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Public Meeting
STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

Case No. 24683

Moderated by Albert C.S. Chang, Chair

DAY TWO

Friday, June 5, 2026

9:02 a.m.

Pecos Hall, Wendell Chino Building
122 South Saint Francis Drive
Santa Fe, NM 87505

Reported by: Ryan Auten

Job No: 8234805

A P P E A R A N C E S

List of Attendees:

Albert C.S. Chang, New Mexico Energy Minerals and
Natural Resources Department, Chair

Tannis Fox, Western Environmental Law Center

Miguel Suazo, Beatty and Wozniak, P.C.

Adam Rankin, Holland & Hart LLP

Ann Tripp, Hinkle Shanor LLP

Zachary Shandler, New Mexico Department of
Justice

Morgan O'Grady, Western Environmental Law Center

Kyrie Buffa, Beatty and Wozniak, P.C.

Matt Nykiel, Western Environmental Law Center

Jesse Tremaine, New Mexico Energy, Minerals, and
Natural Resources Department

Felicia Orth, Hearing Officer

Greg Bloom, Designee, New Mexico State Land
Office

William Ampomah, Designee, Energy, Minerals and
Natural Resource Department

Sheila Apodaca, Commission Clerk

Brandon Powell, EMNRD (by videoconference)

Gerasimos Razatos, EMNRD (by videoconference)

Tiffany Wallace, Oxy USA, Inc.

Robert Mathes, Oxy USA, Inc. (by videoconference)

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A P P E A R A N C E S (cont'd)

List of Attendees:

- Mandy Sackett, Earthworks (by videoconference)
- Liliana Castillo, Public Attendee (by videoconference)
- William's Notetaker, Public Attendee (by videoconference)
- Andrea Felix, Public Attendee (by videoconference)
- Mike Lee, Public Attendee (by videoconference)

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P R O C E E D I N G S

MR. CHANG: Good morning. This is Chair Albert Chang, calling the meeting back to order from a recess. This is -- it is now nine o'clock in the morning on June 5th, Friday, June 5, 2026.

This is a resumption of the Oil Conservation Commission hearing that initiated that -- or that began on June 3, 2026, for the deliberations and considerations on case number 24683, the Western Environmental Law Center's application for rulemaking to amend NMACs 19.15.2, 19.15.5, 19.15.8, 19.15.9, and 19.15.25.

I want to start with a brief recap of what we've done so far at the last commission hearing. We organized ourselves around the various proposed rules. We walked through the applicant's post-hearing proposed amendments to the referenced provisions of the New Mexico administrative code.

Those post-hearing proposed amendments did include -- incorporated changes that the applicants made to their proposals in light of negotiations that happened and in light of the changes that were reflected in the joint stipulation.

And I will clarify with commissioners throughout the day that what we intended to -- or what

1 we did review were the various -- that we did
2 crosswalk all proposed rules and that we are aware of
3 what the blue highlighting means, what the yellow
4 highlighting means, what the red line strikeouts
5 means, and that none of us are debilitatingly
6 colorblind and that we, in reviewing the sections one
7 by one, we went through and adopted not necessarily
8 the joint stipulation per se, but the applicant's
9 post-hearing proposed amendments to the various
10 sections of the NMAC that incorporates language from
11 the joint stipulation.

12 At the end of the day, we had reserved
13 judgment on a number of provisions. And I guess I
14 will first turn to commissioners and see whether they
15 wish to address any broad overarching legal concerns
16 again or whether we're ready to dive right into the
17 sections that we had discussed reserving judgment on,
18 or anything else from last -- or anything else that we
19 may have discussed on Wednesday that commissioners may
20 want to revisit.

21 MR. BLOOM: Mr. Chair, if I may -- and
22 I guess microphones are working okay? Are you guys
23 hearing okay? I'm not pressing any buttons. Still
24 strange without a green light in front of me.

25 I think you addressed perhaps

1 indirectly the NMOGA and IPANM's joint motion for
2 clarification.

3 MR. CHANG: I was hoping to
4 functionally do that without taking up any motions,
5 given that we are in the middle of deliberations.
6 Commission Counsel can correct me, but I'm not sure
7 that it would be appropriate for us to entertain
8 motions at this stage of deliberations.

9 MR. SHANDLER: I concur, Mr. Chair.

10 MR. CHANG: So I think it's okay for us
11 to take notice of the fact that there was -- perhaps
12 some parties felt that there was confusion, and so I
13 did my best to try to clarify that on the record
14 without officially entertaining a motion.

15 But certainly, if there's any
16 additional clarifications or if commissioners would
17 like to further address, sort of, substantive
18 housekeeping issues that were raised, I'm happy to
19 create time for commissioners to do that. I just
20 didn't want to make it a free for all for all the
21 parties at this point in deliberations.

22 MR. BLOOM: Sure. Sure. Yeah. I
23 think some of the questions might have been important
24 there. And you know, as I saw it, on Wednesday, when
25 we previously met at our previous meeting, you know,

1 unless otherwise noted in our deliberations, we
2 adopted the existing rule language and any changes as
3 indicated in the joint stipulation, which was exhibits
4 to the applicant's closing arguments.

5 And so we adopted those things together
6 and voted on them as we went. And I certainly don't
7 feel that I need, you know, new versions or new
8 versions of proposed rules and our positions to finish
9 the rulemaking. We have quite an abundance of
10 materials in front of us.

11 MR. CHANG: If I may, I think there's
12 some nomenclature that might be causing the confusion
13 here, because if you look at the joint stipulation
14 table, there are parts that are in blue that reflects
15 the joint stipulation.

16 There are language that's merely in red
17 line strikeout, not highlighted in blue, that reflects
18 language outside of the stipulation that the
19 applicants want us to consider, which is why I was
20 trying to clarify that what we actually went through
21 is not merely the language -- merely the highlighted
22 language, but what we actually went through was the
23 applicant's post-hearing proposed amendments, which
24 did reflect the joint stipulation but is broader than
25 the joint stipulation.

1 I think that might have been the
2 confusion, where we kept saying that we were adopting
3 the joint stipulation, but if we were looking at the
4 applicant's post-hearing proposed amendments and
5 adopting not just the highlighting, the blue language,
6 but also the red or yellow highlighted language, then
7 what we were actually adopting was the applicant's
8 complete -- the totality of the applicant's
9 post-hearing proposed amendments, incorporating the
10 smaller subset of language that is the joint
11 stipulation, but we were adopting more than just a
12 joint stipulation. I think that was the crux of the
13 confusion for perhaps some of the observers.

14 MR. BLOOM: Sure. I think that was
15 well put. Yeah.

16 MR. CHANG: Does that --

17 MR. BLOOM: The other thing I would
18 also just mention is, I think, as commissioners, we
19 read submitted documents, closing statements, and gave
20 them due and serious consideration throughout and that
21 a lot of this was homework.

22 I mean, we, you know, didn't come here
23 to pour through what is probably a 10,000-page record
24 and -- or even have, you know, side-by-side closing
25 arguments set up for comparison. I think I might just

1 add that -- no. I'll leave it there for now.

2 MR. CHANG: And --

3 MR. BLOOM: No. Let me just say
4 that -- let me finish that.

5 MR. CHANG: Sure.

6 MR. BLOOM: You know, of course, the
7 OCC needs some version of the existing rules and
8 proposals to look at and in our deliberations we have,
9 to refer to something. So we had a document that
10 we're working off of Wednesday.

11 And I think because the applicants and
12 OCD convinced us that there's a serious situation that
13 we can and must address, that the preponderance of the
14 evidence is with the applicant's and OCD's case, we
15 took this version that was attached to the applicant's
16 closing arguments.

17 You know, we used that as a reference,
18 and we compared it to the alternatives offered by
19 NMOGA and IPANM. You know, had NMOGA and IPANM
20 prevailed and convinced us that there wasn't something
21 we had to take action on or it wasn't the right
22 course, I don't think we'd be referencing the
23 applicant's closing arguments and what we've been
24 provided there, a version of the rule, that wouldn't
25 have made any sense.

1 So you know, here we are, using what we
2 found in their exhibits, you know, as a reference tool
3 as we move through our deliberation. So I just wanted
4 to speak to that very clearly.

5 MR. CHANG: Thank you. And I'll add
6 that, at least for my part, I tried to crosswalk. I
7 mean, I think that's why there was such a chaotic mess
8 of binders in front of us on Wednesday, but we -- I,
9 at least, tried -- and commissioners can tell me if
10 I'm wrong -- but I at least tried to ensure that
11 section by section, we were cross-referencing not just
12 the applicant's proposals, but also the joint
13 stipulation table that color coded what language did
14 or didn't change in the applicant's final proposal, as
15 well as crosswalking language from the other parties,
16 including Oxy's proposed amendments.

17 We did discuss both IPANM and NMOGA's
18 proposed alternative language, where they did provide
19 proposed alternative language. And I'm happy to note
20 for the record that I am aware that just because
21 alternative language was not proposed does not
22 necessarily mean that parties have agreed to the
23 applicant's proposed language.

24 That language in red line -- red and
25 underline -- is new language that doesn't currently

1 exist that is being proposed by the applicants. And
2 for lack of blue highlighting or yellow highlighting
3 means that if they have not been -- they're not
4 even -- they didn't even result in any sort of
5 agreement coming out of the joint stipulation and that
6 they were just, I think, applicant and OCD's proposed
7 language.

8 And I understand that just because the
9 industry parties didn't propose an alternative doesn't
10 necessarily mean that they concur with the red
11 underlined new text that's being proposed by the
12 applicant. So --

13 MR. BLOOM: Thank you, Mr. Chair. And
14 I would agree with particularly with the first part of
15 what you said about how we went through the documents
16 in various versions and different parties' positions
17 on Wednesday, really going line by line and looking
18 from one document to the next to make sure we
19 discussed everything.

20 MR. CHANG: And to the extent that if
21 the commissioners feel that we need to discuss the
22 briefs more thoroughly, I'm certainly prepared to do
23 that as well -- and to sort of more dive more
24 detail -- or dive into the legal arguments raised in
25 industry's brief in more details as to why perhaps we

1 did or did not find various legal arguments
2 convincing.

3 I'm happy to also lay out more
4 thoughts, my thoughts on those things more thoroughly
5 on the record at some point. And so -- anyway, I'm
6 ready to do that if we have time. So -- or and to the
7 extent that we can make time for that.

8 So but to ensure that we have time to
9 deliberate on all of the remaining questions, my
10 suggestion is that we start by looking at the
11 provisions that we had put a pin in on Wednesday. Is
12 that a good place to start for commissioners?

13 DR. AMPOMAH: Sure.

14 MR. CHANG: Okay. In that case -- and
15 I want to clarify because I can't recall -- so
16 commissioners can correct me if I'm wrong. I was not
17 sure whether there was any -- I thought there was one
18 position somewhere where we may have adopted the
19 applicant's proposal but had also agreed to a few
20 additional words from industry parties. But I -- now
21 I can't find it in my notes. So I was wondering
22 what -- and we can certainly wait until the tape's out
23 and we can clarify that. But --

24 MR. SHANDLER: Says 19.15.25.9(d),
25 second sentence.

1 MR. CHANG: Nineteen?

2 MR. SHANDLER: 15.25.9(d), second
3 sentence.

4 MR. CHANG: Second sentence, you said?

5 MR. SHANDLER: Second sentence.

6 MR. BLOOM: Can you remind us what that
7 was?

8 MR. SHANDLER: Sure. It's under the
9 general topic of extension and the -- to rebut. So,
10 "Upon request by the operator, the division may use
11 its discretion to grant a one-time extension of a
12 30-day rebuttal period for a good cause."

13 MR. BLOOM: Yes.

14 DR. AMPOMAH: Thank you.

15 MR. CHANG: Okay. And I think we can
16 see that language -- I'm guessing we can see that
17 language in green on NMOGA's Exhibit 4; is that
18 correct?

19 DR. AMPOMAH: NMOGA 5.

20 MR. CHANG: NMOGA 5. I apologize.

21 MR. SHANDLER: What I read was not
22 verbatim of what NMOGA has. It was my notes on you
23 guys wanted to put in the one time and -- we can
24 circle back to that to get that final language. But
25 if your question was that's the one thing that you've

1 changed so far different than the application --

2 DR. AMPOMAH: But, Counsel, so that one
3 is still -- we are still going to discuss that today.

4 MR. CHANG: Okay.

5 DR. AMPOMAH: Yeah.

6 MR. CHANG: Okay. 19.15 -- I'm sorry.
7 19.15.29?

8 MULTIPLE SPEAKERS: 25.19.

9 MR. CHANG: Twenty-five.

10 DR. AMPOMAH: Yeah. We're still under
11 the presumption. We're still going to discuss that,
12 the --

13 MR. CHANG: 19.15.25.9(d). Okay. So I
14 just missed that in one of my notes here. Okay.

15 DR. AMPOMAH: Yeah. I do --

16 MR. CHANG: Let me write that down so I
17 don't skip it when we get there. 19.15.25.9(d).
18 Okay. Okay. All right. In that case, the first
19 provision that remains -- or the first provision that
20 we put a pin in from last time is 19.15.8.9(a).

21 MR. BLOOM: Mr. Chair, if I may?

22 MR. CHANG: Please.

23 MR. BLOOM: I think I may have brought
24 this on the proposed addition based on some questions
25 that I asked during the evidentiary portion of the

1 hearing. And so what NMOGA proposed in its closing
2 language was adding verbiage that would say -- or the
3 division exercises its discretion and waives its
4 financial assurance requirement because the operator
5 is engaged in plugging operations for that wealth to
6 be secured, will be in the future, or for other good
7 causes determined by the division.

8 And you know, my question back then,
9 the intent of it was to say, you know, is there a
10 world where a well could be bonded or not bonded, but
11 OCD would allow that bond to be released or a well not
12 to be bonded if there was to be action by the operator
13 to clean up that well and that money could be of use
14 otherwise.

15 I -- you know, I still think that would
16 be a good idea, but in this case, I don't think that
17 suggestion or this language has been substantially
18 developed by any party. And they could potentially,
19 you know, open a door or circumvent the general intent
20 of the rule.

21 You know, for example, currently, we
22 don't know how a party would apply for this waiver,
23 what the waiver would be based on what factors, what
24 materials would have to be provided to the OCD to make
25 their decision, how long this waiver would be good

1 for, what would happen if the work wasn't completed in
2 a timely manner, what the repercussions of that are,
3 how that would be handled in the rule, what happens if
4 P&A isn't done, how many bonds could be waived at
5 once, you know, how would this not be abused, would
6 there be a hearing, for example.

7 So I just think there's too much un
8 uncertainty to adopt this at this point. I wish it
9 would've been developed more by the various entities.
10 We might have had some legs, but I just don't think we
11 have enough on that at this point. So --

12 DR. AMPOMAH: Commissioner Bloom, so on
13 this one, we discussed that extensively on Wednesday,
14 and I thought that -- first of all, we all agree that
15 OCD will put up some sort of guidance.

16 MR. BLOOM: Yeah.

17 DR. AMPOMAH: So definitely, whatever
18 we adapt, they have to put up the guidance to really
19 go with that. So I thought that we discussed this
20 extensively and were leaning towards just putting a
21 12-months period right there so that it'll be 12
22 months.

23 For example, let's say, if a well is a
24 low-producing well, just started to be a low-producing
25 well, now, the operator decides that, "Okay. I want

1 to probably plug this well." Okay. But OCD is
2 saying, "Okay. You have to bond this well." Okay.

3 Will this provision not give OCD
4 the -- more like the room to say that, "Okay. if you
5 are plugging this well now, within 12 months, then you
6 are not going to pay the 150,000 for this well."

7 So I was thinking that maybe we can
8 modify that language and say that all the division
9 exercises discretion and waives its financial
10 assurance requirement because the operator is engaged
11 in plugging operations for the well to be secured
12 within the next 12 months. And I think we end there.

13 MR. CHANG: Commissioners, if I could
14 ask your -- to slow down just a second to make sure
15 that we're all looking at the same language, again
16 with multiple -- because now I've got a 19.15.8.9 that
17 has no subsections at all of any kind, right here.

18 MR. BLOOM: Oh, Mr. Chair, if I can
19 address that? Are you looking at NMOGA's version
20 there?

21 MR. CHANG: I'm looking at -- so then
22 there's the NMOGA.

23 MR. BLOOM: There -- so I have the same
24 thing. I think there was an error perhaps in NMOGA's
25 submission, where there's two sections for 8.9. So if

1 you scroll up -- I guess the one at the top actually
2 has that language where --

3 MR. CHANG: Yeah. There's a --

4 MR. BLOOM: -- the one at the bottom,
5 it just cuts off like it doesn't exist. So --

6 MR. CHANG: There's two versions of
7 8.9(a); right?

8 MR. BLOOM: Yeah.

9 MR. CHANG: Okay. Give me a sec. Do
10 you have the page number, by any chance? I just want
11 to make sure I'm looking at the -- oh. Oh.

12 DR. AMPOMAH: Twenty-one.

13 MR. BLOOM: Twenty-one.

14 MR. CHANG: Here we go. Yes. So it's
15 where -- that's right. Because there's two
16 different -- there must have been a typo of some sort.

17 MR. BLOOM: Some sort of typo
18 somewhere. Yeah.

19 MR. CHANG: Yes. Okay. Perfect. Now
20 I'm on the same page as everybody else and now I'm --
21 so I apologize. Okay.

22 DR. AMPOMAH: Can I repeat?

23 MR. CHANG: Please.

24 DR. AMPOMAH: Okay. So what I was
25 saying is that, you know, I give an example of

1 situations where it would be good idea for OCD to have
2 this discretion with regards to when to impose the
3 bond.

4 For instance, let's say a well is a
5 low-producing well and a operator is making a decision
6 on it, whether they want to plug that well or more or
7 less bond it 150,000. So the operator decides that,
8 "Okay. I want to plug this well instead of paying the
9 \$150,000." Will this provision not support OCD giving
10 the operator the opportunity to plug that well within
11 12 months without paying the 150,000?

12 MR. CHANG: So substantively, I
13 understand where Commissioner Ampomah's coming from,
14 and I get that discretion can be useful. I think the
15 division already has discretion through settlement
16 agreements, through enforcement-agreed orders, and the
17 division, through its enforcement process and
18 settlement process, can exercise discretion.

19 And in fact, if we -- simply without
20 this language, there already is enforcement discretion
21 by the division. And without -- and with Dr. Ampomah,
22 if we call out specifically the 12 months, that
23 actually limits the amount of enforcement discretion,
24 because sometimes we've had operators with far more
25 and -- far more wells than they can possibly plug in

1 12 months; right?

2 And so there have been situations where
3 OCD has, in settlement agreements, agreed to a much
4 longer extension than 12 months as part of a
5 settlement enforcement. I think I would prefer to
6 leave the -- so looking at the first green language
7 here, because there's two different green sections;
8 right?

9 Looking at that first green language, I
10 think we can achieve what you're thinking of doing by
11 leaving it out, because, again, we already have
12 enforcement discretions. And I would rather do that
13 on a case by case, negotiated with an operator as
14 opposed to, I think, putting the language here, a, I
15 think, invites everybody to ask us to exercise
16 discretion and waive, without going through an
17 enforcement and, sort of, negotiating procedure.

18 And B, we have enforcement discretion
19 throughout all parts of NMAC. And I don't want to
20 open the door to, "Well, if it's called out as having
21 discretion in this one NMAC," how does that work when
22 there -- you know, discretion is not explicitly
23 discussed in the NMAC, for other provisions. Does
24 that make any sense?

25 DR. AMPOMAH: Yeah. It does. But

1 don't you believe that -- so the second line that has
2 been -- one is outlined in red -- "The division shall
3 not approve and the operator shall not proceed with
4 any proposed drilling or acquisition of the operating
5 authority under 19.15.9.9 NMAC, until the operator has
6 finished the required financial assurance." So don't
7 you believe that that provision is more or less
8 limiting OCD with any room?

9 MR. CHANG: We've negotiated and
10 allowed deviations as part of a settlement agreement
11 before. So I don't personally have a heartburn about
12 that, but I -- you know.

13 DR. AMPOMAH: Okay.

14 MR. CHANG: Attorneys for various
15 parties may feel differently.

16 MR. SHANDLER: I would also point out
17 that the NMOGA's finding of fact for this cites the
18 expert Commissioner Bloom. So if Commissioner Bloom
19 is not comfortable, that's --

20 DR. AMPOMAH: Yeah. He was pushing for
21 it. Yeah. Okay. I'm good too.

22 MR. CHANG: I think substantively,
23 we're ending up in the same place because, A, the
24 division still can, through negotiations and
25 settlements, achieve the kind of discretion that I

1 think would be helpful, that Commissioner Ampomah
2 rightly points out.

