IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re: EXTRACTION OIL & GAS, INC., *et al.*,[1] Debtors.	Bankruptcy Case No. 20-11548 (CSS) (Jointly Administered)
PLATTE RIVER MIDSTREAM, LLC, DJ SOUTH GATHERING, LLC, AND PLATTE RIVER HOLDINGS, LLC, Appellants, v. EXTRACTION OIL & GAS, INC., Appellee.	Civil Action No. 20-1532 (CFC)

APPELLANTS' RESPONSE TO EXTRACTION OIL AND GAS, INC.'S MOTION FOR CONSOLIDATION OF BANKRUPTCY APPEALS

Appellants Platte River Midstream, LLC, DJ South Gathering, LLC, and Platte River Holdings, LLC (together "Platte River") respond (the "Response") in

[1] The Debtors in the Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number, are: Extraction Oil & Gas, Inc. (3923); 7N, LLC (4912); 8 North, LLC (0904); Axis Exploration, LLC (8170); Extraction Finance Corp. (7117); Mountaintop Minerals, LLC (7256); Northwest Corridor Holdings, LLC (9353); Table Mountain Resources, LLC (5070); XOG Services, LLC (6915); and XTR Midstream, LLC (5624). The location of the Debtors' principal place of business is 370 17th Street, Suite 5300, Denver, Colorado 80202.

opposition to Appellee Extraction Oil & Gas, Inc.'s ("Extraction's") Motion for Consolidation of Bankruptcy Appeals [D.I. 29] (the "Motion").

Extraction's Motion is a two-page pleading which attaches a lengthier response to a motion for consolidation filed in separate appeals commenced by Grand Mesa Pipeline, LLC ("Grand Mesa") and the Federal Energy Regulatory Commission ("FERC") (Case Nos. 1:20-cv-01411, 1:20-cv-01521, 1:20-cv-01458, 1:20-cv-01412, 1:20-cv-01506, 1:20-cv-01564) (the "Grand Mesa/FERC Appeals"). *See* Mot. [D.I. 29, 29-1]. Extraction then incorporates by reference its response in its Motion directed to Platte River. *See id*. [D.I. 29], at 2. Regardless, Platte River will respond to the arguments made in Extraction's response brief, and its Motion, in this single pleading.

As set forth below, Platte River does not oppose consolidating its own two appeals of the Bankruptcy Court's orders directed to Platte River's contracts with Extraction (Case Nos. 1:20-cv-1457 and 1:20-cv-1532) (the "Platte River Appeals"). For procedural and substantive reasons, however, Platte River opposes the consolidation of its appeals with the six Grand Mesa/FERC Appeals.

In support of its response, Platte River states as follows:

1. This case arises out of the Chapter 11 bankruptcy filed by Extraction in the United States Bankruptcy Court for the District of Delaware on June 11, 2020.

See Chapter 11 Voluntary Petition [D.I. 1]. Extraction is an oil and gas producer operating wells in Colorado. *See Ex. A to Mot.* [D.I. 29-1], at 3.

2. Platte River and Extraction are parties to two transportation services agreements (the "Platte River TSAs"), which provide for Platte River to transport Extraction's production from its wells (or a central in-field facility) to terminals located several miles downstream. *See Objection of DJ South Gathering, LLC, and of Platte River Midstream, LLC* [D.I. 655], at 8-9. Grand Mesa and Extraction are parties to two contracts to transport Extraction's production over long distances to destinations outside of Colorado (the "Grand Mesa TSAs"). *See Objection of Grand Mesa Pipeline, LLC* [D.I. 710], at 3-4.

3. In connection with its bankruptcy, Extraction sought to reject its contracts for the transportation of crude oil and natural gas, including the Platte River TSAs and Grand Mesa TSAs. *See Debtors' Second Omnibus Motion to Reject Lease or Executory Contract* [D.I. 412]. Platte River opposed rejection on grounds that: (1) the Platte River TSAs create covenants running with the land, and therefore cannot be rejected under Colorado law; and (2) rejection of the TSAs would be an unreasonable exercise of business judgment, in part given the unique and vital transportation services provided by Platte River to Extraction. *See Objection of DJ South Gathering, LLC, and of Platte River Midstream, LLC* [D.I. 655]. The Bankruptcy Court erroneously held in favor of Extraction on these issues (*see Bench*

Ruling [D.I. 942], and *Order* [D.I. 1038]), a ruling which is the subject of the Platte River Appeals.

