the bulking that occurs
5 with the addition of muds and stuff. Mr. McQueen can talk
6 more to this. But it's an estimate of what we have seen
7 on other sites where we've had to used closed-looped
8 systems.

9 The truck volume is based on -- is ten yards,
10 and I feel this is somewhat conservative, but we've gone
11 to the trucking companies that are hauling our waste, and
12 since it's wet waste, or at least waste that its densities
13 is higher and its weight is higher, so even a typical
14 truck that hauls 15 to 18 cubic yards can also only haul
15 ten yards. So again, this is based on experience.

16 Truck loads is basically ten yards divided into
17 the total. So the total miles is just the calculation of
18 the number of loads, number of miles traveled.

19 Fuel efficiencies, we did a straw pole of the
20 trucking companies that currently support our operations.
21 There's Triple S Trucking, Bond Trucking. Also talked to
22 Adobe Contractors that does heavy haul for us, as well.

23 And according to their people that do the DOT
24 records, they have to keep track of fuel usage and
25 mileage. The number they were giving me was anywhere from

1 three and a half to about 3.8 miles per gallon. I used
2 four. It might -- it seemed like a reasonable estimate of
3 what they're fuel economy is.

4 Then the rest of these factors, fuel
5 consumption, gallons of diesel is again based on mileage.
6 And then the emission factors are based on EPAs, some
7 guidance documents that are out there in the climate
8 registry and EPA. And I have provided those references.

9 So, at the end of the day, what it shows is that
10 we'll have about an eight-fold increase in the greenhouse
11 gas footprint just from the additional hauling of
12 material.

13 Q. Are you saying, Mr. Lane, an eight-fold
14 footprint compared to what?

15 A. The comparison being the application that we're
16 discussing here, the temporary pit at the 634-B. So
17 there's a ten mile distance from the SWD No. 2 to where we
18 propose to put the temporary pit. If we were to haul that
19 instead to Envirotech, it's 75 miles. So it's all
20 predicated on the SWD being the point of origin.

21 Q. Thank you. Mr. Lane, in your opinion, will the
22 granting of Williams' application prevent the waste of oil
23 and gas?

24 A. Yes.

25 Q. In your opinion, will the granting of Williams'

1 application be protective of the public health and the
2 environment?

3 A. Yes.

4 Q. Mr. Lane, were Exhibits 4 through 12, and 16 and
5 18, prepared by you or compiled under your supervision?

6 A. Yes.

7 MS. MUNDS-DRY: Mr. Chairman, I move the
8 admission into evidence of Williams' Exhibits 4 through
9 12, 16, and 18.

10 HEARING EXAMINER: Ms. MacQuesten?

11 MS. MacQUESTEN: No objection.

12 HEARING EXAMINER: Exhibits 4 through 12 and 16
13 and 18 will be admitted into the record.

14 MS. MUNDS-DRY: That concludes my direct
15 examination of Mr. Lane. Pass the witness.

16 HEARING EXAMINER: Okay. Ms. MacQuesten?

17 CROSS-EXAMINATION

18 BY MS. MacQUESTEN:

19 Q. The current application, the one that's before
20 the Commission today, is that June 18th application,
21 Exhibit 8; is that correct?

22 A. That is my understanding, yes.

23 Q. And that's what you're asking the Commission to
24 review today?

25 A. Yes.

1 Q. And my understanding from your testimony today
2 is that the proposal in that June application was to take
3 waste from the SWD No. 2 and transport it ten miles away
4 to a pit located at the 634-B and dispose of the waste
5 there?

6 A. And bury the waste there, yes.

7 Q. And that pit is already -- there is a pit
8 already in existence at that site; is that true?

9 A. Yes.

10 Q. No. 634-B?

11 A. It is permitted, and it is built and now being
12 utilized, yes.

13 Q. And it's being utilized in the same location
14 that you're requesting the permit for the temporary pit to
15 serve the SWD No. 2?

16 A. We're asking to use a common pit, yes, ma'am.

17 Q. And the waste from the 634-B will be combined
18 with the waste from SWD No. 2?

19 A. Just as we've done on other pits.

20 Q. And it's Williams' position today that this
21 proposal can be approved by the OCD, by the Commission,
22 administratively?

23 A. I believe that the OCD should be able to approve
24 it without having to do it administratively, but if that's
25 what it takes, yes.

1 Q. I'm sorry, we should be able to --

2 A. OCD should have been able to approve it without
3 having to go to hearing. I think that's what you asked
4 me, is it not?

5 Q. Yes. That it should be approved through the
6 administrative process, the district office could have
7 approved --

8 A. Okay, I wasn't sure what you meant by
9 administrative.

10 Q. Okay. So you do not see a distinction between
11 administrative approval and requesting an exception or an
12 alternative closure method?

13 A. I am familiar, but requesting an exception or an
14 alternative requires -- the Rule goes into how to go about
15 requesting that, and we're not seeking that.

16 Q. And you're not seeking that either -- and that
17 was for the entire application. So there's nothing in the
18 application that would take it out of the administrative
19 approval realm?

20 A. Yes, ma'am, correct.

21 Q. Now, your understanding of the administrative
22 approval process is that you have met all of the stated
23 requirements under Part 17 without requesting any
24 deviation from those requirements?

25 A. Correct.

1 Q. You're completely within the requirements as
2 stated in Part 17, that's your position?

3 A. That is our position.

4 Q. You understand that if there were a deviation
5 from the requirements of Part 17, that you would have to
6 go through the exception process?

7 A. I do.

8 Q. And do you understand that the exception process
9 would require that the application be reviewed by the
10 Environmental Bureau rather than the District Office?

11 A. Yes, ma'am.

12 Q. And that there are different notice
13 requirements?

14 A. Yes.

15 Q. That would include not just the applicable
16 surface owner, but surface owners of record within a half
17 mile, the county commission, appropriate city officials --

18 A. It's spelled out in the Rule.

19 Q. It's all spelled out. But it's much different
20 than the notice that would be required administratively?

21 A. Yes, ma'am.

22 Q. And that includes general public notice posted
23 on the OCD's website, and also notice sent to people who
24 expressed interest in any exceptions granted under
25 Part 17?

1 A. We're not asking for an exception, but yes. I
2 understand. That's why Williams is not asking for an
3 exception and has never asked for an exception in the 540
4 applications that we have.

5 Q. You also understand that if it were an exception
6 request, there would be an opportunity for public comment?

7 A. I'm very aware of that.

8 Q. And that there would be opportunity for people
9 to request a hearing?

10 A. Yes.

11 Q. And in fact, it's the same sort of notice,
12 public comment and hearing requirements in the exception
13 process under Part 17, very similar to the process for
14 public notice, opportunity for comment and hearing under
15 Part 36, Permit?

16 A. I understand that, yes.

17 Q. And you also understand if it were an exception
18 request, that the burden would be on the operator to prove
19 that what they were suggesting would be the equivalent of
20 federal protection under the law?

21 A. I do.

22 Q. So you don't have to have that agreement if it's
23 an administrative application, you simply have to show
24 that you've met all the requirements of Part 17?

25 MS. MUNDS-DRY: Mr. Chairman, I'm going to

1 object at this point. Mr. Lane has already testified that
2 we're not seeking exceptions. I'm not sure what the
3 relevant of the questioning at this point is since we've
4 stated we're not seeking an exception.

5 MS. MacQUESTEN: Mr. Chairman, our position is
6 that that is precisely the issue today, is whether what
7 they are seeking amounts to a request for an exception or
8 an alternative closure method, and we want to point out
9 what the procedural difference in those two processes.

10 HEARING EXAMINER: I think that's a good point,
11 so I'm going to overrule the objection.

12 A. Could you repeat last question? I don't believe
13 I answered it.

14 Q. If I'm remembering it correctly, I think where I
15 left off is that the burden is different on an exception
16 request than on a request for administrative approval?

17 A. That's understood.

18 Q. But it's clearly your position that you are
19 asking only for what is granted under Part 17 expressly,
20 and you do not have to request any exception for
21 alternative closure?

22 A. Williams intent was to submit an application
23 that could be administratively approved, and that our
24 application demonstrated compliance with what is allowed
25 and what is required in Rule 17.

1 Q. What is your understanding of what would trigger
2 the exception process for the alternative closure method
3 process?

4 A. I think all of our denials have done a really
5 good job in telling us what is deemed an exception.

6 Q. Most of these denials?

7 A. Yes.

8 Q. But you don't agree with those denials, you're
9 saying that your application is fine, and I'm trying to
10 figure out what you --

11 A. Williams' intent is not to request an exception.
12 And as I explained earlier, if there is a concern that we
13 are seeking an exception, or that we have not clarified
14 what our intend is to comply with the Rule, that we have
15 worked with -- commonly it's at the district level, here
16 we have attempted to do so with the Bureau, but we want to
17 sit down and make sure that it's clear we are not seeking
18 an exception.

19 And so, if in the reading of our application and
20 the way we represent how Williams is going do comply with
21 the Rule in our application, it is either unclear or it is
22 interpreted by the Bureau, be it either the Bureau or the
23 Division, OCD, that we are seeking an exception, then we
24 modified or amend our application to address those
25 concerns that would imply we are seeking an exception.

1 Because our goal here -- and that's why I don't
2 believe you had any operators approach you about an
3 exception -- is to comply with the Rule. Except the
4 exception process is just if -- just what we run into
5 here.

6 The exception process makes it essentially
7 impractical for an operator to even explore something
8 outside the Rule. So the choice is, you either want to
9 drill the well and you're going to get a C-144 that
10 complies with the Rule, or you just scrap that project.
11 That's the choice.

12 Q. Why is it impractical --

13 A. Because if this process continues this year,
14 Williams won't get the SWD No. 2 drilled.

15 Q. Well, you haven't tried the exception process,
16 you tried to force it through the administrative process.
17 What would make it impractical to use the exception
18 process?

19 A. I personally don't believe that the exception
20 process would be any less time consuming than this process
21 that we've gone through here. And time is money. And for
22 us, we need the SWD No. 2 drilled this year. We have a
23 seven month drilling window to do that.

24 We submitted an application starting in
25 November, and then again in January, that if the core

1 issue here had been resolved in January -- February,
2 whether it be favorable to Williams or not, we could have
3 spud a well April 1st and be able to build facilities such
4 that we comply with those time constraints.

5 Q. That's because if it become evident to you that
6 you couldn't follow the proposal you're seeking now, you
7 could simply file an application to haul the waste to an
8 approved facility?

9 A. Right.

10 Q. And in fact, you have such an application
11 pending right now, don't you?

12 A. I can't remember how much applications I have
13 with you. We probably do.

14 Q. I think I counted five applications so far on
15 the SWD No. 2 and one of those that is pending now is an
16 application to haul the waste to Envirotech; is that
17 right?

18 A. I believe we do, yes.

19 Q. That's your backup plan if you can't get --

20 A. Well, I would ask you -- well, I would pose -- I
21 can't pose a question, but in practical terms, you have to
22 have some alternatives.

23 You have a preferred method, and then you have
24 something that allows you to move forward if that
25 preferred method does not work.

1 Q. Let me get back to the question of what Williams
2 would consider something that triggers the exception
3 process. Let me give you some specific questions.

4 A. Please.

5 Q. Your testimony today was that as long as the
6 disposal is on the unit, that's on site; is that correct?

7 A. That was not my testimony.

8 Q. Okay, what is your understanding of what on site
9 is?

10 A. On site, in my reading of the rules -- because
11 there is no definition provided, on site is on the site
12 where the pit is located. And I can read you some
13 language that comes from the denial.

14 Q. Okay. An on-site closure is wherever the
15 closure occurs?

16 A. Right, where the pit is located, yes, ma'am. On
17 the site where the pit is located.

18 Q. And the pit can be located any distance from the
19 well site?

20 A. The pit has to meet the siting criteria in the
21 Rule.

22 Q. Which refers to depth to ground water, distance
23 from surface water and so forth?

24 A. Municipalities and all of that stuff.

25 Q. And as long as it's acceptable on the siting

1 requirements, it could be located anywhere, is that your
2 interpretation?

3 A. I don't see anything in the Rule that says it
4 has to be adjacent to the well.

5 Q. So it's Williams' position that a disposal pit
6 could be located 3,500 miles away?

7 A. Possibly.

8 Q. It could be located off the unit?

9 A. Williams would not move it to off the unit. We
10 would be putting -- it would move us outside of
11 operational control.

12 Q. Let's say you were dealing with a well that was
13 part of the unit --

14 A. We would not have proposed it.

15 Q. You would not have proposed this?

16 A. We would not have proposed this.

17 Q. Why not?

18 A. Because one, we don't have operational control,
19 and two, we are a probably changing management agencies --
20 owners. And honestly, that is not what we're proposing to
21 do, that's not in our application.

22 Q. I understand that, I'm just trying to find out
23 where you would draw the line between administrative
24 approval and an exception request.

25 MS. MUNDS-DRY: Objection, misstates his

1 testimony, mischaracterizes his testimony.

2 HEARING EXAMINER: I think that's the question.
3 I don't think it addresses his testimony. I'll overrule
4 the objection.

5 A. Say that again.

6 Q. I'm just trying to understand where you would
7 draw the line between something that could be approved
8 administratively and if Williams would have to go through
9 the exception process, and we talked about distance.

10 A. Okay.

11 Q. Distance didn't matter. I suggested, well, what
12 if it was off the unit, and you said you wouldn't do that?

13 A. Correct.

14 Q. And so if you're dealing with a well that's not
15 part of the unit, is it your position you could put a
16 disposal pit anywhere else?

17 A. No.

18 Q. What if you had an accommodating landowner who
19 said that he would accept waste on his property, no
20 problem, it's cheap, would that be --

21 A. That's not operational control. The temporary
22 pits are on locations and sites that are within
23 operational control of the company. It's not required in
24 the Rule, but it is operational control. Okay? I can't
25 speak for the surface owners, but if you're changing

1 surface owners, we wouldn't do it. Again, that's not in
2 the Rule, but we wouldn't do it.

3 Q. Okay, but just to be clear, though, it's your
4 interpretation that that isn't part of the Rule, so you
5 would refrain from doing that solely because that's not
6 your business policy?

7 A. Correct.

8 Q. But if some other operator chose to do that, you
9 would see that as consistent with Part 17?

10 A. I can't speak to what they would have in their
11 application. Now, one thing to be understood is that the
12 temporary pit that we're using, or that we would propose
13 to use, is on a Williams' well site.

14 Q. I understand that that may be your policy to
15 keep it on a Williams' well site, but would it have to be
16 on a Williams' well site to be consistent with the Rule?

17 A. No, I can't speak to that. To be honest with
18 you, I think that's up to the Commission to determine.

19 Q. I agree with you, too, and that's why we're here
20 today, to figure out where to draw the lines. I'm just
21 trying to find out where Williams would draw the line.

22 A. I just told you.

23 Q. So it's something within your area of
24 operations --

25 A. Well, first of all, operational control. The

1 other consideration it is that we have a common landowner,
2 so the site we're on and the site we're proposing -- where
3 the temporary pit is is a common -- is a landowner that's
4 in common. In this case it's the federal government.
5 Okay? It's operationally controlled by Williams, so we're
6 not moving it to some other unit in which we're not the
7 operator.

8 Q. Why would the pit have to be associated with
9 another well, couldn't you find a location and just use
10 that as the temporary pit site for the SWD No. 2?

11 A. As long as it's operational control, probably
12 not. We do that in a number of other situations.

13 Q. I'm sorry, probably not?

14 A. Probably not --

15 Q. You wouldn't --

16 A. It's common to do that in a number of
17 situations. Remember, the pit is only part of a drill
18 rig. Essentially, a pit is a component of a drilling
19 operation, is it not? Just as the pipe rack is, and all
20 of the other components, they're all part of drilling a
21 well or completing a well, they're all integral components
22 to that.

23 Where they are located can vary depending on a
24 number of site conditions and other -- available equipment
25 and so forth. That's commonly done.

1 Q. If you're just using the pit for disposal, why
2 not just pick an area that meets the citing requirements,
3 use that pit for disposal, and take waste from your wells
4 and put it in that pit?

5 A. Conceivably, one could do that, yes.

6 Q. And that would be something that Williams would
7 feel it could do administratively?

8 A. Possibly. That's what we're here for.

9 Q. And commingling waste from multiple well sites,
10 that wouldn't require -- go through the exception process?

11 A. It hasn't.

12 Q. So it doesn't matter how many wells you are
13 associated with?

14 A. It hasn't yet.

15 Q. The wells where you have -- the situation where
16 you combine waste from different wells in a single pit,
17 have they involved pits located away from those well
18 sites? That was an awkward question. Where the wells are
19 at the central location?

20 A. Wells in the situation where we have to date,
21 have been on a common well pad, if you want to call it
22 that.

23 Q. So there's one pit next to -- or is adjacent to
24 that well pad that's used for multiple wells?

25 A. In those scenarios, yes.

1 Q. But you have not yet before this application had
2 a situation where you proposed to take waste from one well
3 and export it to pits used by these wells?

4 A. We have not made that application until now.

5 Q. So this is the first application?

6 A. Yes.

7 Q. Let me ask about the function of the pit you're
8 requesting approval for in the application in Exhibit
9 No. 8.

10 A. Okay.

11 Q. What function does the pit at the 634-B serve
12 for the SWD Well?

13 A. I want to make sure I'm not misrepresenting
14 here.

15 Q. Let me ask it a different way. I understand
16 that the pit at the 634-B is going to be used to dispose
17 of waste generated by the closed-looped system of the SWD
18 No. 2?

