

EXHIBIT C

ALAN DAY
FAZZINO INVESTMENTS vs BRAZOS VALLEY

July 16, 2025

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

FAZZINO INVESTMENTS, LP,)
for itself and all others))
similarly situated,)
)
Plaintiffs,)

Vs.) CASE NO. 6:25-CV-0001-ADA-DTG)

BRAZOS VALLEY GROUNDWATER))
CONSERVATION DISTRICT,)
)
Defendant.)

* * * * *

VIDEOTAPED DEPOSITION OF

ALAN DAY

Wednesday, JULY 16, 2025

* * * * *

VIDEOTAPED DEPOSITION OF ALAN DAY, having been
duly sworn by Khadijah Holloway, Notary Public in and
for the State of Texas. The witness appeared in person
at Hotel Indigo, 211 Clay Avenue, Waco, Texas, from 9:06
a.m. to 5:38 p.m., pursuant to Texas Rules of Civil
Procedure and any provisions stated on the record or
attached hereto.

1 A. That's correct. And it's on at least a
2 50-year horizon.

3 Q. And these are called desired future conditions
4 because that's what you're desiring, at some point in
5 the future?

6 A. I suppose that's why it's called that way.

7 Q. What do you think they -- why do you think
8 they're called desired future conditions?

9 A. The way that we look at it, the way that I
10 look at it, it is desirable not to exceed that number.
11 Some people can read that as we desire it to be that
12 number.

13 Q. Of course. And do you look at that as a -- as
14 a district-wide average?

15 A. It is a -- our desired future condition that's
16 adopted by GMA 12, our four other members besides BVGCD,
17 it's a -- it's an adopted number that we have to
18 regulate to. So --

19 Q. But my question is: Do you understand it to
20 be in -- with respect to BVGCD itself, an average across
21 the District?

22 A. That is correct, yes.

23 Q. And -- and let me be specific. You don't
24 regard it as a number that applies to specific
25 properties or specific wells?

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1 A. That is correct, yes.

2 THE WITNESS: Can we take a break? I just
3 need to --

4 MR. JONES: Absolutely.

5 THE WITNESS: -- go into the restroom, if
6 that's all right.

7 THE VIDEOGRAPHER: The time is now 9:57 a.m.
8 We're off the record.

9 (Recess from 9:57 a.m. to 10:04 a.m.)

10 THE VIDEOGRAPHER: All right. This is Media
11 Tape Number 2. The time is now 10:04 a.m. We're back
12 on the record.

13 BY MR. JONES:

14 Q. Mr. Day, we talked previously about the fact
15 that I've deposed you before, if you've given any other
16 depositions at all, except that one?

17 A. No, sir.

18 Q. Have you ever testified in court?

19 A. No, sir.

20 Q. Have you ever testified in any other kind of
21 proceeding?

22 A. Not that I recall.

23 Q. Have you testified before the Texas
24 Legislature?

25 A. Yes, sir, I have.

1 would take the permitted amount or the amount that
2 you're asking for, we annualized that by using a
3 factor -- multiplied by a factor of .62 that gets you to
4 an average annual gallons per minute, and then we
5 multiplied by a factor of one to equal the radius of the
6 circle. That was prior to September the 14th of 2023.

7 Q. So if I brought you an application today that
8 utilized the one-foot spacing that you just described,
9 that would not be in compliance with your current rule,
10 correct?

11 A. Correct.

12 Q. And you would say that was administratively
13 incomplete?

14 A. Yes.

15 Q. Every time?

16 A. Yes.

17 Q. No exceptions?

18 A. Correct.

19 Q. And the reason you would do that is if it
20 doesn't comply with your new rule, which is two feet per
21 average annual gallons per minute?

22 A. Yes.

23 Q. Topic 3, you touched on briefly earlier,
24 "Persons holding drilling or operating permits issued
25 before September 14, 2023." What did you do to prepare

1 Q. Is it your testimony that the reason you
2 changed Rule 6.1 related to the permits issued to
3 Upwell?

4 MR. DE LA FUENTE: Object to form.

5 THE WITNESS: That -- you need to restate
6 that. It's -- that -- it's not -- it's not the -- let's
7 see -- if -- if you'd ask the question again.