3 And I think by not adopting the
4 language, we can still -- there is still some base
5 level of discretion, but we avoid the issue of
6 adopting language where there isn't a sufficiently
7 developed record of evidence in the body of evidence
8 in the record.

9 That's my thought on the first green
10 section. Is there -- I'll invite thoughts. I have
11 some thoughts on the second green section as well, if
12 commissioners would like to --

13 MR. BLOOM: We'd like to go ahead,
14 please.

15 MR. CHANG: So I think this gets to an
16 issue that repeatedly comes up and is addressed in the
17 briefs about potentially, you know, what industry
18 calls double bonding; right? Or at least some of the
19 industry parties call double bonding; right?

20 So any one section satisfies the
21 operator's plugging financial assurance. That's not
22 currently how it's operated right now. Things do -- I
23 looked up Hillcorp, and my understanding is that
24 currently there can be a blanket bond as well as a
25 single-well bond.

1 And I think the idea is that the
2 blanket bond can serve as a -- because right, now the
3 single-well bond, even after we adopt this rule, looks
4 at the cost for plugging down hole; right? For
5 plugging the well itself. It doesn't incorporate the
6 costs of surface reclamation.

7 And so oftentimes, a blanket bond is
8 still useful as an umbrella insurance policy, so to
9 speak, metaphorically, an umbrella insurance policy
10 for related surface equipment salvage and removal, for
11 surface reclamation, for other spills, remediation,
12 contamination, cleanup.

13 And so at the moment, the practice has
14 not been to interpret that as -- to interpret these
15 categories as mutually exclusive. And also, if you
16 look at this -- and I had some -- some thoughts about
17 this as well.

18 There was a lot of discussions in
19 industry's briefs about how the structure of the
20 famous Rankin rainbow, because of these commas, makes
21 these categories mutually exclusive. And I'm not so
22 sure that's true; right? Just merely because there's
23 a comma there.

24 If you take the sentence, "I drink
25 tea," comma, "coffee," comma, "and water," the fact

1 that there's a comma between "and water" doesn't mean
2 that somehow tea and coffee lacks any water when I'm
3 drinking them in the powdered form.

4 So I'm not so sure that the mere comma
5 means that they are mutually exclusive and can't be --
6 or if, you know, I drink tea, coffee -- tea, comma,
7 coffee, comma, milk, doesn't prohibit me from drinking
8 a latte that includes both coffee and milk; right?

9 So I'm not so sure that I buy that
10 the -- or I don't buy the argument that the comma is
11 so powerful as to make all of the categories
12 explicitly exclusive or explicitly limiting.

13 And certainly, the legislature -- you
14 know, if the legislature intended something different,
15 certainly, I think the legislature had plenty of
16 opportunities to, and could in the future, amend that
17 statute, to tell us that we're interpreting it
18 incorrectly.

19 But looking at the plain text as
20 written, it simply says that these are "shall
21 include." Doesn't say, "shall only include." It
22 says, "shall include," these three things. So I think
23 the language here -- so I think -- anyway, I just want
24 to put that down there, that I'm not so sure that we
25 need to --

1 MR. BLOOM: So, Mr. Chair, just --

2 MR. CHANG: Go ahead.

3 MR. BLOOM: -- back to the beginning of
4 your statement, you say that there are cases where
5 double bonding can and perhaps should occur?

6 MR. CHANG: My understanding -- and I
7 looked at a little bit at a couple of operators
8 bonds -- is that at the moment, there are operators
9 who have both single-well bonds and blankets.

10 Now, it's -- so I -- and I think it's
11 within the legal authority for us to allow people to
12 fall into multiple bonding categories. Now, that's a
13 different question from whether or not that's a good
14 policy choice.

15 So it would also -- so if the
16 commission feels that, you know, that is not a good
17 policy choice and we should make these categories
18 exclusive, I also think the commission has the power
19 to do that.

20 MR. BLOOM: So but, if you allow
21 me -- can I give you an example?

22 MR. CHANG: Please.

23 MR. BLOOM: Let's imagine that this
24 rule's adopted, Company X has 19 percent of its wells
25 in the situation where if they hit 20, they have to

1 bond everything; right?

2 And some of those wells that are in the
3 19 percent are already bonded because they were
4 inactive or had problems with the TA status, something
5 like that. Then the company goes over 20 percent.
6 Does the company have to maintain those existing bonds
7 on those previously bonded wells and then bond
8 everything again? I think that's what could happen
9 here in this -- bonding.

10 MR. CHANG: Can you point me to the --

11 MR. BLOOM: Yeah. Okay. So --

12 MR. CHANG: I -- not that I don't
13 believe you, but help me --

14 MR. BLOOM: Sure.

15 MR. CHANG: Just, can you help me
16 follow the language here? And like I said, you know,
17 I think we have the legal authority, if we wanted, to
18 allow companies to fall into multiple categories, but
19 I think that's a different question from whether that
20 is good or bad policy. So as a matter of policy, I'm
21 happy to entertain a debate as to whether or not we
22 should, in fact, make these categories exclusive.

23 MR. BLOOM: So -- all right. Let's
24 imagine that an operator has -- the double bonding
25 would be for the language that NMOGA has suggested,

1 would talk about satisfaction of subsection C and G,
2 but not being covered by both; right? So a company
3 could have a blanket bond; right? Of \$250,000 under
4 C3; right? Make sure we're on the same page here.

5 MR. CHANG: I see C3. Yes.

6 MR. BLOOM: Yeah. Okay.

7 MR. CHANG: Okay.

8 MR. BLOOM: All right. So a company
9 could have to have a \$250,000 blanket bond. Then they
10 could have -- go down to D -- low-producing wells;
11 right? So they have five low producing wells that
12 they have to bond at \$150,000. Okay?

13 Then keep going down to E. Now
14 operates with 20 percent or more of wells in an active
15 approved TA or expired TA status. Right? Now,
16 imagine that company, they're at 19 percent for a long
17 time. They go to 25 percent. Now, now under E, they
18 have to bond all their wells.

19 MR. CHANG: Got it.

20 MR. BLOOM: Right? So now they've
21 bonded all their wells. Plus, they have a \$250,000
22 blanket bond. Plus, they have individual bonds for
23 the above low producing wells that got them to 19
24 percent or whatever. Right? So now they're double --
25 a couple ways; right?

1 MR. CHANG: Sure.

2 MR. BLOOM: And you know, one is that
3 what parties intended. Two is that, you know, adjust
4 or functionable outcome of this rulemaking, so -- or
5 proper.

6 MR. CHANG: So I -- yeah. It's -- I
7 don't want to speak for what parties intended, but I
8 think the 200 -- again, like, if we were to allow
9 multiple bonds, I think the justification would be
10 that the 250 would be more like a blanket umbrella
11 insurance policy to cover things that are not included
12 in the calculations for the 150 or 163,000, which is
13 just down hole plugging.

14 It doesn't include things like hauling
15 away the pump jack or surface equipment or reclaiming
16 the surface; right? So we would have another 250,000
17 as a blanket for addressing additional surface. But I
18 also hear the point about how this would make the rule
19 even more financially burdensome for operators. And I
20 want to be sensitive to that as well.

21 So if the commission feels that there's
22 potentially a compromise here where we could limit the
23 multiplicity of the -- or limit the scope of this rule
24 by only allowing one section at a time, I'm open to
25 that as a matter of policy.

1 The next question I would have is,
2 let's just -- just, I need to double check, dot our
3 I's, and cross our T's that that would -- A, that
4 there's substantial evidence in that -- and let's just
5 take a quick look that this thing would still hang
6 together if we were to make that change.

7 MR. BLOOM: I have that concern as
8 well, Mr. Chair.

9 DR. AMPOMAH: So would there be a path
10 forward on that?

11 MR. CHANG: Well, first, is there -- I
12 mean, it sounds like the commissioners, at least my
13 fellow two commissioners, have an interest in adopting
14 the green language in 19.15.8.9, last green section
15 to -- right?

16 Is there interest? Number 1. So there
17 is interest. I see nodding. So then the second
18 question is, would there be substantial evidence in
19 the record to support that, and how does that maybe
20 reverberate through the rest of the rule?

21 MR. BLOOM: I just searched the --
22 again, the applicant's closing does not mention double
23 bonding. Looking at NMOGA's closing.

24 MR. CHANG: It's discussed quite
25 extensively. IPANM, they -- it discussed it

1 extensively.

2 MR. BLOOM: And there was another
3 double binding that NMOGA and I believe IPANM
4 discussed as well, which was, you know, potential
5 overlap with the land office's bonding. But again,
6 those are trains on different tracks. And I don't
7 think that is equivalent or tantamount to a sense of
8 double binding that that could be curated here.

9 MR. CHANG: Well, and I don't know how
10 to address double bonding related to the state land
11 office, because as far as I understand, there might be
12 an active rulemaking over there, but it hasn't been
13 decided one way or the other.

14 MR. BLOOM: That's correct.

15 MR. CHANG: So I -- yeah. It --

16 MR. SHANDLER: I would recommend --
17 this sounds like something that the hearing officer
18 might need a few minutes just to get everything
19 organized. So maybe we want to pass over this one for
20 right now.

21 MR. CHANG: Let's note -- yeah. But
22 let's note that there is -- at least there's
23 commissioner's interest in exploring that and then so
24 then we can come back and maybe get some advice.

25 MR. BLOOM: And I -- you know, I looked

1 through this. I thought NMOGA's language would not
2 create other issues and solely address that
3 possibility, double bonding. But you know, I hope I'm
4 right, and wanted to check that with you all as well,
5 so --

6 MR. CHANG: Sure. But -- yeah. I will
7 note that I see interest in that or at least interest
8 in exploring that further from at least two
9 commissioners. So I have two fellow commissioners.
10 So -- that it's definitely worth exploring further
11 with commission counsel and our hearing officer.

12 Is there any -- I don't recall. I
13 asterisk on my document here. But is there any debate
14 on the -- in the same section, 19.15.8.9, is there any
15 debate on the red underlined language, whether or not
16 highlighted in blue?

17 DR. AMPOMAH: This is just -- so you've
18 clarified that even though without provision, OCD
19 still do have the room to work with operators to be
20 able to more or less work through this. So I do not
21 have any concern about that.

22 MR. CHANG: I have a -- for some
23 reason, I have a dot in here. I don't know if it's
24 just a stray mark, but I had a dot next to the blue
25 language -- this subsection A applies to subsection B

1 through H of this section. That didn't seem like that
2 was controversial for anybody.

3 So I'm not sure why I have a dot there,
4 but I just thought I'd ask and see if -- I didn't have
5 any concerns, and it seems like it's one of the
6 language that had relatively broad party support.
7 So -- I just want to confirm that we didn't have any
8 further deliberations on that.

9 DR. AMPOMAH: And then the NMOGA guys
10 put in a comma there.

11 MR. BLOOM: Okay. I'm just reading
12 through this, you know, one last time, making sure
13 that that sort of language work --

14 DR. AMPOMAH: Can we not go through the
15 other ones before we come back to that? Because, I
16 mean, that impacts everything beneath that; right?

17 MR. CHANG: Okay. So in that case,
18 we're on to 19.15.8.9(d)(4), I believe, which shows up
19 in -- not in the -- if I understand correctly, not in
20 the applicant's final, but in NMOGA's proposals.

21 DR. AMPOMAH: I think we will deal with
22 3 first.

23 MR. CHANG: (d)(3)?

24 DR. AMPOMAH: Yeah.

25 MR. CHANG: Okay.

1 MR. BLOOM: I'm sorry. We're at?

2 MR. CHANG: 19.15.8.9(d).

3 MR. BLOOM: (d)(3)?

4 MR. CHANG: Three.

5 DR. AMPOMAH: Yeah. (d)(3). So,

6 Mr. Chair, on this one, if you read through the
7 closing and briefing, it sounds to me that the parties
8 only more or less discuss and agreed mostly on the
9 well stream -- the midstream take away capacity.

10 But during the hearing, we went back
11 and forth a lot on multiple situations, where operator
12 might not be able to satisfy this provision. So I
13 thought about this, but I'm not sure how we can
14 connect what NMOGA is proposing to what they've agreed
15 to.

16 NMOGA tried to summarize all that has
17 been agreed to one another three, right in the
18 point A. That will be a physical impediment limiting
19 the well's midstream take away capacity. And the
20 demonstration shall also include the notification from
21 the midstream operator required, pursuant to 19.15 --

22 MR. BLOOM: Sorry. Just to clarify,
23 Dr. Ampomah. So that's in the part of the joint
24 stipulation; correct? In blue?

25 DR. AMPOMAH: Exactly. Right there.

1 MR. BLOOM: So the -- yeah. Those
2 parties -- yeah. Those --

3 DR. AMPOMAH: Those parties --

4 MR. SHANDLER: The parties have agreed
5 to a variance --

6 MR. BLOOM: Create this variance. Yes.

7 MR. SHANDLER: They're fighting over
8 what the criteria should be. They're also fighting
9 over what the process should be.

10 MR. BLOOM: Yeah.

11 DR. AMPOMAH: So on that, you'll see
12 that the joint stipulation all still talks about
13 mostly the midstream, midstream, midstream. So if you
14 look at what NMOGA is proposing, they are summarizing
15 the joint stipulation at 3, right at the (3)(d). And
16 moving on to other categories that we discussed --

17 MR. CHANG: B, C, D, E, F --

18 MR. BLOOM: I think we ruled those out.
19 Yes.

20 DR. AMPOMAH: You said we ruled those
21 out?

22 MR. BLOOM: I thought we did.

23 DR. AMPOMAH: No. I thought --

24 MR. BLOOM: We hadn't? We're still
25 going? Okay.

1 DR. AMPOMAH: Yeah. I thought we said
2 we would have to revisit this one more time -- on
3 Wednesday, you thought that --

4 MR. BLOOM: Oh, okay. I thought we
5 were revisiting four underneath, which is the variance
6 procedure. But --

7 MR. CHANG: That's what I had as well.
8 Just that we agreed to 3. But you know, that's fine.
9 The deliberations are ongoing. So to the extent that
10 there's --

11 MR. BLOOM: Nothing's permanently
12 shelved until --

13 MR. CHANG: Nothing's permanently
14 shelved.

15 MR. BLOOM: -- gavels this thing down.
16 Yeah.

17 MR. CHANG: So if we would like to
18 reconsider (d)(3), now is the time, please.

19 DR. AMPOMAH: Okay. Yeah. So -- yeah.
20 I thought that we're still talking about (d)(3)(a) --
21 (d)(3). So but again, I just want the commission to
22 reconsider this.

23 MR. CHANG: Sure.

24 DR. AMPOMAH: Because if you look at
25 the joint stipulation, it is mostly on the midstream,

1 but there are other factors too that NMOGA is laying
2 out here and we discuss that extensively during the
3 hearing. So we can probably go through it and then
4 rule some of them out or at least discuss that.

5 MR. CHANG: Please. Please.

6 DR. AMPOMAH: So the way I look at it,
7 NMOGA tried to summarize the joint stipulation right
8 at (3)(a) and then moved on to talk about the B. That
9 would be a compression or facility limitation.

10 And also C, an operational safety
11 requirement. D, a regulatory safety directive or
12 operational hold. E, a proximity operation or
13 interference, including nearby fracturing,
14 stimulation, drilling operations, impacting safe or
15 prudent pressure practice, which is very important
16 too.

17 And then of course, module event
18 including four -- okay. Yeah. And now for God. Now,
19 the G is the one that I do not know much about that
20 probably Commissioner Bloom can speak to.

21 And then the H, financial capability
22 based on world economics, operational plans or plans
23 to improve where performance or any other relevant
24 information. So that one too, I'm not so sure about
25 that.

1 But the last one, no current market, or
2 the only market will require selling at a loss, which
3 constitute waste. So that one, the I, will be closer
4 to what happened during the COVID. So I believe that
5 some of these points make sense, but if you read
6 through the joint stipulation, I'm not sure it covered
7 all of these potential issues.

8 MR. CHANG: Yes. I think if I recall
9 our conversation yesterday, Commissioner Bloom and I,
10 I think, are concerned about how broadly that people
11 might try to interpret some of these provisions
12 because require selling at a loss, that comes real
13 close to, "Well, your requiring selling at a loss
14 makes me concerned about the financial viability of
15 the company, which does increase risks of abandonment
16 and orphaning to the state." Right? And also
17 requires selling at a loss.

18 Well, so if I'm a terrible business
19 person and I just don't control my costs and run --
20 you know, that seems to me like we would have to do a
21 lot of economic inquiry that, A, I'm not so sure that,
22 to certain industry operators, be careful what you
23 wish for; right?

24 Do you really want to open up the books
25 to -- and have us try to figure out whether or

1 not -- your profitability looks like. And also, to
2 the extent of COVID, I think COVID probably fits
3 better under force majeure than major economic loss
4 anyway.

5 But even force majeure -- I mean, if
6 there was a force majeure where the governor announced
7 a state of emergency, I think we'd be looking at much
8 broader, you know, suspensions of other sections
9 anyway.

10 The compression facility limitations,
11 compressor failures, the variance process is a pretty
12 convoluted process, and it's a time-consuming process;
13 right? If you've got an equipment failure that lasts
14 as long as it takes to get a variance, I'd be very
15 concerned that that equipment isn't being repaired in
16 a timely fashion.

17 So I get some of these, but I certainly
18 would encourage the commissioners to at least narrow
19 some of this language if we were to consider adopting
20 some of these --

21 DR. AMPOMAH: Yeah. So I'll --

22 MR. CHANG: -- reasons for variance.

23 DR. AMPOMAH: So I'll encourage that we
24 read through three and then compare to what NMOGA is
25 proposing here, and see which ones really covers those

1 and then we just rule them out. If the commission
2 would like to do that?

3 MR. CHANG: Let's do --

4 DR. AMPOMAH: Yeah.

5 MR. CHANG: It's important to me that
6 every commissioner gets to say their piece and -- so
7 please go ahead.

8 DR. AMPOMAH: Yeah. So if you read
9 through that -- and I will read through sections of
10 those -- it says, upon a demonstration satisfactory to
11 the division that there is a physical impediment
12 limiting the well's midstream take away capacity.

13 So right there, it is all centered on
14 midstream take away capacity. Demonstrations are
15 include a certification from the operator detailing
16 the nature of the physical impediment, explaining why
17 the physical impediment is outside the control of the
18 operator, detailing the alternatives there were or are
19 being explored to address the lack of the take away
20 capacity and an estimated date when the lack of the
21 take away capacity will be corrected.

22 So if you look at all of that, that is
23 all on the midstream side. It's all on the take away
24 side. But what about some of the items that they
25 proposed? So --

1 MR. CHANG: Okay. So let's take a look
2 at those, the other proposed.

3 DR. AMPOMAH: Yeah. One after the
4 other. And I was saying that NMOGA (3)(a), more or
5 less satisfied -- summarizes all that has been agreed
6 on here. And that would be the physical impediment
7 limiting the well's midstream take away capacity. So
8 that one more or less satisfies or more or less
9 summarizes all that has been agreed on for (3)(a).

10 For the (3)(b), I would say the B more
11 or less makes sense to me, but I don't know if we want
12 to discuss that.

13 MR. CHANG: Let's discuss it. We can
14 discuss whatever you want to. This is --

15 MR. BLOOM: So let me just ask you. If
16 A says that there's a physical impediment limiting the
17 well's midstream takeaway capacity, B, to me -- or
18 it's just --

19 MR. CHANG: Is exactly that.

20 MR. BLOOM: -- more examples of
21 midstream capacity. So I think it's redundant and
22 doesn't need to be --

23 MR. CHANG: Right. I mean, because
24 compress -- I mean, compression facility limitations,
25 that's midstream, isn't it?

1 DR. AMPOMAH: Midstream. Yes.

2 MR. CHANG: Compressor failure.

3 DR. AMPOMAH: I agree.

4 MR. CHANG: And then that -- yeah.

5 DR. AMPOMAH: I agree to that.

6 MR. CHANG: Equipment scarcity, now,
7 that's a real squishy -- supply chains are real. I
8 don't want to downplay the challenges for operators in
9 supply chain constraints, but that's a real broad door
10 if, "Oh, it's" --

11 MR. BLOOM: Could that include, you
12 know --

13 MR. CHANG: -- compressors --

14 MR. BLOOM: -- we can't get the pipe to
15 the site --

16 MR. CHANG: Yeah.

17 MR. BLOOM: -- rights away or
18 something. Well, that's --

19 MR. CHANG: Or just, like --

20 MR. BLOOM: -- a completely different
21 story. That's in a scarcity of the equipment going
22 in.

23 MR. CHANG: Or just the turbines are
24 currently backordered. I mean, it's -- that alone, I
25 think -- you know, turbines are, in fact, currently

1 backordered; right? Turbines are very popular right
2 now.