19 A. That's one, yes.

20 Q. That's one of the functions. Are there any
21 other functions that serves for the SWD well?

22 A. It serves as a place to store cuttings and
23 solids as far as managing those so that we don't have to
24 build or find space for additional tanks. They are the
25 larger closed-looped system.

1 As I mentioned before, this is going to be a
2 larger wellbore. So we're going to need space to manage
3 cuttings, and it will also provide us an opportunity to
4 manage fluids.

5 In other words, have extra drilling fluids
6 available to us should we need to manage well control or
7 whatever. Granted, it's ten miles away. But that's still
8 the place where we have access for additional drilling mud
9 and drilling fluids for well control.

10 Q. Could you explain to me how the pit at the 634-B
11 will be used to manage the solids for the SWD well?

12 A. Primarily, the cuttings. As we start to fill up
13 the cuttings or the -- As the solids fill up, the bins and
14 the tanks in the closed-loop system, this will provide an
15 opportunity to move those solids and maintain more fluid
16 volume at the SWD No. 2.

17 Q. Will anything happen to those solids except
18 being placed in the pit?

19 A. No.

20 Q. So they're just -- they're being taken there for
21 disposal?

22 A. Yes.

23 Q. In that we're coming back to the SWD well?

24 A. The mud may, but the solids won't, no, the
25 cuttings.

1 Q. Okay, the solids won't --

2 A. The cuttings, the larger chips will not.

3 Q. Sent to this pit for disposal?

4 A. Yes.

5 Q. How is the pit at the 634-B being used to manage
6 fluids for the SWD well?

7 A. Well, it's a reservoir to store the drilling
8 mud. So while we're drilling the SWD No. 2, we can
9 either if have -- and Mr. McQueen manages the drilling
10 group, so he can speak to this more than myself.

11 It's been my experience that often you have or
12 may have fluid loss as a result of fluids leaving the
13 wellbore when you're drilling, and in order to maintain
14 and pressure and other things, you have to replace those
15 fluids.

16 Q. And you're going to replace them by taking
17 fluids at the pit at the 634-B?

18 A. Could, yes.

19 Q. And take them to an SWD well?

20 A. Could, yes. That's part of the plan. It's a
21 backup, if you want to call it as such.

22 Q. Which are things being used for drilling of the
23 634-B; is that right?

24 A. Yes.

25 Q. It already has contents in the pit at that

1 location?

2 A. Yes.

3 Q. And it has cuttings and fluids?

4 A. Since it's being used by the 634-B now, yes.

5 Q. And how do you take -- Do you have to separate
6 the fluids from the --

7 A. You don't have to separate fluids from the
8 634-B. If it's the same drilling fluids, we're not
9 separating anything. We can utilize those fluids even on
10 the 634-B if we're drilling them at the same time, which
11 we aren't. But the fluids are available to both wells if
12 it was drilled simultaneous.

13 Q. Okay. I understand you're trying to keep the
14 fluids separate from the two wells, I'm just trying to
15 understand, there's going to be a pit and there's going to
16 be solids and fluids mixed together in this pit --

17 A. Uh-huh.

18 Q. -- and you're going to pull the fluids off and
19 take them --

20 A. Do it all the time.

21 Q. Take them ten miles away to the other well to
22 manage the fluids there?

23 A. We move fluids from one drilling pit to the next
24 drilling pit, mud, all the time. We transfers those. The
25 Division encourages us to do that so that we don't waste

1 fresh water and other resources. They encourage us to
2 move our fluids, our liquids, from one drilling pit to
3 another drilling pit. We do it all the time.

4 Q. Is that something you consider necessary for the
5 drilling at the SWD well?

6 A. Maybe.

7 Q. It's more than a mechanical possibility, isn't
8 it?

9 I was providing -- when I prepared this
10 application -- I'm not the drilling engineer involved in
11 this, and I'm trying to provide enough leeway for that
12 drilling engineer to be able to select equipment and
13 manage that drilling process and the completion process.

14 If I fine tune this too tightly and say you must
15 use this make and model of a tank, and this specific part
16 of the process requires that only these vac trucks be used
17 to move stuff and you only close by this contractor or
18 this piece of equipment, we have now limited the ability
19 of Williams and possibly of the -- the ability to do those
20 particular things.

21 Because not all those resources are necessarily
22 there, and the Rule doesn't require us to be that
23 specific. There are a few exceptions. Liners being one,
24 to be very specific. But we provide a general concept, a
25 general plan, and that's what my intent was.

1 Q. At what point do you -- It isn't necessary that
2 you have a pit anywhere to manage fluids or solids from
3 the SWD, is it?

4 A. I don't know that. You would have to ask that
5 of a drilling engineer.

6 Q. Well, if you can look at OCD Exhibit No. 14, you
7 had spoken earlier about Williams having to do an
8 application for a closed-loop system at the SWD that would
9 haul waste to an approved facility?

10 A. Correct.

11 Q. And Exhibit 14 of the OCD exhibits is a copy of
12 that application, is it not?

13 A. It looks like it.

14 Q. And there's no mention of any pit in this
15 application, is there?

16 A. There's the closed-loop pit.

17 Q. What closed loop?

18 A. Well, the closed-loop system is considered a
19 pit, is it not?

20 Q. But the closed-loop system --

21 A. I'm sorry, I asked a question. I wasn't
22 supposed to say anything.

23 Q. Is a closed-loop system without the use of a
24 underground pit?

25 A. Without use of a temporary pit, correct.

1 Q. Okay. So it's possible, according to Williams'
2 own application to have a closed-loop system at the SWD
3 without any pit for managing solids or fluids?

4 A. Without a temporary pit, correct. We would have
5 to have additional tankage. And in the case of an
6 emergency, we might have to probably haul in additional
7 tanks, or use another location where there's tanks.

8 Q. But there's no request in this application --

9 A. No, ma'am, there isn't.

10 Q. -- for any kind of pit?

11 A. Nope.

12 Q. So it's possible to drill the SWD No. 2
13 without -- --

14 A. It is.

15 Q. So what you're really asking for is to use the
16 pit at the 634-B to dispose of the cuttings?

17 A. That's what this hearing says. Is it not?

18 Q. Let me ask you about the pit you're seeking
19 approval for that's in the application before the
20 Commission today, Exhibit No. 8.

21 A. Okay.

22 Q. If you could turn to Page 1 of Williams Exhibit
23 No. 8.

24 A. Okay.

25 Q. Actually, Page 1 of exhibit there before you.

1 A. Yes, ma'am.

2 Q. If you look at the second box where it describes
3 the pit that you're requesting, you're requesting a pit
4 with dimensions of 100 feet by 100 feet, and a depth of 20
5 feet; is that right?

6 A. Yes, ma'am.

7 Q. And the volume that you're asking for is 35,000
8 barrels?

9 A. That's the estimate, yes.

10 Q. And if you could just turn to Page 14 of this
11 exhibit, this is a diagram of the 634-B location; is that
12 right?

13 A. Yes.

14 Q. To illustrate whether or not you want that 100
15 by 100 pit that you're going to use for the SWD No. 2?

16 A. Yes.

17 Q. And it's located over on the right-hand corner
18 of that location.

19 A. Yes.

20 Q. Could you mark this for a second? We're going
21 to come back to it. But could you look at Williams'
22 Exhibit No. 11, the application for the 634-B well itself?

23 A. Yes, ma'am.

24 Q. And if you could turn to Page 7 of that
25 application, I'm trying to get back to the diagram for --

1 A. I'm there.

2 Q. -- the 634-B. The 634-B pit that you have a
3 permit for, you have a permit for a pit that is 40 by 80?

4 A. Yes, ma'am.

5 Q. And 20 feet deep. And if we go back to the
6 first page of the application, a 12,000 barrel volume?

7 A. Yes.

8 Q. So the permit you have is for a pit with
9 different dimensions than the pit you're asking for
10 approval of today?

11 A. Based on the dimensions, yes.

12 Q. So you have an existing permit for a pit
13 measuring 40 by 80, and 20, and it is -- if we look at the
14 diagram, located in the exact location where you want to
15 put the pit for the SWD No. 2?

16 A. Correct.

17 Q. But the pit for the SWD No. 2 is going to be
18 much larger, isn't it?

19 A. We would like it to be.

20 Q. You would like it to be. You're asking for
21 approval of a 100 by 100?

22 A. That's what's in the application, yes, ma'am.

23 Q. 35,000 barrel capacity?

24 A. Right.

25 Q. The permit you already have for the 634-B allows

1 you to do on-site burial to close that pit; is that true?

2 A. Yes.

3 Q. The pit from 634-B is already constructed?

4 A. It is.

5 Q. Using the 40 by 80 dimension?

6 A. Roughly, yes.

7 Q. And it is now holding fluids; is that right?

8 A. Yes.

9 Q. Is the drilling finished for the 634-B?

10 A. Ken can speak to it, but I'm pretty certain it
11 is.

12 HEARING EXAMINER: Why don't we let him speak to
13 it if you don't know?

14 THE WITNESS: Okay.

15 A. I can't verify that.

16 Q. How do you propose to construct the pit for the
17 SWD well at the site of the existing reserve pit?

18 A. We're not going to change the 634-B.

19 Q. You're not going to change the 634-B pit?

20 A. No.

21 Q. You're not going to --

22 A. Since that is what we ended up being allowed,
23 that is what we are going to have to live with.

24 Q. Then why are you asking for a 100 by 100 and
25 35,000 barrels?

1 A. Because we have had I don't know how many pit
2 applications and we've been criticized for
3 inconsistencies, and we're trying to be consistent with
4 the original application.

5 But if you consider the key criteria, in both
6 cases, we're less than ten acre feet. We will be
7 restricted to maintain two feet of free board in the pit.
8 Constructed with the proper -- I'm sorry.

9 Q. Okay, so let's me understand. You're not
10 applying for a 100 by 100 dimensions?

11 A. We're applying for a temporary pit. The
12 requirements of the Rule, the Rule does not stipulate what
13 the exact dimensions must be for the pit.

14 It's a plan. I submit a plan to the building
15 department to build my house, and when I'm done building
16 my house, there are modifications that have to be made
17 based on availability of materials, based on a number of
18 other things, and the as-built is almost never the same as
19 the plan that was submitted for approval. Correct me if
20 I'm wrong.

21 Q. So when you give a dimension on a permit
22 application, that's just a suggestion?

23 A. It's what we hope to have, yes.

24 Q. You may build it considerably larger, you may
25 build it considerably smaller?

1 A. Considerably smaller. Set's our limits. But
2 essentially, the Rule itself limits what size. I mean, it
3 does not tell us what the dimensions are, not that I
4 recall.

5 HEARING EXAMINER: Ms. MacQuesten, I think we've
6 explored this point. Could you move on, please?

7 MS. MacQUESTEN: Well, with all due respect, I
8 think you need to understand what they're asking for.
9 They have an application for a 100 by 100, and Mr. Lane is
10 now saying they're not going to change their existing pit.

11 HEARING EXAMINER: Okay.

12 MS. MacQUESTEN: And I need to know what they
13 are asking for.

14 HEARING EXAMINER: Okay. But expedite if
15 possible, okay?

16 Q. What are you asking for?

17 HEARING EXAMINER: That's a good one.

18 A. We are asking for a permit on the Rosa Unit SWD
19 No. 2 which will utilize a closed-loop system on the site,
20 and a temporary pit that is already constructed on the
21 634-B. And that pit is also permitted on the 634-B as a
22 temporary pit.

23 HEARING EXAMINER: As the pit from 634-B?

24 THE WITNESS: Right. And I explained how we do
25 the transfer.

1 Q. Mr. Lane, why is that request not in the
2 application that's before the Commission today?

3 A. Because that would have been in the application
4 before the Commission had a decision or something been
5 determined on our original application which used the 394.

6 Because we would know whether or not we're
7 allowed to use a temporary pit at an off-site location.
8 Had that been decided in March, you wouldn't be seeing the
9 application you have today as far as dimensions for the
10 pit.

11 Because at that point, Williams would have
12 submitted an application, we had to pull the one already
13 for the 394 because that well was not going to be drilled,
14 and our application would have reflected what was at the
15 634-B.

16 This application has been in the process of
17 being developed for so long, it's ridiculous. It's a
18 simple question, can we or can we not? Does it comply
19 with the rule, or it doesn't.

20 Q. Where does it say in the application, Exhibit
21 No. 8, that you plan to use the existing pit at the 634-B?

22 A. In plain English words, it does not.

23 Q. Where does it say in the application that you're
24 going to commingle the waste from the two wells at that
25 location?

1 A. The application does not.

2 Q. It doesn't say that?

3 A. No. Just like I said in my earlier testimony
4 about how we do it, our applications are stand-alone well
5 applications. That's what the District Office and the
6 Division has encouraged us to do. That's how we do it.
7 And we follow the process that's been followed since 2008.
8 And in none of the -- In -- I'll leave it at that.

9 Q. If the Commission were to grant your application
10 that's pending right now, Exhibit 8, asking for a 100 by
11 100, that would give you authority to have a pit 100 by
12 100 at that location, wouldn't it?

13 A. If they granted it as it stands.

14 Q. As asked?

15 A. As asked, with no stipulation.

16 Q. How would you enlarge the pit?

17 A. We wouldn't. It's already built. If we had to
18 increase it, we would have to go in and remove all of the
19 solids in the pit as it exists and basically dismantle
20 that pit and haul all of those solids off site.

21 Or -- We can't store them anywhere, it's not
22 allowed. So we would essentially dismantle the pit and
23 build a new pit for the SWD 2, and that is not what our
24 intent is.

25 Q. But you've asked for the 100 by 100 pit?

1 A. Yes. You've asked me that several times.

2 Q. I know. Understand, though, that the Division
3 has to deal with the application that's in front of it.

4 A. I understand.

5 Q. And the application in front of it didn't take
6 into account that there was an existing pit on the site
7 where you are asking for a pit for the SWD well. And it
8 didn't explain that you really weren't asking for a 100 by
9 100, you were really asking for whatever it was, 80 by 40.

10 MS. MUNDS-DRY: Mr. Chairman, is there a
11 question in there somewhere?

12 MS. MacQUESTEN: Well, I'm trying to understand
13 how much of the application we have to rewrite. We're
14 already acknowledging that we have to rewrite all the
15 particulars on the detailed objections that the OCD had,
16 and now we're getting to the very basic --

17 HEARING EXAMINER: I understand, Ms. MacQuesten.
18 Would you phrase it in the form of a question, please?

19 Q. Did you provide the OCD with the information it
20 would need to grant the request as written?

21 A. We believe so, yes.

22 Q. Did you explain how a 100 by 100 pit was going
23 to be constructed on a site of the existing 394 pit?

24 A. Mr. McQueen will have to speak to the
25 discussions that he had with the Bureau --

1 Q. I don't want to know about the discussions right
2 now, I want to know about the application --

3 A. You asked me if I did, and the answer is, no, I
4 didn't. I personally did not.

5 Q. Did the application, the written application,
6 explain to the OCD how you were going to build this pit on
7 the site of an existing pit?

8 A. No.

9 Q. Your explanation today is that you would haul
10 the waste from the existing pit and construct a new pit;
11 is that correct?

12 A. The Rule does not require us to explain how we
13 are actually going to build the pit. The Rule --

14 Q. Does the Rule require you to explain how you're
15 going to close a pit?

16 A. It does.

17 Q. And your approved closure for the 634-B was bury
18 in place, right?

19 A. Correct.

20 Q. And now you're saying that you will be hauling
21 that waste away --

22 A. I did not say that. What I said was in response
23 to your question how would we -- or how would I
24 conceivably construct a 100 by 100 pit now that there is
25 an existing pit.

1 And I speculated that if we were forced to do
2 so, or chose to do so, the only practical way of doing
3 it -- I did not use practical -- is to go in and dismantle
4 the pit.

5 In order to dismantle the pit, we would have to
6 go in and remove the solids that exist in the pit, the
7 liner, and essentially have to do something appropriate
8 with the disposal of those wastes derived from it.

9 But I did not say that if we got approval of
10 this application, that we would do that.

11 MS. MUNDS-DRY: Mr. Chairman, would now be a
12 good time to take a break?

13 HEARING EXAMINER: Now would be a good time to
14 take a lunch break. Why don't we go ahead and break for
15 lunch and reconvene at 1:15.

16 (Note: A lunch break was taken.)

17 HEARING EXAMINER: Okay, let's go back on the
18 record. The record should reflect that this is the
19 continuation of Case No. 14521.

20 The record should also reflect that we're coming
21 back from lunch on Thursday, July 29th, that all three
22 Commissioners are present. We therefore have a quorum.

23 I believe, Ms. MacQuesten, you were
24 cross-examining Mr. Lane. Would you like to continue?

25 MS. MacQUESTEN: Yes, thank you.

1 Q. Mr. Lane, how much waste does Williams estimate
2 will be produced in the drilling of the SDW No. 2?

3 A. Well, our initial estimates are about 1,270
4 cubic yards. That can be found in Exhibit 18.

5 Q. Can you convert that cubic yard figure into
6 barrels?

7 A. No. Cubic yards is just solids. But a rough
8 estimate of cubic yards to barrels is about three barrels
9 per cubic yard.

10 Q. Mr. Jones has passed me a note that saying
11 conversion from fluids to solids is 4.8 -- one cubic yard
12 equals 4.8 barrels. Does that -- do you agree with that?