8 BY MR. JONES:

9 Q. I think I understood you to say, a moment ago,
10 that in response to this Topic 9, the reason Rule 6.1
11 was changed back in September 14, 2023, related to, in
12 some way, the fact that Upwell had purchased Dr. Stiles'
13 farm and applied for some other permits.

14 A. No, sir. That's not right.

15 Q. What was the reason?

16 A. That was part of the reason. We had many
17 permits. A landslide of permits that came in from the
18 Simsboro Aquifer. Our job is to make sure and not
19 exceed the desired future condition. And the events
20 beginning in 2021, carrying through 2022 into 2023,
21 became clear that the landslide of permits that we were
22 getting under our then-current rule was -- could in the
23 future affect our ability to follow along our trending
24 DFC line, our flight path to 262 feet in a very
25 detrimental way. And it -- it was something that the

1 Board needed to consider and understand what could
2 happen down the road.

3 Which was one of the reasons that I had James
4 Beach to begin preparing the documents with each of
5 those applications, when he would review a
6 hydrogeological report that was presented from any of
7 the landowners. And they presented them, but they
8 didn't have to show what is the effect of this well
9 and/or wells on the DFC. It was simply done on a single
10 well basis. How does this pumping affect the aquifer?

11 It didn't show -- we weren't requiring them at
12 that time to have to show what is the effect on the
13 desired future conditions. That's where I had James
14 begin to show that to the Board so they would
15 understand. And so it -- it's about the protection of
16 the aquifer and about doing our very best not to exceed
17 the desired future condition yet allowing for proper
18 property -- private property rights to be used.

19 Q. So you're saying that in part the reason --
20 that the thing that triggered a change in the rule in
21 September 2023, with this landslide of permit
22 applications?

23 A. That was part of it.

24 Q. You also had --

25 A. We also -- we also had on the ground evidence

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1 from the summer of 2022, which was -- rattled the 2011
2 drought, no rain, and extremely hot temperatures. And
3 the Simsboro pumps turned on in the bottom. So we had
4 agricultural pumping, and the pumps weren't being turned
5 off. We had municipal pumping because people were
6 watering their yards and doing all the things they do.
7 We had rural water supply pumping. We had a much higher
8 than normal Simboro pumping during the summer of 2022.

9 And July the 1st, I had wells in the Simsboro
10 becoming inoperable, Calvert livestock auction, Monique
11 -- I mean Monica Otia (phonetic). I can -- I know of
12 five wells in the first week of July that either had to
13 be redrilled or pumps burned up and wells had -- and
14 pumps had to be lowered. So there was something going
15 on that had never gone on before began to go out to our
16 monitoring wells that we had -- we had earlier in the
17 year been to, and now we have a precipitous drop in our
18 artesian head, and it -- and it is much more than it has
19 ever been.

20 So now we -- it -- it became apparent that the
21 effect of the pumping that we now can measure and know
22 exactly what it was was having a larger effect than --
23 or at least having a measurable effect and making wells
24 inoperable and having to be redrilled. So that and the
25 fact that you -- we -- we knew that there was a

1 transport project coming. We knew those were wells that
2 were going to turn on, and they were going to -- they
3 were going to be used.

4 And then the landslide permits came in. The
5 Board needed to be aware and have the ability to reach
6 into their toolbox and use a -- a way to protect the
7 aquifer and to protect us from trying our best not to
8 exceed a future DFC.

9 Q. So I think you're telling me that there are a
10 number of documents that you looked at in the time
11 period of 2021 to 2023, that caused you to believe you
12 needed to change the rule.

13 A. I've reviewed those.

14 Q. And what documents were they?

15 A. The ones that I've already provided to you
16 that I've just have gone back and I-- I enumerated many
17 of those documents to you.

18 Q. Were there any documents indicating the levels
19 of artesian head in wells that you just referred to?

20 A. That would be in our database based on our
21 monitoring well information. I did not go back and
22 review those. They're in my head. I know what that
23 looked like.