4. Grand Mesa opposed rejection of the Grand Mesa TSAs on similar grounds. *See Objection of Grand Mesa Pipeline, LLC* [D.I. 710]. In addition, Grand Mesa sought leave to lift the automatic stay in order to challenge Extraction's rejection of the Grand Mesa TSAs in a proceeding before FERC. *See Mot. for Relief from Stay* [D.I. 364]. FERC supported Grand Mesa's request for leave, citing the public interest in entering into, and rejecting, crude oil transportation contracts. *See id*. The Bankruptcy Court granted Extraction's motion to reject the Grand Mesa TSAs, and it denied Grand Mesa's request for leave to file a FERC proceeding. *See Order* [D.I. 831], *Bench Ruling* [D.I. 942]. Those rulings are the subject of the Grand Mesa/FERC Appeals. *See Notice of Appeal* [D.I. 864, 866]; *Notice of Appeal* [D.I. 1016, 1138].

5. In its Motion, Extraction seeks to consolidate all of these appeals. Platte River has no objection to consolidating its two appeals, but it opposes consolidation of its appeals with the Grand Mesa/FERC Appeals. Global consolidation is inappropriate for at least five reasons.

6. *First*, Platte River presented specific evidence demonstrating that the Platte River TSAs create covenants running with the land under Colorado law. This evidence is unique to the negotiations of the Platte River TSAs, and the effect of

those agreements on Extraction's use and enjoyment of its real property. *See*, *e.g.*, Rogan McGillis Decl., attached as Exhibit A, at ¶¶ 10, 15 (describing negotiations reflecting the intent behind Platte River's TSA contracts); *see also PRM and DJS's Response in Opposition to Extraction's Motion for Summary Judgment* [A. D.I. 21], at 16-24. For example, both of Platte River's pipeline systems are "in-field transportation systems," meaning Platte River's pipeline systems transport production across only short distances in the production area, and one pipeline system is directly connected to Extraction's well sites. *See* Exhibit A at ¶¶ 10, 15; *see also* October 7, 2020 Hearing Trans., attached as Exhibit B, at 76:1-2, 87:11-88:13, 102:8-18, 199:15-22. This is materially different from Grand Mesa's pipeline, which is a long-haul transportation pipeline, meaning it transports Extraction's production over long distances and does not connect directly to Extraction's well pads. *See* Exhibit B, at 76:13-20. As the circumstances surrounding the Grand Mesa TSAs and the effect of those agreements on Extraction's use and enjoyment of its real property are materially different than the Platte River TSAs, it should be considered separately on appeal.

7. *Second*, Platte River presented unique evidence and testimony in opposition to Extraction's rejection of the Platte River TSAs. Platte River's pipelines were custom-built to service Extraction's needs. *See* Exhibit A at ¶ 13. Consequently, Platte River transports over 95% percent of Extraction's crude oil

production, and, without Platte River's pipelines, Extraction currently has no way to transport the substantial portion of its produced crude oil. *See* Exhibit B at 76:1-2, 87:11-88:13, 102:8-18; 193:12-194:17, 199:15-22, 212:5-10; 220:5-221:1, 228:4-13. If Platte River refuses to transport Extraction's production post-rejection, Extraction risks stranding over $39.2 million in revenue over the next six months. *See id.* at 199:15-204:5. Extraction did not consider this risk when deciding to reject the TSA contracts, and such a risk is simply unreasonable. *See* Exhibit A at ¶ 10; Exhibit B at 76:1–2 (admitting "for the most part, alternative pipeline would not be immediately available to [Extraction]"); *id.* at 87:11–88:13, 102:8–18 (noting an alternative pipeline system would not be available for three-to-six months); *id.* at 193:12–194:17 (stating Extraction intended to use Platte River pipelines as a walk-up shipper). These facts should be considered on their own in the Platte River Appeals, independent of the facts surrounding Extraction's rejection of the Grand Mesa TSAs.

8. *Third*, the Platte River Appeals also will focus on the unique dedication language of the Platte River TSAs, under which Extraction dedicated all of its current and future oil produced from specific geographic areas to be transported on Platte River's pipeline system for the duration of the Platte River TSAs. *See* Exhibit A; Exhibit B. Pursuant to the Supreme Court's recent decision in *Mission Product Holdings, Inc. v. Tempnology, LLC*, 139 S. Ct. 1652, 1663 (2019), these dedications

survive rejection, and thereby preclude Extraction from transporting its production by other means, even after Extraction exits bankruptcy. By allowing Extraction to reject the Platte River TSAs, the Bankruptcy Court erroneously ignored the effect of *Mission Product*. *See Findings of Fact and Conclusions of Law* [D.I. 833]; *Bench Ruling* [D.I. 942].