3 Is that a scarcity that would make -- I
4 mean, so I would -- I think that language is too broad
5 for my comfort. And plus, equipment scarcity
6 presumably means midstream equipment scarcity.

7 I can't imagine that, you know, a
8 refinery having some equipment scarcity shouldn't -- I
9 mean, I think that would be fairly outlandish if, you
10 know, lack of trucks at a refinery would somehow
11 constitute equipment scarcity that would impact well
12 bonding; right?

13 So I think equipment scarcity, the way
14 that's written here, to make sense, we'd have to
15 interpret it as midstream equipment scarcity anyway.
16 And so therefore, would still be captured in
17 midstream.

18 Maintenance or processing plant
19 downtime or inlet restrictions, that still seems like
20 midstream. So I think B is -- not that I disagree
21 with B necessarily, but it's covered.

22 DR. AMPOMAH: It's covered. Yeah.

23 MR. CHANG: Okay. C, again,
24 curtailment for -- this is what -- C is one of those
25 ones where an operational safety, you know,

1 curtailment for the protection of life health. So
2 we're talking, generally speaking, about emergency
3 situations.

4 DR. AMPOMAH: Emergency situation.

5 MR. CHANG: But this section we're --
6 is around a variance request to bonding. A variance
7 request is a long process. So if you've got some sort
8 of threat to human health in the environment that
9 lasts long enough for a variance process, something's
10 very wrong.

11 DR. AMPOMAH: So natural -- sense, that
12 might not necessarily take a longer period to be
13 resolved.

14 MR. CHANG: I'm sorry?

15 DR. AMPOMAH: It should --

16 MR. CHANG: Yeah. It shouldn't; right?
17 It doesn't make sense to me that there would be some
18 sort of emergency situation that lasts long enough for
19 us -- for people to go through a whole variance
20 process.

21 DR. AMPOMAH: Okay.

22 MR. CHANG: And I'm a little bit more
23 open to regulatory safety directive. I'm not sure
24 what operational hold might mean.

25 MR. BLOOM: Does this get back to what

1 you were just saying about emergency-type situations
2 where the -- you know, if the regulatory safety
3 directive is that your pipeline's corroded and
4 shouldn't be permitted for use right now, or should be
5 suspended from use, I'm not sure that that should mean
6 that that low-producing well gets a variance. I don't
7 know.

8 DR. AMPOMAH: So let's say there's a
9 pipeline connecting these wells to the storage tank,
10 for instance; right? And then, like you said, there's
11 a problem with the pipeline. Now, these wells can
12 produce. But let's say the regulator says you have to
13 fix this before you can more or less bring all these
14 well on stream, back on stream. Would that not be
15 more like a --

16 MR. BLOOM: I think it would depend on
17 whether that the safety directive was also directed at
18 a third-party midstream facility or, you know,
19 on-lease. Could it be on-lease? Could it be in a
20 unit? Is it under control of the same operator?
21 Right?

22 So some of those, you might get a --
23 you know, variance -- if it's not your fault, maybe
24 you get the variance. But otherwise -- but I guess
25 again, this, to me, almost feels like as we're talking

1 about it, we're coming back to midstream takeaway
2 capacity issue.

3 MR. CHANG: Because if it's not
4 midstream; right? First of all, I don't know that we
5 should think -- consider, like, all the -- you know,
6 shipping, you know, or refining issues that -- because
7 that's so far removed from the well plugging issues
8 that we're trying to address in this role; right?
9 Number 1.

10 So we're talking about either midstream
11 or at the well itself. If it's midstream, it's
12 covered by the language that's negotiated around
13 midstream. If you have a safety upset and somehow
14 your well is too dangerous to be operating because
15 it's actively on fire or something like that, I'm not
16 sure that that's a good reason for you to get a
17 variance from bonding, because if you are unable to
18 operate your well in a safe manner and comply with
19 safety regulations, I feel like that actually means
20 that this is probably an operator that I want to keep
21 an extra eye on and make sure that we have bonding
22 for.

23 I certainly don't want to create a
24 perverse incentive where -- let's -- you know, if I
25 can create a health hazard, maybe we can avoid

1 bonding. That doesn't seem to make sense.

2 DR. AMPOMAH: No. So these wells are
3 actually bonded. But to raise the seal to the
4 150,000. So these wells are actually bonded, but they
5 more or less become a low-producing well.

6 MR. CHANG: Sure.

7 DR. AMPOMAH: Which will increase your
8 bonding.

9 MR. CHANG: I understand.

10 DR. AMPOMAH: Right? So it's not like
11 they are not bonded. They're actually bonded. But
12 just that room --

13 MR. CHANG: You can stay at the
14 lower --

15 DR. AMPOMAH: You -- exactly. Exactly.

16 MR. CHANG: You can stay at the lower
17 bonded rate if you make sure that there's a health
18 hazard and an environmental hazard coming from the
19 well? That doesn't make sense to me. Please light a
20 few of them on fire so you don't have to bond at a
21 higher level? That doesn't make sense.

22 DR. AMPOMAH: But do you think
23 operators will do that? I don't know.

24 MR. CHANG: I hope not.

25 DR. AMPOMAH: But, Mr. Chair, so on the

1 regulatory safety directive, what could be an example
2 that might not necessarily fall under the mainstream
3 takeaway?

4 MR. CHANG: And that's the -- I mean,
5 that's why I was trying to think of. Like, I mean,
6 unless your actual well is problematic; right? So
7 that -- and -- look, safety directive, I'm a little
8 bit more open to, but operational hold is too broad
9 for me for sure.

10 DR. AMPOMAH: Exactly. Exactly.
11 That's a loophole.

12 MR. SHANDLER: So let me just provide
13 some advice. You have options; okay? And you can
14 continue this discussion, but the backbone is where is
15 this in the record?

16 And so the finding that NMOGA has is
17 number 70, and they have -- the expert is Commissioner
18 Bloom questioning Mr. Arthur, and that's about
19 midstream and takeaway shutdown.

20 And then Commissioner Bloom questioning
21 Mr. McGowen about midstream shutdowns and force
22 majeure. There's nothing further about in NMOGA's
23 findings supporting their six or seven things that
24 they've listed here.

25 DR. AMPOMAH: If you look through the

1 transcript, these are -- if I remember, because I
2 mean, this was one of the items that we talked about.

3 So we probably would have to cross
4 reference the transcript because I'm -- I really sure
5 that we discussed some of these issues. I'm really,
6 really sure that we discussed some of these issues,
7 not just only the midstream takeaways, if, as I
8 recollect -- because this would be something that I
9 will have interest in, to really discuss more
10 extensively.

11 MR. CHANG: We can certainly go
12 through, policy-wise, what Commissioner Ampomah
13 believes first and then -- but I think before we
14 choose what to adopt, I -- we will have to make sure
15 that we've got a record to support whatever we do want
16 adopt at the end.

17 DR. AMPOMAH: Okay.

18 MS. ORTH: on that issue, I would just
19 actually agree with Mr. Shandler. All I'm finding on
20 the -- like, lack of take away capacity and other
21 impediments midstream is the conversation between
22 Commissioner Bloom and Mr. Arthur.

23 MR. SHANDLER: So I realize the first
24 two things I've suggested to table them again, and
25 that's going to be very frustrating as a human to

1 another human.

2 But it may be appropriate during a
3 break that we can quickly go onto the computer. So
4 that's my advice. If something doesn't jump out
5 after, like, 15 minutes of a discussion, maybe we
6 should put another pin in it and just make sure that
7 everything is -- we've given you the information you
8 need to make the best decision.

9 MR. BLOOM: Sure.

10 DR. AMPOMAH: You know, Mr. Chair, the
11 only thing that I remember that I really want us to
12 really take a closer look is the item E, you know, so
13 proximity operation or interference, including nearby
14 fracturing stimulation, drilling operation is
15 impacting safe and prudent pressure practice.

16 I mean, this one is the one that really
17 stands out to me, that it doesn't fall under the
18 midstream, but this one is something that can okay.

19 MR. CHANG: That's fair. I can see how
20 that's certainly a reasonable position. And while we
21 wait for an opportunity to go back and see what the
22 record might reflect on E, I'm happy to quickly run
23 through F, G, H, and I just to make sure that we, as a
24 matter of policy -- you know, as a matter of policy,
25 what you guys' thoughts are.

1 So again, I think if there's a
2 emergency or an act of God, the governor's emergency
3 declaration is going to be a far more effective tool
4 for addressing that kind of emergency situation than
5 trying to apply it for variance and go through a whole
6 rigmarole for variance. Right?

7 DR. AMPOMAH: Yeah.

8 MR. CHANG: So I think --

9 MR. BLOOM: And on that -- and just, I
10 think, to get back to what Mr. Shandler, the hearing
11 officer, said -- as I'm looking through this -- I just
12 went through NMOGA's closing, looking at the work
13 variance, and there's not really testimony on the
14 variance.

15 There's just some statements in there
16 saying that the parties agreed to variance language,
17 which was under A -- you know, I just searched under
18 fracturing, and there's no -- was not testimony on
19 that.

20 I don't think I recall any testimony,
21 you know, of what the effects of this could be, if
22 there was a temporary shutdown because of the
23 fracturing and -- you know, I mean, a lot of times,
24 you know, well completions, they could be on location
25 for a while.

1 But again, this gets kind of far out
2 there. You know, I think force majeure events are
3 something that can be used in a rule to drive a truck
4 through; right? So there's some issues there. But
5 generally, most of these things have not been
6 discussed on the record --

7 MR. CHANG: Or vetted.

8 MR. BLOOM: -- or vetted. So --

9 MR. CHANG: Yes. But even if there
10 was -- I'm just saying I don't think the force -- as a
11 matter of policy, I think the force majeure clause,
12 it -- variance is not the way to go about addressing
13 some real earthquake; right?

14 If there truly was some sort of
15 disaster, natural disaster, giant -- I don't know.
16 Forest fire, earthquake, some truly -- COVID -- though
17 a governor's emergency declaration -- there are other
18 mechanisms that's going to be more effective for that
19 anyway.

20 And then same with -- I mean, H, to me,
21 is too broad. H and I are just far too broad and
22 would sort of swallow the rule, so to speak. So I'm
23 not so fond of H and I as a matter of policy. G,
24 my -- that seems to read to me -- and you can correct
25 me if I'm wrong, Commissioner Bloom, but it seems like

1 G is meant for somebody to use a well as to, like,
2 a -- to hold onto a lease, like a federal lease or
3 something along those lines; right? Is that how you
4 read that? And I'm not sure that that's a
5 sufficiently good reason.

6 MR. BLOOM: And I'm not sure that an
7 exception to our rule should be whatever happens to
8 appear in, say, a BLM lease.

9 MR. CHANG: Lease. Yeah.

10 MR. BLOOM: Or it could be in one of
11 the 20-some leases that the land office has, the
12 legislature has created since the time of statehood.
13 So --

14 MR. CHANG: Okay. So really, I think
15 the open policy question or the part where I think
16 that this commission has interest in is E; right?
17 This idea around fracturing and stimulation and
18 drilling.

19 So then maybe we can then ask
20 commission counsel and commission hearing officers to
21 see whether or not there's -- you know, whether or not
22 the commission wants -- if the commission were to want
23 to adopt E, whether or not there's any evidence that
24 would allow us to do so.

25 DR. AMPOMAH: Right. Okay.

1 MR. BLOOM: And I believe we discussed
2 H on Wednesday, which to me, sounded like a way to get
3 around almost the entirety of the --

4 MR. CHANG: Yeah. H is --

5 MR. BLOOM: -- of that section.

6 MR. CHANG: Yeah. H would swallow the
7 rule. So -- I'm sorry. Yeah.

8 MR. BLOOM: We can't afford a -- we
9 need a variance to our bond because we can't afford
10 the bond. Right. Yeah.

11 MR. CHANG: It would defeat the -- it
12 would swallow the rule. So --

13 MR. BLOOM: -- the financial
14 capability.

15 MR. CHANG: Right. But I concur with
16 Dr. Ampomah's point about around, you know, E deserves
17 some thought as a matter of policy. Now, whether or
18 not we have the mechanics of and sufficient evidence
19 in the record to include it at this time is a
20 different question. But that was -- I thought that
21 was a useful discussion. So thank you.

22 DR. AMPOMAH: Thank you.

23 MR. BLOOM: So next would be four below
24 that, which is the way we would bring that variance
25 process into the rule. Is that right?

1 MR. CHANG: Yes. So my thoughts on
2 here is that 30 days, it -- right now, it's silent,
3 and we're going to end up with a dispute as to what
4 happens when the 30 days expires and the division
5 somehow was not able to come to decision.

6 I would be fine with this if it's a 30
7 days to approve. Otherwise, it's an auto denial
8 because that -- you know, but I think I would have
9 heartburn if it's an auto approval of a variance.

10 DR. AMPOMAH: Okay. But don't you
11 believe that probably within the 30 days, the staffs
12 probably would not have had enough time to really make
13 a decision on it?

14 MR. CHANG: So -- yeah. So I'm fine
15 with the -- if the staff acknowledges and -- so I
16 don't -- let me -- what's the way I want to phrase
17 this -- I don't mind if the process takes longer than
18 30 days to play out and it keep -- if there is an
19 exchange of information and ongoing consideration.

20 What I didn't want is for OCD, for lack
21 of capacity, to have not even had a chance to review
22 it in 30 days, and then have a bunch of variances get
23 auto approved.

24 DR. AMPOMAH: But what about auto
25 muted -- or, like, disapproved?

1 MR. CHANG: So I think it's -- I think
2 that division -- if the division says, "We acknowledge
3 this variance, we think it may have merit, we need
4 more time," then I think that calendar will keep
5 rolling.

6 But if the -- it's sort of like
7 our -- the way I would frame it is like when we get a
8 motion for rehearing at the commission; right? If we
9 take no action, it's automatically denied.

10 However, if we take action to take it
11 up, it doesn't mean we have to do the rehearing within
12 ten days. Just, that we decide whether or not we are
13 going to hear it in those first ten days. Does that
14 make sense?

15 DR. AMPOMAH: Yeah, it does.

16 MR. BLOOM: So on 4, would
17 you -- NMOGA's suggested number 4, at the end of the
18 first sentence -- would you be comfortable with adding
19 something to the effect of, "No replies shall be
20 considered denial" into the first sentence?

21 MR. CHANG: Yes. I -- something along
22 those lines is the way that I would -- yeah. I
23 think -- I'll have to think a little bit about
24 language and maybe commission counsel can advise.

25 MR. BLOOM: -- have that elsewhere.

1 MR. CHANG: Yeah. We'll probably pair
2 it as closely as possible other parts of the NMAC --

3 MR. BLOOM: And that would take it to,
4 you know. A hearing if the division denies the
5 operator's variance, the operation will have 30 days
6 in which to file --

7 MR. CHANG: For a hearing. Correct.

8 MR. BLOOM: Yeah.

9 MR. CHANG: So the language in the
10 rehearing provision -- thank you so much -- commission
11 counsel, says, "The commission shall grant or refuse
12 the application in whole or in part within ten
13 business days after the party files it, and the
14 commission's failure to act on the application within
15 such period shall be deemed a refusal." Right?

16 So I would maybe -- my suggestion is to
17 use -- parrot that similar language in here, that
18 says, you know, it shall be 30 days. "The division's
19 failure to act on the application within such period
20 shall be deemed a refusal if the" -- or a denial. "If
21 the division denies the operator's variance by silence
22 or otherwise, the operator shall have 30 more days
23 then to file a request for a hearing."

24 DR. AMPOMAH: Okay. That works for me.

25 MR. BLOOM: That works for me. Yeah.

1 DR. AMPOMAH: That is, if you can
2 repeat it.

3 MR. CHANG: As long as I have this in
4 front of me, I can. Is --

5 MR. BLOOM: Is it --

6 MR. CHANG: Do I need to write this
7 down or have you got it?

8 MR. SHANDLER: I believe we're going to
9 have to put a pin in this and come back and actually
10 get the exact language for the record. But --

11 MR. CHANG: It sounds like --

12 MR. SHANDLER: -- in principle, you
13 have some language. So during the break, we can just
14 write it out.

15 DR. AMPOMAH: Okay.

16 MR. BLOOM: It'll be a busy break.

17 DR. AMPOMAH: I thought we were going
18 to be done before twelve.

19 MR. BLOOM: Yeah.

20 MR. CHANG: But thank you. I think
21 this language works for me, because then it tracks,
22 the other versions of the NMAC; right? And even if
23 the division takes no action, it simply goes to a
24 hearing.

25 So it's not a -- I just didn't want it

1 to be automatically deemed approved, because then we
2 could potentially have problems.

3 DR. AMPOMAH: Okay.

4 MR. CHANG: Okay.

5 DR. AMPOMAH: So there is a new five
6 that is not in the -- stipulated -- to stipulation.

7 MR. BLOOM: That's because that -- four
8 pushes it down; right?

9 DR. AMPOMAH: To five. Yeah. Okay.

10 MR. BLOOM: That five is, "An operator
11 may furnish all necessary financial assurance in the
12 form of a single instrument, but that deletion of one
13 well, operator may furnish all necessary" --

14 MR. CHANG: Yeah. It's the same
15 language and -- yeah. It's just --

16 MR. BLOOM: Yeah. And I think as we
17 were going through on Wednesday, we were good with
18 that deletion of one well when we saw -- so --

19 MR. CHANG: And it's just they may
20 furnish. They don't have to, but they may. So --
21 okay. Next on my list -- and again, please do stop me
22 if I skip anything, but the next on my list is
23 19.15.89(f).

24 DR. AMPOMAH: Yes. So, Mr. Chair, on
25 this one, Commissioner Bloom, if you look at the

1 original language, the one that has been crossed out,
2 you see that it says, "Covered by Subsection A of
3 19.15.8.9 NMAC."

4 MR. CHANG: I apologize. Give me just
5 one second to flip to it so I can track as you're
6 reviewing it. So I have 9(f), but now I'm -- the
7 numbering on this one is off again.

8 DR. AMPOMAH: Got it?

9 MR. CHANG: They're numbered
10 different -- they're numbered -- or they're
11 alphabetized differently, I think, maybe, and -- let
12 me see. Give me just a second.

13 MR. SHANDLER: What is the title of the
14 section and the first couple of words of it?

15 DR. AMPOMAH: Inactive wells.

16 MR. CHANG: Inactive --

17 MR. SHANDLER: Got it.

18 MR. CHANG: -- and wells and approved
19 and expired temporary abandoned status; right?

20 MS. ORTH: Yes.

21 MR. CHANG: Okay. So it's D in the
22 NMOGA version; right?

23 DR. AMPOMAH: That's correct.

24 MS. ORTH: Correct.

25 MR. CHANG: Okay.

1 DR. AMPOMAH: So, Mr. Chair, here, the
2 issue was whether to agree NMOGA's revision of
3 striking out the approved, and then also, there is
4 expired or approved temporarily abandoned status for
5 more than two years. So the two years was the one
6 that we're discussing extensively on.

7 Now, I think Commissioner Bloom wanted
8 us to look at the original language. So that is the
9 one that has been striked out. And it says "Covered
10 by Subsection A of 19.15.8.9 NMAC that has been in
11 temporary abandoned status for more than two years."

12 So there, NMOGA wants to bring it back
13 to have that room, so that after the two years, then
14 any approved TA well could be bonded at 150,000.
15 So --

16 MR. SHANDLER: I think you'd have to
17 explain that because this is very complicated. So --

18 DR. AMPOMAH: Okay.

19 MR. SHANDLER: -- say that again.

20 DR. AMPOMAH: Okay. Yeah. So on this
21 provision, I have more or less agreed with NMOGA that
22 an approved TA well less than two years should not --
23 there has to be a distinction between expired TA and
24 an approved TA for two years, before that well could
25 be bonded at the 150,000.

1 The way it is written in the original
2 language is saying that inactive wells and wells in
3 approved and expired temporary abandoned status will
4 all be bonded at 150,000.

5 MR. CHANG: Yes. The -- yes. NMOGA's
6 version brings back the language for more than two
7 years as it applies to temporary abandoned status.