24 Q. But the database contains that information?
25 The monthly --

1 Q. Topic 15 has to do with variance -- variances
2 that might have been given after September 14, 2023. I
3 take it you would have recent knowledge of that?

4 A. Yes, I would.

5 Q. And there have been none?

6 A. That is correct.

7 Q. And did you do anything to verify that?

8 A. No, sir.

9 Q. It's hard to verify a negative, I guess,
10 correct?

11 A. I'm sorry. Say that again.

12 Q. It's hard to verify a negative?

13 A. That's --

14 Q. In other words --

15 A. -- that's correct.

16 Q. -- there are no variances, so how do you
17 verify that? You remembered that there were no
18 variances?

19 A. Correct.

20 Q. Would you have been the person at the District
21 to recommend a variance?

22 A. There is no such thing as a variance at the
23 District. So I would be the one that would know that.

24 Q. Are you saying that there's no rule providing
25 for exceptions or variances to your rules?

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1 A. There is no -- there are no variances. We
2 have a waiver that's used in exempt wells. There's a
3 waiver, but there are no variances.

4 Q. So for non-exempt wells, there's no waiver,
5 there's no variance, correct?

6 A. There was a waiver. There is no waiver now.

7 Q. What waiver was there?

8 A. It was the overlapping of -- of moving your
9 wells closer to your other wells.

10 Q. All right. We'll talk about that later.
11 Topic 16, are there -- what did you do to prepare to
12 testify about Topic 16?

13 A. I went back through to -- and -- and looked
14 at, to refresh my memory on the -- the City of Bryan and
15 the City of College Station, the individuals that have
16 served as Board of Directors and of Texas A&M, there has
17 never been one. So I -- I just went back and refreshed
18 on that.

19 Q. What documents did you look at?

20 A. Some of that I believe came from the former
21 transcript of the -- of our deposition before.

22 Q. I asked you about that before?

23 A. Yes, sir, you did.

24 Q. Has anything changed since that testimony?

25 A. In what regard?

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1 BY MR. JONES:

2 Q. I understand. So let's talk specifically
3 about Rule 6.1, inspection.

4 A. Yes, sir.

5 Q. We know that prior to September 14, 2023, the
6 rule required monthly inspections.

7 A. Yes, sir.

8 Q. We know that after September 14, 2023, the
9 rule requires two inspections.

10 A. Yes, sir.

11 Q. What impact does that have with respect to the
12 amount of property that you have to own or control?

13 MR. DE LA FUENTE: Object to form.

14 THE WITNESS: So are you -- okay. Are you
15 asking if I want the same amount of water? Is that --
16 is that the way -- BY MR. JONES?

17 Q. Yes.

18 A. -- we're going about this?

19 MR. DE LA FUENTE: All right. I'm sorry. I
20 believe Richard's knocking because the door's locked.
21 Don't let him in.

22 THE WITNESS: With regard to before September
23 14, 2023, if you wanted X amount of water, it equaled a
24 certain contiguous amount of acreage in the footprint.
25 After September the 14th of 2023, you would have to have

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1 four times as much land in the contiguous footprint to
2 get the same amount as you had before. BY MR. JONES?

3 Q. Conversely, if you have the same amount of
4 land before and after that date, so let's say you have
5 640 acres of contiguous property before September 14,
6 2023, and you had the same amount of land after that
7 same day. You with me so far?

8 A. Uh-huh.

9 Q. Then you could only get 25 percent as much
10 water.

11 A. That is not correct.

12 Q. Why is that not correct?

13 A. You can get 50 percent of the amount of water
14 off the same property. Because the factor is by two.
15 So it would be four -- let's take a -- let's make an
16 example here. I wanted 1,000 acre-feet off the
17 property. And you go through our formula before
18 September 14th of 2023, and it yields an amount of
19 acreage. And you would multiply 1,000 times .62 times 1,
20 equals the radius of the circle. Radius of the
21 footprint.