9. *Fourth*, Platte River anticipates that the Grand River/FERC Appeals will center on whether the Bankruptcy Court should have applied a more rigorous standard applicable to FERC-regulated pipelines. *See Ex. A to Mot.* [D.I. 29-1], at 19-22. Platte River will address this argument, as well (*see Designation of Record on Appeal* [D.I. 13]), but the importance of this issue deserves full briefing. The Grand Mesa/FERC Appeals also will focus on whether the Bankruptcy Court erred in refusing to lift the automatic stay and allow Grand Mesa to file a proceeding before FERC, which is not a decision that Platte River appealed. *See Ex. A to Mot.* [D.I. 29-1], at 19-22. There is no reason to interject this issue into the Platte River Appeals.

10. *Fifth*, the procedural postures of the Platte River Appeals and the Grand Mesa/FERC Appeals are very different. In particular, Grand Mesa and FERC have moved this Court to certify their appeals for direct appeal to the Third Circuit. *See id.* at 19-22. It makes no sense to consolidate all the parties' appeals if they will subsequently make their arguments to different courts. *See United States v. Hird*,

913 F.3d 332, 337 (3d Cir. 2019) (noting purpose of consolidation is to promote efficiency).

11. In support of global consolidation, Extraction's only argument is that a consolidated appeal will be efficient. *See Ex. A to Mot.* [D.I. 29-1], at 13-14. But Extraction still contemplates separate briefs by Platte River, Grand Mesa, and FERC, and a double-length brief by Extraction. *See id*. at 14. These same efficiencies can be accomplished by ordering the same briefing schedules and equivalent word or page limits in the Platte River Appeals and the Grand Mesa/FERC Appeals, which Extraction already proposes (*see id*.), and Platte River does not oppose. Given the substantive and procedural differences between the appeals, there are good reasons to adopt a global briefing schedule, but to not take the additional step of global consolidation of the appeals.

12. Though Platte River initially proposed briefing schedules and a word limit that were slightly different than Extraction's proposal, in the spirit of compromise, Platte River now agrees with Extraction on the briefing schedule. . Plate River proposes that the Court apply the default word limitations identified in Federal Rule of Bankruptcy Procedure 8015(a)(7).

WHEREFORE, for the reasons set forth above, Platte River respectfully requests that the Court deny Extraction's Motion.

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION

Pursuant to Bankruptcy Rules 8013(f)(A) and 8015(h), this Response complies with the type-volume limitation set forth in Bankruptcy Rule 8013(f). This Response contains 1,849 words as determined by the Word Count feature of Microsoft Word.

Dated: December 18, 2020
Wilmington, Delaware

/s/ Taylor M. Haga

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EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re: EXTRACTION OIL & GAS, INC., *et al.*, Debtors.	Bankruptcy Case No. 20-11548 (CSS) (Jointly Administered)
PLATTE RIVER MIDSTREAM, LLC, DJ SOUTH GATHERING, LLC, AND PLATTE RIVER HOLDINGS, LLC, Appellants, v. EXTRACTION OIL & GAS, INC., Appellee.	Civil Action No. 20-1532 (CFC)

DECLARATION OF ROGAN MCGILLIS

Pursuant to 28 U.S.C. § 1746, I, Rogan McGillis, declare under penalty of perjury as follows:

1. Since 2014, I have served as the Chief Financial Officer of ARB Midstream, LLC ("ARB"). ARB is a private oil and gas liquids midstream and marketing / logistics solutions company. I am a co-founder of ARB and member of the ARB's Board of Directors. Given my roles at ARB, I have supervisory responsibility over all financial aspects of ARB and its assets.

2. For the past 10 years, I have been involved in negotiating and developing crude oil or other liquid hydrocarbon pipeline transportation projects. I am familiar with the financial and operational terms contained in these contracts, as well as the financial structures of transportation companies like ARB. In particular, I am familiar with the requirements needed to obtain equity

and debt financing for transportation systems, and the general expectations of transportation companies on recovering capital investments and a return on those investments.