13 A. That's a little bigger than what I was
14 projecting, but I've never done the conversion myself. I
15 can do the math here real quick if you want me to.

16 Q. What I'm trying to get at is, will the waste
17 that's generated at the SWD No. 2 fit into a 12,000 barrel
18 pit?

19 A. If it doesn't, then we will have to haul it off
20 to comply with the Rule.

21 Q. Does it say that in your application?

22 A. Not explicitly, no.

23 Q. Does the application ask for permission to haul
24 off any waste associated with the SWD No. 2?

25 A. Yes.

1 Q. Where?

2 A. Page 10, Exhibit 8, third paragraph on the page,
3 all free liquids standing, so forth and so on. Talks
4 about excessive fluids and that they would be disposed of
5 by evaporation or transportation to basin disposal. It
6 goes on to talk about the minor and disposal at solid
7 waste management facility and so forth.

8 So, I believe your question was, do we
9 explicitly state that we're going to remove waste and take
10 it off site, and the answer is yes.

11 Q. Let me rephrase my question and limit it to the
12 waste that you intend to dispose of in the pit, the solid
13 waste. Is there anything in your application that says
14 you are also requesting permission to haul it off site to
15 an approved facility?

16 A. No, but I think it is implied that that is the
17 appropriate practice that we need to follow if we cannot
18 meet the closure criteria.

19 Q. In the Pit Rule, though, if you look at
20 19.15.17.9C(1), and let me just read this, "If the
21 operator proposes an on-site closure method, the operator
22 shall also propose other methods if the initial method
23 does not satisfy the on-site closure standards," and then
24 it sites, "or if the on-site closure standards of the
25 Environmental Bureau Division of the Santa Fe office

1 approves."

2 Now, this was the provision that in the denial
3 letter, you pointed out that you had no alternative to be,
4 quote, unquote, "on site" disposal you are proposing.

5 And I understood your testimony in response to
6 Ms. Ocean Munds-Dry's question, was that you didn't need
7 to give an alternative.

8 The alternative in standard practice is that we
9 manage our waste in compliance with OCD rules. And the
10 language that was used in our application is consistent
11 with the language that is in the earlier applications that
12 we have made with the Division and that are approved by
13 the Division.

14 And it is, the disposal -- if we cannot dispose
15 of it on site, then OCD requires us to manage the waste by
16 hauling it to an OCD approved facility.

17 Q. And your application, though, does not say that?

18 A. Not explicitly, no.

19 Q. How much of the waste from the 634-B do you
20 anticipate will remain in that 12,000 barrel pit?

21 A. Has much as the pit will accommodate to allow us
22 to adequately cover it with a four foot cover of clean
23 material.

24 Q. So have you done any estimates to --

25 A. I have not.

1 Q. You can't tell us today how much waste you think
2 that pit at the 634-B will accommodate from the SWD well
3 given that it's already going to contain the waste from
4 the 634-B?

5 A. I have not done the calculations.

6 Q. At what point did Williams decide that they were
7 changing their application from 100 by 100 to the existing
8 40 by 80 pit?

9 A. When we constructed the pit on the 634-B.

10 Q. When was that?

11 A. I can't tell you the exact date that we built
12 the location. It would be probably late March, early
13 April, is my estimate.

14 Q. So you knew that you wanted to use that existing
15 40 by 80 pit when you filed your application that we have
16 before the Commission today?

17 A. The intent of the June application for use of
18 the temporary pit on the 634-B was to accommodate and
19 utilize that temporary pit at the 634-B since that was our
20 default for SWD No. 2.

21 Q. I'm trying not to beat a dead horse, but can you
22 show me in the application where you made that intent
23 clear that your intent was to use the existing pit at the
24 634-B, the one that is 40 by 80?

25 A. I did not describe it as 40 by 80, but we did

1 show where the pit was on the 634-B. And it's consistent
2 in both the SWD application and the 634-B application as
3 to where the pit was located.

4 Q. So we're to infer from the fact that the well
5 shares a pit in the same location that although you're
6 asking for 100 by 100 and telling us that it complies to
7 the SWD, but we are to understand that you're really
8 asking for 40 by 80 existing pit and you're not going to
9 change that pit to accommodate the larger size?

10 A. We're asking for a permit for a temporary pit
11 in a closed-loop system on the SWD to support the drilling
12 of the SWD No. 2. The temporary pit to be located -- if
13 acceptable, on the 643-B location.

14 And it has been the Division's discretion in the
15 past to indicate that something in our application was not
16 acceptable, and that we would have to amend our
17 application to meet their interpretation, or meet a
18 better -- clarify what our intent is.

19 And we are planning, if so required, to provide
20 additional clarifications on amendments to our application
21 and make it clear what we intend to do.

22 Q. And that's your attempt not only with respect to
23 the question of the location and size of the pit, but the
24 other issues that were raised in our denial letter?

25 A. Williams is not asking for an exception.

1 Williams has language in our application in which we plan,
2 and it is so stated, sometimes in simply a general
3 reference to the Rule, specific part of the Rule that we
4 are going to comply with that provision in the Rule.

5 So, your denial letter -- or the denial letter
6 that we received in which it's clear that Williams has not
7 effectively communicated our intent to comply with the
8 Rule, is that Williams will provide the additional
9 information, evidence, or data necessary to demonstrate
10 that is it -- that we will comply with the Rule.

11 Q. But Mr. Lane, it's true that Williams didn't do
12 that, did it, it simply filed for hearing on an existing
13 application? Williams didn't revise its application when
14 it received our denial letter pointing out the problems,
15 it simply filed an application for hearing; isn't that
16 right?

17 A. No.

18 Q. Did you submit any application after the June 18
19 application that's at issue today?

20 A. Not after the June 18 letter, or not after the
21 June 18 application, but --

22 Q. That's the one in front of the Commission now to
23 decide; isn't that right?

24 A. The June 18 application is the one before the
25 Commission and hearing, yes, that is my understanding.

1 Q. But you're here today saying you're willing to
2 rewrite the application or allow the Commission to rewrite
3 the application to address certain issues that were raised
4 in the denial letter?

5 A. That is the third denial, and Williams has made
6 the third attempt, this application being so, to address
7 the Division's concerns. And Williams has acted in good
8 faith in all of those attempts to prepare an application
9 that the Division could approve.

10 Q. One more question on the dimensions of the pit
11 and then I'll move off of that issue. Is it Williams'
12 position that the dimensions of the pit given in the
13 application are insignificant as long as it doesn't create
14 a pit that exceeds the ten acre foot capacity limit?

15 A. And the other design criteria that I mentioned,
16 yes.

17 Q. So you can give any dimensions at all as long as
18 it doesn't exceed ten acre feet, and that's fine?

19 A. The Rule doesn't require us to provide
20 dimensions.

21 Q. You don't have to provide a design for us to
22 evaluate?

23 A. We provide a design for you to evaluate, and if
24 it's not acceptable, you will let us know.

25 Q. Okay.

1 A. Let me note that the language in the application
2 that we made is substantially consistent with the previous
3 C-144s that have been submitted to the Division and have
4 been approved. And dimensions have never been an issue.

5 Q. But with another one distinction, though,
6 because you did testify this is the first time that
7 Williams has submitted an application for a pit to be used
8 for disposal for a well that is at a different location?

9 A. Correct, but again, dimensions were not the
10 issue.

11 Q. How can we evaluate a pit to determine the
12 distance from the bottom of the pit to ground water if we
13 don't know what the dimensions are?

14 A. We specify what the depth was.

15 Q. But you've told us that the dimensions were
16 approximate in your application?

17 A. Correct. I said the key criteria are that the
18 volume be less than ten acre feet and allow for a minimum
19 of two feet of free board during use, that it be lined
20 with an acceptable material and materials, seams properly
21 welded or assembled, the bottom of the pit sufficiently
22 separates from ground water, and that the slopes on the
23 sides of the berm on the pit are two to one. Those are
24 the key criteria. So depth is a critical component, and
25 that is what I testified to.

1 Q. So as I understand it, you'd be willing to -- or
2 you're asking the Commission to rewrite your application
3 to say that you're asking for a -- using the existing 40
4 by 80 pit for disposal of waste from SDW No. 2?

5 A. We're not asking the Commission to rewrite our
6 application.

7 Q. Are you asking them to grant it as written?

8 A. If they see so deem it complete, yes, and
9 acceptable.

10 Q. Let me move to some of the other issues that
11 were raised in the denial letter.

12 A. Okay.

13 Q. Are you aware that Part 17 requires that proof
14 of notice to the surface owner is required to be attached
15 to the application?

16 A. I am.

17 Q. Can you show me where proof of notice to the
18 surface owner is attached to the operation?

19 A. Mr. McQueen, who prepared this application in my
20 absence while I was on leave, did not attach the
21 notification. And that is because I commonly prepared
22 these and I do the notifications.

23 Q. So you're acknowledging that it was not attached
24 to the application?

25 A. It was not attached to this application, that is

1 correct.

2 Q. And in fact, it wasn't given to the surface
3 owners until June 22?

4 A. That's when I returned from leave, yes, ma'am.

5 Q. Right, and that's as shown in the e-mail in
6 Exhibit 10?

7 A. Correct.

8 Q. You mentioned, if I'm hearing this right, that
9 there is an MUO in existence between the OCD and the BLM
10 Farmington office?

11 A. Yes, ma'am.

12 Q. Did you present a copy of them and are they
13 among these exhibits?

14 A. They are not in the exhibits, no, ma'am.

15 Q. Why not?

16 A. Well because, for one, the Division has it. And
17 that is part of what we operate under. I would assume
18 that you have it and are familiar with it. But that may
19 be a false assumption.

20 Q. Well, can you tell me what your understanding of
21 the MOU is regarding the notice when you're dealing with
22 federal surface owners?

23 A. The -- and I could probably -- But the MOU
24 basically, if memory strikes me correct, states that a
25 copy of the APD is record of notification.

1 Q. Of what?

2 A. Of the pit and the intent.

3 Q. The APD in this case in Exhibit 4, is an APD
4 submitted and approved back in 2009?

5 A. Yes, ma'am.

6 Q. And that was before Williams asked for use of a
7 temporary pit on the SWD No. 2?

8 A. Correct.

9 Q. So, there is no notice. The APD did not provide
10 the BLM with any notice of your current request for a
11 temporary pit at the location of the 634-B, did it?

12 A. No.

13 Q. Let me ask you about the fencing requirement.
14 The current application says, "Williams will remove the
15 front side of the fence during drilling and completion."
16 Drilling and completion of which well?

17 A. No, the application is for the SWD No. 2.

18 Q. So you're going to keep it opening during the
19 drilling and completion of SWD No. 2?

20 A. No, ma'am. That's not what I said.

21 Q. Then what are you saying?

22 A. What I testified to early is the standard
23 practice for operating and using a fence around the pit.

24 Q. That you keep open during drilling and
25 completion operations?

1 A. When the rig is adjacent to the fence.

2 Q. And my question is, which well is being drilled
3 or completed that requires you to have a fence built?

4 A. 634-B.

5 Q. Where does it explain in the application that
6 that is what you're asking for?

7 A. I guess it's, Williams assumes, and clearly
8 wrongly so, that the recipient of this application and the
9 Bureau -- or the Division, understands our operations and
10 has a working knowledge of how Williams and other
11 companies operate in a practical sense.

12 And so, the language in this, if the rig is not
13 adjacent to the pit, then the fence would not be done or
14 Williams would be in violation of the Rule.

15 And if Williams' intent to is to comply with the
16 Rule, and I think I explained and testified as to what our
17 standard operating practice is, if the location is not
18 manned, the fence is in place until we close the pit.

19 So whether it be a rig, or water hauling, or any
20 other activity, if the location is not manned and we have
21 no need to be in accessing the pit, the fence remains.

22 Q. And can you point me to anything in the
23 application what is telling us that your intent was to use
24 the same pit for the 634-B drilling operations, is that
25 pit also for the disposal of the SWD No. 2?

1 A. Since the plat for the temporary pit is the plat
2 for the new well on the 634-B, and we have also referenced
3 the fact that we would be using a temporary pit on the
4 634-B in this application, I would think that it was
5 pretty clear that that is Williams' intent to use the pit
6 on the 634-B as the part of the temporary pit that's
7 referred to in our design for SWD No. 2.

8 But if it's not clear enough, I will work on
9 trying to write it different next time.

10 Q. On the question of the deed notice?

11 A. Yes, ma'am.

12 Q. You testified that that's not practical with
13 federal wells. And I'm sorry, I may have missed it, is
14 there some alternative procedure that you use, or you just
15 don't do it and sort of --

16 A. Williams was following that practice of creating
17 a -- a document in good faith that would meet that
18 provision when we submitted our closure reports.

19 And it was pointed out to us after numerous
20 closure reports -- and I can't tell you how many, but it
21 was some 20 or 30 C-144 closure reports that were
22 submitted to the Division, that there was an MOU between
23 the BLM and the -- well, the Farmington field office BLM
24 and OCD, that acknowledged that federal lands cannot be
25 deeded, and that reference to that in our closure reports

1 was sufficient demonstration that we met the Rule.

2 Q. Is that the same MOU you were relying on for the
3 notice issue?

4 A. Those issues are addressed in that MOU, yes.

5 Q. The one you have in front of you?

6 A. Yes.

7 Q. Is there anything again in the current
8 application that explains that this is the process?

9 A. No, ma'am.

10 Q. Or references the MOU?

11 A. No. No, wait a minute, I think we do reference
12 the MOU. Let me check. No, I take it back -- well, not
13 take it back, but I do not see reference to the MOU in
14 here in the application.

15 So we do not explicitly spell out that we are
16 complying with that MOU -- or utilizing that MOU for
17 demonstration of compliance.

18 Q. Well, as for the deed reference, you simply
19 don't reference -- don't -- the obligation doesn't mention
20 the deed list requirement at all, does it?

21 A. I believe in this application we do not
22 reference the deed notice, no, ma'am.

23 Q. Moving on to the next issue, one of the issues
24 raised in the denial letter was that Williams was saying
25 that they met the waste criteria. And we questioned that

1 saying, how do you know if you've met the waste criteria
2 if you haven't even drilled the well and created a waste
3 yet to test it? What is your response to that concern?

4 A. I found that very confusing in that denial, to
5 be perfectly Frank with you. Williams could not drill the
6 well until we have a pit permit application approved.

7 So, in order for us -- we are simply planning,
8 and that's what this is is a plan, to comply with the
9 Rule, and that statement, whether we maybe used -- should
10 have said, "If met," instead of meet, I believe that we're
11 trying to demonstrate that it is our plan and our intent
12 to comply with the Rule.

13 And I would think that all of us know that you
14 can't tell if you meet the criteria if testing is part of
15 the criteria if you can't test the material until after
16 you drill it.

17 And if we didn't have an application, I guess
18 you can't drill a well. Don't have a pit application
19 approved. So it goes without saying that we are -- I
20 guess it's pretty intuitive to me that we're going to have
21 to drill the well first and test the material to
22 demonstrate that it meets the criteria.

23 Q. So you are going to do all the testing required
24 by the Rule?

25 A. Yes.

1 Q. To demonstrate that you meet the criteria?

2 A. Yes.

3 Q. So that is another exception to the
4 application --

5 A. We will have to wait until -- May I add one
6 note? Yes, but after we drill the well.

7 Q. Of course. On the other issue, reclamation of
8 the area associated with the closed-loop system, the
9 denial letter was concerned that you did not address
10 reclamation for the closed-loop system. Can you show us
11 in the application where it establishes that?

12 A. The application is weak in that area in that it
13 does not provide any specific language regarding the
14 reclamation of the closed-loop system.

15 But the language is consistent with our previous
16 closed-loop system applications in which we remediate the
17 area where the closed-loop system is if it's not -- if it
18 does not continue to be in operational control -- or used
19 for operations.

20 Q. If you could turn to Page 11 of the application,
21 Exhibit No. 8.

22 A. Okay, I'm there.

23 Q. Under the paragraph "Reclamation," the first
24 sentence of that references, "Once WPC has closed the
25 temporary pit, WPC will reclaim the pit location," and it

1 goes on to talk about the pit location. So you're saying
2 you need to rewrite that to apply to the closed-loop area
3 also?

4 A. If it's not understood that when we reclaim a
5 closed-loop system essentially that we remove the tanks
6 and either reclaim it to meet the service management
7 agency's requirements and the Rule requirements, or that
8 we will continue to use it for operational needs and do
9 not reclaim it until after we abandon the well, yes, we
10 will have to add one additional sentence or two.

11 Q. On the issue related to the pit design, I'd like
12 you to look at the cross-sections that were provided with
13 the application, and ask you what we are supposed to
14 understand from these cross-sections. I was confused by
15 them.

16 HEARING EXAMINER: Is that Page 15?

17 MS. MacQUESTEN: Yes.

18 Q. What is this supposed to tell us about the
19 design of the pit?

20 A. The pit will be somewhere around 12 to 15 feet
21 deep, and these cross-sections were actually prepared by
22 the surveyor for the 634-B and the pit design of 40 by
23 80.

24 Q. The application for the pit at the 634-B,
25 though, the depth given was 20 feet.

1 A. We were conservative, weren't we? I'm sorry.

2 We were conservative.

3 Q. Well, how -- what are we supposed to -- How are
4 we to tell what you're proposing to build?

5 A. We're going to be no deeper than 20 feet.

6 MS. MacQUESTEN: May I approach the witness? I
7 have a copy of what I believe is the APD that I would like
8 to refer to in his testimony.