22 If I go through now and say I've got the --
23 and it equal a certain amount of acreage, if I then say
24 how much can I get off that acreage today, it will be 50
25 percent because it is the amount of water times .62 times

1 Once it reaches that, then historic use
2 permits, when the percentage of curtailment is
3 determined, here's how much we need to reduce in order
4 to bring our pumping back to and not exceed the DFC, the
5 corrective measure, then historic use permits would be
6 curtailed X percentage. And all other operating permits
7 in that particular aquifer would be reduced twice as
8 much from the actual production.

9 Q. So historic use permits are not treated the
10 same as operating permits?

11 A. In this respect, yes.

12 Q. And in that same example, would it -- would --
13 when we're looking at the desired future condition,
14 which is targeted at currently 2070, correct?

15 A. Yes, sir.

16 Q. What you're saying is, I think if you reach a
17 certain percentage of -- and it's stated -- an artesian
18 head pressure?

19 A. Yes, sir.

20 Q. Depths to water in a wellbore?

21 A. Correct.

22 Q. Reduction in that depth on average across the
23 District?

24 A. Yes, sir.

25 Q. That is currently set at what?

1 A. Our current DFC for the Simsboro is a 262 foot
2 -- feet of artesian reduction across -- average across
3 the District and by year 2070.

4 Q. And so what your goal is -- currently is to
5 have no more than that amount of reduction by 2070?

6 A. That is correct.

7 Q. I think what you're telling me is you're
8 looking at various -- in addition, like monitoring wells
9 and so forth, to see what the reduction is today.

10 A. We're constantly looking at that. That is
11 correct.

12 Q. And then projecting out into the future to see
13 if you're going to have, in 2070, no more reduction than
14 that amount, 268 feet or whatever it is?

15 A. Yes. We have a linear line that says it
16 started here in 2000, that's when the DFCs were -- were
17 zeroed back to 2000.

18 Q. Well --

19 A. And a linear line going to 2070 is that if you
20 pump constantly, then here's that linear line, and
21 you've reached the DFC in 2070, and we are continually
22 looking at that line as the baseline. And then we're
23 taking and looking at every single year we go and figure
24 what -- how much artesian head have we -- is -- how much
25 decline has there been in 2021, 2022, right on up that

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1 MR. JONES: We haven't sent you a deed?

2 MR. DE LA FUENTE: You sent me a deed, but
3 your responses say it includes this 69-acre tract, but
4 you have not said that's the only tract.

5 BY MR. JONES:

6 Q. Have you seen the deed to this 69-acre tract
7 that Mr. de la Fuente just referred to?

8 A. Not that I remember.

9 Q. Are you aware that Fazzino Investments owns a
10 69-acre tract that has no current permit on it?

11 A. Yes.

12 Q. Do you know where that tract is?

13 A. Yes.

14 Q. How do you know that?

15 A. I knew that he owned a 69-acre tract that was
16 -- basically surrounded the wrecking yard, that sits
17 between Highway 6 and Old Hearne Road. I have spoken
18 directly with Charles Fazzino about that tract.

19 Q. Okay. What has that conversation been like?

20 A. What has it been like?

21 Q. Yeah. What -- what did Mr. Fazzino say to
22 you, you say to him?

23 A. He -- he needed to know what was the largest
24 footprint that he could draw on the property and how
25 much water he could get under today's rules?

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1 Q. Under today's rules?

2 A. Under today's rules.

3 Q. So if he presented to you as a general manager
4 of the Groundwater District with an application that
5 asked for allocation under the old rules, you would
6 consider that administratively incomplete, correct?

7 A. That is correct.

8 Q. And you would not submit to the Board?

9 A. That is correct.

10 Q. And no permit would be issued?

11 A. It would not. Not under that -- those
12 circumstances, that's correct.

13 Q. And as you told me earlier, there are no
14 exceptions?

15 A. There are no exceptions.

16 Q. Did you make a calculation as to what kind of
17 well he could put on that 69-acre tract under the new
18 rules?

19 A. Yes, I did.

20 Q. Do you remember what that calculation showed?

21 A. Five hundred and eighty-five acre-feet. That
22 was roughly -- it's in the ballpark.

23 Q. And that was just running the numbers through
24 the formula?

25 A. That was drawing the footprint in the most --

1 that's off there on -- on Old Hearne Road, comes back
2 up, it encircles the wrecking yard, which is a little
3 piece. It's a -- it's a U-shape that doesn't quite come
4 all the way back to Highway 6 on one side and does come
5 all the way to Highway 6 on the south side.