8 DR. AMPOMAH: Approved temporary
9 abandoned status. Yeah. So I agree with your
10 statement, you know, because definitely there has to
11 be a distinction between expired and then approved.
12 So approved, there has to be some motivation for
13 companies to really make sure that their TA wells more
14 or less has been approved. But with this provision,
15 then probably there'll be no motivation.

16 MR. SHANDLER: I don't follow.

17 DR. AMPOMAH: So that what is happening
18 here is that -- in the original language --

19 MR. SHANDLER: Say that again?

20 DR. AMPOMAH: In the original language,
21 that is the one that has been striked out. Companies
22 do have two years to be -- two years for their wells
23 in TA status to be bonded as a TA well. And in this
24 case, it's going be the \$150,000.

25 Now, NMOGA wants to bring back the two

1 years. So let's say if the well is approved TA for
2 two years, they don't get bonded at 150,000 until
3 after the two years. Then they'll be bonded at
4 150,000.

5 MR. SHANDLER: Are you saying there's a
6 grace period in the current status quo?

7 DR. AMPOMAH: Yeah. If you read
8 through the one that have been striked out, yes.
9 There is a -- covered by subsection A of 19.15.8.9
10 NMAC that has been in temporarily abandoned status for
11 more than two years. So that is what they are trying
12 to bring it back, for the approved TAs.

13 MS. ORTH: Mr. Chair, is that, in fact,
14 how the division currently interprets that section,
15 for there to be a grace period?

16 MR. CHANG: It appears that that is --
17 I don't personally handle the bonding very much, so
18 but my understanding is that that is in fact how it's
19 written, temporarily abandoned status for two years.

20 But I guess perhaps we can also ask
21 what findings of facts that NMOGA would point to on
22 that. And if I interpret the joint stipulation table
23 correctly, this is actually a provision that's
24 supported by Oxy. Not NMOGA, not IPANM, but Oxy.

25 And while we do a little bit of

1 research, actually, may I put us in a recess so that I
2 at least can use the restroom?

3 MR. BLOOM: I'll be right behind you.

4 MR. CHANG: Okay. In that case,
5 without objection, if we could briefly recess for,
6 let's just say -- hang on. Give me a second. How
7 about 10:30? Let's return at 10:30. Thank you.

8 (Off the record.)

9 MR. CHANG: All right. Returning from
10 a brief recess. Are we back on? Is the audio live?

11 UNIDENTIFIED SPEAKER: Yes.

12 MR. CHANG: Great. Okay.

13 All right. I apologize for the
14 interruption. Let me just make sure I'm back to where
15 I'm at here, which is the -- is it (d)(4)? No. No.
16 We are in E -- no. F.

17 DR. AMPOMAH: F.

18 MR. CHANG: F. Yeah. We're in F.
19 That's right.

20 MR. SHANDLER: So I point the
21 commission to NMOGA's closing arguments, page 11 of
22 77.

23 MR. CHANG: Which one was that again?
24 Sorry.

25 MR. SHANDLER: So it's NMOGA's closing

1 arguments, 11 of 77. It's around the fourth tab in
2 your book. And I'm going to read it, and then I'll
3 turn it back over to Commissioner --

4 MR. CHANG: I'm sorry. One second.
5 Which paragraph again? Or page -- 11 of 77 page?

6 MR. SHANDLER: Yes.

7 MR. CHANG: Thank you.

8 MR. BLOOM: You're looking at F?

9 MR. SHANDLER: F. Yeah.

10 DR. AMPOMAH: That's what I was looking
11 for. Yeah. Thank you.

12 MR. SHANDLER: So there's a couple
13 things going on that's worth building the record a
14 little bit more, and I'll turn it back to you. But
15 what this organization is arguing is that section
16 72.14A -- and you know that as the main rainbow
17 statute -- they argue that that statute has a
18 requirement that things in more than two years -- so
19 they think it's actually a statutory requirement.

20 I think the applicants do not read that
21 language to make it a statutory requirement of a
22 two-year grace period. And they've made that argument
23 in their briefs.

24 But going further, it sounds like
25 Commissioner Ampomah had a policy discussion about the

1 two years. So Commissioner Ampomah indicated his
2 support for keeping the current scope of the
3 TA-specific FA regulations, which at present, allows
4 wells in TA status for up to two years to remain
5 eligible for the active well blanket bond option.

6 And it goes on to read about
7 Commissioner Ampomah concluded that by noting -- he
8 thought the risk of not allowing the operators to use
9 their active well blanket bond to cover active wells
10 and approve TA status for short periods of time to
11 yours or less, for example, before being transitioned,
12 dot, dot, dot, would be an issue about the oil
13 recovery projects.

14 And they cite to a discussion in the
15 transcript between you, Commissioner Ampomah, and
16 Purvis, which I think was the one of the applicant's
17 experts.

18 So the proposed rule strikes out the
19 two years in the rule. It sounds like NMOGA wants to
20 keep that in there. And it sounds like you're ready
21 to have a policy discussion about whether that two
22 year -- what I call is a grace period, which is
23 inaccurate. I should be much more precise and get you
24 to get on the record what that two-year period is.

25 But that seems to be a dispute whether

1 the two years should stay in or be taken out. Okay?

2 DR. AMPOMAH: Yes.

3 MR. SHANDLER: And again, I shouldn't
4 have called it a grace period because there's nowhere
5 that anyone used that word. So that was -- that
6 should be struck, you know, from the record.

7 Why don't you better explain how you
8 understand of this -- what happens in the two-year
9 period and what people do, as you understand it as a
10 policy, and then maybe we can turn to the chair for
11 his reflection of what the division understands it as
12 the policy. But that's my attempt to try to refocus
13 the discussion.

14 DR. AMPOMAH: Yeah. And thanks for
15 pointing us to this. I was really trying to look for
16 this one, so thank you.

17 So based on what you just described
18 here, I believe that -- let's -- before you can
19 transition from primary recovery to, let's say,
20 secondary recovery, whatever -- you need a series of,
21 like, let's say, planning.

22 Now, the way it works is that wells
23 that are not able to produce enough, you try to stop
24 producing. And then let's say wells that are
25 producing more water, for instance, you tend to more

1 or less stop producing that because the water count is
2 so high.

3 And those are the wells that you tend
4 to become water injection wells. So definitely that
5 two years period will give them the chance to utilize
6 such a well for water flood, you know, other than
7 bonding it straight away to, let's say, 150,000, you
8 know, without giving the operator the chance to really
9 prove the worth of that particular well.

10 And I think if you read through the
11 17-2-14, that was something that we discussed as well
12 in there. And I read, "the oil conservation
13 division" -- and I don't know which one is -- may have
14 been canceled, so I don't know if -- shall require a
15 one well financial assurance on any well that has been
16 put -- that has been held in temporary abandoned
17 status for more than two years. So this one is in the
18 statute, and NMOGA wants to keep that. And I do
19 support that because of what I've laid out.

20 MR. BLOOM: Yeah. I just had a
21 question, Dr. Ampomah. So, Dr. Ampomah, is it your
22 understanding that there's a -- I'm looking at
23 19.15.25.13. Part 25 is one of the parts of the rule
24 we're --

25 DR. AMPOMAH: Yeah. That's the other

1 one.

2 MR. BLOOM: -- looking at; right? And
3 I'm looking at the language -- this is the new 13 --
4 for approved temporary abandonment. And so if I'm --
5 if I was looking at NMOGA's alternative language
6 document, that would be page 33 -- okay.

7 So it says, A -- this is under approved
8 temporary abandonment. A, "The division may place a
9 well on approved temporary abandonment for a period of
10 up to five years, upon a demonstration of the operator
11 of the well will be closed for -- will be used for
12 beneficial use within the approved period of
13 abandonment." Then you go down to C -- I'm looking at
14 the NMOGA document. And then there could be a
15 period -- I think it's two more years -- let's see.

16 C extension 1, "Prior to expiration of
17 a renewal of an approved temporary abandonment, the
18 operator shall return the well to beneficial use," et
19 cetera, et cetera, "or apply for an extension" -- now
20 I lost my -- maybe it's -- you go down to NMOGA's 5,
21 "If a well can meet the beneficial use demonstration
22 mechanical integrity requirements set forth in and
23 applicable to subsection C, the five-year extension of
24 temporary abandonment status, the operator may apply
25 for the five-year extensions of two year after the

1 initial five year" -- I mean, I guess we'll -- if
2 we've already dealt with that or not, but -- I thought
3 it was five years plus two years plus two years. So
4 before -- and where I was going with that is before
5 the two year, it was also a five-year period for
6 temporary abandoned wells.

7 DR. AMPOMAH: So it --

8 MR. CHANG: I'm not going to be able to
9 articulate this very well because, unfortunately, this
10 is not something I deal with, in the division, on a
11 daily basis. But my understanding -- I'll try to make
12 this as minimally painful as possible.

13 When the statute talks about TA, the
14 division, as I understand it, has interpreted that to
15 include not just approved TA or expired TA, but
16 include inactivity, as in, like, temporary abandonment
17 broadly.

18 So under our current requirements, you
19 have 15 months that you are allowed to be inactive
20 before you even have to start going through the
21 process of applying for TA or plugging; right?

22 So there would be functionally a more
23 than one-year period where a well could be, in
24 layman's terms, temporarily abandoned or at least
25 inactive, non-producing. Before then, it applies for

1 temporarily abandoned status. Right?

2 And so functionally, it would be more
3 than two years, because there's already a 15-month
4 period before we can require people to even be into TA
5 status. So there's already an inactivity period.

6 So just because the well stops
7 producing today doesn't mean it has to be TA'd this
8 very day. There is a existing period, the way that it
9 is -- the way that we operate now, there is already a
10 more than one-year period that an operator is allowed
11 to be inactive before they have to determine what they
12 want to do with it.

13 So then you get into TA, because then
14 you have to apply for TA after 15 months -- or either
15 plug or then get into TA status. And it's not great
16 that the, sort of, approved TA versus TA in the
17 statute versus approved TA in the rules refer to
18 slightly different things.

19 And that may not be the best way to
20 have done it in the past, but that seems to be the
21 practice, as I understand it today.

22 DR. AMPOMAH: Mr. Chair, then how do
23 you defend, among us, the one that we just read in the
24 statute? Given -- the way I look at it is that --
25 let's say well that is producing, and then the

1 operator decided that they want to put it in TA from
2 the onset, not necessarily a well that has already
3 been approved.

4 So we're talking about an active well
5 that is just turning to become an inactive well. So
6 what do you just described, I mean, how does that
7 translate to what is in the statute that, let's say,
8 was -- has to be in two years, at least two years,
9 before they are funded as an actual TA well?

10 MR. CHANG: Are you -- so you're
11 talking about the provision of the statute that says
12 that OCD shall require a one-well financial assurance
13 on any well that has been held in a temporary
14 abandoned status for more than two years; right?

15 DR. AMPOMAH: Yes.

16 MR. CHANG: That's what I was trying to
17 discuss. I agree with you that it's confusing and may
18 not be the best reading of the statute, but
19 historically, the reading of the statute is that
20 temporarily abandoned status in the statute is
21 different than approved temporary abandoned status in
22 the regulation.

23 Whether or not that's a good reading of
24 the statute or not, I -- you know, I'm not here to
25 debate. I'm just -- as a factual matter, the

1 division -- my understanding -- and I wish we had the
2 actual subject matter experts here to describe this
3 better.

4 But my understanding is that the
5 division has read the broader temporary abandoned
6 statuses of all kind to include inactive wells in
7 the -- you know, so as soon as somebody says, "I'm no
8 longer producing it," it's, for the purposes of the
9 statute, temporarily abandoned, but it is not approved
10 temporary abandoned status for the purposes of the
11 regulation.

12 MR. SHANDLER: So and I go further,
13 that the applicants conclude, closing arguments, the
14 first half, on page 6, you can hear their voice of
15 what their argument is. So that's the applicant's
16 closing brief page 6, the very bottom, letter 2. I'll
17 give you a second. The very first tab in the binder,
18 of this binder.

19 MR. BLOOM: Applicant's closing page 6?

20 MR. SHANDLER: Yes.

21 MR. BLOOM: I'm just getting the -- is
22 that -- I'm getting a table of contents there.

23 MR. CHANG: So not -- go on until it's
24 numbered and not roman numerals. And it should show
25 up -- there's a heading at the very, very, very bottom

1 of page 6.

2 MR. SHANDLER: So maybe it's 13 out of
3 156, PDF.

4 DR. AMPOMAH: Yeah. Right there.

5 MR. BLOOM: Yeah. There was some more
6 on page 30 that I was about to call our attention to
7 on the same matter. So --

8 DR. AMPOMAH: Yeah. So even reading
9 that -- and then if you go to the applicant's
10 post-hearing brief, I think their whole understanding
11 is that these wells do have a high risk of becoming
12 orphaned.

13 And as an engineer, I'm like, "How does
14 a well that is producing, that is producing now, and
15 just transitioned to TA status, become a high risk
16 well within the first two years?" I don't understand.

17 MR. CHANG: But that's what we're
18 trying to -- so that's what I'm trying to explain, is
19 that that's not the way it's currently interpreted.
20 Now, as a matter of law, it's a whole different
21 discussion as to whether that's a good interpretation
22 or bad interpretation of the way the statute is
23 written.

24 But the way it's interpreted, there is
25 a 15-month -- there's already a 15-month period where

1 you're neither approved nor expired or -- you're just
2 TA'd without further explanation.

3 And then there's approved TA status for
4 two years on top of that. So there's already a
5 15-month built in where you're simply in unclear
6 TA -- you know, amorphous TA status versus an approved
7 TA status.

8 DR. AMPOMAH: But, Mr. Chair, with this
9 rule that we are enacting now, we'll take that out,
10 because right now, as long as that well becomes
11 low-producing well -- so if you look at what we are
12 doing now, every well has to be bonded at the right
13 bond amount. That is what we're --

14 MR. CHANG: Once they are approved TA,
15 not merely inactive TA.

16 DR. AMPOMAH: So --

17 MR. CHANG: Does that make any sense?

18 DR. AMPOMAH: So the way I look at it
19 is that all wells every year, companies would have to
20 submit their wells, their status to OCD. So let's say
21 if there is a low well, a low-producing well, now --

22 MR. CHANG: And they can shut it off
23 completely.

24 DR. AMPOMAH: Exactly. So operator can
25 decide to move that well to TA.

1 MR. CHANG: No.

2 DR. AMPOMAH: Or I say -- no. To move
3 that to inactive. Let me put it that way.

4 MR. CHANG: Yes.

5 DR. AMPOMAH: Right?

6 MR. CHANG: Okay.

7 DR. AMPOMAH: And then they can try to
8 figure out whether to bring this well back on.

9 MR. CHANG: Correct.

10 DR. AMPOMAH: To produce more.

11 MR. CHANG: Correct.

12 DR. AMPOMAH: But from what we are
13 saying, once it is flagged as a low-producing well,
14 they have to be bonded at the right amount. Right?
15 So either you bond at 150 --

16 MR. CHANG: For low-producing. Yes.

17 DR. AMPOMAH: Exactly. Exactly. So I
18 do see that as a transition. I do see that as a
19 transition. But let me ask. So do we have any
20 problem if we are to leave that two years in there?
21 What would be the issues with leaving that two years?

22 MR. CHANG: It would extend the period,
23 because I think functionally -- and we can certainly
24 revisit in guidance if I'm describing any of this
25 process incorrectly, but my understanding is it

1 wouldn't just be functionally two years after the taps
2 turn off. It would be two years plus 15 months. So
3 it would be a period pushing four years.

4 DR. AMPOMAH: And the 15 years is in
5 the -- or 15 months --

6 MR. CHANG: Is in a different -- is in
7 the --

8 DR. AMPOMAH: Does it go to the 15 --

9 MR. CHANG: -- in the regs, but I
10 don't --

11 DR. AMPOMAH: -- 13. Yeah. It would
12 go to 13.

13 MR. CHANG: Yeah.

14 DR. AMPOMAH: It would go to 13.

15 MR. CHANG: Yeah.

16 DR. AMPOMAH: Okay. Yeah. If you feel
17 comfortable that -- let's say the 13 will take care of
18 my issues, then I do not have the problem. So
19 probably we can go to 13 and come back to those one,
20 to make sure that we are on the same page.

21 MR. CHANG: I don't necessarily --
22 well, I just want to flag for you that the two
23 year -- that adopting the two year may functionally
24 push it close to three and a half, as opposed to two.

25 Now, whether three and a half versus

1 two, you know, where the policy lands on that.

2 Reasonable minds may very well disagree.

3 So -- but I'm just flagging that the
4 way that it's currently set up, it wouldn't need -- it
5 would be more than -- it would -- the two years would
6 be in addition to the 15 months of inactivity that we
7 have considered amorously TA'd, you know, for the
8 purposes of the statute, but not approved TA for the
9 purposes of the reg. That's all.

10 MR. BLOOM: So -- I interject -- when
11 you're ready. I don't --

12 MR. CHANG: Please.

13 MR. BLOOM: So if we look on page 73 of
14 the applicant's closing -- this would be page 60 --
15 it's numbered page 66, but page 70 -- 66 at the
16 bottom, it's finding a fact, number 248.

17 DR. AMPOMAH: Seventy-three; right?

18 MR. CHANG: For the -- so at the
19 bottom, it says 66, or at the top, it says 66?

20 MR. BLOOM: This is on the bottom, 66.

21 MR. CHANG: Okay.

22 DR. AMPOMAH: Yeah. Bottom 66.

23 MR. CHANG: Okay.

24 MR. BLOOM: So defining a fact, 248.

25 MR. CHANG: Okay.

1 MR. BLOOM: So this is what I've been
2 putting together; right? That -- it says, quote,
3 "Generally, a well that is up for TA renewal has been
4 inactive for six years." Right? So it's the 13
5 months that you're talking about, Mr. Chair, plus the
6 initial five-year period; right?

7 And then there would be a two-year
8 renewal. So at that point, you're -- you know, in
9 eight years; okay? And the likelihood that that well
10 will be put back into productive use after eight years
11 becomes increasingly rare.

12 So you go down to finding of fact
13 number 249. Vast majority of reactivations have
14 inactive wells, over 90 percent occur within three and
15 a half years. So you know, this bonding for that
16 first two-year period would only be bonding less than
17 10 percent of the wells that ever went into TA status.
18 Right?

19 DR. AMPOMAH: So the vast majority
20 of --

21 MR. BLOOM: That's why I would support
22 the applicant's language here.

23 DR. AMPOMAH: So do you believe
24 that -- and, Mr. Chair, so you are a lawyer too. So
25 NMOGA is saying that we do not have the authority to

1 take out that two years because it's in the statute;
2 right?

3 MR. CHANG: That's correct.

4 DR. AMPOMAH: So how do we defend that,
5 knowing for sure that, I mean, it's in the statute and
6 it's right here too; okay? So how do we defend that
7 using what has been proposed in 25.13?

8 MR. BLOOM: May I?

9 DR. AMPOMAH: Please.

10 MR. BLOOM: So going back to
11 Mr. Rankins rainbow, the last sentence of 72 --
12 70-2-14, is, "Oil conservation division shall require
13 a one-well financial assurance on any well that has
14 been held in temporarily abandoned status for more
15 than two years." All right. What the applicants are
16 doing is creating a new financial assurance that
17 covers that first two-year period.

18 DR. AMPOMAH: Yeah. To 150,000.

19 MR. BLOOM: To 150,000.

20 DR. AMPOMAH: Yeah. To 150,000. And
21 the industry's saying, "No. Give me that breathing
22 room to make decisions as to what I really want to do
23 with this well."

24 MR. BLOOM: But remember that most
25 companies -- and I think this is what -- 240 -- the

1 finding of fact 249, the applicant's proposed closing
2 arguments goes to is the vast majority of
3 reactivations of inactive wells, over 90 percent occur
4 within three and a half years. So only less than 10
5 percent of wells would even hit that first two-year
6 period and have to be bonded.

7 DR. AMPOMAH: So the vast majority of
8 reactivations of inactive wells, over 90 percent occur
9 within three and a half -- so the early stages. So
10 then why are you bonding them at 150,000? Don't you
11 believe that we are going to preempt, let's say,
12 immediate plugging of these wells?

13 MR. BLOOM: No. I think we would
14 either see them return to production or potentially
15 bonded or potentially P&A.

16 DR. AMPOMAH: So I'll be
17 comfortable -- like, so the chair is saying that,
18 before even they get to this situation, they've
19 already been inactive for 15 months.

20 MR. CHANG: Or they're -- yes. But
21 sometimes if people are out of compliance for more,
22 just because we don't catch it in time.