9 HEARING EXAMINER: You may.

10 Q. Mr. Lane, I'd like to you show us where the BLM
11 supports you on -- I believe you referenced with regard to
12 the notice that it is -- how the notice requirements are
13 addressed for federal wells, and -- is it the deed issue
14 also?

15 A. Paragraph 5. It's the last page. Surface Owner
16 Notification.

17 "In order to minimize the burden
18 on the surface management agency, SMA, and
19 the NMOCD, the surface owner notification
20 requirements of Part 17 and the federal
21 surface lands shall be deemed satisfied
22 upon a showing by the operator that the
23 SMA has received and approved the APD for
24 permit to drill, or the sundry notice of
25 intent describes the actions requiring the

1 surface owner notification."

2 Q. Did the APD given to the Bureau in this case
3 describe the actions that require surface owner
4 notification?

5 A. A pit requires surface owner notification, any
6 pit.

7 Q. So it's Williams' position that the tone at the
8 BLM, that they're going to have your pit on site at the
9 SWD No. 2 is sufficient to give surface owner notification
10 that the pit will actually be located ten miles away at
11 the site of the 634-B well?

12 A. Williams has provided notification above and
13 beyond this MOU on the APD and provided additional
14 clarification as to our intent, and we have done that on a
15 number of occasions.

16 So, this MOU, at least -- I'm not the lawyer, so
17 you guys tell me, this MOU says that if Williams has an
18 APD, that that is sufficient notification, is the
19 agreement.

20 Williams has been providing additional
21 notifications to the surface owners, both the Forest
22 Service and the BLM, by e-mail correspondence and
23 appropriate attachments -- I call them appropriate
24 attachments -- that allow us to further clarify our intent
25 associated with using a pit for the associated APDs.

1 Q. And those are the ones that you are not relying
2 on, not the APD?

3 A. I am relying on this MOU, what the Rule asks,
4 and what we believe is best faith to meet the spirit of
5 the Rule.

6 Q. Can you show me where you go through the
7 analysis of the deed notification, is that the other point
8 we were relying on in your report?

9 A. Well, I thought it was in here, but from a
10 practical sense, we had a very difficult time getting a
11 deed notice to the counties since federal lands are not
12 deeded.

13 Q. Okay. To summarize what we've gone through on
14 the various issues, Williams is actually changing its
15 application -- is willing to change its application, and
16 so is asking to dispose of the waste from the SWD No. 2 at
17 the existing pit at the 634-B with the 40 by 80
18 dimensions, and explain in the application how Williams is
19 going to deal with the fact that there is an existing pit
20 there dealing with existing waste, and we're going to
21 explicitly provide what you say is in place so that they
22 can haul any excess waste away to an approved facility,
23 right?

24 MS. MUNDS-DRY: I'm going to have to object to
25 compound.

1 MS. MacQUESTEN: We can take them one at a time.

2 Q. Let me phrase that. So we'll have to rewrite
3 this so that the application says we're going to take the
4 waste from the SWD No. 2 and it's going to be disposed of
5 at the existing pit at the 634-B, that's what you want to
6 do, right?

7 A. If the Commission requires us to do that, we
8 will.

9 Q. Well, is that what you're asking for?

10 A. We're asking for approval of the method of
11 closed-looped system at the SWD No. 2, and use of a
12 temporary pit at, in this case, the 634-B.

13 Q. I'm trying to understand what you're actually
14 asking for.

15 A. To summarize what Williams is actually asking
16 for goes back to the first denial of the first
17 application.

18 Williams is asking for the Commission to provide
19 us direction as to whether or not on-site burial refers to
20 where the pit is located, or where the well is located.

21 Once Williams has direction from the Commission
22 on that issue, then Williams can develop and prepare
23 applications that will meet the Rule, and we will work
24 with the Division to prepare that application necessary
25 to demonstrate compliance of the Rule and allow the

1 Division to administratively approve our application.

2 That is what we are asking for.

3 Q. So you're not asking for approval of this
4 particular application?

5 A. We would like approval of this particular
6 application, but until we have a clear understanding of
7 the direction from the Commission as to this core issue of
8 closed loop utilization of a temporary pit not directly
9 associated with the well, we honestly don't know what
10 application -- what will be approvable administratively in
11 our application.

12 That's what we're asking. That's what we asked
13 back in March.

14 Q. So you want some sort of advisory opinion from
15 the Commission saying that our on-site project provisions
16 allow a pit to be created for disposal anywhere?

17 A. We are asking the Commission to clarify the
18 intent in the language -- what is allowed under the Rule.
19 We believe that what we are asking for is allowed under
20 the Rule.

21 The core denial, the first denial, had nothing
22 to do with the language in our application except for the
23 conceptual use of a closed-loop system at an
24 environmentally sensitive site, and the use of a temporary
25 pit that was not adjacent to the well at a

1 nonenvironmentally sensitive site.

2 There was none -- We didn't get a seven page
3 denial, because the language that we used -- or we
4 believed -- was consistent with the language used in
5 previous applications that had been approved.

6 And that we had effectively communicated how
7 Williams would comply with the Rule in each of those
8 applications.

9 So what Williams needs at the end of the day is
10 to know what language we must provide in our application,
11 a C-144, in a case in which we want to utilize this type
12 of hybrid system so that it allows the Division to
13 administratively approve our applications, that's what
14 we're asking. Simple.

15 Q. Once you have that guidance, you will then
16 provide an application consistent with that guidance?

17 A. If it is different than what we have in our
18 application, yes.

19 Q. Okay. I'm a little confused, because the
20 hearing application in this case at Page 5, asserts,

21 "Williams must be drilling the
22 Rosa SWD Well No. 2 by August 1 in order
23 to have drilling and completion operations
24 concluded by the November 1 enclosure by
25 the Forest Service."

1 August 1 is this Sunday, isn't it?

2 A. The question is when the date is? You are
3 correct, it is Sunday.

4 Q. Do you agree with the statement in the
5 application that you have to be drilling by Sunday in
6 order to meet the deadline?

7 A. Mr. McQueen can address that in the need for
8 scheduling.

9 Q. You were here for Ms. Munds-Dry's opening
10 statement, weren't you?

11 A. Yes, ma'am, I was.

12 Q. Did you hear her say that she wanted an order
13 from the Commission as soon as they could provide an
14 order?

15 A. I heard her say so.

16 Q. Something to that you affect. Did you hear her
17 say that she needed something by August 1st?

18 A. I did not hear her say it.

19 Q. If you could turn to an OCD exhibit, and this is
20 No. 13, this appears to be an e-mail from Ms. Munds-Dry to
21 Commissioner Fesmire dated June 3, copy to counsel,
22 regarding one of the cases that Williams has brought
23 regarding its application for the SWD No. 2.

24 I direct your attention to the last sentence in
25 that first paragraph. "For your information, the absolute

1 drop-dead date to drill the Rosa SWD Well No. 2 is
2 August 1." Again, has Williams change its position
3 regarding the need to have drilling start August 1st?

4 MS. MUNDS-DRY: Objection, Mr. Chairman.

5 Mr. Lane has already testified that he doesn't know and
6 Mr. McQueen would be the better witness for that question.

7 HEARING EXAMINER: He can answer if he knows the
8 answer. He can tell her if he doesn't.

9 A. The scheduling of rigs and the need to drill is
10 Mr. McQueen's cull.

11 HEARING EXAMINER: So you don't know the answer?

12 THE WITNESS: I can speculate, and I believe --

13 HEARING EXAMINER: We don't want you to
14 speculate.

15 THE WITNESS: I cannot answer that.

16 Q. Well, the reason I'm asking you these questions,
17 though, is that you just testified that what you're asking
18 for is an advisory opinion and then you would be able to
19 craft an application that can then be submitted for
20 approval, and I'm wondering how that coincides with the
21 request that you be drilling by Sunday.

22 A. First of all, what we are requesting, we
23 approached the Division for hearing in March. And you
24 asked me what we're asking for, and what we're asking for
25 has not changed since that original application was

1 denied. That's what you asked me.

2 Williams' position is -- Yes, to some extent
3 Williams is looking for direction from the Commission on
4 what needs to be represented in our application to
5 demonstrate that it could be administratively approved at
6 the division level for what we feel is an acceptable
7 design and approach, closed-loop system in this particular
8 case, and it's not going to be every case, but this
9 particular case, closed-loop system and the need to
10 utilize a temporary pit in a nonsensitive area.

11 If the Commission's direction and findings are
12 that we have adequately demonstrated that in our
13 application, then we don't need to submit an application,
14 we just simply need it approved to drill.

15 If it's the finding of the Commission that we
16 must do a lot of other things, then looks like we won't --
17 we'll have to retool or rework with the Division at the
18 division level, district or bureau level, to address those
19 issues.

20 Q. Do you have a rig rented for Augustst 1st?

21 A. Ma'am, Mr. McQueen is the manager over our
22 drilling operations, and I can't answer that, I really
23 don't manage that.

24 Q. Your exhibit on the greenhouse gas issues, do
25 you do this sort of analysis when you're drilling a well?

1 A. Typically not, no.

2 Q. You don't calculate how much fuel used, or how
3 many miles traveled, that sort of thing?

4 A. No, we don't.

5 Q. Should the OCD consider these considerations
6 when determinating whether to grant APDs?

7 A. You're asking me to speculate, and at this
8 point, I think that's up to the Commission.

9 Q. Well, why did you think it was relevant that the
10 OCD consider it when evaluating this application?

11 A. We felt that it would aid in demonstrating that
12 there are other environmental impacts that historically
13 have not been evaluating when pushing waste.

14 One of the things that never came in in the
15 original Pit hearing or comments was the greenhouse gas
16 impact, and yet Governor Richardson, it's my
17 understanding, has numerous orders out encouraging both at
18 the state level and at our level, to start to curtail our
19 footprint associated with greenhouse gas.

20 Williams has moved to -- and I do know this
21 since I'm over environmental compliance, that our drilling
22 and completion operations are looking at, where practical
23 and possible, going to green completions.

24 Q. If you're asking us to consider greenhouse gas
25 emissions regarding this application, should we deny it

1 because the greenhouse gas emissions will be greater
2 hauling waste to that 634-B and that other well, the
3 394-A?

4 A. Williams was simply including that as a
5 demonstration that there are some other impacts that
6 demonstrate that our approach may be the wisest or a more
7 environmentally friendly approach to it.

8 But we're not suggesting that the Division start
9 evaluating every pit application and denying it or
10 approving it based on a greenhouse gas analysis.

11 Q. What is Williams doing with the produced water
12 from the Rosa Unit right now?

13 A. Most of the produced water in the Rosa Unit is
14 injected in the No. 1 disposal.

15 Q. And that's the only disposal well on the unit?

16 A. Currently it is the only disposal well we have
17 on the unit.

18 Q. Is it able to take all of the produced water
19 from the unit?

20 A. No, ma'am.

21 Q. Where does the excess water go?

22 A. We have wells located on what is referred to as
23 Middle Mesa. Can I ask you to look at an exhibit?

24 Q. Sure.

25 A. Let's use Williams' Exhibit 14. On Exhibit 14,

1 you'll see a green area within the boundaries or the
2 outline of the Rosa Unit. And it's titled "Middle Mesa."

3 That area is located west of the Navajo
4 Reservoir. You may not be able to see it. I think
5 there's a better one of the reservoir. Well, let me just
6 finish. It's close enough.

7 That area is located west of the Navajo
8 Reservoir, and so wells that produce water in that
9 cannot -- we would have to truck the water through
10 Colorado and completely back around to get over to No. 1.

11 And so, we have agreement with other operators
12 that have injection facilities for the disposal of that
13 water.

14 Q. And they were okay outside your limit?

15 A. Over there they are, yes, ma'am.

16 Q. Okay. So, produced water from the Rosa Unit
17 either goes to the existing SWD No. 1 or the these wells
18 just outside the unit?

19 A. Unless the SWD goes down, and then Williams has
20 to take that material to another -- or that water to
21 another OCD approved facility.

22 Q. So is the current SWD No. 1 sufficient to handle
23 all of the produced water currently except for those ones
24 that would otherwise have to be trucked to Colorado?

25 A. Mr. McQueen may be able answer to that. I

1 honestly don't know, but at this point, I believe all of
2 our produced water on the east side of the unit is
3 disposed of within SWD No. 1.

4 Q. And the water that's disposed of has to be
5 trucked to the SWD No. 1 into these other disposal sites?

6 A. Mr. McQueen is going to talk about other
7 projects that we are doing to minimize that, yes.

8 Q. Currently it's being trucked?

9 A. Most of it.

10 Q. Did you evaluate the greenhouse gas emissions
11 from the trucking all this produced water to the SWD No. 1
12 and to these other disposal sites?

13 A. We have not done an analysis to see what that
14 actual footprint is, but that is part of what -- a lot of
15 our justification that we have used for building a water
16 gathering system that Mr. McQueen can elaborate more on.

17 Q. But you don't know if the greenhouse gas
18 emissions caused by trucking all that produced water since
19 last November when we started this process is more than
20 the greenhouse gas emissions caused by trucking the waste
21 from the SWD No. 2 to Envirotech?

22 A. I haven't done the analysis, but I think it's
23 irrelevant. I'm not trying to make -- We were simply
24 looking at the project, this specific project, and not
25 trying to compare it to other projects, but looking

1 comparing it to what the alternatives were within this
2 project.

3 HEARING EXAMINER: Mr. Lane, you need to answer
4 the question. If there's follow necessary, your attorney
5 can bring it out on the redirect examination.

6 THE WITNESS: My apologies.

7 Q. So you haven't done the evaluation?

8 A. We have not done the evaluation.

9 Q. Have you done evaluations on the cost of hauling
10 the waste from the SWD to Envirotech?

11 A. Mr. McQueen's group or the engineers working
12 under him may have, I have not.

13 Q. Is Mr. McQueen the person I should talk to about
14 the approval letters from the Forest Service and the BLM?

15 A. Mr. McQueen met with them, yes. I participated
16 in the BLM meeting, but he actually handled most of those
17 communications.

18 Q. Is he the person, though, that I should talk to
19 about Exhibits 19 and 20?

20 A. Williams Exhibits 19 and 20. I'm just making
21 sure I'm looking at --

22 Q. Sure.

23 A. Right. Yes.

24 MS. MacQUESTEN: I have no other questions at
25 this time.

1 HEARING EXAMINER: Let's take a break before we
2 start? Why don't we go ahead and take a ten minute break
3 and reconvene at 25 until three.

4 (Note: A break was taken.)

5 HEARING EXAMINER: Let's go back on the record
6 in Cause No. 14521. The record should reflect that we're
7 back from a break, that all three Commissioners are
8 present. We therefore have a quorum.

9 I believe, Ms. MacQuesten, you just finished
10 your cross-examination of Mr. Lane. It's time for the
11 Commission to ask questions. Commissioner Bailey?

12 COMMISSIONER BAILEY: In response to questions
13 as to what you do with your produced water now, would you
14 please list all the systems that you have for disposal of
15 produced water in the Rosa Unit?

16 THE WITNESS: I can't give you extra well names,
17 but --

18 COMMISSIONER BAILEY: No, what's required, the
19 systems.

20 THE WITNESS: The systems? Right now we
21 currently inject water if the produced water -- if we
22 don't have sufficient injection capability either within
23 the unit, or, as I mentioned, on Middle Mesa, we will haul
24 that water to a commercial disposal facility such as Basin
25 Disposal in the Bloomfield/Aztec area.

1 COMMISSIONER BAILEY: So you do not have any
2 evaporation ponds?

3 THE WITNESS: We do not have any evaporation
4 ponds.

5 COMMISSIONER BAILEY: You mentioned the
6 injection wells over in the West Mesa area, but you
7 indicated that they were not unit injection wells.

8 THE WITNESS: Correct. And it's Middle Mesa,
9 ma'am.

10 COMMISSIONER BAILEY: Middle Mesa.

11 THE WITNESS: It's on the west part of it.

12 COMMISSIONER BAILEY: Okay, but these are
13 committed lands within the unit? According to your
14 Exhibit No. 1, the West Mesa area is within where the Rosa
15 Unit 1 is.

16 THE WITNESS: Correct.

17 COMMISSIONER BAILEY: So I'm not understanding
18 what you're saying that these are not unit injection
19 wells.

20 THE WITNESS: First, Mr. Hansen's much more
21 qualified than I am to discuss the unit itself and what's
22 committed and what's not committed, I'm not familiar with
23 the unit agreement.

24 But the disposal of produced water from the
25 Middle Mesa area is injected or hauled to Basin disposal

1 and injection wells that are not Williams operated wells.

2 COMMISSIONER BAILEY: That are within the unit?

3 THE WITNESS: No, they are not in the unit. We
4 have no injection wells in the Middle Mesa area. I think
5 that's what you're asking.

6 COMMISSIONER BAILEY: Yes, because that's why
7 I'm confused, because you pointed us to Williams' Exhibit
8 No. 13 indicating the Middle Mesa on the far west side of
9 the unit.

10 THE WITNESS: Yes.

11 COMMISSIONER BAILEY: You're saying that there
12 are injection wells within the Middle Mesa area within the
13 unit, but you're saying they're not unit injection wells.

14 THE WITNESS: I may have misstated or been
15 misunderstood. The Middle Mesa area shown in the unit
16 boundaries in green on Exhibit 13 is part of the Rosa Unit
17 and we have producing wells in that portion of the Rosa
18 Unit.

19 Water produced from those wells cannot
20 practically and effectively be hauled all the way
21 through -- because this is literally a firm into New
22 Mexico with the lake being the boundaries of that.