6 Q. So if it's a U-shape, how do you fit a circle
7 in it?

8 A. You put a circle in the place where he owns or
9 controls the water, and it does not exceed his
10 boundaries, his property lines.

11 Q. The circle cannot exceed the boundary lines?

12 A. That is correct.

13 Q. All right. So --

14 A. Which is the same we've been doing since --
15 for a long time.

16 Q. Did you put multiple circles?

17 A. I did not. He asked me -- one well. He said,
18 "I want" -- "what's the biggest circle for one well on
19 that property?"

20 Q. Now --

21 A. He could have put more.

22 Q. By drawing smaller circles?

23 A. Yes, sir.

24 Q. On the circle that you drew, did you --
25 concluded he could have 585 acre-feet. Within that same

1 spot on the property, if the -- he had applied under the
2 old rules, how many acre-feet would he have been able to
3 get?

4 A. It would have been 585 times 2.

5 Q. Which would be something under 1,200 acre-
6 feet?

7 A. Correct.

8 Q. Mathematically. So under the new rules, he
9 could get half?

10 A. That's correct.

11 Q. Does he have the neighbors out there?

12 A. Yes.

13 Q. Are you familiar with the neighbors?

14 A. I think there's a sub -- a trailer subdivision
15 -- trailer park subdivision to his south and back to the
16 north, I'm just not certain.

17 Q. Do you know whether any of his neighbors have
18 wells? By that, I mean non-exempt wells.

19 A. They do not.

20 Q. What's the closest non-exempt well to Mr.
21 Fazzino's property?

22 A. Currently, it would likely be the Wellborn
23 Specialty Utility District Blackjack Well out on 2549,
24 as the crow flies. That's likely to be -- there's a lot
25 of wells that have been permitted, but that would be the

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1 A. Yes.

2 Q. And do you know how many owners that involved?

3 A. I'm not going to say not over -- I think
4 three.

5 Q. Do you know who they were?

6 A. One would be -- again, I believe this to be
7 the case, I think, and I can be wrong on this one,
8 Wickson Special Utility District may have slightly
9 overlapped two of their footprints on Simsboro wells.
10 No, not on Simsboro wells, on -- anyway, they may have.
11 I don't know that one for sure. Wellborn Specially
12 Utility District did it on two of their wells on a
13 property. Charles Fazzino did it on one of his
14 properties recently.

15 Q. Wellborn, so that would be Stephen Cast?

16 A. That's --

17 MR. DE LA FUENTE: Object to form.

18 THE WITNESS: Ask -- just ask the question
19 again, if you don't mind.

20 BY MR. JONES:

21 Q. Okay. Stephen Cast is associated with what
22 Wellborn's done?

23 A. Yes.

24 Q. I'm going to hand you Exhibit 21.

25 (Plaintiffs' Exhibit 21 was marked for

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1 identification.)

2 BY MR. JONES:

3 Q. And ask if you recognize that document? Do
4 you recognize the document?

5 A. Yes. Absolutely.

6 Q. What is it?

7 A. It is a document that I created. This was
8 likely presented during a Board meeting and followed a
9 -- the Rules Committee meeting we had on March 22nd as a
10 follow-up of how we could go about what other
11 groundwater Districts that have changed their spacing
12 rules, how they've gone about doing it.

13 Q. So we see in Exhibit 20, this topic about
14 permitting of wells.

15 A. Yes.

16 Q. And that's the meeting that's referred to in
17 Exhibit 21 at the top, during the Rules Committee
18 meeting held March 22, 2023, correct?