3. Based on my expertise and responsibilities at ARB, I have personal knowledge of the financial impact of halting transportation of Extraction Oil & Gas, Inc.'s ("Extraction") crude oil described below.

ARB Midstream

4. ARB builds and operates pipeline systems to transport crude oil and other liquid hydrocarbons produced from wells throughout North America. The pipeline systems owned and operated by ARB require a multi-million-dollar investment to acquire rights of ways, easements, and permits, install the pipelines and related facilities, and operate the pipeline system.

The Transportation Systems

5. On April 14, 2017, Platte River Midstream, LLC ("PRM") and Extraction entered into a First Amended and Restated Transportation Agreement (the "PRM TSA"), pursuant to which PRM agreed to undertake the expense and effort of constructing, installing, and operating an extensive network of pipelines and related facilities (the "PRM Transportation System") in exchange for Extraction's dedication and commitment of all of its interests in crude oil in, under, and attributable to certain locations in Larimer and Weld Counties to the PRM Transportation System (the "PRM Dedication Area"). ARB is the manager of PRM.

6. I have reviewed PRM's financial statements to determine the amount of capital PRM has spent to build and operate the PRM Transportation System pursuant to the PRM TSA. To date, PRM has spent approximately $140.8 million to date to install 95 miles of pipeline and related facilities to transport Extraction's crude oil produced from the PRM Dedication Area.

7. On January 17, 2018, ARB formed a limited liability company, DJ South Gathering, LLC ("DJ South") as a wholly owned subsidiary of PRH to build and operate the new transportation system (the "DJ South Transportation System"). ARB is the manager of DJ South. PRM and DJ South are referred to together as the "Companies."

8. On May 16, 2018, DJ South and Extraction entered into a Transportation Services Agreement (the "DJ South TSA"), pursuant to which DJ South agreed to undertake the expense and effort of constructing, installing, and operating the DJ South Transportation System in exchange for Extraction's dedication and commitment of all of its interests in crude oil in, under, and attributable to certain locations in the City and County of Broomfield, Colorado, and Adams, Arapahoe, Boulder, and Weld Counties, Colorado to the DJ South Transportation System (the "DJ South Dedication Area"). The PRM TSA and the DJ South TSA are referred to together as the "TSAs." The PRM Transportation System and the DJ South Transportation are referred to together as the "Transportation Systems."

9. I have reviewed DJ South's financial statements to determine the amount of capital DJ South has spent to build and operate the DJ South Transportation System pursuant to the DJ South TSA. To date, DJ South has spent approximately $128.5 million to install an additional 56 miles of pipeline, along with related facilities, to transport Extraction's production downstream.

Compensation to Platte River and DJ South

10. Under the TSAs, Extraction is required to pay a monthly tariff approved by the Federal Energy Regulatory Commission ("FERC") for the volumes it delivers into the Transportation Systems. As Extraction is the primary customer of PRM and DJ South, which were formed primarily to provide transportation services to Extraction, the monthly tariffs paid by

Extraction represent the majority of PRM and DJ South's income and the only way to recover PRM and DJ South's multi-million-dollar investments in the Transportation Systems. Specifically, approximately 90 percent of PRM's revenues and 75 percent of DJ South's revenues come from Extraction.

11. I have reviewed monthly invoices for both PRM and DJ South to determine the average amount of monthly tariff paid by Extraction to PRM and DJ South. Based on my review, Extraction currently pays an average of approximately $1.5 million per month in tariffs to transport approximately 1.1 million barrels of crude oil on the PRM Transportation System and an average of approximately $750,000 per month in tariffs to transport approximately 450,000 barrels of crude oil per month on the DJ South Transportation System.

Irreparable Harm Caused by Halting Transportation of Extraction's Crude Oil

12. In connection with the bankruptcy proceedings, I understand that the bankruptcy court has granted Extraction's motion to reject the TSAs, which allows Extraction to deliver its crude oil to alternative shippers.

13. As stated above, Extraction's monthly payments are the main source of PRM and DJ South's revenue, with Extraction's monthly payments amounting to approximately 90 percent of PRM's revenue, and 75 percent of DJ South's revenue. Given the nature of the Transportation Systems, which were built to provide services to a specific producer (Extraction), PRM and DJ South cannot realistically replace the volumes of crude oil transported on their systems (and replace the revenue received from Extraction) if Extraction were to stop transporting its production on the Transportation Systems.