23 DR. AMPOMAH: And is that captured in
24 the rule?

25 MR. CHANG: That's my understanding and

1 the reason why this hasn't been challenged previously,
2 because that that rule has been in there for -- or
3 this has been the way that the division has been
4 operating for a while. So my understanding is that
5 that's the way it worked. But I certainly acknowledge
6 that we are -- that there is room for attorneys to
7 argue.

8 DR. AMPOMAH: Yeah. I do feel that
9 probably NMOGA might use the fact that you're saying
10 we do not have the authority to --

11 MR. CHANG: I --

12 DR. AMPOMAH: Yeah. To --

13 MR. CHANG: I understand that NMOGA is
14 likely to feel -- or I mean, NMOGA explicitly states
15 that they feel that way. Yes.

16 DR. AMPOMAH: Yeah. Exactly. Exactly.
17 So I'm just -- unless, let's say there's a 15 months
18 somewhere, and what Commissioner Bloom is saying here,
19 I do feel like 90 percent of these wells that will be
20 brought back will be done within three and a half
21 years. So meaning quickly. They will be done
22 quickly.

23 So why do you want to bond them at
24 150,000? Why not still under the blanket bond, and
25 after that two years, then you know that probably they

1 are getting into the threshold where they might not
2 probably be brought back and you bond them at 150,000.

3 MR. CHANG: Let me flip to --

4 MR. BLOOM: I think the answer to -- my
5 answer to that, Commissioner Ampomah, is that the more
6 years that go out, the less likely that well is to be
7 returned to production. And so it should have a bond
8 on it so that way it doesn't get orphaned.

9 DR. AMPOMAH: So the two years still --

10 MR. BLOOM: So it can get orphaned, but
11 at least there's a bond; right? Yeah.

12 DR. AMPOMAH: So the two years is still
13 not enough?

14 MR. BLOOM: Because they've already had
15 five years plus the original 13 months; right?

16 DR. AMPOMAH: No. The five years is
17 the extension to the initial TA; right? They have to
18 be approved going through the MIT before they get the
19 five years. So this one is just for the transition
20 between active and then inactive.

21 MR. BLOOM: I look at -- so I'm looking
22 at the previous finding of fact 248. Generally, a
23 well that is up for TA renewal has been inactive for
24 six years. One year of inactivity prior to going into
25 TA and then five more years in TA.

1 DR. AMPOMAH: So you said one year
2 inactivity prior to TA? Where are you reading that?

3 MR. BLOOM: 248.

4 DR. AMPOMAH: So is that one year
5 anywhere in the room, or is it the same --

6 MR. BLOOM: Yes. Because -- yes.
7 Because you have to apply for approved TA status;
8 right? At around the time of that one year.

9 MR. CHANG: So --

10 MR. BLOOM: After a well's been
11 inactive for a year, you have to apply for TA status.

12 MR. CHANG: Yeah. So the difference is
13 approved TA status versus in the statute, it doesn't
14 use the word approved. It simply says TA status. And
15 so the statute is read as inactive wells that haven't
16 gone through the approval process are still considered
17 TA for the purpose of the statute, is the way -- so
18 now, I don't know if there's a way for us to wordsmith
19 this because I'm fine leaving the two years in if we
20 include the inactive period, if that makes any sense.

21 DR. AMPOMAH: Yeah. Then I will agree
22 with that, and I don't think they can interlink that.

23 MR. CHANG: Does that make any -- so if
24 we include the -- so if we don't count it from the --
25 but the way this is written, your two-year clock

1 starts after the approval.

2 What I think makes more sense as a
3 reasonable compromise position that also then more
4 strictly tracks or creates less confusion with the
5 statute, is if we acknowledge that the statute simply
6 says any kind of temporary abandonment approved or
7 other -- it doesn't specify what kind of temporary
8 abandonment. So if we simply say -- if we start that
9 two-year clock from the day it stops reporting
10 production, I'm fine with that.

11 DR. AMPOMAH: I'm fine with that too.

12 MR. CHANG: Okay.

13 DR. AMPOMAH: Yeah.

14 MR. CHANG: But then we run into two
15 problems. One is how we want to wordsmith that to
16 have it reflect number 1, and number 2, how we want to
17 square the various findings of fact, because
18 what -- we'll just have to rewrite our own finding of
19 fact to come to this compromise position, which is
20 fine. We just -- we'll just have to do that.

21 DR. AMPOMAH: So but how would we
22 reword that?

23 MR. CHANG: So I guess wells that have
24 been in inactive for more than two years. So we'd
25 have to move the --

1 MR. SHANDLER: Do you know where the 12
2 months or 14 months is?

3 DR. AMPOMAH: I would have to look --

4 MR. CHANG: The 15 that you're talking
5 about -- I was talking about, or the -- which?

6 MR. SHANDLER: So my notes say,
7 "Inactive, okay for 12 months, then have two months to
8 apply for TA," and I can't read my citation. So I'm
9 trying to figure out where that is.

10 MS. ORTH: I've already walked past it
11 for sure. Maybe the definition of inactive well. The
12 definition of an active well means a well that has had
13 no production or injection for 12 consecutive months
14 or is not being used for beneficial purposes.

15 MR. SHANDLER: Okay. And then where
16 are the -- where's the two months to apply for TA
17 7-25? So, Mr. Chair, I don't mean to bog people down,
18 but I just want to make sure if you change that
19 reference, if there's a better place to change it or
20 whether those need to be consistent somehow. But
21 that's something I could research during the next
22 break.

23 MR. BLOOM: I thought I had an
24 understanding of how TA works and how this fits
25 together and what would be exempted and what would be

1 included, and I'm not sure that I do.

2 DR. AMPOMAH: Anymore.

3 MR. BLOOM: Yeah. Bit confused on it.

4 DR. AMPOMAH: Mr. Chair, so I think the
5 language that we're thinking about here, it could be
6 inactive wells and wells in expired or approved
7 temporarily abandoned status for more than two years
8 since expressing activity.

9 MR. CHANG: Would it be simpler to move
10 the two years to the front and just say wells that
11 have been inactive for more than two years, wells in
12 approved or expired TA -- you know, so wells that have
13 been inactive more than two years, wells in approved
14 TA status, and wells in expired TA status?

15 DR. AMPOMAH: Okay. Yeah. That works
16 too. Yeah. That works too. Because that one, you
17 are not counting it from when it became TA.

18 MR. CHANG: You're counting it from --

19 DR. AMPOMAH: From when --

20 MR. CHANG: -- inactivity.

21 DR. AMPOMAH: Exactly. Exactly. That
22 works for me.

23 MR. CHANG: Okay. I don't know if
24 somebody's note taking that. If we want to write
25 that -- I'm struggling to take notes. So if somebody

1 else wants to --

2 MR. BLOOM: -- it's possible to put it
3 on a shared screen or anything like that? I don't
4 know.

5 MR. CHANG: Sheila, are you at least
6 writing down what's being proposed sort of?

7 MS. APODACA: I don't have a -- if you
8 can repeat it. I don't have a very good --

9 MR. CHANG: That's okay. I think what
10 we suggested was that for D -- or so -- well, it's F
11 in the applicant's. It's D in NMOGA's proposed
12 language.

13 The heading, we were going to rewrite
14 the heading to read -- or at least that's what we're
15 considering for now -- wells that have been inactive
16 for two years, wells in approved temporary abandonment
17 status, or wells in expired temporary abandonment --
18 temporary abandoned status.

19 MR. BLOOM: I didn't get it.

20 MR. CHANG: So --

21 MR. BLOOM: What's changing? I'm
22 sorry.

23 MR. CHANG: The whole sentence is
24 getting a little scrambled because I'm rewriting the
25 sentence a little bit.

1 MR. BLOOM: The beginning of --

2 MR. CHANG: So it would be --

3 MR. BLOOM: -- is changing?

4 DR. AMPOMAH: The title.

5 MR. CHANG: Yeah. Just the title.

6 DR. AMPOMAH: Just the title.

7 MR. BLOOM: So it no longer begins with
8 inactive wells. It's wells that have been in --

9 MR. CHANG: Wells that have been
10 inactive for more than two years.

11 MR. BLOOM: Okay. Inactive. Okay.
12 For more than two years

13 MR. CHANG: Comma, wells in approved
14 temporarily abandoned status, and wells in expired
15 temporarily abandoned status. And the language in the
16 actual paragraph after that would just want to reflect
17 that same language of, you know, "an operator shall
18 provide financial assurance for" whatever is in the
19 title --

20 DR. AMPOMAH: Whatever's in the title.
21 Yeah.

22 MR. BLOOM: While they've been inactive
23 for more than two years --

24 DR. AMPOMAH: That's good.

25 MR. CHANG: I would be fine with

1 exploring at least the -- let's hold onto that
2 language and then just make sure that we can find
3 sufficient evidence in the record to support that if
4 that's what -- if the commission wants to do that.
5 But let's -- shall we at least tentatively put that on
6 the list?

7 DR. AMPOMAH: Yeah --

8 MR. BLOOM: So all we've done is put
9 the -- all we've done is parked everything we parked
10 Wednesday. I'll point that out. So we haven't
11 actually decided anything.

12 You know, one option too -- we did this
13 during the pit roll -- we were open to deliberations
14 and went over issues that were to the evidentiary
15 portion, I guess. I don't know if that's an option to
16 here, to get a complete walkthrough of the existing
17 structure of how inactive wells are handled, wells in
18 approved TA status, wells in temporarily abandoned
19 status are handled, and what would happen under the
20 applicant's proposal and what would happen when we
21 look at something like NMOGA's proposed alternative
22 language. Or if somebody can summarize that for me,
23 I'd love to hear it, because I'm struggling.

24 And then, you know, Mr. Chair, you
25 suggested that there's differences between what, you

1 know, actually -- what the OCD actually does versus
2 what the rule is. So that's, like, a fourth version.

3 MR. CHANG: Or -- well, just that the
4 OCD in -- the current rule as it exists makes a
5 distinction between temporary abandonment without any
6 other modifier in the statute, versus approved
7 temporary abandonment in the existing rule. That's
8 all. I'm just merely making that note, not that OCD
9 is -- you know, has a position beyond what the rule
10 says.

11 But -- do we have sufficient -- I think
12 at least as a matter of policy, we've got on the
13 record what Dr. Ampomah is proposing and wishes to do,
14 a compromised position, that I think I could live
15 with.

16 But I do think that I also hear your
17 point that you're still a little -- and I'm with you
18 to a certain extent as to being muddy as to how these
19 three options compare; right? To the applicant's
20 position, which is joined by Oxy, the NMOGA and
21 IPANM's position, and then the revised language that
22 Dr. Ampomah and I just talked about.

23 So perhaps we'll have a little bit more
24 input from legal once we've had a chance to take break
25 and dive in deeper. Okay. These are the challenging

1 bits.

2 The next topic that I had flagged for
3 discussion is 19.15.9.9(d). I think this one might
4 actually be one where we can get to -- I've just
5 jinxed us. Correct me if I'm wrong, but I believe the
6 changes here works in conjunction with the
7 19.15.5.9(a)(4), at least that's what I thought in the
8 middle of the night as I was trying to sort this all
9 out.

10 So if the commission has already
11 accepted previous provisions in 19.15.5.9(a)(4), then
12 I think we would also go with the applicants for
13 consistency in 19.15.9.9(d). At least that's what I
14 wrote to myself last night. I don't know if that
15 still makes sense to people.

16 MR. BLOOM: This was -- and this was
17 to -- what we're talking about here is approving the
18 deletion of the words "more than the allowed number"
19 in two locations; correct?

20 MR. CHANG: That's correct.

21 MR. BLOOM: And I was fine with doing
22 that as well, as I read through this. Seemed to fit
23 with the rest of the rule that was proposed.

24 MR. CHANG: I think it would be for
25 consistency. Yeah.

1 MR. BLOOM: Yeah. I don't think it --

2 MR. CHANG: Okay. So no opposition to
3 adopting the applicant's post-hearing amendments to
4 19.15.9.9(d)?

5 MR. BLOOM: I would so move. Yes, sir.

6 DR. AMPOMAH: I second.

7 MR. CHANG: Without objection. Okay.
8 Okay. Or any objection, without objection. Okay.
9 Next on my list -- and again, do stop me if I miss
10 anything, but I have 19.15.25.9(d). 25.9(d).

11 DR. AMPOMAH: Yes. Yes. I think here,
12 we're discussing how to -- we wanted to reconsider
13 NMOGA's suggestion, but you wanted us to put, like, a
14 stop at 30 days and not going to be real caring.

15 MR. BLOOM: And where -- sorry. 25.9?

16 DR. AMPOMAH: Twenty-five --

17 MR. CHANG: What's -- 15.25 -- no.
18 19.15.25.9(d) is what I have written down.

19 DR. AMPOMAH: Yes. Right here.

20 MR. BLOOM: All right. Let's see. You
21 looking at NMOGA's language there?

22 DR. AMPOMAH: Yeah.

23 MR. BLOOM: -- there.

24 MR. CHANG: Wait. These two things
25 are --

1 MR. BLOOM: So this was -- Yeah. We're
2 talking about NMOGA's additional language --
3 additional language -- say, "Upon request by the
4 operator, the division may use its discretion to grant
5 an extension of the 30-day rebuttal for those" --

6 MR. CHANG: I apologize. I need to
7 find all the relevant versions here. So we're looking
8 at 9(d)(3); right? Or what would be -- what is
9 proposed as three in the applicant's and then what is
10 struck out as --

11 MR. BLOOM: No. No. No. I think in
12 the -- Mr. Chair, in NMOGA's version, alternative
13 language, their language under D, we see the inclusion
14 of an extra 30-day period.

15 MR. CHANG: Oh. Oh. I mean, that's
16 just an extra 30 days. I would be fine with -- I'm
17 not too worried about that.

18 DR. AMPOMAH: Yeah. I think you wanted
19 to with that, to stop right at 30 days.

20 MR. CHANG: No. That's -- no. Well,
21 that's fine. I think as long as the word "and" is in
22 there and so that it's only one extension, it's not
23 going to be a rolling, continuous, forever extension.

24 DR. AMPOMAH: Yeah --

25 MR. BLOOM: I'm sorry. That's what you

1 said Wednesday. Yeah.

2 DR. AMPOMAH: Yes.

3 MR. BLOOM: And I would just note that
4 here in this language, they need to -- we need to
5 insert the word "to" between "discretion" and "grant."

6 MR. CHANG: No. That's right.

7 DR. AMPOMAH: Okay.

8 MR. BLOOM: Okay.

9 MR. CHANG: Yeah. So -- okay. I'm
10 going to highlight this green language -- except now
11 I'm going to have even more colors. But I need a way
12 to track what we're adding.

13 DR. AMPOMAH: That was quick.

14 MR. BLOOM: Easy one.

15 MR. CHANG: Did we talk about sub three
16 already? And was that okay? D sub three and four? I
17 wasn't sure whether that was needing revisiting too.

18 DR. AMPOMAH: No. I think we're okay
19 with that. Just the --

20 MR. BLOOM: Yes. I believe we went
21 through that, and those were some of the extra
22 criteria that -- like, if we're looking at NMOGA's
23 language here, they wanted to strike having to
24 potentially turn over information on capitalization,
25 things like that.

1 MR. CHANG: But it already says "may,"
2 so they don't have to anyway; right? So those are --
3 so we just left it in as proposed by the applicants
4 because it's merely an illustrative list, not a
5 mandatory list.

6 MR. BLOOM: Yes.

7 DR. AMPOMAH: Yeah. Yes.

8 MR. CHANG: Okay.

9 DR. AMPOMAH: Oh, you remember that --

10 MR. BLOOM: Oh, that's true too.

11 DR. AMPOMAH: Yeah.

12 MR. BLOOM: Yeah.

13 DR. AMPOMAH: Yeah. That was perfectly
14 what you said. Yeah.

15 MR. CHANG: Sometimes I have consistent
16 thoughts.

17 DR. AMPOMAH: For sure.

18 MR. CHANG: And don't promise that it's
19 all the time, but sometimes I try. Okay.

20 19.15.25.13(c)(2) is what I have next on the list.

21 DR. AMPOMAH: Yeah.

22 MR. BLOOM: We're getting into those
23 issues of, can any interested person take part in
24 hearing --

25 MR. CHANG: Yes.

1 MR. BLOOM: -- about TA extensions, and
2 does TA extension hearing --

3 MR. CHANG: Just give me one --

4 MR. BLOOM: -- need to be published for
5 30 days in a newspaper of general circulation.

6 MR. CHANG: Just give me one second to
7 flip through it so that I have it in front of me too.

8 MR. BLOOM: I did not --

9 MR. CHANG: 15.25.13(c) --

10 MR. SHANDLER: It's -- page. Yeah.
11 It's the last one.

12 MR. CHANG: Oh. Oh. Oh.

13 MR. SHANDLER: NMOGA adopts what Oxy
14 says, but it's easier to read off their page. Very
15 last page.

16 MR. CHANG: So I don't have -- or if I
17 did have that, it's lost to the ether. It -- well,
18 no. I have it here. Okay.

19 MR. SHANDLER: So I'd ask for some more
20 time. So I'll quickly give you some advice. So the
21 first sentence that Oxy wants to strike is the
22 newspaper. They say that's rarely done. That's
23 incorrect.

24 In both your rulemaking and your rule
25 adjudication rules, you do require notice by

1 newspaper. Now you have a policy question. Do you
2 want to be -- do you want it on this one or not? So
3 you have flexibility, but it -- there is precedent for
4 doing newspaper.

5 Part 2 about the interested person.
6 And there actually, I agree with Oxy's argument that
7 that term is not used in your rules as existing. And
8 their language, I think, provides -- is more
9 consistent with your rules as is.

10 MR. CHANG: Yeah.

11 MR. SHANDLER: And let me just say, the
12 applicant said, "Well, we're going to use language
13 from the Water Commission Act." I don't find that
14 persuasive.

15 MR. BLOOM: So and -- yeah. Thank you,
16 Mr. Shandler. That was helpful. I was looking at the
17 applicant's closing statement, finding of fact 257.
18 It was initially applicants proposed that renewal of
19 TA for two years must be subject to a public
20 hearing -- must be subject to public hearing as a
21 result of negotiations.

22 Applicants propose that a public
23 hearing before OCD can be held upon request by the
24 OCD, the operator, or an interested person if an
25 operator applies for an extension.

1 So the interested person we're no --
2 you know, we've gone from a required public hearing as
3 a result of negotiations, to one where the OCD and
4 operator or an interested person can request an
5 extension or request a hearing. Right?

6 So I think that's a little different
7 than just saying interested parties are included, can
8 be included in hearings. They can request one. And
9 you know, if we don't have interested person, you
10 know, this could be, for example, a situation where
11 another agency -- say, the Land Office -- wanted to
12 request that hearing as an interested person. Right?
13 Such version certainly covers those other entities.

14 DR. AMPOMAH: But in this case, the
15 State Land Office would have standard to do that.

16 MR. BLOOM: As an interested person.

17 DR. AMPOMAH: Yeah.

18 MR. BLOOM: Yeah.

19 DR. AMPOMAH: Would have standard, but
20 not -- let's say, a professor from New Mexico Tech who
21 wants to --

22 MR. CHANG: Or worse, somebody in a
23 nursing home in Australia who is just very bored.

24 DR. AMPOMAH: Yeah.

25 MR. CHANG: Right? Like, it's very --

1 you know, or whoever you can think of around the
2 world.

3 So I do agree that we need to narrow it
4 into two -- I -- honestly, I think even standing is
5 really broad. But I definitely think that any
6 interested person is too broad.

7 But to address the concerns about the
8 State Land Office, making sure that the State Land
9 Office would be able to intervene the -- once you get
10 to a hearing, because it does go on to say that the
11 normal hearing rules apply. Right? And so our
12 existing --

13 MR. BLOOM: So there would be standing
14 for a landowner? Yeah.

15 MR. CHANG: Well, yes. And beyond
16 that, there's language in our existing rules that says
17 that the division examiner or the commission
18 chair -- well, it says "may strike if they fail to
19 demonstrate standing unless the intervener shows that
20 the intervener's participation will contribute
21 substantially to the prevention of waste, protection
22 of correlative rights, or the protection of public
23 health or the environment."

24 In my view, I would be surprised if the
25 State Land Office wasn't able to demonstrate that it

1 has something substantial to contribute as it relates
2 to the prevention of waste, protection of correlative
3 rights, protection of public health, or the
4 environment.

5 So to a certain extent, yes. You would
6 be relying on future division examiner and commission
7 chair's discretion on who to confer this more
8 discretionary standard for intervention.