19 A. That's correct, yes.

20 Q. And then in the best of -- of passive voice,
21 it says there was a request made --

22 A. Yes.

23 Q. -- to survey the method. Who made that
24 request?

25 A. I would not. Someone on the committee, or a

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1 Board member that was there because when they have an
2 open meeting, it can be the Rules Committee members and
3 any of the other Board members. So we've posted it for
4 an open meeting, so if the Board members want to come,
5 they can. They're allowed to talk. So I -- I don't
6 know the answer to that.

7 Q. Is it your recollection that a Board member
8 made the request?

9 A. A Board member would have made the request
10 because if it were the public I'm not going to just go
11 do it because the public says. I'm going to be directed
12 by a Board member or a Rules Committee member.

13 Q. So if somebody on the Rules Committee or
14 somebody who was a member of the Board of Directors
15 asked you to survey other Districts?

16 A. Yes, that is correct.

17 Q. And according to the memo, they ask you to
18 survey other Districts, what methods they used to slow
19 down the amount of groundwater being permitted?

20 A. That is correct.

21 Q. In -- in those words?

22 A. I -- I can't say that's exactly, but that was
23 the essence of it.

24 Q. That's why you wrote it that way?

25 A. That is correct.

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1 Q. So they're -- what they're asking you to do is
2 find out what other groundwater conservation Districts
3 have done to slow down the amount of water that's being
4 permitted?

5 A. That's correct.

6 Q. And the idea was they were seeing too many
7 permits being applied for and they wanted to slow that
8 process down?

9 A. I don't know about the other Districts. I
10 know that it's -- in our District it's about the desired
11 future condition and the number -- looking at the total
12 totality of how many permits are -- are being issued
13 and/or have been issued and what that effect could
14 possibly have on our DFC.

15 Q. So someone on the Board wanted to slow down
16 the number of applications being made for permits?

17 A. That's -- I -- I can't say that's true. No, I
18 can't say that's true.

19 Q. Wasn't that your charge?

20 MR. DE LA FUENTE: Object to form.

21 BY MR. JONES:

22 Q. Figure out how to slow down the groundwater
23 being permitted?

24 A. The way you phrased the question it was a no.
25 They wanted to increase -- look at, how do we go about

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1 making it a larger area to be able to obtain a permit,
2 not to slow down the permitting process. It is, now you
3 have to have this much. There's a difference.

4 Q. Well, let me ask you this question: Did the
5 number of applications for permits in the Simsboro
6 Aquifer slow down after September 14, 2023?

7 A. As I said earlier, yes, it has.

8 Q. Dramatically?

9 A. It has dramatically. But the other thing is
10 when everyone knew that the -- because we were already
11 talking about -- had begun to talk about in early 2023,
12 that we're going to start, we're looking at changing --
13 there's going to be some thought of changing the spacing
14 rule and that's when we had a landslide of 150 plus
15 1,000 acre-feet permits.

16 And they left open the entire period so that
17 -- and let everybody know likely a rule change coming.
18 So it was -- it was a known thing. So we had very much
19 of an avalanche, which was quite abnormal. If we hadn't
20 been possibly changing, if it -- if that weren't the
21 case, we may not have gotten that much. So everybody
22 that wanted a permit came and got a permit.

23 Q. How do you know that?

24 A. Okay. I don't.

25 Q. All right.

1 A. Repeat that, please?

2 Q. I think you told me earlier that -- that you
3 recognized that under the new Rule 6.1 after September
4 14th of 2023, you really need four times as much
5 contiguous property to support the same production.

6 A. That's correct.

7 Q. Is -- is that reflected on the second page of
8 the Exhibit 24?

9 A. It apparently is, yes.

10 Q. And so would it appear that somebody at some
11 point in time made these same calculations that -- that
12 you can make today?

13 A. Yes, sir.

14 Q. But again, it's your testimony you don't
15 recognize what this is or when it was generated?

16 A. No, sir. I do not.

17 Q. Or by whom -- by whom it was generated?

18 A. And by whom, I do not know.

19 THE VIDEOGRAPHER: Counsel, when we get to a
20 stopping point, can we take a break, so I can switch the
21 medias?

22 MR. JONES: We can take a break now.

23 THE VIDEOGRAPHER: All right. All right. The
24 time is now 3:50 p.m. We are off the record.

25 (Recess from 3:50 p.m. to 4:00 p.m.)