14. If Extraction stops delivering its production into the Transportation Systems, and stops paying PRM and DJ South the monthly tariffs, the Companies will not be able to finance their services and other financial obligations. As Extraction's monthly tariffs are vital to the Companies' ongoing operations, absent the revenues from the tariffs, I anticipate PRM and DJ South both would become insolvent and no longer financially viable in under one month. If the companies become insolvent, the pipelines will cease operations.

15. Additionally, Extraction's rejection of the TSAs triggers a default under the Companies' own credit agreements. On November 11, 2020, the Companies' lender placed the Companies in default and could accelerate the debt at any time. If Extraction stops delivering crude oil into the Transportation Systems in the near term, we expect the Companies' lender to call its note, forcing the Companies to file for bankruptcy.

16. Finally, as a result of Extraction's diversion of crude oil away from the PRM Transportation System, 35 individuals, who are employed full time by ARB and/or its affiliated entities are at imminent risk of losing their jobs and becoming unemployed. These employees are engaged in field operations, matters concerning terminals, land, corrosion and integrity analysis, management, administration, finance and accounting, human resources, corporate support, and engineering and project management. These employees are critical to ARB and/or its affiliated entities' operations and, as full-time employees, their financial livelihood is tied to their employment by ARB.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 19, 2020

Rogan McGillis
Chief Financial Officer
ARB Midstream, LLC

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE: EXTRACTION OIL & GAS, INC., *et al.*, Debtors.	Chapter 11 Case No. 20-11548 (CSS) Courtroom No. 6 824 North Market Street Wilmington, Delaware 19801
EXTRACTION OIL & GAS, INC., Plaintiff, v. GRAND MESA PIPELINE, LLC, Defendant.	Adv. Proc. No. 20-50816
EXTRACTION OIL & GAS, LLC, Plaintiff, v. PLATTE RIVER MIDSTREAM, LLC AND DJ SOUTH GATHERING, LLC, Defendants.	Adv. Proc. No. 20-50833
EXTRACTION OIL & GAS, INC., Plaintiff. v. ELEVATION MIDSTREAM, LLC, Defendant.	Adv. Proc. No. 20-50839 October 7, 2020 10:00 A.M.

BEFORE THE HONORABLE CHRISTOPHER S. SONTCHI
UNITED STATES BANKRUPTCY JUDGE

A Well we recognized that for the most part alternative pipeline would not be immediately available to us and we had to understand exactly what our transaction would look like or what a transition plan would look like so that we could accurately model what the cost and effects would be to the company.

Q Okay. So now let's go ahead and turn to the analysis of specific contracts. We'll start with Platte River and DJ South and actually will address each one separately because they present slightly different issues.

So we're talking about the Platte River transportation service agreement, Debtors' Exhibit 24. Who is Platte River?

A Platte River is a wellhead gathering company that currently transports extractions, oil productions, various well pads in what I would call the Northern part of the Wattenberg Field, so they serve as our acres up in the northern part of the field, and they deliver it to the Lucerne Terminal which is where the Grand Mesa pipeline tick point is, so that's where Grand Mesa begins transporting the crude oil from Lucerne to Cushing, Oklahoma.

Q What services then is Platte River providing to the debtors pursuant to the Platte River transportation services agreement?

A The transportation of the company's produced oil through the pipeline system that they built in the dedicated debtors consider how long it would take to utilize one of these alternative pipelines?

A Yes, we did. We made the same assumptions from the trucking companies and the bids that we received from them, and then also from the bids we received for the alternative wellhead gathering companies. They provided a timeline for when they thought they could connect into certain wells.

Q And can you describe for the court what the range of timeline is that you received from these alterative pipeline providers?

A Yes, it varies pad by paid. For example, we had some pads that are already connected to oil gathering companies so those pads could be diverted immediately. We have other pads where we share the pad with another operator who was utilizing one of Platte River's competitors. So in that scenario, it would only require building a couple hundred feet of flow line connections and we think that would be done in a month timeframe or less. And then a few of the other pads that are further away, they gave us a schedule of anywhere from three to six months to obtain the necessary rights-of-way that they need and have the pad hooked up to their system. In most cases, for the alternate pad that they would be connecting, it's anywhere from a half mile to a mile and a half connection, so not very long.

Q How does that timing that you heard from the alternative providers compare to the amount of time it took Platte River to construct its gathering system?