23 Water would -- in order for it to be injected in
24 the No. 1 Well, would have to be trucked up into Colorado
25 and back around either through the forest or some other

1 method to get to the injection well. One.

2 Number two, there are no injection wells in the
3 Middle Mesa area that Williams operates. And the term
4 Middle Mesa, which is where I may have misspoke or at
5 least misled you, Middle Mesa is a much larger area. This
6 is just the Middle Mesa portion of the Rosa unit.

7 There are injection well elsewhere in Middle
8 Mesa operated by other operators or entities that Williams
9 hauls water to.

10 COMMISSIONER BAILEY: Questions concerning the
11 location of the Salt Water Disposal No. 2 should better go
12 to Mr. McQueen?

13 THE WITNESS: Yes, ma'am. Why it's where it is,
14 yes, ma'am.

15 COMMISSIONER BAILEY: Okay. Did I understand
16 correctly that you have no centralized facilities other
17 than one disposal well within the Rosa Unit.

18 THE WITNESS: At this time we have no other
19 centralized water injection facility.

20 COMMISSIONER BAILEY: What has changed that you
21 now seem to see the need for Salt Water Disposal Well
22 No. 2?

23 THE WITNESS: Mr. McQueen can give you history,
24 but this much I know. We abandoned, and on that Exhibit
25 13, it shows a '94 SWD, that well has been plugged and

1 abandoned, is no longer operational.

2 So, Williams has no redundant or backup to the
3 current Salt Water No. 1. So when it goes down,
4 everything must be moved pretty much out of unit either
5 to -- I don't know as we have any agreements for
6 injection, so we would probably have to haul most of that
7 to Basin Disposal.

8 COMMISSIONER BAILEY: When was the '94 SWD made?

9 HEARING EXAMINER: If you don't know the
10 answer --

11 THE WITNESS: I don't know the answer.

12 COMMISSIONER BAILEY: OCD's Rule 36, you're
13 familiar with the definition of centralized facility?

14 THE WITNESS: I am.

15 COMMISSIONER BAILEY: Can you tell me why your
16 proposed activity would not fall under the definition of a
17 centralized facility?

18 THE WITNESS: The facility that we're -- I was
19 doubling checking the read on that definition. The
20 facility -- What we're asking for is allowed under -- or
21 we believe is allowed under the Rule, and the intent is
22 not to create a centralized facility meeting the
23 definition or the requirements of Rule 36.

24 Essentially, we have been allowed what -- We
25 have been using multi wells to dispose of waste in a

1 common pit, and we are essentially proposing to do that
2 same thing in this application.

3 And I do not believe we are -- We are seeking a
4 pit application, not a centralized facility, and it's not
5 Williams' intent, nor do I believe we represented
6 ourselves, as utilizing the temporary pit as a centralized
7 facility.

8 COMMISSIONER BAILEY: But the question was, why
9 does your application, why does your proposal not meet
10 that definition?

11 THE WITNESS: I guess the why is simply that we
12 have an application for a pit, not for a centralized
13 disposal facility. And I have to go back to the
14 definition of a temporary pit, and we are asking for the
15 use -- well, a permit for a pit, not for a facility that
16 receives all sorts of waste.

17 A centralized facility, I believe, refers to any
18 oil field waste that meets the criteria to go in that
19 facility. Here we're being very specific as to what waste
20 stream goes where, and it is into a pit.

21 COMMISSIONER BAILEY: When you send in a request
22 for modification or a C-144, do you send that modification
23 request to either of the surface management agencies for
24 the OCD?

25 THE WITNESS: We do not send a modification to

1 them.

2 COMMISSIONER BAILEY: So the Land Office or the
3 BLM would not necessarily ever be notified of your intent?

4 THE WITNESS: To modify the application?

5 COMMISSIONER BAILEY: Yes.

6 THE WITNESS: No, they would not know that. The
7 APD the service management agency issues us is for
8 drilling, casing, completing, and producing the well the
9 whole life of the well.

10 The C-144 application and the purpose for
11 transferring it from -- modifying or transferring from
12 drilling to completion, and subsequently from completion
13 to possibly another well to be drilled, is they know about
14 that. In fact, we wouldn't drill a well if we weren't
15 going to complete a well.

16 And it's one of the administrative hurdles that
17 we have to -- or administrative processes we have to
18 follow in this under the Pit Rule and with the
19 application.

20 We can't make an application -- a C-144
21 application for drilling and completion, we have to do it
22 just for the drilling, then we have to track and modify to
23 go to completion or transfer to another well.

24 The surface management agencies also are the
25 ones that are requiring us to minimize our footprint, and

1 minimize the number of wells and the amount of surface
2 area that we impact.

3 COMMISSIONER BAILEY: Does the Rosa Unit send in
4 an annual plan of development?

5 THE WITNESS: I am not aware of that.

6 COMMISSIONER BAILEY: That's not part of your
7 aim?

8 THE WITNESS: It's not something that I would do
9 if Williams does submit that.

10 COMMISSIONER BAILEY: Thank you, that's all I
11 have.

12 HEARING EXAMINER: Commissioner Olson?

13 COMMISSIONER OLSON: Yeah, thank you, Mr. Lane.
14 I want to follow up just on one question that Commissioner
15 Bailey had. You seem to be linking a centralized facility
16 concept to only handling one type of waste. We have
17 centralized facilities that only handle one type of waste,
18 such as land farms that's contaminated soils.

19 So, I guess I come back again, then, why is this
20 not a centralized facility if it's taking waste from --
21 even though it's the same type of waste -- from more than
22 one location?

23 THE WITNESS: If I remember the land farm permit
24 when I was helping Envirotech, which was done before
25 Rule 36, the waste that they're allowed to take is

1 contaminated soil.

2 But the contaminated soil can come from a number
3 of different sources. What I mean by that is, it can be
4 drilling waste, it can be tank bottoms, it could be soil
5 impacted from a spill, and the permit doesn't limit them
6 as to what that source is.

7 Here, we're asking -- we have an application for
8 a pit to only manage drill and completion waste and
9 cuttings.

10 COMMISSIONER OLSON: But then you are also
11 falling back on this ten acre foot limit in the Rule for a
12 temporary pit.

13 THE WITNESS: Correct.

14 COMMISSIONER OLSON: So if I follow your logic,
15 then I could drill a number of wells at about the same
16 time, take them all to one central location and put them
17 in a 9.9 acre foot pit and that would not be a centralized
18 disposal, is that -- that's what I gather from your
19 analysis; is that correct?

20 THE WITNESS: We've been allowed to put multiple
21 wells in a common pit. That's been allowed by the Rule
22 and evaluated by the Division and administratively
23 approved.

24 I think the burden when we go through that
25 design, is to demonstrate that we can comply with the Rule

1 and all of the requirements associated with operating and
2 maintaining that pit.

3 COMMISSIONER OLSON: Am I correct, then, that
4 under Williams' analysis, I could drill ten wells at the
5 same time and truck them all to a 9.9 acre foot pit
6 somewhere and do centralized disposal?

7 THE WITNESS: It depends on where the wells are
8 located, but possibly. And then something to consider is
9 that we are being required to drill multiple wells on a
10 common well pad. And I don't envision that the intent
11 would be that every single well had one pit.

12 We well pads right now in which we drill three
13 to four wells. Most of them have been drilled over
14 different times. But there are potentially areas of
15 development where we will move a rig in, as they do in the
16 Peons, conceivably, and drill 22 wells on one pad.

17 And I would hope that the Division would not
18 discourage us from -- or would continue to encourage us,
19 as the Rule is written, to use one pit for all 22 wells.

20 COMMISSIONER OLSON: But I understood from your
21 testimony that the Division has already been approving
22 those types of sites for multiple uses on the same pad; is
23 that correct?

24 THE WITNESS: Correct.

25 COMMISSIONER OLSON: It's just that now you're

1 taking it to a different level of having it located at
2 someplace other than the pad; is that correct? The pad
3 that's being drilled.

4 THE WITNESS: Correct.

5 COMMISSIONER OLSON: And I guess I want to come
6 back to something Ms. MacQuesten was bringing up, because
7 I was starting to get confused, the purpose of why we're
8 here.

9 You seem to be saying that the purpose of why
10 we're here is to get some type of advisory opinion from
11 the OCC that Williams can use going forward. Is that why
12 we're here?

13 THE WITNESS: No. Why we're here now and for
14 this specific hearing is that Williams believes that our
15 application that we're -- that is in this hearing is
16 substantially complete and that it provides -- It's
17 sufficiently accurate for the Commission to act upon the
18 application.

19 We have conceded -- or I have conceded that
20 we -- it was not our intent to ask for an exception, and
21 if the application -- and the Commission does not feel
22 that the application truly reflects Williams' intent to
23 comply with the Rule in this application, that we would be
24 willing to make whatever amendments or changes or
25 supplement the application such that it's approvable.

1 But it's substantially complete. I mean, it's
2 consistent with all of the applications, the applications
3 that we have brought before the Division before and that
4 are approved that we have acted upon.

5 COMMISSIONER OLSON: Well, I guess, then, I was
6 hearing -- like from what you're saying there, there's
7 things you're acknowledging that need to be changed.

8 THE WITNESS: I do not feel there's anything
9 that needs to be changed. The questioning was -- and we
10 do not -- I do not agree with the denial letters that say
11 that it's incomplete or inaccurate and that we're asking
12 you to approve it as it stands.

13 COMMISSIONER OLSON: Well, I thought I heard you
14 admitting to Ms. MacQuesten that parts of it were not
15 accurate. I'm referring particularly to the pit size
16 that's shown through on two different exhibits that you
17 contained, one on Exhibit 8 showing a pit size of 100 by
18 100, and another one saying that the pit size is actually
19 going to be 40 by 80. And then you admitted in your
20 testimony, we're only going to use the 40 by 80 ones.

21 So it seems to me there's inaccuracies in the
22 application that need to be corrected. That's just one
23 example, but it seemed to me that there may be some others
24 that are not things that are not addressed through the
25 Rule.

1 So, I guess I -- is it correct, then, that some
2 of these things are not accurate in the application that
3 you're asking us to approve?

4 THE WITNESS: The criterion for -- in the Rule
5 in our application addresses, we believe accurately, what
6 our intent and our plan is to comply with the Rule. There
7 are inaccuracies as to the dimensions of the pit that
8 Williams ultimately is now stuck with utilizing because of
9 what is now being constructed.

10 But that the application still reflects the fact
11 that the temporary pit will meet those ten acre feet, two
12 foot of free board, and all of those other key and
13 critical compliance components for compliance with the
14 Rule.

15 COMMISSIONER OLSON: Well, I thought from the
16 questioning that you were requesting us to approve this
17 application that is -- or at least from the -- the cover
18 letter was dated June 18; is that correct? That's what I
19 thought I heard you saying. You're asking us to approve
20 -- The subject of this appeal --

21 THE WITNESS: Is the approval of the June 18th
22 application.

23 COMMISSIONER OLSON: The application from June
24 18th.

25 THE WITNESS: Correct.

1 COMMISSIONER OLSON: And so you're asking us to
2 approve a plan that you're not intending to carry out?

3 THE WITNESS: We intend to carry out all of
4 those items -- Yes. We intent to follow that plan. Those
5 areas in which we cannot follow it due to restrictions at
6 the site, for instance, that we've already built another
7 pit of different dimensions, will be a change or
8 modification to that part of the application.

9 COMMISSIONER OLSON: So I guess referring to
10 that pit that's already being built -- and that's at
11 the -- was it the Rosa Unit 634-B? When was that drilled
12 and I guess when did that pit -- when was that
13 constructed?

14 THE WITNESS: I believe that pit was constructed
15 in March, I believe. But Mr. McQueen can speak to that.
16 March or April.

17 COMMISSIONER OLSON: So, that pit can only be
18 used for six months. That has a very short life left on
19 that pit, though, at the current time; isn't that correct?

20 THE WITNESS: We have transferred the pit -- or
21 will be transferring the pit -- and this is what's been
22 done on the others, is transfer the pit from drilling to
23 completion, and in utilizing for completion, we still need
24 to complete that well.

25 And then once we complete that well, if -- if

1 this application -- if that pit does not get utilized by
2 the SWD No. 2, then the life of that pit will terminate
3 after we finished completion on that. The six month
4 window will run from the date that we rig off on
5 completion.

6 COMMISSIONER OLSON: I thought the definition of
7 temporary pit is a pit that's in use for six months. So
8 it's six months from March; isn't that correct?

9 THE WITNESS: No. Well, first, yes, it is
10 correct under the Rule. But following the Rule and
11 following the practice that we follow currently that is
12 the Division approved -- and I can go back to my earlier
13 testimony, but we were essentially, just on a single well
14 pit, you rig up once we have an application that is
15 approved.

16 So we have a permit for the pit. We construct a
17 pit, and then move a drill rig on to drill that well.
18 Essentially that means that we would place a conductor, a
19 pipe in the ground, but that does not mean that we will
20 ever be able to produce the well, so we essentially just
21 drill the hole.

22 We rig off the drilling rig, and we'll still
23 need access to that pit in order to complete the well.
24 When we transfer by submitting a modified C-144, transfer
25 it from a drilling pit now to a completion pit. And we're

1 essentially treating it now as a new temporary pit.

2 And that application that we now have a permit
3 and pit application for completion -- or workover, I think
4 is the term that the rule and the C-144 refers to, then we
5 have a workover pit for the length of time that we need to
6 run the completion with on that well.

7 When that completion rig rigs off is when the
8 timing has started for the six month closure. We still
9 need to complete the 634-B.

10 COMMISSIONER OLSON: It sounds to me like you're
11 then saying that by coming back and filing more paperwork,
12 you extend the use of the pit? It's a temporary pit only
13 to be used for six months. So I guess I'm a little unsure
14 how that -- you need to explain to me how that works.
15 This goes longer than six months of use, it's no longer a
16 temporary pit.

17 THE WITNESS: I'm just telling you the practice
18 that we've been following.

19 COMMISSIONER OLSON: How is that practice then
20 in compliance with the Rule?

21 THE WITNESS: Well, my understanding is that
22 each C-144 is a permit for a pit. And that if you look at
23 the -- I don't have it on me, I don't have it here. When
24 we transfer, we essentially close the pit for drilling,
25 and we reopen the pit -- though it's not physical

1 necessarily, we reopen the pit for the next operation.

2 COMMISSIONER OLSON: So maybe you could explain
3 what would stop you from every six months filing new
4 paperwork to reopen the pit? It sounds to me like you
5 have a centralized pit.

6 THE WITNESS: The transfer plan that the
7 Division approved, Environmental Bureau approved it or
8 worked the language, requires that we must not only do
9 that, but have a rig on it during that time frame, or
10 close the pit.

11 COMMISSIONER OLSON: Right, but that's --

12 THE WITNESS: And then we have to reopen a new
13 pit.

14 COMMISSIONER OLSON: But if I remember the
15 distinction where you say that's happened in the past,
16 that's where you've been drilling on the same pad? That's
17 correct?

18 THE WITNESS: To date, that's what we've done,
19 yes.

20 COMMISSIONER OLSON: So I guess I'm seeing a
21 distinction, if you now say that you can do it at a remote
22 location different than the pad, it would seem to me under
23 what you are proposing, every six months someone could
24 come and file paperwork to use it for another rig, then
25 call it a new use, and it still remains a temporary pit,

1 and this thing could be used for years.

2 For example, say you had a 9.9 acre foot pit;
3 could be used for years if every six month you're going to
4 file paperwork to essentially restart the clock. That's
5 what it sounds like to me. Correct me if I'm wrong, but
6 that's kind of what I'm hearing.

7 THE WITNESS: If I hear the question, is it
8 sufficient to file paperwork to extend the life of a pit,
9 and the answer is, no, it's not sufficient.

10 COMMISSIONER OLSON: We'll I'm seeing a big
11 distinction, because you're doing a remote site versus
12 doing it where you're -- doing repeated drilling on the
13 same pad.

14 Now you're saying you can have a remote pit that
15 you can bring waste from other drill pads to the site. So
16 I don't see anything in what you're saying that would stop
17 that pit from being used in perpetuity as long as it
18 doesn't fill up.

19 THE WITNESS: The requirement is that we
20 actually be drilling or completing, and that the pit is
21 actively used for whatever the application the well is.

22 So if we're not actively drilling or completing
23 the well, or wells that that application applies to, then
24 it's simply paperwork, and it's not sufficient to keep the
25 pit open.

1 COMMISSIONER OLSON: So if you drill a well and
2 you construct a pit at that location --

3 THE WITNESS: Okay.

4 COMMISSIONER OLSON: -- you can then drill
5 additional wells around that, and every six months file
6 new paperwork to continue the use of that pit just because
7 you started drilling on that one location?

8 THE WITNESS: That's not what I intended to say
9 if that's how it was interpreted.

10 COMMISSIONER OLSON: But that seems to me to be
11 what your -- the result of what you are proposing. Is
12 that a possibility under that scenario?

13 THE WITNESS: Not currently with the
14 applications that we've submitted with the Division, only
15 with this particular application, I believe.

16 The process that the Division has us following
17 is that, one, we have to have the paperwork submitted and
18 approved. But the approvals are conditional upon us also
19 deploying and -- well, one, activating, and then -- well,
20 activating the permit.

21 And the activation of the permit is based upon
22 when we construct, and then utilize that when we put it in
23 use. So, that's a condition of the application. They are
24 conditional upon use.