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1 A. Yes, as it says in the formula.

2 Q. Right.

3 A. Correct.

4 Q. All right. Do you know why Request for
5 Admission Number 11 was denied?

6 A. Let me go back to -- it says "Admit that under
7 old Rule 6.1 that the landowner had a 3,000 gallon a
8 minute well that he had to own or control 649 acres.
9 That's not correct. He can have a 3,000 gallon per
10 minute well and only have some -- but a much smaller
11 total permitted amount.

12 This apparently is assuming that this well is
13 permitted at 3,000 acres -- or at 4,839 acre-feet in
14 order to be 3,000 gallons per minute and have to have
15 649.

16 Q. Okay.

17 A. That's why it's denied.

18 Q. You would admit that if the owner has an
19 average annual production rate in gallons per minute of
20 3,000, that he would need to own or control a radius
21 around the wellbore of 3,000 feet?

22 A. That would be correct. Because if he -- he
23 was operating it at 3,000 gallons per minute average
24 annual, then he would have to have 649 acres to do that,
25 under the old rule.

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1 same as everybody else that has not gotten a permit.

2 Q. So you've got two buckets of rules, right?

3 A. We have many versions --

4 Q. You have a bucket of rules --

5 A. -- of the rules.

6 Q. Spacing.

7 A. And over time, they've changed.

8 Q. You got two buckets of spacing rule people.

9 People who have permits under the one-foot radius rule,
10 right?

11 A. Yes.

12 Q. And then you're saying to me that they're all
13 treated the same?

14 A. That is correct.

15 Q. And then you got this other bucket of people
16 who didn't have permits under the old rule, who, if they
17 desire now to come in and get a permit are going to be
18 under the new rule?

19 A. That is correct.

20 Q. And that's, in your mind, a whole separate
21 bucket?

22 A. Yes, sir.

23 Q. And those people you're saying will be treated
24 the same as other people in that second bucket?

25 A. Yes, sir.

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1 Q. The people in the second bucket are going to
2 have to have four times as much contiguous property to
3 support the same production as those in the first
4 bucket?

5 MR. DE LA FUENTE: Object to form.

6 THE WITNESS: Yes, sir.

7 BY MR. ANDERSON:

8 Q. And four times as much contiguous property is
9 not the same as one times as much, right?

10 MR. DE LA FUENTE: Object to form.

11 THE WITNESS: No, sir. It's not.

12 BY MR. JONES:

13 Q. All right. And by the way, the aquifer is not
14 divided into these buckets, is it?

15 A. No, sir. But it needs someone to manage it.

16 Q. And --

17 A. And that's why my eight guys, my Board
18 members, are tasked with managing that aquifer.

19 Q. And what they chose to do to manage it is
20 treat it like it has little buckets that are discrete --

21 MR. DE LA FUENTE: Object to form.

22 BY MR. JONES:

23 Q. -- from each other.

24 MR. DE LA FUENTE: Object to form.

25 THE WITNESS: I disagree with that.

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1 BY MR. JONES:

2 Q. How do you disagree with that?

3 MR. DE LA FUENTE: Object to form.

4 THE WITNESS: They chose to manage it to make
5 sure that at some point they don't -- they do their very
6 best not to exceed the DFC. A regulatory number that
7 they're charged with doing, and also to do their very
8 best not to get to a curtailment, which affects
9 everyone's property rights.

10 BY MR. JONES:

11 Q. The people in -- in the new permit bucket, the
12 after September 14, 2023, bucket, who have to have four
13 times as much contiguous property as their neighbors,
14 are not, in your book, being treated anything other than
15 just regulatory oversight?

16 MR. DE LA FUENTE: Object to form.

17 THE WITNESS: Everyone is under regulatory
18 oversight.

19 BY MR. JONES:

20 Q. These got --

21 A. Bucket one and bucket two both have regulatory
22 oversight.

23 Q. Different regulatory oversight?

24 MR. DE LA FUENTE: Object to form.

25 THE WITNESS: Only that they chose to get