A Well for Platte River to construct its entire gathering system it took, you know, it probably took them eighteen months or so because they were building around ninety miles of pipe, so it could them a long time. However, if Platte River were to be just connecting in pads to their existing infrastructure, it would take them roughly the same amount of time that its taking the third-party company we received a proposal from because that third-party company has already constructed the backbone of their pipeline systems. And all they need to do are build small connectors to connect us into the backbone of that system.

Q Understood. So you considered the timing. Now what about regulatory obligations? How did you factor in the need to obtain permits and rights-of-way -- the alternative provider's need to obtain permits and rights-of-way?

A That was submitted to us in their bid, so we gave them the location of our pads and they looked at the distance from their current infrastructure to the pads that we would like to have connected, and they analyzed quickly the routes that they would probably most likely take to get there. And in their bid, they provided what they thought the timing would be, so that was assumed in that three to six-month timeframe that we've talked about with the alternative providers.

$2.5 million dollars. So the total savings based on the bids that we have received would be anywhere from $4.5 to $5.5 million dollars in calendar year 2021.

Q So now let's talk more specifically about the bids. If the debtors are able to successful reject the DJ South TSA and utilize one of these alternatives, how long until there would be a pipeline ready to utilize?

A So, as I mentioned, the alternatives are very close to the Badger central gathering facility. And also, as I mentioned, they only need to connect to one point. They only need to connect to that central gathering facility. They do not need to connect to multiple well pads like the alternative to Platte River would have to do.

So the fact that they only need to build out to one point that is roughly, you know, one to one and a half miles away, we believe in our talks with them that it could be as little as ninety days to as much as 180 days to finish that connection.

Q How does that timing compare to the amount of time it took DJ South to construct its gathering system?

A Again, I think, you can't really compare those two things because for DJ South they were building a large system which I believe is probably 50 miles or so in length, so it took them a long time to do that, where these companies that have submitted bids to us have already built out their

to shut-in production; is that right?
A Yes, that would be a scenario.
Q And as I understand it, Extraction, along with its advisors, looked at the financial effect of shutting-in production; is that true?
A We identified the pads and the volumes of production that each specific pad was producing that would not be a Trucking alternative, at least in the very short term. And so, we were aware of the volumes that would have to be moved as a walk-up shipper or temporarily shut-in, awaiting for the third party to connect their gathering system.
Q And Mr. Owens, did Extraction perform any financial analysis of what the financial effect would be of shutting-in that production that you're describing?
A I don't believe it was put into a model for our consideration. It was used, because in most circumstances, we anticipated if the shut-in were to happen, that it would have only been a few months' time frame.
And as we've seen from the demonstrative, we expected to make that revenue up; for example, if it was shut-in one quarter, make it up over the following quarter. But what we ended up assuming was that we would continue shipping as a walk-up shipper on the DJ South and Platte River systems just because we make up the vast majority of revenue that those two pipelines make and we didn't think it would have been a

prudent decision for them to just get rid of all of their revenue because of a court ruling.

If they had the ability to continue making revenue for a period of time at a higher gathering rate, we assume that is what would be in the best interests for their investors.

Q But in terms of a financial effect, if your assumption was wrong and Platte River and DJ South opted to refuse Extraction's production, has Extraction quantified the value of that production that it would need to leave in the ground?

A We did not do that for the reasons that I just mentioned. We believed it would just be a short-term deferral and we believe it's in their best business judgment to continue to make money if they have the ability and they would also have to be going against their FERC tariff to discriminate and not allow a shipper to ship as a walk-up, if the space is available.

Q I understand, Mr. Owens.

And I want to go through the financial effects of shutting that production with you, but before I do it, I just want to make sure I know what Extraction has analyzed when it comes to Platte River and DJ South refusing production.

Would you mind taking a look at the notebook that we sent to you and it's Exhibit 66 that I want to refer you to.

MR. CHRISMAN: And, Your Honor, that's Tab 9 of the notebook that we sent to chambers and to Mr. Owens.

production; is that correct?
A No, we did not look at that as a scenario for the reasons that I mentioned earlier.
Q So, I just want to explore with you, again, the financial effect of Extraction having to shut-in its production if the assumption is incorrect that Extraction has made and in point of fact, DJ South and Platte River refuse to accept Extraction's production, okay.
And let's start with DJ South, because Mr. Brimmage covered a fair bit of this. I think we can go quickly on that.
DJ South transports the production coming through the Badger facility; is that right?
A Yes, that is correct.
Q And as it stands now, Mr. Owens, if the oil isn't transported on the DJ South pipeline out of the Badger facility, Extraction has no other capability to transport it any other way; is that right?
A Currently that is the case.
Q And there's no way to truck that production, like we'll discuss with the Platte River System; is that right?
A That is correct.
Q So, if we go to Page 2 on Exhibit 66, this is the first page of that master schedule that you described --
A Yes.