25 If they don't use it, or we cease use of it,

1 it's not enough to just simply go out and have an
2 application pending to reuse that pit, if we're going to
3 use that term. We must actively activate that permit. I
4 think that's what you're asking, whether we do that or
5 not.

6 COMMISSIONER OLSON: But I think I heard you
7 testify earlier that there's nothing in the rules that
8 prevents someone from calling it a temporary pit on site;
9 essentially wherever you place it, it's an on-site pit.
10 It doesn't have to be on a -- from your testimony earlier,
11 it doesn't have to be on a well pad; is that correct?

12 THE WITNESS: Correct. And I don't think
13 there's anywhere in the Rule that says where the temporary
14 pit has to be relative to the active well, the well or
15 wells that are used.

16 COMMISSIONER OLSON: I've probably kind of beat
17 that issue enough. You did mention that you thought the
18 exception process is unworkable or impracticable. What do
19 you base that on?

20 THE WITNESS: The fact that there's been no
21 exceptions brought before the Commission or brought to
22 hearing since the Rule's inception.

23 COMMISSIONER OLSON: Well, I think right now
24 you're eight months out from looking at where you started
25 at back in November; wouldn't it have potentially been

1 easier to file an exception to the Rule?

2 THE WITNESS: It would have if we felt we were
3 seeking an exception. But we never -- our -- we are not
4 seeking an exception.

5 COMMISSIONER OLSON: I understand you're not
6 seeking an exception, I'm wondering possibly why you
7 didn't file for an exception because you may have already
8 gone approval for this location if you had filed for an
9 exception.

10 THE WITNESS: I guess I don't know what we would
11 have -- what exception to the Rule we would have asked
12 for.

13 COMMISSIONER OLSON: Well, wouldn't you be
14 asking for an exception because the Division denied your
15 application?

16 THE WITNESS: The Division denied our
17 application -- Their initial denial, Mr. Olson, hinges on
18 essentially -- the main question that we're asking, what's
19 the definition of on site.

20 And to ask for an exception to on site, on site
21 of what, then we have to basically develop an exception
22 and then propose it and go through the exception process.
23 We don't about feel we've ever asked for an exception to
24 the Rule.

25 So, back to your question, would we have been

1 ahead to ask for an exception, yes, if we knew what we
2 were asking an exception to. Since we didn't feel ever
3 that we've been asking for an exception, and it was not
4 our intent to ask for an exception, then we're left in the
5 same process we're in here where we would have possibly --
6 most conceivably been denied a hearing simply because we
7 weren't asking for an exception.

8 So I guess I see it as a catch 22 at this point.

9 COMMISSIONER OLSON: But you're -- I guess I
10 have a difficulty of how you make that conclusion, because
11 you were granted an application for the 634-B to do a
12 similar type activity.

13 And so the only distinction is whether or not
14 this is -- you're making this whole big argument on
15 whether something's on site. I'm probably not making a
16 good question out of this, but -- maybe I'll go to a
17 different aspect.

18 So if I drill a well in Farmington, I can
19 actually dispose of my waste in a pit in Hobbs and call
20 that on site?

21 THE WITNESS: If it's within the unit, I guess.

22 COMMISSIONER OLSON: So it's not related to the
23 activity, on site is not related to your drilling activity
24 and the activities that take place on that drilling
25 location?

1 THE WITNESS: If I understand what you
2 said, yes.

3 COMMISSIONER OLSON: You mentioned this aspect
4 of you do things where you have operational controls and a
5 common landowner. The federal government owns a lot of
6 land in the San Juan Basin.

7 So, why wouldn't you -- I guess under your
8 proposal, would you say that Williams would use other
9 federal lands -- it's a common landowner -- for drilling
10 at one location and disposing of, say, on the other side
11 of the basin on federal lands.

12 THE WITNESS: It's not a common unit, though.

13 COMMISSIONER OLSON: Well, I was going by -- you
14 were talking about a common landowner so, it's --

15 THE WITNESS: I guess our distinction is, it's a
16 common -- it's a unit under a common landowner and a
17 common operator.

18 My experience way back when we started the pit
19 when I was working the Pit Rule with operators as a
20 consultant, one of the limitations -- and I don't recall
21 whether it was actually explicitly written in the Rule, or
22 in practice, or if it was just a practice or a practical
23 matter, but I do know that the BLM did not let us move
24 stuff from one unit to another unit, that it had to remain
25 within the unit even if we were building a land farm or

1 managing waste or other things, that it had to remain
2 within the unit.

3 And that is, to a lesser or greater extent, how
4 we predicated where we would even propose the temporary
5 pit in this scenario in these applications.

6 COMMISSIONER OLSON: But to be clear, I guess,
7 there has been no problem with use -- multiple uses of a
8 pit for drilling on the same well pad, those have been
9 issued by the Division; is that correct?

10 THE WITNESS: Correct.

11 COMMISSIONER OLSON: Just the issue of whether
12 you could truck it some great distance and have it in
13 another physical location?

14 THE WITNESS: Correct.

15 COMMISSIONER OLSON: Okay. That's all I have.

16 HEARING EXAMINER: Let's talk just a minute.
17 You're pretty familiar with the Pit Rule, aren't you?

18 THE WITNESS: I hope so.

19 HEARING EXAMINER: You don't happen to have a
20 copy with you, do you?

21 THE WITNESS: I do, actually.

22 HEARING EXAMINER: Could you turn to 17.11.D(1)
23 and D(2)? Could you read me the last sentence in both of
24 those sections?

25 THE WITNESS: The heading is Fencing under

1 Design and Construction Specifications.

2 "The operator shall fence or enclose
3 the pit with a low-grade tank in a manner
4 that prevents unauthorized access and shall
5 maintain the fence in good repair.

6 "Fences are not required if there is
7 an adequate surrounding perimeter fence that
8 prevents unauthorized access to the well
9 site or facility including the pit or below-
10 grade tank.

11 "During drilling --"

12 HEARING EXAMINER: This is the sentence I wanted
13 you to read. This is the last sentence --

14 THE WITNESS: My apologies.

15 "During drilling or workover operations,
16 the operator is not required to fence the
17 edge of the pit adjacent to the drilling or
18 workover rig."

19 HEARING EXAMINER: Does that sound like that the
20 authors intended you to have that ability if the pit and
21 the rig were ten miles apart?

22 THE WITNESS: I believe the authors -- It
23 doesn't preclude it.

24 HEARING EXAMINER: Okay, it doesn't precluded
25 it? If it didn't precluded it, wouldn't it say the -- you

1 were able to remove the section of fence closest to the
2 rig if there was a rig?

3 THE WITNESS: That is one way it could be
4 written, Mr. Fesmire.

5 HEARING EXAMINER: And the word adjacent is
6 pretty prominent in there, isn't it?

7 THE WITNESS: Yes, sir.

8 HEARING EXAMINER: Okay. So doesn't that seem
9 to you that in the design of this rule that the intention
10 was that they would be adjacent or near?

11 THE WITNESS: When utilizing a fence, yes.

12 HEARING EXAMINER: So on the pit that you're
13 going to have on the 634-B, you don't intend to fence it?

14 THE WITNESS: It is fenced.

15 HEARING EXAMINER: It is fenced? Okay. But
16 you're saying that while you're using it to store the
17 materials, both the waste and the liquids that you'll be
18 using in drilling the salt water disposal well, that you
19 don't need a fence on there?

20 THE WITNESS: We need a fence on it as long
21 as --

22 HEARING EXAMINER: Okay, but you seem to imply
23 that there was a leeway here if it was fenced.

24 THE WITNESS: There's no leeway in the fencing
25 requirement. The fencing requirement requires that there

1 be -- that it prevents unauthorized access.

2 HEARING EXAMINER: Okay, so -- But the point I'm
3 trying to make is, that it's pretty clear, at least in
4 this provision, that the authors intended that the pit be
5 adjacent to or near the drilling rig; is that not correct?

6 THE WITNESS: You know, I can't guess what the
7 authors' intent here is, but if I had a sufficiently large
8 enough location in which the drilling was on one side of
9 the location and was not adjacent to the pit, the pit
10 would have to remain fenced.

11 HEARING EXAMINER: Okay.

12 THE WITNESS: Okay -- I'm sorry.

13 HEARING EXAMINER: Okay. So let's talk about
14 those cases where the OCD has allowed multiple well waste
15 to go into one pit. Were those pits adjacent to those
16 drilling locations? To the rigs?

17 THE WITNESS: Since we don't have a distance,
18 the answer is yes, if they're on a common well pad.

19 HEARING EXAMINER: And earlier in your
20 testimony, you said a pit is a component of a drilling
21 operation, isn't it?

22 THE WITNESS: Yes.

23 HEARING EXAMINER: Would that infer that it were
24 at least closer than ten miles away?

25 THE WITNESS: No. I mean, I can think of other

1 scenarios.

2 HEARING EXAMINER: Okay. Now, I put in my notes
3 a little bit earlier before lunch that you said that an
4 increase or an on-site closure could be anywhere where the
5 pit was, it wasn't limited to the unit. But now you're
6 telling us that it has to be within the same unit to be an
7 on-site pit or an in-place pit burial.

8 THE WITNESS: Conceivably it could be the prior.

9 HEARING EXAMINER: Okay. Why don't you clarify
10 that for me, because I really murdered that question, tell
11 me what you're trying to say.

12 THE WITNESS: I guess conceptually, and I'll
13 speak in conceptual terms, there are a lot of moving
14 parts. The pit application is only part of -- and the
15 Rule and the permit is only part of the big picture.

16 The pit application, even the APD and all of
17 those, are contingent upon a number of moving parts;
18 having unit and right-of-ways and mineral ownership and
19 all those other things nailed down.

20 The APD has a number of conditions associated
21 with it as far as how we can operate, how big a location
22 we can build and all of that. And it also includes having
23 a -- Where I'm going with it is that just because we have
24 a pit permit does not guarantee that we'll be able to
25 utilize the pit.

1 HEARING EXAMINER: Okay. I mean, we still -- we
2 agree you still have to have the -- fall within the siting
3 criteria and things like that.

4 THE WITNESS: Well, more important is that the
5 permit is just what the word says, it's permission to use
6 a pit.

7 HEARING EXAMINER: Okay. But answer me this
8 question. For it to be an on-site closure, does that
9 closure have to occur on land within the boundaries of the
10 unit, or can it be anywhere as long as there's -- you're
11 saying common ownership now.

12 THE WITNESS: I guess I would have to say --
13 We're asking you to act on the application the way it is.

14 HEARING EXAMINER: Okay, that's not the
15 question. The question is, in order for it to be an
16 on-site closure, does that pit have to be within the
17 boundaries of the unit, or can it be outside the
18 boundaries of the unit under the proper conditions?

19 THE WITNESS: Has to be within the boundaries of
20 the unit.

21 HEARING EXAMINER: Okay, so it has to be within
22 the boundaries of the unit. And you have -- was I just
23 mistaken, or have you ever said something that was
24 contrary to that in this hearing?

25 THE WITNESS: I did say that it is conceivable

1 for it to be outside the unit.

2 HEARING EXAMINER: Okay. But you're changing
3 that testimony now?

4 THE WITNESS: I'm changing the testimony to
5 reflect what Williams is applying for. Is that the
6 clarification you need?

7 HEARING EXAMINER: No. You said that you
8 previously stated that it could be outside the unit under
9 the proper conditions.

10 THE WITNESS: Conceivably, yes.

11 HEARING EXAMINER: Okay. And you're saying now
12 that it can't be outside the unit to be an in-place
13 closure?

14 THE WITNESS: That's my interpretation.

15 HEARING EXAMINER: Okay. And so you're changing
16 prior testimony. And that's okay, that's not a problem,
17 we just need to make clear, make sure we have exactly what
18 you're telling us.

19 THE WITNESS: What I intend, yes.

20 HEARING EXAMINER: Okay. You're pretty familiar
21 with the Pit Rule, right?

22 THE WITNESS: Yes, sir.

23 HEARING EXAMINER: Is a deep trench burial an
24 on-site closure?

25 THE WITNESS: Williams has never proposed one so

1 I have not studied the Rule to that extent.

2 HEARING EXAMINER: Okay. Would you agree with
3 me that the deep trench burial is under the provisions for
4 on-site closure?

5 THE WITNESS: I believe it is, yes.

6 HEARING EXAMINER: Okay. Now, you said for an
7 on-site closure to be an on-site closure, it has to be
8 close right there where the pit is, correct?

9 THE WITNESS: Yes.

10 HEARING EXAMINER: Okay. How do you envision a
11 deep-trench burial, what happens physically?

12 THE WITNESS: You're kind of stretching my
13 knowledge and actually the design. Williams in our
14 operations does not deep-trench burial.

15 HEARING EXAMINER: Okay. And that's fair. But
16 if I represent to you that a deep-trench burial involves
17 digging a new pit and lining it and transferring the
18 contents of the old pit from that location into this new
19 pit, which is very close to the original pit, doesn't that
20 violate your definition of an on-site closure? Because
21 it's not in the original pit, it is moved.

22 THE WITNESS: Good question. I need to look at
23 the Rule.

24 HEARING EXAMINER: Okay.

25 THE WITNESS: Let me make sure -- let me

1 rephrase your question.

2 HEARING EXAMINER: Okay.

3 THE WITNESS: You said that if an operator was
4 to take waste from, say, a temporary pit --

5 HEARING EXAMINER: Let me phrase the question
6 and make sure we got the right question. Your definition
7 of on-site closure was closed right there in the pit,
8 correct?

9 THE WITNESS: Where the pit is located.

10 HEARING EXAMINER: Okay. And my contention is
11 that deep-trench burial is an on-site closure. And
12 deep-trench burial, under the definitions of the Pit Rule,
13 involves removing the waste from that pit and putting it
14 into another pit that has been lined and is properly
15 closed. And that part is under the on-site closure
16 requirements in the rules?

17 THE WITNESS: Yes.

18 HEARING EXAMINER: Okay. All right.

19 THE WITNESS: I thought you asked me, though,
20 does that violate my definition of on site.

21 HEARING EXAMINER: Right.

22 THE WITNESS: I think that was your question --
23 your scenario --

24 HEARING EXAMINER: I am presupposing that my
25 memory of your definition of on site was as is buried in

1 the pit, in the pit as it is used; is that correct?

2 THE WITNESS: That is correct. And the Rule
3 talks about on-site trench burial.

4 HEARING EXAMINER: Okay.

5 THE WITNESS: And that's on the site where the
6 trench is.

7 HEARING EXAMINER: Yes, but the trench is not
8 the original pit, correct?

9 THE WITNESS: If that is the closure method
10 selected, correct.

11 HEARING EXAMINER: So are we on the same --

12 THE WITNESS: I think we are. I hope I am.

13 HEARING EXAMINER: Now, you mentioned that you
14 intend this remote pit, this ten mile away pit, not only
15 for disposal but for fluid management. Are you going to
16 be storing liquids in this pit?

17 THE WITNESS: That's what temporary pits -- we
18 do store liquids in temporary pits.

19 HEARING EXAMINER: Okay. Now, in your analysis
20 of the carbon footprint in the operation, you're going to
21 be trucking this mud back and forth from ten miles away to
22 the well that you're using; is that correct?

23 THE WITNESS: If we need it, yes. It's
24 essentially just a reserve or a safety factor, it's not
25 the intent to operate with the fluid -- using those fluids

1 on a continuous basis. It's a reserve.

2 HEARING EXAMINER: I guess I don't understand.
3 You said you're going to be using it for fluid management,
4 you're going to be storing some fluid there?

5 THE WITNESS: Correct.

6 HEARING EXAMINER: Okay. But you don't intend
7 to regularly use that fluid; is that correct?

8 THE WITNESS: What I perceive was to provide the
9 drilling engineers the ability to have reserve fluids
10 available to them should they need to control the well, to
11 maintain -- to make up fluid if they had significant fluid
12 loss, that was my intent.

13 HEARING EXAMINER: So are you going to make your
14 mud up at the --

15 THE WITNESS: At the salt water?

16 HEARING EXAMINER: -- pit and haul it to the
17 location to be used?

18 THE WITNESS: The fluids predominantly are --
19 the mud will have to be conditioned at the well site.

20 HEARING EXAMINER: Okay, at the well site or at
21 the pit site?

22 THE WITNESS: The fluids used from the temporary
23 pit would have to be conditioned in the closed-loop system
24 at the well site.

25 HEARING EXAMINER: Okay. So -- you're kind of

1 confusing me here. I know that the muds will have to be
2 conditioned at the original site, okay?

3 THE WITNESS: Yes.

4 HEARING EXAMINER: Are you going to haul it from
5 the temporary pit site to the well site? Or are you going
6 -- the only conditioning, the only thing you're going to
7 be using is there at the well site?

8 THE WITNESS: My intent -- okay, because I'm not
9 the drilling engineer and I haven't designed the well
10 or --

11 HEARING EXAMINER: Okay, Mr. Lane, I understand
12 that --

13 THE WITNESS: What I was doing is providing
14 tools or options for the drilling department. And what I
15 envisioned is that we would have reserve fluids --
16 predominately water.

17 HEARING EXAMINER: Okay.

18 THE WITNESS: It's going to be muddy --

19 HEARING EXAMINER: Okay, but it's going to be
20 used to pump the plug and things like that.

21 THE WITNESS: Those types of -- Fluids.

22 HEARING EXAMINER: Okay. So you're going to be
23 trucking fluids between the pit site and the well site to
24 some extent?