9 MR. BLOOM: You know, and I would just,
10 again, flag -- I want to talk through some of the
11 other items that were mentioned by the applicants.
12 And that was -- "Hearing from interested parties may
13 provide additional information and valuable insight
14 and perspectives to assist OCD and understanding
15 potential impacts of TA and making an informed
16 decision. This will allow public participation at
17 critical points and decisions to provide greater
18 transparency."

19 And number 260 goes on to say that,
20 "Interested persons may participate in a permit
21 hearing under the Water Quality Act." And we also
22 have, "Any person can participate in a permitting
23 hearing before the NMED, under Air Quality Control
24 Act, Hazardous Waste Act, and Solid Waste Act."

25 So other areas where people can be

1 impacted by a source point, they can participate as an
2 interested person.

3 MR. CHANG: So -- sorry. But they
4 would -- so you -- but you were also talking people
5 with standing; right? So the question is, do we limit
6 people with standing only or anybody who is just
7 remotely interested? Who feels interested.

8 MR. BLOOM: So you feel that the
9 current language that we have would allow somebody to
10 intervene if, say, they were a neighbor to a site that
11 was up for TA renewal?

12 MR. CHANG: I think withstand --
13 because it says other person withstanding. And I
14 think that -- so I'm not worried about standing being
15 too narrow.

16 If anything, I'm worried about standing
17 being too broad, because somebody could argue
18 that -- whether or not they prevail, I could see
19 somebody coming in and say, "I live in Farmington, but
20 I think I should have standing to contest TA status of
21 a well in Hobbs because it impacts climate change,
22 which is global." Right?

23 Those are the types of arguments that I
24 think the commission is going to struggle with. I
25 think the commission is going to -- I would be very

1 surprised if the commission somehow were to take the
2 position that an even an adjoining landowner didn't
3 have standing.

4 I'm more concerned about somebody from
5 not even here. Right? An NGO in New York who is
6 concerned about something else, you know, basically
7 taking --

8 MR. BLOOM: Methane emissions. Yeah.

9 MR. CHANG: Right. Methane emissions,
10 taking every single TA extension to a hearing, and
11 bogging down the capacity of our commission to take
12 those things on.

13 So having thought about this last
14 night, on the two -- there's two different points here
15 that Oxy makes. And I broadly agree. I think I lean
16 towards Oxy's amendments. As much as I personally
17 support small newspapers and independent journalism, I
18 do think that -- it is certainly within our, I think,
19 right to -- if that is a matter of policy that the
20 division wants this noticed in the newspaper, it is to
21 Dr. Ampomah's point -- and I think I said this on
22 Wednesday -- newspapers are a more and more old
23 fashioned way of trying to get information out to the
24 public, and there are better and more targeted ways to
25 ensure that we reach the right people with the right

1 information.

2 If anything, advertising on Instagram
3 or TikTok is probably more effective than advertising
4 in newspapers at this point. So I can see that there
5 is a certain -- I can see that this is common in
6 statute, but I also see Dr. Ampomah's point that it
7 may be more old fashioned than it provides actual
8 functional notice.

9 MR. BLOOM: So I just heard you say
10 you're going to take OCD notices to TikTok and
11 Facebook Reels?

12 MS. ORTH: I want to see the dance.

13 MR. CHANG: You want to see the dance;
14 right? Operators are required to do a TikTok dance
15 notification. And for the record, that was humor.

16 So I'm fine with accepting -- and I
17 would recommend that the commission accept both of
18 these -- or the entire proposed amendments from NMOGA.
19 I'm sorry. From Oxy. I apologize.

20 DR. AMPOMAH: Yeah. I do support that.

21 MR. BLOOM: I don't believe I'm in
22 support. I think if we had interested persons, people
23 that want participate can participate, and now we
24 might have arguments about who has standing coming to
25 the OCC.

1 So you know, it's either -- it's going
2 to be perhaps too open, creates some issues with the
3 hearing officer. If it seems to be too closed and it
4 creates disputes around standing, we have some
5 standing issues in front of us. Right now at the OCC,
6 those come to us. So I'd rather be, I guess, more
7 inclusive. So I'll be the odd man out on this one.

8 MR. CHANG: So if it makes you feel --
9 so I mean, I think you've summarized the same issue.
10 Those are the choices in front of us; right?

11 MR. BLOOM: Yeah.

12 MR. CHANG: Completely wide-open door
13 where we don't have the ability to say, "I'm sorry.
14 You're just too tangential," versus at least giving
15 the commission and/or the hearing examiner some
16 ability to say, "Okay. You're disrupting the presence
17 here. You're not a -- this is too far removed that
18 we're not going to let you initiate all these cases,"
19 versus not having any standards at all.

20 To the point about having a bunch of
21 standing disputes, I agree with you that I don't love
22 those either, but I feel like having some standards,
23 if we need to -- having some gatekeeping mechanism if
24 we need it is better than having no gatekeeping
25 mechanism to be able to draw on at all.

1 I think -- I mean, it's fine at the end
2 of the day, if it's a split vote. I respect, you
3 know, that we are all independent thinkers here. I'm
4 also happy to take that as a tentative vote and to
5 come back and revisit at the end just to see if it
6 changes anybody's opinions.

7 So -- or you know what? Let's -- how
8 about we do it -- we'll take it as a split vote for
9 now, but I'm open if you want to raise it for
10 reconsideration at the end and revisit.

11 DR. AMPOMAH: Thank you.

12 MR. CHANG: So at least for the record
13 now, Dr. Ampomah, do you move that we accept Oxy's
14 amendments?

15 DR. AMPOMAH: I so move.

16 MR. CHANG: I will second, and I will
17 take votes against --

18 MR. BLOOM: -- vote nay.

19 MR. CHANG: So one, Commissioner Bloom,
20 opposes for the record.

21 And votes in favor, Commissioner
22 Ampomah?

23 DR. AMPOMAH: Aye.

24 MR. CHANG: You vote -- aye?

25 DR. AMPOMAH: Yes.

1 MR. CHANG: And I will vote to break
2 the tie in favor for the moment, though I'm happy to
3 reconsider throughout the day.

4 DR. AMPOMAH: Thank you.

5 MR. CHANG: Okay.

6 DR. AMPOMAH: I think there's number 5
7 from NMOGA. So --

8 MR. CHANG: Still on -- I'm sorry. Say
9 that again?

10 DR. AMPOMAH: C. Still on C. There is
11 number 5 that we pinned down --

12 MR. CHANG: Oh, that's right.

13 MR. BLOOM: -- 25.13(c)(5)?

14 DR. AMPOMAH: Yes.

15 MR. BLOOM: Yeah.

16 DR. AMPOMAH: Yes.

17 MR. CHANG: Okay.

18 MR. BLOOM: Just let me get there. One
19 second.

20 MR. CHANG: This gets back into the
21 murky world.

22 MR. BLOOM: All right. I -- as I was
23 researching this last night -- let's see. I think I
24 found a couple of the closing arguments speaking to
25 this. So the applicants -- it was pages 71 and 72,

1 starting with finding of fact 236.

2 And then NMOGA, I believe, was their
3 finding of facts 110 through 113. You just take a few
4 minutes. I have to reread those. I can't remember
5 what they said now. I just looked at them last night.

6 MR. CHANG: You know what? Just so I
7 have notes as well, would you repeat those sections --

8 MR. BLOOM: Sure.

9 MR. CHANG: -- just so I can -- yeah.

10 MR. BLOOM: Okay. So the applicant's
11 closing arguments, pages 71 through 72, this includes
12 findings of fact 236 through 240, and then, roughly,
13 NMOGA's findings of fact 110 through 113. So this is
14 to be able to get second five-year extension instead
15 of a two-year after the five year. Yeah.

16 DR. AMPOMAH: So you're just delaying
17 the number of years you come back. I mean, reading
18 through this --

19 MR. BLOOM: Yeah. Let's read
20 through --

21 DR. AMPOMAH: I'll not actually support
22 this because it's just prolonging. So NMOGA is saying
23 that instead of the two years request, we should
24 extend that to five years, not two years. Right? So
25 extend it to more like three years before they come

1 back. That would be more like pushing it out. So I
2 would not support that.

3 MR. BLOOM: I think some of these
4 points I actually mentioned were ones I mentioned in
5 the previous discussion about the exemption of the two
6 years from bonding.

7 DR. AMPOMAH: But this one, you already
8 have the five years.

9 MR. BLOOM: Yeah.

10 DR. AMPOMAH: And then you are coming
11 back. So the current -- the rule that we're working
12 on is saying you can only get two more years, and then
13 you can come back for five more years. But NMOGA
14 wants us to take away that two years and make it five
15 years.

16 MR. BLOOM: Yeah. Yeah.

17 MR. CHANG: So it's more like a
18 extended for --

19 MR. BLOOM: Yeah. Yeah. I agree.
20 That's too long. So I would not be --

21 DR. AMPOMAH: That's too long. Yeah.

22 MR. BLOOM: -- supportive of that, of
23 inclusion of this additional language.

24 MR. CHANG: Okay.

25 MR. BLOOM: We would move to not adopt

1 that language that NMOGA suggested.

2 MS. ORTH: I'm sorry. I was just going
3 to add that the applicant's Exhibit 3 did show that
4 the likelihood that a well would be put back into
5 productive use after eight years of inactivity is
6 almost non-existent.

7 DR. AMPOMAH: Yeah.

8 MR. BLOOM: Yeah.

9 MR. CHANG: You want -- you move -- you
10 have a motion?

11 MR. BLOOM: Yeah. So I would move to
12 reject NMOGA's proposal at 19.15.25 --

13 DR. AMPOMAH: C.

14 MR. BLOOM: C.

15 DR. AMPOMAH: Five.

16 MR. BLOOM: Five.

17 DR. AMPOMAH: And I second.

18 MR. CHANG: Motion and a second. Any
19 objections? Without opposition, so adopted. Or so
20 decline to adopt. The motion is adopted. The motion
21 to decline is adopted. Yes.

22 Okay. Unless my notes are -- it looks
23 like I only have one last issue before we have to go
24 back to and look at the stuff that we need to revisit
25 after lunch. So I have 19.15.25.13 -- let me start

1 again. 19.15.25.13(c)(5).

2 MS. ORTH: We just did that.

3 DR. AMPOMAH: We just did that.

4 MR. CHANG: Oh.

5 DR. AMPOMAH: Yeah.

6 MR. BLOOM: Yeah.

7 MS. ORTH: That's what that was.

8 MR. CHANG: Oh, I just have it written
9 down twice. Okay. In that case, I don't show any
10 other provisions that we haven't discussed.

11 MR. BLOOM: Which ones did we park?

12 MS. ORTH: Can we go back to double
13 bonding momentarily?

14 MR. CHANG: I was going to do that.
15 Sure. But then I was going to give us lunch to think
16 about it and then come back then.

17 MS. ORTH: Okay.

18 MR. BLOOM: If you have some guidance?

19 MR. CHANG: Yeah. Go for it.

20 MR. BLOOM: Or anything else?

21 MS. ORTH: I was just going to tell you
22 what I found, and then you can take it up after lunch.

23 MR. CHANG: Perfect.

24 MR. BLOOM: And I have a question too
25 for both of you. That's something there that I don't

1 understand. So I think it'd be helpful to reflect on
2 that too before lunch.

3 MS. ORTH: So -- excuse me.

4 MR. SHANDLER: So just for context,
5 this is the second one that you've debated. This is
6 19.15(a)(9)(a), the very last part where they want to
7 not double bond.

8 MS. ORTH: Okay. So IPANM and NMOGA
9 both address it and both propose the insertion of the
10 language that Mr. Shandler just referenced. NMOGA
11 addresses it on page 15 of its closing arguments.

12 This is section H, the potential double
13 bonding problem across OCD regulations should be
14 fixed. They mention a second form of double bonding,
15 which has already been briefly raised this morning,
16 that the rulemaking we did the hearing for last week,
17 which has not come to an end, at the State Land
18 Office, is a second possible double bonding issue.

19 So that one -- let me just address that
20 really quickly. If federal leases can be considered
21 in the rules, that state financial assurance
22 associated with state leases should also be
23 considered. So that's their proposed fix as to the
24 anticipated State Land Office rules.

25 As to the double bonding issue within

1 the proposed regulations, again, there's discussion in
2 section H, starting on page 15. There's discussion on
3 page 63. This is the proposed findings, beginning
4 with finding 65. And then there's also discussion on
5 page 57, in the proposed findings between 34 and --
6 well, it goes into the 40s.

7 So what they're pointing out is that,
8 as proposed, if a well is bonded under the sections
9 that have been referenced here in 19.15.8.9(a) and
10 then you go C through G, that a bond might be required
11 both as a low-producing well and, for example, as part
12 of a high-risk portfolio, I think.

13 MR. BLOOM: That's the example I gave.
14 Yes.

15 MS. ORTH: And you described that
16 earlier, Commissioner Bloom, the applicants -- I
17 didn't see a place where the applicants disputed the
18 possibility of double bonding, but what they would
19 focus the commission on in their closing argument is
20 that low-producing wells really are high risk wells,
21 highly likely to generate only limited or negative
22 profits, increasing the risk of orphaning, that the
23 proposal for financial assurance for producing wells,
24 it creates an important incentive which prevents waste
25 and protects correlative rights. It incentivizes them

1 to avoid incurring additional financial assurance by
2 plugging them.

3 And they also point out that
4 low-producing wells constitute just 6.6 percent of the
5 well population and .048 percent of total production
6 in New Mexico. And they do cite to their exhibits
7 there.

8 The wells provide exceedingly low
9 economic utility to their owners, or the state oppose
10 a high risk of being orphaned, requiring state
11 resources to plug. So that's the nature I would say,
12 of their support.

13 And the only other thing I guess I
14 would point out from their arguments here -- and I
15 hope I said what pages those were -- between about
16 pages 36 and -- well, continuing at least until 40.

17 Starting with -- oh, the findings I was
18 looking at was, like, 115 and continuing. The other
19 thing was, as a result of the post-hearing
20 negotiations, they did delay implementation of the
21 financial assurance requirements for low-producing
22 wells to 2029, I believe. So they did push that out.
23 But again, they would like to incentivize plugging.

24 MR. CHANG: Sure. Seems to be the
25 motivating -- underlying motivation.

1 MR. BLOOM: Question, why would G be
2 one of the factors that would be -- why is that
3 included in the suggested language to avoid double
4 bonding?

5 MS. ORTH: Well, it may have been the
6 old G -- I mean, there's a fair amount of re-lettering
7 in here.

8 MR. BLOOM: Let's see. So --

9 MS. ORTH: Pretty sure I saw that.

10 MR. BLOOM: NMOGA's -- I'm looking at
11 NMOGA's draft. And -- let me just get there.

12 MS. ORTH: IPANM's proposed alternative
13 language is fairly easy to read as well on page 8 of
14 13.

15 MR. BLOOM: Okay. So I'm -- yeah. So
16 when -- I'm sorry. Just sticking with NMOGA's for a
17 moment.

18 MS. ORTH: Okay. Sorry.

19 MR. BLOOM: I look at page 21, with
20 their language, suggested language. We see it says,
21 "This subsection A applies to subsections B through H,
22 and satisfaction of any one of subsections C through G
23 for a well satisfies the operator's plugging financial
24 assurance for that well." So I go down to G, and G
25 says -- well, there is no G in their version. So --

1 all right.

2 MS. ORTH: The re-lettering might have
3 introduced a confusion.

4 MR. BLOOM: So if I were to look at the
5 applicant's suggested language, G -- well --

6 MR. CHANG: There is no G.

7 MR. BLOOM: The applicants have one,
8 but it says -- the proposed one, the joint stipulation
9 says, "Operators who have on file with the division of
10 blanket plugging financial assurance that does not
11 cover additional well files, to file additional one
12 well plugging financial assurance for any wells not
13 covered by existing blanket plugging financial
14 assurance. An amount is determined," et cetera, et
15 cetera. "Or may file a single instrument."

16 So I can't imagine why that -- doesn't
17 seem to be bonding anything -- why that would be
18 exempted. And I -- otherwise, I don't know. That's
19 the only G around. And so I don't know why the
20 suggested language would state that, and I'm not sure
21 we can include that section in any sort of carve out.

22 MS. ORTH: Yeah. IPANM also said C
23 through G. But again, there might have been confusion
24 introduced.

25 MR. BLOOM: Yeah. There's confusion,

1 that's for sure.

2 MR. CHANG: From all the remembering at
3 the very minimum.

4 MR. BLOOM: Yeah.

5 MS. ORTH: Okay. That's all I had to
6 say. Obviously, there's lots to think about.

7 MR. CHANG: Stuff that -- so I need to
8 make a new list, if somebody could help me make a new
9 list of what remains to be debated, because we
10 definitely have, for this afternoon. I have
11 19.15.8.9(a).

12 MS. ORTH: That's this one. Yeah.

13 MR. BLOOM: Madam Chair, was the double
14 binding issue raised during the evidentiary hearing?
15 Do you recall? Or did it come up more as we got
16 into --

17 MS. ORTH: I think when --

18 MR. BLOOM: -- closings.

19 MS. ORTH: Okay. So I don't remember
20 evidence on the double bonding, say, from NMOGA and
21 IPANM, but looking at the face of the rule, I think
22 they're pointing out something that --

23 MR. BLOOM: Yeah. I agree.

24 MS. ORTH: -- is true.

25 MR. BLOOM: And I think that's why the

1 applicants don't speak to it either, because it wasn't
2 something we discussed. The one that I'm talking
3 about, this double bonding is -- because of the
4 structure of the rule, not -- we did have a
5 conversation about double bonding with the potential
6 Land Office bonding of its leases, which is different
7 because it was, like, \$150,000 per lease.

8 You know, there could be three or six
9 average wells on-lease. So this was actually much
10 lower. But -- here nor there. But just in dealing
11 with this, I -- yeah. I don't -- in the language in,
12 you know, 8.9(a), I just don't really believe we saw
13 it then. So I just want to be sure that.

14 MR. CHANG: Have we resolved
15 19.15.8.9(d)(3) and (d)(3)(e) from NMOGA? D --

16 DR. AMPOMAH: That was one, two that we
17 wanted to come back.

18 MR. CHANG: Okay. So I will --
19 19.15.8.9(d).

20 MR. BLOOM: B as in boy or D as in --

21 DR. AMPOMAH: D.

22 MR. CHANG: D as in David.

23 MR. BLOOM: -- D as in dog.

24 DR. AMPOMAH: (d)(3).

25 MR. SHANDLER: I need to find there's

1 anything in record about fractions, stimulation,
2 drilling, or operations.

3 DR. AMPOMAH: Yeah.

4 MR. BLOOM: That one was. Yeah.

5 MR. CHANG: So this is yet another
6 where the numbering is very odd for me, because I have
7 19.15.8.9(d). Three -- yeah. Okay. Okay. And also
8 (d)(4).

9 DR. AMPOMAH: (d)(4).

10 MR. CHANG: (d)(4), I think we have a
11 concept. We just need to write it out. Right?

12 MR. BLOOM: What was (d)(4) again?

13 MS. ORTH: Variance, I think

14 MR. CHANG: It's the 30 days, the
15 deemed -- I just needed to add that it would be a
16 deemed denial and they'll have to take it to a
17 hearing.

18 MR. BLOOM: Yes.

19 DR. AMPOMAH: Yeah.

20 MR. CHANG: Otherwise, it's too much.
21 So I'll put that down here. But I think that'll be an
22 easy -- that just requires a little bit of new
23 language. Okay. 19.15.8.9(f), did we resolve that?

24 DR. AMPOMAH: Yeah. We did.

25 MR. CHANG: That one's resolved.

1 MR. BLOOM: Did we?

2 DR. AMPOMAH: Yeah. He provided a
3 language. So you said we wanted to cross check.

4 MR. SHANDLER: Yeah. So --

5 MR. BLOOM: Yeah. I don't think I
6 agreed to that.

7 MR. SHANDLER: Sorry --

8 MR. CHANG: Wait. That's not right.
9 I'm looking at financial -- I must be looking at the
10 wrong --

11 MR. BLOOM: That's inactive wells and
12 expired or approved temporarily --

13 MR. CHANG: Yes. Yes. Yes. The --

14 MR. BLOOM: -- more than two years.

15 MR. CHANG: Yeah. Yeah. Yeah.

16 MR. BLOOM: Okay.

17 MR. CHANG: So that was where -- and we
18 can come back to it and revisit, but I had a soft
19 proposal for us to consider with -- so wells that have
20 been inactive for more than two years, wells in
21 approved TA status, or wells in expired TA status.