Q -- this identifies in the left-hand column, Mr. Owens, a list of Extraction's well pads; is that right?

A Correct.

Q And it looks like the very first one that's identified sort of rolls up all of Extraction's wells tied to Badger into one well.

Am I reading that right?

A Yes, it does.

Q And so, the -- in the next column there is an amount identified for the average daily barrels of production that Extraction forecasts over the next six months; is that correct?

A Yes.

Q And so, for the Badger Central Gathering Facility, Extraction anticipates delivering 9,753 barrels of oil per day for the next six-month period; is that correct?

A Yes, it is.

Q And so, if we assumed that a barrel of oil is $40 a barrel, that would be 40 times 9753. So $390,000 a day going through Badger in oil; is that correct?

A No, that is not correct.

Q Well, you'll agree with me that 9,753 barrels of oil times $40 a barrel would be $390,000 of oil a day, right?

A Yes, but I believe the volume being shown here is a gross oil production, which is not the oil production that

Extraction has right and title to.
Q I understand and I do want to talk with you about that. We'll go there next. I want to refer to that, just so we talk on the same page, as gross oil production or gross oil value.
Is that a fair way to describe that?
A Yes, you can do that.
Q Okay. And so, the gross oil value that Extraction anticipates going through Badger over the next six months is $390,000 a day; is that true?
A Yes, that would be correct.
Q And so, it's possible that if Extraction is looking to have an alternative pipeline company connect to Badger to transport its production, it's possible that could take 90 days for that new connection to be in place; is that fair?
A Yes, that is fair.
Q And so, at $390,000 a day over 90 days, that's $35 million in gross oil value, correct?
A Yes, I believe that's correct.
Q I promise the math portion of the exercise will not last long, but I do want to take the Court through the distinction you're making between gross oil value and Extraction's share.
A portion of that $35 million is paid by Extraction to royalty owners, correct?

A A portion, yes; typically around 20 percent.
Q And so, 20 percent of the $35 million would be approximately $7 million, right?
A I believe you have to subtract off the transportation costs from your forty-dollar number, but it would be fairly close to that.
Q Okay. And Extraction has not informed any of its royalty owners that have interests in the wells connected to the DJ South System, that it might shut-in its production for 90 days, has it?
A We have not.
Q (Indiscernible) would not pay them their share of the $7 million for the next 90 days, correct?
A If the wells were shut-in, we would not be paying that.
Q Okay. And a portion of the remainder, after we take out the royalty share, is paid by Extraction to its nonoperating working interest partners in the wells, correct?
A Correct.
Q And that is roughly 30 percent of the remaining amount, correct?
A Yeah, on average, it would be that amount.
Q And just asking you to accept my math so you don't have to do it, it's fair to say that would be roughly $8.4 million to the nonoperating working interest owners, correct?
A Yeah, correct.

Q And I think I understood you explain this to Mr. Brimmage earlier, but just so I'm clear, Extraction has not told any of its non-operating royalty owners that they would be losing this revenue via shut-in, right?
A We have not told our nonoperating working interest partners that that is a potential at this point in time, but we have received numerous complaints from them in the past complaining about the exorbitant fees being charged by the Elevation, DJ South, and Grand Mesa effect, of those rates all stacking on top of each other.
Q And my question wasn't so much about telling them about fees and what you intend to do about it.
My question is, have you told them that you potentially may not be paying them $8.4 million over 90 days?
A We have not officially told them that.
Q And so, the remaining portion of that 35 million over the next 90 days, which I contemplate to be $19.6, that would be Extraction's net-share, prior to costs, correct?
A Yes, I believe so.
Q So, that is the potential lost revenue to Extraction, prior to costs, if Extraction were to shut-in its production of oil connected to the DJ South System over the next 90 days until another gatherer is connected; is that right?
A I would call it deferred oil revenue, rather than lost, but yes.