25 THE WITNESS: If we need to, yes.

1 HEARING EXAMINER: Okay. Did you take that
2 carbon production into account in your calculation?

3 THE WITNESS: I did.

4 HEARING EXAMINER: Okay. And where is that -- I
5 guess it's Exhibit 14?

6 THE WITNESS: The analysis is Exhibit 14.

7 HEARING EXAMINER: Yeah.

8 THE WITNESS: Exhibit 18.

9 HEARING EXAMINER: Exhibit 18? And I guess I
10 didn't see any reduction in that carbon calculation -- an
11 incremental calculation that reduced the carbon
12 footprint -- the total carbon footprint by the carbon
13 footprint that will be used in this type of an operation,
14 the carbon that would be created in this type of an
15 operation.

16 THE WITNESS: You didn't see it.

17 HEARING EXAMINER: I didn't see it?

18 THE WITNESS: There is no discount in there.

19 HEARING EXAMINER: Okay. So this is not an
20 incremental analysis, it's just what would happen in
21 the -- the carbon generated during the hauling of the
22 waste that's created, it's not an incremental comparison
23 versus other methods that would also create a carbon
24 footprint?

25 THE WITNESS: Correct. And I believe that was

1 also the question about the water hauling and stuff. That
2 analysis is just for what is the carbon footprint -- if
3 we're talking carbon footprint -- associated with the
4 different disposal options, management of the solids.

5 So it doesn't take into account fluids or any of
6 that. I can't project what that will actually be.

7 HEARING EXAMINER: Okay. Well, originally, you
8 proposed -- when Williams proposed building an off-site/
9 on-site pit?

10 THE WITNESS: Okay.

11 HEARING EXAMINER: You originally proposed
12 putting it at the site of a well that was 1.1 miles away.
13 I misunderstood. Is that a well -- a unit location?

14 THE WITNESS: Yes.

15 HEARING EXAMINER: But is it operated by BP?

16 THE WITNESS: It's not operated -- and
17 Mr. McQueen can speak to that, but he's told me that that
18 particular well is -- has a -- BP has one hundred percent
19 working interest.

20 HEARING EXAMINER: But it's a unit well?

21 THE WITNESS: But it's a unit well. And
22 Mr. McQueen or Mr. Hansen can speak more to what Williams
23 will operate, build, drill, construct, and operate that
24 well.

25 HEARING EXAMINER: Okay. But if your definition

1 of on site is correct, why didn't we go ahead and put the
2 pit there anyhow and save 8.9 miles off?

3 THE WITNESS: Because the BLM would -- we no
4 longer had an APD to construct at the location. So
5 Williams was not going to go and build the location for
6 the well -- The APD was inactive so we're no longer
7 authorized to make any surface disturbance back to -- we
8 have to have the landowner's permission, feds or private,
9 landowner's permission to even initiate considering them.

10 HEARING EXAMINER: Okay. What when did that APD
11 expire?

12 THE WITNESS: I don't believe it expired.
13 Mr. McQueen can speak it to more than I. BP pulled the
14 funding for it. So if the well was not going to be
15 drilled, we would not put it in this year's drilling
16 program.

17 HEARING EXAMINER: Okay. But the point I'm
18 trying to make is, that by your definition of an on-site
19 closure, you can still put -- if it meets the siting
20 criteria, you ask can still put the pit there and use it
21 for the salt water disposal well.

22 THE WITNESS: We could if we had an APD and
23 permission and right-of-ways to build that location there
24 from the landowner, in this case the feds.

25 HEARING EXAMINER: Okay. And at one time you at

1 least considered that before BP pulled the funding, right?

2 THE WITNESS: Well, that's because they were
3 also going to utilize -- Williams' intent in using a
4 temporary pit for multiple wells -- and I believe it meets
5 the spirit of what the Pit Rule was, and it certainly
6 meets the spirit and requirements under the BLM's resource
7 management plan and what the environmental community has
8 been encouraging Williams to do, is to minimize our
9 surface footprint. Okay?

10 And so to do that, and to still be able to
11 economically and effectively drill and produce wells --
12 We're not going to build a temporary pit just to support a
13 well, we're trying -- That creates additional surface
14 footprint. That is not our intent.

15 What we're trying to do is be efficient,
16 effective within the Rule, but also being practical. And
17 being practical means if I've already constructed a pit,
18 it's in compliance with the Rule, it meets the siting
19 criteria, it's not environmentally sensitive, that that's
20 an opportunity for all of us to continue to do -- to
21 balance the -- going ahead and drilling the wells and
22 recovering those resources, and yet not continuing to
23 increase what our substantial impact or footprint is --

24 HEARING EXAMINER: On the surface.

25 THE WITNESS: -- environmentally.

1 HEARING EXAMINER: Okay. Now, you said you were
2 present in the May meeting with the BLM; is that correct?

3 THE WITNESS: The first meeting, yes.

4 HEARING EXAMINER: March meeting, wasn't May it
5 was March.

6 THE WITNESS: Yes.

7 HEARING EXAMINER: That meeting resulted in a
8 letter to me dated April 8. Now, did you talk to the BLM
9 about your definition of on-site burial?

10 THE WITNESS: We did.

11 HEARING EXAMINER: You did? And did they buy
12 into that concept?

13 THE WITNESS: They felt -- I guess the answer is
14 yes, they bought into it in the sense that they recognized
15 that it meant -- it was an example -- or Williams was
16 demonstrating to them that we were helping them to better
17 more effectively meet the requirements in the RNP of
18 making operators minimize their impacts. And so, yes.

19 HEARING EXAMINER: Okay. Now, it hasn't been
20 admitted yet, but Williams Exhibit No. 20 is a copy of
21 that letter. And in the second paragraph of that letter
22 in the second line, they are talking about off-site waste
23 burial.

24 THE WITNESS: I don't have a copy of it.

25 HEARING EXAMINER: Your attorney can --

1 MS. MUNDS-DRY: May I approach?

2 HEARING EXAMINER: You may.

3 THE WITNESS: Could you restate the question?

4 HEARING EXAMINER: Do you have Exhibit 20?

5 THE WITNESS: I do have Exhibit 20.

6 HEARING EXAMINER: In the second paragraph, the
7 second line down, the sentence actually starts at the very
8 beginning of that paragraph, but they're talking about
9 off-site waste burial, approval of off-site waste burial.
10 How does that square with your definition of on-site waste
11 burial?

12 THE WITNESS: Can you give me a moment to read
13 this?

14 HEARING EXAMINER: Surely. Why don't we take
15 about a ten minute break and let you finish reading that
16 letter?

17 THE WITNESS: Okay.

18 (Note: A break was taken.)

19 HEARING EXAMINER: Let the record reflect that
20 we're returning from break in Case No. 14251. The record
21 should also reflect that all three Commissioners are
22 present. We were about to begin redirect examination of
23 Mr. Lane.

24 MS. MUNDS-DRY: Actually, Mr. Chairman, I think
25 you were asking Mr. Lane about Exhibit 20.

1 HEARING EXAMINER: I finished.

2 MS. MUNDS-DRY: I think we took a break so
3 Mr. Lane could review the exhibit.

4 HEARING EXAMINER: That's correct, yes, I'm
5 sorry. Mr. Lane, did you get a chance to review that
6 exhibit?

7 THE WITNESS: I did.

8 HEARING EXAMINER: And was my interpretation
9 correct?

10 THE WITNESS: I'll read just the first sentence
11 in that paragraph, and then I think I can address your
12 question that you asked me. The second paragraph says --
13 and I'm assuming that refers to the BLM:

14 "We recently met with Williams to
15 discuss the details and merits of their
16 proposal for a closed-loop system and
17 off-site waste burial."

18 Your question to me was, how does their
19 statement of off site jibe with our definition and
20 interpretation of the Rule as far as on site.

21 HEARING EXAMINER: Right.

22 THE WITNESS: Here -- Well, first of all,
23 Mr. Lovato with the BLM who signed this is not well versed
24 with the Rule. We did discuss the reasoning that we
25 were -- and the reason that we felt that we could get

1 acceptance of the application that we proposed, but
2 Mr. Lovato is referring to off site in reference to the
3 well.

4 And it is, as stated earlier in my testimony,
5 Williams' contention that there is no definition of on
6 site in the Rule, and that where it is referenced is in
7 reference to the pit and the burial of the waste on the
8 site where the pit is located.

9 HEARING EXAMINER: Okay. But Mr. Lovato -- I'm
10 not sure I would accept your idea that he's not well
11 versed in this subject, but in the second to last
12 paragraph, the last paragraph before the closing sentence,
13 he again refers to off-site disposal.

14 THE WITNESS: He does.

15 HEARING EXAMINER: I have no further questions.

16 COMMISSIONER OLSON: I just have a follow up on
17 on site.

18 HEARING EXAMINER: Commissioner Olson.

19 COMMISSIONER OLSON: If I asked you to go work
20 on site at rig at Aztec, would you show up in Farmington?

21 THE WITNESS: On site as in reference to the
22 rig, so I would show up on the site where the rig is
23 located.

24 COMMISSIONER OLSON: The site where the activity
25 is occurring, right?

1 THE WITNESS: You asked me -- If I understood
2 your question, you stated you would have instructed me to
3 go on the site where the rig was located.

4 COMMISSIONER OLSON: Uh-huh.

5 THE WITNESS: And so, if the rig is located in
6 Farmington, then I'm on the site where the rig is located.

7 COMMISSIONER OLSON: So the site is the location
8 of the activity, correct?

9 THE WITNESS: Where the rig is, yes.

10 COMMISSIONER OLSON: Okay. That's all I have.

11 HEARING EXAMINER: Okay. Ms. Munds-Dry?

12 MS. MUNDS-DRY: Yes, sir, I do have some
13 questions on redirect.

14 REDIRECT EXAMINATION

15 BY MS. MUNDS-DRY:

16 Q. Mr. Lane, let's pick up right there where
17 Commissioner -- and I think all the Commissioners are
18 trying to understand the basis for your opinion. What do
19 you -- or what does Williams base its opinion on that on
20 site is where the pit is located? Let's walk through
21 that.

22 A. I guess -- I can reference the denial letter,
23 and Williams would not have conceived of doing this if we
24 had not spent some time reviewing the Rule related to
25 this.

1 Q. And what are you looking at there?

2 A. I'm back on Williams Exhibit 5.

3 Q. Thank you.

4 A. I could read through the whole thing, but I --
5 I'll just pick up in the denial where it says,

6 "Pursuant to the on-site closure
7 method provisions of 19.15.17.13F NMAC,
8 an operator may use in-place burial, burial
9 in an existing temporary pit for closure
10 of a temporary pit, or bury the contents
11 of a drawing pad associated with the closed-
12 loop system in a temporary pit that the
13 operator constructs in accordance with
14 for closure."

15 So then with that -- I'm sure I've got it
16 here -- I then went back and referenced the Rule --
17 Actually, this denial came after we made the application.
18 But in studying rule 17.13F, F talks about on-site closure
19 methods. And it's in reference to the pit not the well.

20 So we can go on, but on site, again is
21 referencing on site of the pit. It doesn't talk about it.

22 I went back to the Rule and I also studied the
23 definition of temporary pit in the definitions in
24 1915.17.7I. In the definitions, temporary pit means a pit
25 including drilling or workover pit which is constructed

1 with the intent that the pit will hold liquids for less
2 than six months and will be closed in less than one year.

3 Here again, the definition doesn't tell me where
4 the pit has to be located relative to the well. And I
5 don't have the definitions in front of me, but if I go I
6 believe to the general definitions in the OCD rules, the
7 definition of a pit, once again, does not stipulate or
8 state where the pit is located. It references the use of
9 the pit but not where it's located.

10 Q. And the denial in Exhibit No. 5 references
11 19.15.17.13F. Do you have that section of the Rule with
12 you?

13 A. I do.

14 Q. Did you review this portion of the Rule before
15 you submitted your application?

16 A. Yes, I did.

17 Q. And where in here, if you could locate for us,
18 Mr. Lane -- I'm sorry to put you on the spot -- did you
19 read to indicate that this application was appropriate for
20 Williams to submit?

21 A. Well, there's a couple of places, and I think
22 the denial also highlights it. But in F(c), it says, "The
23 operator shall comply with the closure requirements in
24 Paragraphs 2 and 3 as applicable of subsection F of
25 19.15.17.13 NMAC.

1 If the proposed closure method for a drawing pad
2 associated with a closed-loop system, or for a temporary
3 pit, involves on-site burial pursuant to Paragraph 2.

4 So here again, although we're not proposing to
5 use a drawing pad, and use of drawing pads is usually an
6 interim step in waste management, it's a reduction in the
7 water content in those solids, but you're still -- solid
8 movement. We're skipping that step to use a temporary
9 pit.

10 And then further in the Rule, in-place burial,
11 which is Paragraph F2:

12 "Where the operator meets siting
13 criteria specified in Paragraphs 2 or 3
14 of Subsection C of 19.15.17.10 NMAC, and
15 the applicable waste criteria specified
16 in Subparts C or D of Paragraph 2 of
17 Subsection F of 19.15.17.13 NMAC, an
18 operator may use in-place burial, burial
19 in an existing temporary pit for closure
20 of a temporary pit, or bury the contents
21 of a drawing pad associated with a closed-
22 loop system in a temporary pit."

23 So I was led to believe that we could associated
24 a closed-loop system with a temporary pit system and
25 that -- I believe the authors were envisioning that there

1 may be opportunity or situations in which that would
2 occur. Our application is one of those situations where a
3 closed-loop system would be used at an environmentally
4 sensitive location, and that the temporary pit to manage
5 the waste obviously could not be permitted in that site
6 because you failed siting criteria and everything, would
7 have to be cited somewhere else.

8 Q. So going back up to F where it discusses on-site
9 closures, what in your opinion is on-site modifying?

10 A. Pits. It's not modifying the well or anything
11 else, it's modifying pits.

12 Q. Let's go to -- Ms. MacQuesten asked you some
13 questions about the dimensions of the pit that we listed
14 in your June 18 C-144.

15 A. Okay.

16 Q. First let me ask you, when you submit a C-144 to
17 the District Office, are the dimensions that are actually
18 constructed always followed as you indicated in the C-144?

19 A. As closely as possible, they are, but we do have
20 to make some changes. Soil conditions and other siting
21 conditions, the sides of the rig where the pipe rack or
22 other infrastructure is configured associated with that
23 may dictate that we have to move the pit or change the --
24 not really move the pit but change the dimensions of the
25 pit. The critical criteria that we can't change and do

1 not change, is the depth of the pit, because that's part
2 of the siting criteria.

3 Q. And I believe you testified that the C-144 is a
4 plan?

5 A. It is a plan.

6 Q. When you do have a change in the dimensions from
7 what you actually expect in the plan, do you submit some
8 sort of amendment or modification to the C-144 to show the
9 actual dimensions, the as-constructed pit?

10 A. We have not.

11 Q. Does Williams intend to build a new pit at the
12 634-B site?

13 A. No.

14 Q. Will Williams operate and close the temporary
15 pit in accordance with the Pit Rule?

16 A. Yes.

17 Q. Was, if you recall, Exhibit 9, the June 24th
18 denial, was the fact that the dimensions were different in
19 the June 18th C-144 from the C-144 that was submitted for
20 the 634-B listed as a basis or reason of denial by the
21 Division?

22 A. No, not that I read. No, it does not. It would
23 be Page 6.

24 Q. So -- I'm sorry, your answer is?

25 A. I don't read it in there. And when I read

1 Page 6, which is the discussion regarding the dimensions,
2 there's no reference to the 634-B application and its
3 dimensions and different dimensions provided in this
4 application.

5 Q. Mr. Lane, Ms. MacQuesten asked you whether
6 Williams had listed an alternative to its proposed closure
7 method in its C-144; do you recall that discussion?

8 A. Yes, I recall it.

9 Q. In the past when you have submitted C-144
10 applications, has that been required?

11 A. The applications have been approved with the
12 language comparable to what was used in this application.

13 And I guess to add to that is that that led us
14 to believe that it was a foregone conclusion that if we
15 could not meet the siting criteria and the stipulations in
16 here, that the only alternative we were availed to comply
17 with the other -- this rule and the other OCD rules, is
18 hauling of the waste to an OCD approved facility.

19 Q. You said it was a foregone conclusion. Let me
20 ask you this. Who normally reviews the C-144s that you
21 submit to the Division?

22 A. Most of them have been submitted -- well, almost
23 all of them have been initially submitted to the District
24 Office. Actually, all of them have been submitted to the
25 District Office.

1 Q. Have you ever had a circumstance or situation
2 where a C-144 has gone to the Environmental Bureau --
3 besides this application?

4 A. The C-144s for our production pits also went
5 directly to THE environmental Bureau.

6 Q. For production pits?

7 A. Not for temporary pits, but for production pits.
8 And they were the only other type of C-144 that has been
9 submitted to the Environmental Bureau and not the
10 District.

11 Q. Okay well, that's an important distinction. For
12 drilling for temporary pits, have you ever have had the
13 Environmental Bureau review your C-144?

14 A. I don't know if the District Office -- and I
15 would assume that they did counsel or receive some kind of
16 direction from the Environmental Bureau, but our
17 communication has been at the district level. So I can't
18 speculate what happens district and elsewhere.

19 Q. Ms. MacQuesten asked you what is it Williams is
20 actually seeking today. Let's make sure this is clear.
21 What is Williams seeking from the Commission with this
22 application today?

23 A. We are seeking from the Commission to approve
24 the application submitted to the Division on January 18,
25 2010. We feel that it's substantially complete and

1 sufficiently accurate to demonstrate that Williams' intent
2 is to comply fully with the Rule.