22 MR. SHANDLER: So 19.15.25.8 is the
23 rule I was looking for, specifically (b)(3). So that
24 is titled wells to be properly abandoned.
25 19.15.25.8(b). So that says, "An operator of a well

1 shall plug" -- sorry.

2 "The operator shall either properly
3 plug or abandon well or apply to the division to place
4 the well in approved TA within 60 days after a period
5 of one year in which a well has been continuously
6 inactive." So I'm going to -- I need to spend some
7 time aligning that with the two years to figure out
8 this sequence that Commissioner Bloom wants
9 determined.

10 MR. BLOOM: Where's the five years come
11 in?

12 MR. SHANDLER: I believe that is, once
13 you have been granted, then that's an extension upon
14 it. This is -- I've just gone from active to
15 inactive. Commissioner Ampomah says, "Well, there
16 might be good operators that are still" -- let things
17 fallow while they figure out a secondary recovery
18 system.

19 Or there could be bad operators that
20 are already on the path to problems. And so that's
21 the time sequence. And I need to figure
22 out -- Commissioner Ampomah's uncomfortable at this
23 time automatically kicking someone up to the possibly
24 higher bond.

25 MR. BLOOM: Was it one year? You have

1 13, 14 months between active to inactive, and there's
2 an application for temporary abandon status at that
3 point. Is that initial period five years or two
4 years?

5 DR. AMPOMAH: I think it's five years.

6 MR. BLOOM: I thought it was five
7 years.

8 DR. AMPOMAH: Yeah. Five years.

9 MR. SHANDLER: Yes. So under 19.15.25
10 new 13 --

11 DR. AMPOMAH: A.

12 MR. SHANDLER: -- A, "A division may
13 place an approved TA for a period up to five years."

14 DR. AMPOMAH: Up to five years.

15 MR. BLOOM: And there's a two-year
16 extension and another two-year extension.

17 DR. AMPOMAH: Five years. And then --
18 well, that was looking for two years. But --

19 MR. SHANDLER: So under the new 13B,
20 they talk about two years, and then C talks about five
21 years.

22 DR. AMPOMAH: Five years.

23 MR. SHANDLER: So there is some
24 sequencing to work out here.

25 DR. AMPOMAH: Yeah.

1 DR. AMPOMAH: So, Zach -- yeah. Can
2 you help us, I mean, reconcile the 19.15.25.8 to the F
3 that we are trying to resolve?

4 MR. SHANDLER: Yes. I'm trying to make
5 sure that there's internal consistency --

6 DR. AMPOMAH: Okay. Okay. Yeah.

7 MR. CHANG: May I suggest a lunch break
8 at this point? And I know it could -- I don't
9 think -- that's it; right? I've looked through, and
10 everything else, we've managed to resolve one way or
11 the other.

12 So all we are -- everything is in
13 19.15.8.9. It's just various subsections thereof. So
14 we're getting to the crux in the heart of the
15 rulemaking, which is good. May I suggest that we take
16 a lunch break until -- to give ourselves more time to
17 actually look through the issues. 1:30?

18 MR. BLOOM: Yeah.

19 MR. CHANG: Okay. Well, in that case,
20 we are in recess until 1:30 p.m. Thank you all.

21 (Off the record.)

22 MR. CHANG: Okay. This is Chair Albert
23 Chang of the New Mexico Oil -- ow. Ow -- of the Oil
24 Conservation Commission. Excuse me, as I try not to
25 whack myself in the knee.

1 Noting the time, I'm going to call the
2 meeting back to order. This is a continuation of
3 deliberations on case number 24683, Western
4 Environmental Law Center's application for rulemaking
5 to amend 19.15.2, 19.15.5, 19.15.8, 19.15.9, and
6 19.15.25, New Mexico Administrative Code, NMAC.

7 All right. I think where we left off
8 was debate around sections 19.15.8.9 and the various
9 related subsections, (a), (d)(4), (f)/potentially (d).
10 But I'll reopen debate on 19.15.8.9.

11 And potentially, I will just also note
12 for commissioners, at least for myself, that this
13 section uses terms that are defined earlier in 19.15.2
14 NMAC, where we are also weighing various competing and
15 slightly different definitions.

16 So those definitions may or may not be
17 causing some -- at least for myself, causing some
18 confusion as to how those pieces fit as we consider
19 how those then disputed defined -- terms with disputed
20 definitions may apply to the various proposals in
21 19.15.8.9.

22 DR. AMPOMAH: Okay.

23 MR. CHANG: So I don't know how we want
24 to -- I think we've already walked through, just to
25 reiterate. Shall we start with A? I think the first

1 green line, we had declined to adopt.

2 DR. AMPOMAH: Yes.

3 MR. CHANG: Then we have red proposed
4 language from the applicants. Did we adopt that?

5 MR. BLOOM: I'm sorry. Where are we
6 at?

7 MR. CHANG: 19.15.8.9 -- I'm just
8 starting with A, 8.9(a).

9 MR. BLOOM: Which -- I'm sorry. Which
10 language? The operating authority or down below, "The
11 division shall not approve"? Just got to give me the
12 beginning of the line, please.

13 MR. CHANG: You know what? Let's just
14 start at the very beginning, operating authority. The
15 red and -- red, highlighted in blue. The changes in
16 the first two lines, did we adopt? Did we not adopt?
17 Do we wish to make a decision on that?

18 DR. AMPOMAH: I remember we did adopt
19 that.

20 MR. CHANG: That's what I thought as
21 well. Okay. So that's adopted. The next -- so
22 skipping down by four lines, we go into green text
23 from NMOGA. We declined to adopt that?

24 DR. AMPOMAH: Yes.

25 MR. BLOOM: Let me get there. I'm

1 looking at the applicants. That is correct.

2 MR. CHANG: Okay. Then we have red
3 text, some of which is highlighted in blue, from the
4 applicants.

5 DR. AMPOMAH: So, Mr. Chair, on this
6 one, you said earlier that OCD do have discretion
7 already to work with parties, because I had a concern
8 that if we do not adopt the green, then the red
9 becomes more like a strict bound for OCD. But you
10 said there was some discretion there. So I do not
11 have any problem --

12 MR. CHANG: Enforcement settlement
13 authority. Yes.

14 DR. AMPOMAH: Exactly. Exactly. So I
15 do not have any problem adapting the applicant's --

16 MR. CHANG: Language here at the --

17 DR. AMPOMAH: -- language there. Yeah.

18 MR. CHANG: Okay. Any objections?

19 MR. BLOOM: One second. I would adopt
20 everything in in red there. Yes.

21 MR. CHANG: Okay. No objections from
22 me. So we agree to adopt. Then the next line down, I
23 have the green, which I think we were getting hung up
24 on that. So the last line on the first page here --
25 or the last line of subsection A.

1 MR. BLOOM: In NMOGA's draft?

2 MR. CHANG: In green. At the very
3 minimum, I think we were curious as to whether G is
4 correct; right? C through G. At the very minimum, G
5 doesn't seem like it's maybe -- it's not --

6 MR. BLOOM: Yeah. So if we were going
7 to try to do anything to avoid double bonding, what we
8 could do is add to the applicant's language in
9 Exhibit 89. What we would see is -- let me just get
10 there. B through H part is good -- and then just add
11 in green, "In satisfaction of any one of subsections B
12 through F, for a well, satisfies the operator's
13 plugging assurance obligation for that well."

14 And I have adapted what NMOGA
15 suggested. They said to -- they would include SEC
16 subsection C, but in that case, I think we would have
17 an unintended consequence in that if someone had a one
18 well -- or a blanket plugging financial assurance in
19 the amount of \$200,000 under C, they would not also
20 have to bond again under, say, D or E. So C should be
21 excluded. And where an operator should only have to
22 be bonded once would be limited to D and -- D and G, I
23 believe. Or -- sorry. I --

24 MR. CHANG: Would it be E and F?

25 MR. BLOOM: D, E, and F? Hold on.

1 Yeah. D, E, and F. Yeah. But we can't include C.

2 DR. AMPOMAH: Or -- because that will
3 fall under the blanket bonding --

4 MR. BLOOM: Yeah. Right. Right. So
5 that would kind of void everything we're trying to do
6 in D, E, and F if somebody had a blanket bond. And
7 then G doesn't work either. I think that was just a
8 typo or just something to do with the enumeration that
9 happens when working through these things.

10 MR. CHANG: Give me one second to just
11 review this to make sure I concur. I see what you're
12 trying to do, but I think we need to be careful with
13 the language because your point is that -- okay. D,
14 E, and -- either inactive wells and -- improvement --

15 MR. BLOOM: I can think of some
16 examples.

17 MR. CHANG: Yeah. Go ahead -- here.
18 Walk me through that, the --

19 MR. BLOOM: Yeah. So let's imagine, to
20 begin with, that someone had 5 percent of their wells
21 were low-producing wells; right? So under D -- let's
22 look at D1.

23 "As of the effective date of amendment,
24 a transferee operator shall provide a one-well
25 plugging financial assurance of \$150,000 for each

1 low-producing well prior to transfer." Right?

2 Or if we look at two, it might be a
3 better example because it's not about transfer. It
4 says in yellow there, second sentence, "Each operator
5 with a low-producing well or wells shall annually
6 review the number update."

7 So 5 percent of their wells are, say,
8 covered under this, that are low-producing. And then
9 all of a sudden, they would shoot up, say, at 25
10 percent.

11 No. That wouldn't work because
12 low-producing are not covered under E. I guess an
13 example would be if somebody had a number of inactive
14 wells under F, there are 19 percent, and then they add
15 a few more and it puts them at 25 percent, then they
16 would have to bond all their wells. They would not
17 need extra bonds for the ones that were already bonded
18 under half --

19 MR. CHANG: But you would have C still
20 apply; right? So C would still apply to the active
21 wells; right?

22 MR. BLOOM: Yes.

23 DR. AMPOMAH: No. But all --

24 MR. BLOOM: Well --

25 DR. AMPOMAH: -- if they're above 20

1 percent, all has to be at 150 because they're above
2 the 20 percent threshold.

3 MR. BLOOM: Yeah. I guess they would
4 have a double bond then, wouldn't they? And C, they
5 would still have that quarter-million-dollar blanket
6 bond.

7 But if we wrote the -- if we wrote
8 this -- if we use the NMOGA suggested language, if we
9 said, "If you meet C, D, E, or F, you're good." So if
10 somebody had a blanket bond for \$250,000, they would
11 not need to get another bond for, say, a low-producing
12 well or inactive wells.

13 MS. ORTH: That follows the whole point
14 though of the rulemaking.

15 MR. BLOOM: Yeah. Exactly. So that's
16 why we wouldn't want to include C. I guess
17 somebody -- apparently, somebody would have to have a
18 blanket bond for their active wells of a
19 quarter-million-dollars and then bond again all their
20 wells at 150,000 a piece if E was triggered, if
21 they're above 20 percent. Right?

22 MS. ORTH: Do you want to reconsider
23 division discretion maybe, if someone believes they're
24 required to double bond? I don't know.

25 MR. SHANDLER: If they double -- then

1 they file some type of variance or application with
2 the division for hardship or something.

3 MR. BLOOM: Yeah. That could work.

4 MR. CHANG: So D applies to transfers.
5 E, you've got operators with 20 percent or more wells
6 inactive approved temporarily landed or -- so expired.
7 Okay. Operator with 20 percent and more --

8 MR. BLOOM: If we could put something
9 under E that says if somebody's forced a bond under E,
10 I guess it wouldn't need a blanket \$250,000 active
11 well bond because everything would be bonded
12 150,000 --

13 DR. AMPOMAH: But so at some point, if
14 they go below the 20 percent, they'd --

15 MR. BLOOM: They'd have to go get --
16 yeah. To get it again. Yeah.

17 DR. AMPOMAH: So should it not be the
18 25,000 has to be there?

19 MR. CHANG: Well, so let me back up and
20 make sure we're all talking about one thing at a time.
21 Sorry.

22 DR. AMPOMAH: Okay.

23 MR. CHANG: So with C --

24 MR. BLOOM: -- all at once.

25 MR. CHANG: So C, you've got active

1 wells. Okay? But it specifically says that are not
2 subject to subsection D and E.

3 MR. BLOOM: Yeah.

4 DR. AMPOMAH: Yes. Okay.

5 MR. CHANG: Okay. Right? Are we all
6 in the same place?

7 MR. BLOOM: Yeah.

8 MR. CHANG: So you can -- so then let's
9 crosswalk the other two. Can you have C and F?

10 DR. AMPOMAH: C and F.

11 MR. CHANG: How would C and F
12 interoperate?

13 MR. BLOOM: So you'd have a \$250,000
14 blanket plugging financial assurance, the amount of
15 \$250,000. And then how would F hit? I guess if that
16 person had inactive wells, then an operator should
17 provide a financial assurance for \$150,000 a piece.

18 DR. AMPOMAH: For all of them. Yeah.
19 But C and F can coexist without -- yes. C and F can
20 coexist without double bonding.

21 MR. CHANG: Okay. So then -- so and
22 then that's it; right? Because H is something else.
23 That's about consumer price index. So that doesn't
24 apply.

25 Okay. So now -- so C -- the only one

1 that we that we need to worry about with C is C and F,
2 because it explicitly says you don't need to do D or E
3 with C. Right? Okay. So putting C aside, now, let's
4 look at can you have D and E together or D and F
5 together?

6 DR. AMPOMAH: E -- of course.
7 Everything. For E, once you are above 20 percent,
8 then automatically all your wells, including active,
9 inactive, once you're below that 20-percent threshold,
10 everything has to be bonded at 150,000.

11 MR. CHANG: Above the 20 percent
12 threshold?

13 DR. AMPOMAH: Yes.

14 MR. CHANG: Yeah. So once you're above
15 20 percent -- but if that kicks in, then all your
16 wells are going to be subject to E, and therefore,
17 none of them would be subject to C.

18 DR. AMPOMAH: Exactly.

19 MR. CHANG: How -- okay. So then we
20 need to look at --

21 MR. BLOOM: No. I'm not sure that's
22 correct.

23 MR. CHANG: Yeah. Because subject to
24 subsection E. Right? So if E kicks in, then you
25 can't have C anymore.

1 DR. AMPOMAH: Can't have C anymore.

2 MR. BLOOM: Let's see. And operators
3 are provide -- not subject -- okay. Yeah.

4 MR. CHANG: So if E kicks in, C no
5 longer applies.

6 MR. BLOOM: Yeah.

7 DR. AMPOMAH: Exactly.

8 MR. CHANG: Okay. This reminds me of
9 those logic games -- okay. So then the question
10 becomes how D, E, and F, how either two or three of
11 these might interact with each other. What is the
12 most problematic scenario that -- or at least the
13 scenarios that give you guys the most pause?

14 DR. AMPOMAH: Now D and F can coexist
15 because you have low-producing wells that needs to be
16 bonded at 150,000. And you do have inactive wells
17 that also needs to be bonded at 150,000. So they can
18 coexist.

19 MR. CHANG: But D is -- okay. Help me
20 understand. D talks about transferee and the
21 transfer.

22 MR. BLOOM: Then look at two --

23 DR. AMPOMAH: Three.

24 MR. CHANG: Two.

25 DR. AMPOMAH: Two?

1 MR. BLOOM: -- any low-producing well
2 after May 1, 2029.

3 MR. CHANG: "An operator shall provide
4 one well plugging financial assurance for each
5 low-producing well. Each operator with a
6 low-producing well or wells shall annually review the
7 number one well financial assurance."

8 I mean, later on, it says 150. But up
9 here, in two, it actually doesn't say what that one
10 well number is. Okay. And then -- so D and E
11 together -- an operator. An operator -- so we may
12 need to go back and look at the definition of
13 low-producing well. Can a well be simultaneously
14 low-producing?

15 MR. BLOOM: Isn't that under 90 barrels
16 a year?

17 MR. CHANG: But also --

18 DR. AMPOMAH: -- thousand, 180 days.

19 MR. BLOOM: I better go back and check.

20 DR. AMPOMAH: Yeah. It's the same as
21 the marginal well. You had --

22 MR. CHANG: So I guess your concern is
23 that, let's say somebody's got 21 percent inactive.
24 So they would have 79 percent that are potentially
25 perfectly active. Right? Not low-producing at all.

1 Like, highly producing --

2 MR. BLOOM: Yes.

3 DR. AMPOMAH: Exactly.

4 MR. CHANG: Okay.

5 DR. AMPOMAH: Wow.

6 MR. CHANG: You could -- but this would
7 require all of them to be bonded.

8 DR. AMPOMAH: But I thought --

9 MR. CHANG: For both. So your concern
10 is that -- if somebody had, let's say, low-producing
11 wells, 79 percent low-producing wells and 21 percent
12 TA'd or otherwise inactive wells, your concern is that
13 there would be 150K on each of the low-producing
14 wells -- so the 79 percent -- plus another 150K for
15 being over the 20 percent. Right? I just want to
16 make sure I'm tracking what you're --

17 DR. AMPOMAH: I mean, it sounds like --
18 I thought that during the hearing, they were
19 emphasizing on marginal wells or low-producing wells
20 being more than 20 percent. But here, it's a little
21 bit different though, because the E, you're talking
22 about operators with 20 percent or more of wells
23 inactive, approved TA or expired TA. It doesn't
24 include the low.

25 MR. BLOOM: Doesn't include which?

1 DR. AMPOMAH: The low.

2 MR. BLOOM: Low?

3 DR. AMPOMAH: Uh-huh. But I thought
4 during the hearing, it was mostly --

5 MR. BLOOM: Oh, I think -- well, that
6 might be --

7 DR. AMPOMAH: Do you remember -- or is
8 there a provision somewhere else that targets only the
9 low?

10 MR. CHANG: Well, so low provision --
11 low-producing well is D; right?

12 MR. BLOOM: Yeah. Yeah.

13 DR. AMPOMAH: Yeah. It's D.

14 MR. CHANG: Okay.

15 DR. AMPOMAH: But I remember during the
16 hearing, there was a discussion about if you are
17 low-producing wells, if you have about 20 percent --
18 it was 15 percent.

19 MR. BLOOM: Yeah. It was 15.

20 DR. AMPOMAH: So I'm pretty sure
21 probably that might be somewhere else too, because
22 here, the E does not include the low-producing wells.

23 MR. BLOOM: And that might be because
24 an inactive well produces even less than a
25 low-producing well. And so the trigger for having to

1 bond everything is in how many low-producing wells you
2 have and how many inactives --

3 DR. AMPOMAH: Inactive.

4 MR. BLOOM: Yeah.

5 DR. AMPOMAH: Yeah. So they've taken
6 that threshold off from the low-producing wells to
7 inactive. So now the margin well doesn't come in at
8 all. It's out.

9 MS. ORTH: That's right.

10 DR. AMPOMAH: Yeah.

11 MS. ORTH: I think that was negotiated
12 with a certain company over there on the wall.

13 DR. AMPOMAH: Exactly. I -- because
14 that is where the confusion is. From the hearing, it
15 was 20 percent marginal wells, 15 percent marginal
16 wells. Then all your walls needs to be bonded. But
17 now they've changed that.

18 MR. CHANG: Yes.

19 DR. AMPOMAH: The low-producing wells
20 doesn't come in at all to have the entire wells
21 bonded. It's now based on inactive, approved TA and
22 expired TA.

23 MR. CHANG: Yes.

24 DR. AMPOMAH: If you're 20 percent,
25 then everything more or less needs to be bonded.

1 MR. CHANG: Right.

2 DR. AMPOMAH: Yeah. That was a trick
3 there actually. I was confused. Yeah.

4 MR. CHANG: Does that help or does that
5 make you --

6 DR. AMPOMAH: No. That helps. But
7 then we have to rethink about it one more time.

8 MR. CHANG: Okay.

9 DR. AMPOMAH: Well --

10 MR. CHANG: Certainly helpful when
11 we're -- and if this helps at all --

12 MR. SHANDLER: So finding of fact 140
13 confirms your theory. Applicants originally proposed
14 that an operator well portfolio of 15 percent or more
15 non-productive wells and marginal wells.

16 DR. AMPOMAH: Exactly. So they've
17 changed it now. Yeah.

18 MR. CHANG: That's part -- I mean,
19 that's why it's all in blue -- in this --

20 DR. AMPOMAH: Okay.

21 MR. CHANG: Turquoise color.

22 DR. AMPOMAH: So now you're trying to
23 make some analogy here with regards to which one goes
24 together. So probably would have to probably look at
25 it.