Q But if it took, Mr. Owens, six months to have an alternate gatherer connect, rather than 90 days, that would be $39.2 million of lost or deferred revenue, just Extraction's share; is that right?
A Correct.
Q And Extraction has not told its lenders that it would be considering shutting-in its production and losing that amount of revenue for the next 90 days or six months, has it?
A It has not been in our models that have been supplied to the vendors so far.
Q And even if the revenue is deferred, rather than lost, that will have an effect on Extraction's month-to-month cash flow, correct?
A On a month-to-month basis, that is correct.
Q Right now, as it stands for DJ South, Extraction does not have a contract in place with another gathering company to connect to the Badger Facility, correct?
A We do not; they're all pending the outcome of this case.
Q And in addition to pending the outcome of the case, is it fair to say that Extraction is evaluating different alternatives from -- based on different proposals?
A As it pertains to the DJ South System, we have received two proposals from two third parties to provide the same transportation service.

Extraction will continue to use Platte River as a walk-up shipper until it gets a third-party pipeline in place; is that right?

A Correct.

Q And then the fourth alternative is, to the extent any of those other options aren't available, Extraction would shut-in its production until it gets an alternative transportation method in place; is that right?

A Yes, only if the other alternatives were not applicable, which there's a small number of pads for that.

Q If you wouldn't mind, Mr. Owens, taking a look at Defendants' Exhibit 39. This will be Tab 8 in your notebook, Mr. Owens.

THE COURT: So much for not naming the company.

MR. CHRISMAN: Well, that's why we're doing it the old-fashioned way so no one can see it.

(Pause)

BY MR. CHRISMAN:

Q Mr. Owens --

THE COURT: I just want to, just real quick, just impress on everyone to what they already know, no mistake is acceptable. Do not name the company.

MR. CHRISMAN: Your Honor, I'm going to refer to that company, if we admit this exhibit, just as the alternative gathering company or the alternative pipeline

connection to this other alternative in place?
A Yes, they are.
Q Okay. And we also see a start date for some of these pads as May of 2021.
Are those the pads where Extraction has anticipated using alternative provider, the alternative provider would need to install a connection to those pads in order to begin transporting the production?
A Yes, that's what it appears to show.
Q And so the assumed start date is six months from now; is that right?
A Yes, that's the date referenced.
Q And so, for those pads, it's going to require time for an alternative provider to install connections to the wells, right?
A Correct.
Q And they will have to go through a similar process that you described for connecting to the Badger Facility of obtaining right-of-way agreements, correct?
A Yes, that is correct.
Q And that will take time to obtain, correct?
A Yes, it will.
Q And there's no guarantee because of the time it will take, that that alternative provider will be able to transport this production by May of 2021, right?

A Right.

I'd like to point out that several of these pads that show May of 2021, if you look at their next six months' production, it's zero, and it's because those pads are not yet drilled or not completed or not producing. So, there are a few pads that they would have to build out to, but a lot of -- several of these pads that are pointed out on this schedule are associated with the company's future drilling plans. So, under a lot of those circumstances, I don't think those wells would even be ready to produce by May 1st; that just appears to be the assumption that our team was using as a conservative date for when the alternative provider would be ready to move volumes.

Q Sure. And that's a fair clarification, Mr. Owens. I appreciate that.

But going the other direction, taking, say, the Ardrie pad, which is the largest producer connected to the Platte River System; do you see that?

A Yes, I do.

Q That is one that has a start date of May of 2021, before the alternative provider can connect to that pad; is that right?

A Yes, but I would like to add a little bit more color to that. As I mentioned, it happens in this particular analysis that was done in this document that we're looking at, the about a half-mile away to start gathering volumes for one of our peer companies who is drilling and completing a pad in that area.

Q So that company would need to build out the pipeline it's currently building, then need to reach another half-mile to extend to the Triple Creek pad; is that right?

A Yes, that's my recollection.

Q And that would not happen until, setting aside the physical infrastructure, the right-of-way, any permits, that would not happen until, at a minimum, an agreement is signed between Extraction and that pipeline company; is that right?

A I would not anticipate them to start spending capital until an agreement is signed.

Q Okay. And so, if we wanted to determine the financial effect of shutting-in production on the Platte River System, assuming that Platte River refuses Extraction's production, we would identify those pads where Extraction cannot currently truck, determine those volumes, and calculate a gross oil value; is that right?

A Yes.

But, again, that would change. As we've discussed, several of those would be ready to start diverting oil in a matter of weeks, where some might take a little bit longer.

Q And the ones that you're referring to are ones where you think they can get equipment in place within a short