3 We're not seeking an exception to the Rule in
4 that the design within this application is what we
5 discussed at length, the closed-loop system at the Salt
6 Water Disposal No. 2 facility well, and the utilization of
7 a temporary pit that is not located adjacent to the well
8 and on another location where the temporary pit is also
9 cited and meets all the requirements, that being the
10 634-B.

11 Q. And I'm sorry, Mr. Lane, what was it you said
12 our application was? I want to make sure since we have
13 a --

14 A. It is the last application, the June 18, 2010
15 application.

16 Q. Is it your opinion that the Commission could
17 impose conditions in their order?

18 A. They certainly could.

19 Q. Let me ask you this. When you submit a C-144,
20 does the Division ever impose conditions on that C-144?

21 A. A good example is the recent letter they sent us
22 on the 634-B, administrative modifications of additional
23 conditions to an existing C-144, which is Exhibit 12. So,
24 that process does and has happened.

25 Q. And you also had several questions on the notice

1 we provided to surface owners. Have you provided notice
2 of each of the C-144s we've submitted through this process
3 to the surface owners?

4 A. We have.

5 Q. Has Williams met with the BLM before service to
6 discuss their plans?

7 A. We have on a number of occasions.

8 Q. Let's go to Exhibit 18. That's your greenhouse
9 gas emission table. Ms. MacQuesten asked you if we should
10 also evaluate the difference between -- if we should
11 compare between the 394-A and the 634-B, if you made any
12 calculations comparing between going a mile and ten miles
13 away. Do you recall that questioning?

14 A. I honestly don't recall specifically, but ask
15 the question, because I'm not sure --

16 Q. Let me just ask you this. Can we put a pit at
17 the 394?

18 A. No.

19 Q. You were asked why this application is not a
20 centralized facility. Is Williams seeking to permit for a
21 wind farm?

22 A. No.

23 Q. Is Williams seeking to permit to operate a
24 landfill?

25 A. No.

1 Q. You were asked whether it would be easier to
2 file for an exception. If we could go to Exhibit 5. We
3 read this before. Did the OCD indicate even if an
4 exception were pursued what the outcome or what sort of
5 permit Williams should seek?

6 A. It says:

7 "Off-site disposal would require
8 the operator to obtain a surface waste
9 management facility permit, landfill permit
10 in accordance with 19.15.36 NMAC, unless
11 the waste material is hauled to a
12 Division-approved facility."

13 So, I'm assuming they want us to permit a
14 permanent facility, and that's not our intent.

15 Q. And if we turn to Williams Exhibit No. 9,
16 Page 3, did the Division offer that same opinion in that
17 letter as well?

18 A. Reading the third paragraph down starting on,
19 "Based on statements," we say, overall, yes, providing the
20 same direction.

21 HEARING EXAMINER: Why don't you read into the
22 record what you based that conclusion on.

23 A. "Based on statements made by Williams
24 (see above), OCD has determined that the
25 proposed temporary pit would be only used for

1 off-site disposal for field waste, i.e.,
2 cuttings from the Rosa Unit SWD No. 2.

3 "The disposal of oil field waste in
4 an off-site location is only allowable with
5 a permit in compliance with the surface
6 waste management facility provisions of
7 19.15.36 NMAC.

8 "Surface waste management facility
9 regulations, 19.15.36.8A NMAC specified that
10 no person shall operate a surface waste
11 management facility other than a small land
12 farm registered pursuant to Paragraphs 1 of
13 Subsection A of 19.15.36.16 NMAC, except
14 pursuant to in accordance with the terms and
15 conditions of a Division-issued surface waste
16 management facility permit."

17 That appears to be consistent with the language
18 that's in the initial denial.

19 MS. MUNDS-DRY: No further questions.

20 HEARING EXAMINER: Ms. MacQuesten, recross
21 limited to the subjects on redirect or the Commissioners
22 questions?

23 MS. MacQUESTEN: Thank you.

24 RECROSS-EXAMINATION

25 BY MS. MacQUESTEN:

1 Q. Mr. Lane, could you turn to Williams' Exhibit
2 No. 20, the letter from Mr. Lovato of the BLM?

3 A. Yes, ma'am.

4 Q. Chairman Fesmire asked about two instances where
5 Mr. Lovato used the phrase "off site" to describe what
6 Williams was proposing. Do you remember those questions?

7 A. Yes.

8 Q. I actually received four instances where off
9 site was used, and I'd like to have you look at those
10 instances. On the third line of the first paragraph, it
11 talks about Williams is seeking to dispose of waste at an
12 off-site well location. Do you see that one?

13 A. Yes, ma'am.

14 Q. And if you go down to the second paragraph, it
15 talks about meeting with Williams to discuss the proposal
16 for a closed-loop system off-site waste burial. Do you
17 see that one?

18 A. Yes.

19 Q. And still in that paragraph, halfway through the
20 paragraph it says, "These proposals," including the
21 off-site waste management proposal under a particular case
22 that Williams is bringing again in this off-site waste
23 management proposal, do you see that one?

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

25 Q. And the next paragraph it talks about -- in the

1 second line, "Off-site disposal of solid waste." Would
2 you agree Mr. Lovato is using the phrase "off site" the
3 way it is commonly used?

4 A. The reference here is to -- and I think the
5 first example is where Mr. Lovato's reference is, that
6 he's referring to off site, off-site well. So he is
7 referring to off the site of the well. The Pit Rule talks
8 about on-site closure, and it's referencing the pit, not
9 the well. And the Rule -- I'm sorry.

10 Q. Go ahead.

11 A. And so, when we prepared this original
12 application -- or the original C-144 looking at a
13 closed-loop temporary pit, we looked very closely at this
14 very question, off site of the well location, and read the
15 Rule to see if there was anything in the Rule that read
16 the same way. And it doesn't. On site refers to the pit.

17 Q. Let's go to the Rule.

18 A. Okay.

19 Q. And you in your redirect were looking at
20 19.15.17.13F. If you could turn to that provision.

21 A. Yes.

22 Q. And the heading of that subsection is "On-Site
23 Closure Methods." Do you see where I am?

24 A. I do.

25 Q. If you read through Section F, you'll see

1 different types of on-site closure methods. Do you agree
2 with that? Let me point out specific words.

3 A. Okay, please.

4 Q. If you go to -- And all are these are within the
5 Subsection F entitled "On-site Closure Methods." If you
6 go to Paragraph 2, there's "In-Place Burial"?

7 A. Uh-huh.

8 Q. If you go to Paragraph 3, there's "On-Site
9 Trench Burial." Do you see that?

10 A. I do.

11 Q. And there are discussions -- if you look at
12 Paragraph 2F, for example, there is a provision for the
13 construction of a temporary pit for disposal of the
14 drawing pad. Do you see that?

15 A. I see, yes, ma'am.

16 Q. Okay. Are there any closure methods recognized
17 by Part 17 other than disposal at an OCD approved facility
18 that aren't covered under the heading "On-Site Closure
19 Methods"?

20 A. If I understand the question, it's either
21 excavate, and essentially there's excavate and haul, or
22 on-site closure.

23 Q. Right.

24 A. That's what you're asking?

25 Q. Yes. And there's various types of on-site

1 closures under the title "On-Site Closures."

2 A. I would agree.

3 Q. It's your position that we're using the phrase
4 "on-site closure," the Commission was saying wherever
5 closure occurs?

6 A. Closure where the pit is located.

7 Q. Well, that's one type of on-site closure, right?
8 That would be the in-place burial provision?

9 A. Yes.

10 Q. And that's under the title "On-Site Closure
11 Methods"?

12 A. Yes.

13 Q. Do you agree that it should be read in
14 connection with the title?

15 A. That's fine, yes.

16 Q. That these methods are limited to on-site
17 closure methods?

18 A. I would agree. But if we take the title, the
19 title all the way back to the beginning of the part,
20 Part 17, fits closed-loop systems, for low grade tanks,
21 and sumps.

22 Q. Your point being?

23 A. On-site closure methods for -- I'm assuming --
24 pits, closed-loop systems, for low grade tanks, and sumps.

25 Q. So it's your position that when the Commission

1 uses the phrase "on-site closure methods," the on-site was
2 referring to the pit or trench or other -- those are the
3 only two options, right, the pit or the trench. It's
4 referring to where the pit is located?

5 A. Where the pit is located, yes.

6 Q. Why did you need to say on-site?

7 A. I don't know, but that's what the Rule has.

8 Q. So the Commission means the Rule for no purpose
9 at all?

10 A. I believe that the word is there to say that --
11 that where the pit is, if you are not going to close the
12 material in the pit -- the waste in the pit on site, on
13 the site where the pit is, then, what you just asked me
14 earlier, then the other option is, it's off the site where
15 the pit is.

16 So it tells us where the waste is, is it on the
17 site where the pit is, or has the waste been managed off
18 the site of the pit?

19 Q. What would be off site?

20 A. Well, usually a facility, a pit, or any other
21 infrastructure has boundaries as far as some either
22 right-of-way agreement or some other agreement that the
23 surface owner allows for use of that infrastructure.

24 And so anything outside the boundaries of that
25 becomes off the site.

1 Q. So you make that reference in the Pit Rule?

2 A. No, ma'am, it's not. But it's not referenced in
3 Mr. Lovato's letter either.

4 Q. Well, you took issue with me when I said
5 Mr. Lovato was using a common understanding of on site and
6 off site. Would you turn to Williams Exhibit No. 2,
7 please? I'd like you to look at -- It's the document with
8 e-mails, and I'd like you to look at the initial e-mail
9 that starts at the bottom half of that page.

10 A. I'm there.

11 Q. I'm looking at the bottom half of that first
12 page. It is an e-mail from you to John Reidinger and Bill
13 Liess?

14 A. Yes, ma'am.

15 Q. Are those both gentlemen with the BLM?

16 A. No. John Reidinger is with the Forest Service.

17 Q. And if you look down at the third paragraph, the
18 first bullet point, you're describing Williams' plans.
19 And it says, "All solids of drilling and completion waste
20 will be transported off site to a temporary pit site."

21 A. Yes, ma'am.

22 Q. So your common use of the term is to take it off
23 site when waste is generated?

24 A. Yes. Well I -- You said common practice? It's
25 not a common practice.

1 Q. Common usage of the expression "on site" and
2 "off site" when referring to waste disposal. You don't
3 commonly say that -- or referring to waste disposal, it's
4 where it's being taken from to be disposed of? You don't
5 agree with that?

6 A. I wasn't sure you were asking me a question.

7 Q. Okay.

8 A. I would agree that off site refers to where the
9 pit waste is generated in this case.

10 Q. Let's look at what the Commission has said with
11 regard to off site and on site. I'd like you to look at
12 OCD Exhibit No. 18. You were provided this as a courtesy.
13 This is a copy of the order of the Commission in the rule
14 making adopted as Part 17.

15 And I'd like you, Mr. Lane, to turn to Page 11
16 of that order, Paragraph 68, which is the last paragraph.
17 Could you read that to us, please, the first sentence?

18 A. Subsection C of 19.15.17.10 NMAC specifies those
19 locations where an operator may not implement on-site
20 closure methods where the waste that is generated from the
21 drilling or workover of the well is buried on or near the
22 well pad. On-site closure --

23 Q. That's fine. Just to clarify, the sentence is
24 talking about on-site closure methods, and then it puts in
25 parentheses "where the waste that is generated from

1 drilling the workover well is buried on or near the well
2 pad." Do you see that?

3 A. Yes, ma'am.

4 Q. So the Commission's understanding of what is
5 meant by on-site closure methods, is referring to closure
6 methods near where the waste is generated, isn't it?

7 A. Are you asking me to interpret what the
8 Commission intends -- I'm sorry, I asked a question. I'm
9 not supposed to do that.

10 Q. Yes or no? That's what you've been doing when
11 you're saying that you believe the Rule when it says
12 on-site closure means wherever the closure is. I'm asking
13 you if you still hold that opinion after reading this
14 description of on site by the Commission?

15 A. I still hold that opinion, yes.

16 Q. Ms. Munds-Dry asked you about our discussion
17 regarding the dimensions of the pits, the pit at 634-B,
18 and the dimensions requested in your application for the
19 SWD well. Do you remember that?

20 A. Yes.

21 Q. And she asked you if the denial letter that the
22 OCD issued, raised the issue of the dimensions of the
23 pits, and you said it did not; is that right?

24 A. That is not my understanding of what she asked
25 me.

1 Q. What is your claim regarding the denial letter
2 issued by the OCD with regard to the pit dimensions?

3 A. I want to make sure we're referencing Exhibit 9.

4 Q. Yes.

5 A. And the question I had been asked was, whether
6 or not this letter addressed the discrepancy between the
7 pit dimensions in the approved 634-B in this denial
8 letter, and there is no reference to the 634-B pit and its
9 dimensions.

10 Q. Okay, that's your testimony now.

11 A. No, that is what I was asked.

12 Q. Well, could you turn to Page 6 of Williams'
13 Exhibit 9, the denial letter?

14 A. Yes, ma'am.

15 Q. Let's look about the middle of the page, there's
16 a heading, "Additional issues regarding Williams'
17 proposal"?

18 A. Yes, ma'am.

19 Q. Could you read the first three paragraphs of
20 that?

21 A. "And though OCD's denial of Williams'
22 pit permit application for the Rosa Unit SWD
23 No. 2 is based solely on Williams' permit
24 application of June 18, it 2010.

25 "OCD also considers the activities

1 currently approved for drilling of the
2 Williams' Rosa Unit 634-B.

3 "The following are issues not identified
4 or addressed in Williams' current application
5 for the June 18, 2010 Rosa Unit SWD No. 2
6 proposal.

7 "Williams is currently drilling its Rosa
8 Unit 634-B. The C-144 permit application for
9 this well, which was approved by OCD's Aztec
10 district office on March 16, 2010, includes
11 the construction and use of a temporary pit
12 in the same location of the temporary pit
13 proposed in the June 18 2010, permit appli-
14 cation for Rosa Unit SWD No. 2.

15 "The dimensions of that temporary pit
16 approved for Rosa Unit 634-B are, 80 feet
17 length, by 40 feet width, by 20 feet depth.

18 "OCD approved Williams' proposal to close
19 a temporary pit for the Rosa Unit 634-B
20 by the on-site closure method of in-place
21 burial.

22 "Williams' proposal regarding con-
23 struction of a temporary pit at the Rosa
24 Unit 634-B well site for the disposal of
25 waste generated from the drilling of Rosa

1 Unit SWD No. 2 with a closed-loop system
2 does not consider the excavation of the waste
3 generated from the drilling of the Rosa Unit
4 634-B well and burial in the existing
5 temporary pit.

6 "The dimensions of the proposed
7 temporary pit in the Rosa Unit SWD No. 2
8 permit application of 100 feet length, by
9 100 feet width, by 20 feet depth, the
10 installation of the proposed temporary
11 pit would require the complete excavation
12 of the existing buried waste from the
13 drilling of the Rosa Unit 634-B well.

14 "Williams does not address the
15 excavation of the existing buried waste
16 at the Rosa Unit 634-B well site in its
17 June 18, 2010 permit application in
18 order to construct its proposed temporary
19 pit for disposal of waste generated from
20 the drilling of the Rosa Unit SWD No. 2
21 with a closed-loop system."

22 Q. After reading this, do you agree that the OCD
23 did address the dimensions of both the 634-B and the
24 proposal for the SWD No. 2?

25 A. They did. They mentioned the discrepancy

1 between the pit dimensions, yes.

2 Q. And they expressed their concern as to how you
3 were going to construct a 100 by 100 pit on the site of an
4 80 by 20 foot?

5 A. Yes.

6 MS. MacQUESTEN: No further questions.

7 COMMISSIONER OLSON: Well, I guess you would
8 agree that in-place burial, the pit is buried in place on
9 the site of the pit, correct?

10 THE WITNESS: Yes.

11 COMMISSIONER OLSON: And on on-site trench
12 burial, another pit is dug not on the site of the pit,
13 correct?

14 THE WITNESS: Correct.

15 COMMISSIONER OLSON: Okay. That's all I got.

16 HEARING EXAMINER: Ms. Munds-Dry, anything on
17 that question?

18 MS. MUNDS-DRY: No, sir.

19 HEARING EXAMINER: Okay. Well, adjourn now?
20 Why don't we adjourn here at 5:00? We will reconvene
21 tomorrow morning at 8:00 in the morning. We're going to
22 go through until 10:00 when we're going to take about a
23 half hour break for Gail and I to attend a conference
24 call. We will be done by 4:00 tomorrow. Anything else?

25 All those in favor of continuing this case until

1 tomorrow morning at 8:00 a.m. in this room signify by
2 saying "aye."

3 COMMISSIONER OLSON: Aye.

4 COMMISSIONER BAILEY: Aye.

5 HEARING EXAMINER: Aye. We're adjourned.

6 (Whereupon, the proceedings concluded.)
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25


1 STATE OF NEW MEXICO)
) ss.
 2 COUNTY OF BERNALILLO)

3
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

REPORTER'S CERTIFICATE

I, PEGGY A. SEDILLO, Certified Court
 Reporter of the firm Paul Baca Professional
 Court Reporters do hereby certify that the
 foregoing transcript is a complete and accurate
 record of said proceedings as the same were
 recorded by me or under my supervision.

Dated at Albuquerque, New Mexico this
 10th day of August, 2010.


 PEGGY A. SEDILLO, CCR NO. 88
 License Expires 12/31/10