1 MR. CHANG: Let's look at it. That's
2 what we're here for.

3 DR. AMPOMAH: Okay. So now with the E,
4 the criteria is still using inactive wells, approved
5 TA, and expired TA. Once you are 20 percent above
6 that, then all the wells in your portfolio would have
7 to be bonded individually at 150,000. So the E still
8 stands alone.

9 And then the F is the one that we
10 define inactive wells. And I think we were discussing
11 this one because I think NMOGA wants to do two years
12 on there. So the inactive wells, you would have to
13 bond each one at 150,000.

14 MR. BLOOM: Yes.

15 DR. AMPOMAH: Yes.

16 MR. BLOOM: Under F?

17 DR. AMPOMAH: Under F.

18 MR. BLOOM: Yeah.

19 DR. AMPOMAH: Yes. So F and then D can
20 go together, where you have low-producing wells bonded
21 at 150, and then inactive wells at F, also 150,000.
22 So those can go together too.

23 And I believe that is why NMOGA was
24 asking for two years for the inactive, for the
25 approved TA. And then we were working on some

1 language on that, because that is a big deal. It is a
2 big deal.

3 MR. CHANG: I understand.

4 DR. AMPOMAH: Yeah.

5 MR. CHANG: So what does your -- do you
6 have a proposal for what you think is the most
7 reasonable way to address those concerns?

8 DR. AMPOMAH: I think let's deal with
9 the F first, because once we deal with the F, then we
10 have a clear understanding how all of these work
11 together.

12 MR. CHANG: Okay.

13 DR. AMPOMAH: So if we can go back to
14 what you proposed for F, and if counsel have already
15 been able to cross check to make sure that we are not
16 missing anything, then I think we can go back and then
17 rectify the remaining ones for the double bonding.

18 MR. CHANG: So F in the applicant's
19 version is the same as D in the -- wait. No. Am I
20 looking at the right --

21 DR. AMPOMAH: Yeah. It's just that
22 NMOGA made a D, but it's actually F.

23 MR. CHANG: Yeah. So -- yes. Okay.
24 It's F in the applicant's version. It's D, green D,
25 in NMOGA's version.

1 DR. AMPOMAH: That is correct.

2 MR. CHANG: Okay. We're all on the
3 same page now. Thoughts on what we should or should
4 not adopt for language here?

5 DR. AMPOMAH: So I thought you had a
6 language that you had for the heading, where you
7 included the two years will start ticking from the day
8 of inactivity or inactive -- or let's say zero
9 production, essentially.

10 So you had a language that you wanted
11 us to put in there to take care of that, because you
12 believe that before even a well becomes put in an
13 application, they've already spent, well, 15 months --

14 MR. CHANG: Well, and it's in the
15 definition too, which is why -- so let's see. Let's
16 go back to -- I don't want to take a look in NMOGA's.

17 Let me look at -- inactive well means a
18 well that has had no production or injection for 12
19 consecutive months or is not being used for beneficial
20 purposes. So in fact, it's not even considered an
21 inactive well until there's been 12 months of
22 inactivity, per this definition.

23 DR. AMPOMAH: Okay. Okay.

24 MR. CHANG: So does that assuage your
25 concern because they already -- or at least

1 help -- I'm just pointing out that it could be
2 inactive, as in, like, somebody might be going around
3 designing an EOR project or something. They already
4 have 12 months. It's not even an inactive well until
5 12 months and a day, per this definition.

6 DR. AMPOMAH: But how does this one
7 square with the statute of the two -- of no more than
8 two years?

9 MR. CHANG: That's --

10 MS. ORTH: I thought that was TA.

11 DR. AMPOMAH: Yeah. And that -- yeah.
12 There still enough to -- yeah.

13 MR. CHANG: So let's go back
14 to -- there's also definitions in here that are
15 different, I believe. I found expired TA, but what --
16 how do they define TA here?

17 So this is the problem. Temporary
18 abandonment or temporary abandoned status means the
19 status of a well that is inactive, according to NMOGA.
20 I'll tell you what the -- and let me look at what the
21 applicant said. It simply struck out. There is no
22 definition for temporary --

23 DR. AMPOMAH: But it's somewhere.

24 MR. BLOOM: But it's dealt with --

25 MR. CHANG: It's dealt with elsewhere;

1 right?

2 DR. AMPOMAH: Yeah.

3 MR. BLOOM: Under A. Under A.

4 DR. AMPOMAH: Yeah.

5 MR. BLOOM: Yeah. It means the same
6 thing.

7 MR. SHANDLER: So I think there's a
8 couple different tracks. Okay. So the statute says,
9 "The oil conservation division shall require one well
10 financial assurance on any well that has been in a
11 temporary abandoned status more than two years."

12 I believe the applicants read that as
13 that doesn't bar the division from requiring financial
14 assurance in other situations. I believe NMOGA reads
15 that to be as, yes. That is a bar, that there's this
16 two year -- you have to get past these two years
17 before you can require some type of financial
18 assurance.

19 I think there is, fair to say, dispute
20 about that point. Okay? So that's one thing that's
21 out there. And so it looks like the applicant -- let
22 me try again.

23 So let's say I have an active well and
24 I have to have financial assurance. Under my
25 hypothetical, the most affordable one is blanket bond.

1 DR. AMPOMAH: Yes.

2 MR. SHANDLER: Okay. For whatever
3 reason, the well either decides to stop producing or
4 it physically stops producing on January 1st. Okay?
5 For that entire year, I'm still using my blanket bond.

6 I guess technically, it's still
7 considered active, but come December 31st, under the
8 rules, it now becomes inactive.

9 DR. AMPOMAH: Inactive.

10 MR. SHANDLER: Okay? Then the question
11 is, should my bonding change? That's threshold
12 question number 1. And threshold question number 2 is
13 should I get off the stool and do something? And so
14 the rules say an operator shall promptly plug or
15 abandon the well or apply for TA status 60 days after
16 a period of one year that it's been inactive.

17 So at that point, that set of rules,
18 25.8, is forcing me to make a decision whether I
19 should plug it or I should ask for it to be considered
20 an abandoned status, but with the possibility it might
21 be restored to active. So that's one track.

22 The other track is what should the
23 financial assurance -- should it track with that? I
24 believe the applicants are trying to get, as soon as
25 you go to inactive, you lose your blanket bond and you

1 may have to do the 150.

2 So you could read the two together or
3 you could say, "Well, if we need to, track the
4 financial assurance and that key decision about
5 whether you want to go TA or not together."

6 DR. AMPOMAH: So and the chair is
7 saying that, like you said, so you are already
8 inactivity for 12 months. So he was thinking about
9 how do we make that two years total for inactivity or
10 let's say when the well is producing zero, before the
11 150,000 bond sets in.

12 MR. CHANG: So I guess backing up a
13 little bit -- and let me read the statute again;
14 right? It says, "OCD shall require," "Shall require a
15 one well financial assurance on any well that has been
16 held in TA status for more than two years."

17 But it's silent as to what we should do
18 for wells and TA status for less than two years. It
19 doesn't say "shall only hold one well financial
20 assurance for wells that have been abandoned for more
21 than two years." So we can't -- we must require a one
22 well financial assurance after two years.

23 DR. AMPOMAH: Yes.

24 MR. CHANG: But it is silent as to what
25 happens before that.

1 DR. AMPOMAH: It's back in bond.

2 MR. CHANG: On the issue of a one well
3 financial -- I'm just -- no. Whether or not it's a
4 good policies is a different question. You're asking
5 about what the boundaries of the statute are; right?

6 I don't think the statute -- the
7 statute doesn't say the oil conservation division may
8 not require a one well financial assurance until after
9 two years. That's the way you're reading it. But
10 that's not what it says.

11 It says that we must, after two years,
12 require a one well, but it's silent as to what happens
13 between year zero and year two. So it does not
14 prohibit us from bonding.

15 Now, whether or not we should do that
16 and whether or not that would be overly burdensome to
17 industry is a different question. I just don't think
18 the statute clearly prohibits us from doing that.

19 DR. AMPOMAH: Yeah. But I --

20 MR. CHANG: Does that make any sense?

21 MR. BLOOM: I agree.

22 DR. AMPOMAH: But I'm coming from the
23 latter portion of your submission in terms of --

24 MR. CHANG: Which is -- okay. So the
25 second part -- my point first is just that, you know,

1 where are the contours of the statute; right?

2 DR. AMPOMAH: Okay.

3 MR. CHANG: And I think the contours of
4 the statute doesn't say that it has to -- that we have
5 to wait until the two-year mark before we start
6 bonding. But once it hits two years, we must require
7 a one well bond.

8 But it's silent as to what we should
9 do. So if -- as a matter of policy, maybe perhaps bad
10 policy in reasonable people's minds, but I think the
11 statute actually allows us to require a one well
12 financial assurance even before the two-year kicks in,
13 if that is where we want to go, because it's silent as
14 to what happens from year zero to two.

15 Now, I take your point that that may be
16 burdensome to industry. So then the question
17 becomes -- so I don't think we have to match the two
18 years, is what I'm trying to say, is if we end up in a
19 different -- whether that's 12 months, 14 months, 15
20 months, 16 months, I don't think that legally we're
21 required to match exactly the two years, but it may be
22 a policy choice that we want to perhaps. And then how
23 we do that is a different question.

24 And I am trying to figure out how all
25 these things work together because we've got a couple

1 of different definitions floating around. And I'm
2 still a little unclear as to whether or not we
3 can -- how we should accomplish what you're seeking to
4 do without muddying the spider's web any further.

5 But I'm happy to take suggestions if
6 you have specific -- I don't know what is going to
7 help here, whether we should try to go line by line,
8 because they're all kind of interconnected, or
9 how -- what's the best way to do this?

10 MR. BLOOM: I mean, I don't think we
11 ever resolved the double bonding issue. Now we're
12 talking about not having to bond the first two years
13 that a well is inactive.

14 DR. AMPOMAH: It's related though.

15 MR. BLOOM: What's that?

16 DR. AMPOMAH: It's related, because you
17 want to solve that and be able to know which of them
18 goes together and be able to define what a double bond
19 is.

20 MR. BLOOM: I would say whether we
21 exempt this first two years or not, we still have to
22 decide how to get around double bonding.

23 MR. CHANG: Right. And --

24 MR. BLOOM: I mean, or do you -- or do
25 we need to work through F first? I know you like

1 NMOGA's language there, which says -- let me find it.

2 You like that which says, "Inactive
3 wells and wells in expired or approved temporarily
4 abandoned status for more than two years." And that
5 language, it's confusing to me because I'm not sure
6 who gets the two years.

7 Inactive wells and wells in expired
8 temporarily abandoned status have to be bonded
9 immediately, or is it just inactive wells and wells
10 that are expired or approved temporarily abandoned
11 status for more than two years, get two years? Do
12 expired wells get a two-year pass?

13 DR. AMPOMAH: No.

14 MR. BLOOM: So I think it would need to
15 read, "Inactive wells, wells in expired temporarily
16 abandoned status, or approved temporarily abandoned
17 status for more than two years."

18 DR. AMPOMAH: But I had some language
19 that -- I'm not sure -- it sounds like he doesn't want
20 to push it again.

21 MR. CHANG: Like, I mean, I -- on that,
22 I had thought about -- I mean we -- you can -- if you
23 just want to add like, you know, two years of
24 inactivity, you can do that by saying, you know,
25 "Inactive wells that have been" -- problem is then I

1 went back and looked at the definitions again.

2 And I don't know that that -- I think
3 that would make it even more confusing because
4 inactive wells and wells in approved TA -- expired TA.
5 So then we go back and look. Approved TA -- TA means
6 a well that is inactive.

7 So if we say a well that's been
8 inactive for two years, or inactive or a temporary
9 abandoned well, like, you're going to end up with a TA
10 or -- because TA means inactive. So I'm not sure how
11 to draft this to make this fit. And I am looking
12 for --

13 DR. AMPOMAH: So, Mr. Chair, the
14 approved TA --

15 MR. CHANG: And has been approved.

16 DR. AMPOMAH: Yeah. Or the -- yeah.
17 The approved TA means the status of the well that is
18 inactive has been approved in accordance with
19 19.15.25.13 -- inactive -- they expired. So the way I
20 see it is that you have the inactive in the big
21 umbrella, and after that, you have the approved TA and
22 expired TA.

23 MR. CHANG: And TA also means approved
24 TA?

25 DR. AMPOMAH: Exactly.

1 MR. CHANG: The problem is in -- so --
2 yeah. But inactive includes stuff that's --

3 DR. AMPOMAH: TA and expired TA.

4 MR. CHANG: This is where I'm
5 struggling because I think there's inactive wells that
6 have not been TA'd in any kind.

7 DR. AMPOMAH: So where's that
8 definition though?

9 MR. CHANG: I understand, but I don't
10 think that definition is going to work in real life,
11 because you will have stuff that is inactive but is
12 not TA'd.

13 DR. AMPOMAH: Yeah. So do we have a
14 definition for that, that do -- what --

15 MR. CHANG: The second page of -- the
16 very second page of the proposed rules.

17 DR. AMPOMAH: The approved TA, the
18 approved temporary --

19 MR. CHANG: Mm-hmm. But approved TA,
20 TA means a well that is inactive but that has been
21 approved.

22 DR. AMPOMAH: Approved. Exactly.

23 MR. CHANG: So you could have inactive
24 wells that are not approved, that have not
25 been -- because they haven't filed for anything

1 because --

2 DR. AMPOMAH: Exactly.

3 MR. CHANG: Okay.

4 DR. AMPOMAH: So you were trying to
5 combine that time period plus the time they go through
6 the application to make sure it's two years, before
7 they start bonding at 150.

8 MR. CHANG: Okay. So an operator shall
9 provide financial assurance for wells that are
10 inactive, in expired TA status or approved TA status,
11 that have been temporarily abandoned for more than two
12 years.

13 DR. AMPOMAH: So there, if you look at
14 the inactive, so it covers the approved TA and then
15 the expired TA, and then you are also making a case
16 that it also includes the one that has not even
17 applied for anything. But the one that has not
18 applied for anything is the one that I'm not sure
19 where it falls in the rules.

20 MR. CHANG: So how about this? So I
21 think what we had talked about earlier is an operator
22 shall provide financial assurance for wells that have
23 been inactive for more than two years, for wells in
24 approved TA and wells in expired TA.

25 DR. AMPOMAH: Yes. And I thought you

1 feel like that can cover that two-years margin.

2 MR. CHANG: Is that -- okay. That's
3 the language that you're hoping for here in F; is that
4 correct?

5 DR. AMPOMAH: Yes. Yes.

6 MR. CHANG: Do you have thoughts on
7 that language, Commissioner?

8 MR. BLOOM: Can you read that again?
9 It would be really helpful if we could project these
10 things so we weren't reading language out. I'm sorry.
11 In the past, we've had a screen available and we
12 can -- somebody can -- you know, I provided some
13 language to Sheila the other day, and she projected it
14 for us and --

15 MR. CHANG: Yeah. Well, Sheila, you
16 are screen sharing here; right? So you could put
17 up -- could you pull up a Word document and type up?

18 MS. APODACA: You'll have to talk slow.

19 DR. AMPOMAH: We didn't -- so --

20 MS. APODACA: Okay.

21 MS. ORTH: We'll say the definition of
22 an inactive well is pretty clear; right? Twelve
23 months without production, or whatever it was
24 beneficially.

25 DR. AMPOMAH: Yeah.

1 MR. BLOOM: You know, again, if we
2 need -- I mean, I would love to wrap this up today or,
3 you know, maybe we we're talking on Thursday. But
4 none of this is going to take effect for how many
5 years? We have a while ahead of us.

6 We could also go back on the record,
7 ask the parties what's the current role for inactives,
8 expired TA, TA wells, approved, what do the parties
9 propose, how do new definitions integrate into these
10 rules, and how do we avoid dual bonding, double
11 bonding.

12 MR. CHANG: Yeah. Because I understand
13 where Dr. Ampomah's coming from and I do see where
14 Dr. Ampomah's read -- and I think you see his reading
15 too is perhaps somewhat -- the reading creates some
16 dramatic consequences.

17 I would be curious because these --
18 many of what we're talking about was agreed to with
19 Oxy. So I'd be curious if perhaps we are reading it
20 in a way that's different than what the applicants and
21 Oxy intended. But --

22 MR. SHANDLER: I think that the whole
23 point of the rulemaking is the applicants have brought
24 a problem in the first day of the deliberations, after
25 reviewing the hearing officer's report. You agree

1 there is a problem and there is a need for a solution.
2 Okay.

3 Now it appears that you're kind of into
4 the weeds and you think that there may be two other
5 problems. One is the potential for the industry being
6 double bonded, and you're kind of struggling to figure
7 out what those scenarios would be and how that could
8 be resolved with the rule.

9 Dr. Ampomah has identified another
10 problem. He believes there should be this -- a period
11 of time where you go from active to inactive, but you
12 should be able to retain a more --

13 DR. AMPOMAH: Blanket.

14 MR. SHANDLER: -- blanket bonds, and
15 you guys are struggling how to apply that. So it is
16 one possibility to, as Commissioner Bloom said, reopen
17 it for very targeted.

18 If you do that, I would really
19 recommend that not everything be filed at the same
20 time. I think one of the problems today is that the
21 green language from NMOGA was not vetted by all the
22 other parties.

23 So we're kind of trying to look in the
24 record, "Well, how would the other parties respond to
25 that?" So there were a lot of productive things about

1 this rulemaking, but that has, I think, delayed
2 somewhat of the process. So -- anyway, I'm here to
3 provide options. So Commissioner Bloom's idea of that
4 is a potential option.

5 MR. BLOOM: And I'm also just afraid
6 that if we -- I mean, I think we mostly talk through
7 it. If we try to avoid double bond, I think we could
8 do that successfully.

9 But I also wouldn't want to do
10 something that could avoid some other part of the
11 rule, for example, because if we had just taken
12 NMOGA's recommendation, we could have had a situation
13 where the blanket bond actually ended up covering
14 everything and everything else was exempt and it
15 swallowed the whole rule. Right? So -- yeah.

16 MR. CHANG: Okay.

17 MR. BLOOM: And OCD is one of the
18 parties. They work with this stuff daily. I think
19 there'll be some expertise there as to what the
20 process is now, where this might go.

21 MR. CHANG: And whether -- yeah. Yes.
22 I think that those are all very good suggestions. I
23 think we have an agreement in -- at least in vague, a
24 tentative agreement in principle with everything other
25 than 19.15.8.9.

1 MR. BLOOM: Yeah.

2 MR. CHANG: And we have a commission
3 meeting coming up this coming Thursday. Is that
4 correct?

5 DR. AMPOMAH: Yes.

6 MS. ORTH: I'll be in hearing, but you
7 don't need me.

8 MR. CHANG: Could we maybe pause today
9 to give Mr. Shandler, Ms. Orth, and our commission
10 clerk an opportunity to review the transcript, or the
11 deliberation so far, come up with a cleanish version,
12 you know, leaving out 19.15.8.9, but give us a sort of
13 cleaner version of what has been decided -- or what
14 has at least been tentatively accepted so far.

15 And then perhaps we can discuss -- once
16 we have that version and we've also had the weekend to
17 think about it, perhaps we could put this on the
18 Thursday meeting. And at that point, perhaps we'll
19 have a clearer idea as to how we want to -- if we want
20 to invite the parties to weigh in any further.

21 MS. ORTH: And I need to be excused
22 from that.

23 MR. CHANG: That's fine. That's fine.

24 MR. SHANDLER: Yeah. Mr. Chair, I
25 think now you have some process questions about

1 whether you want to reopen it, whether you want it for
2 limited argument, whether you want to just -- we're
3 just -- the OCC's just going to go with this rule, and
4 then everyone else, they've heard the concerns.

5 They can file their new rulemaking
6 petition, which could be heard on a very limited
7 basis. So my job is provide a series of options. So
8 there are a series of options going forward, pursuant
9 to the chair's plan.

10 MR. CHANG: Does that work, if we call
11 it a day for today? Let's get a clean version of the
12 stuff that we have tentatively agreed to, leaving in
13 place and noting that there is -- continues to be
14 issues around 19.15.8.9, which of course may then
15 change -- potentially may alter other decisions around
16 definitions and whatnot.

17 Hopefully, once we get a copy of that,
18 maybe we will all have a moment of epiphany and be
19 able to make a decision on Thursday and be at the end
20 of that may. But if not, and if we're still confused
21 as to what the parties are intending to do and how all
22 of these different things fit together, we can discuss
23 on Thursday what we want to do at that point.

24 MR. BLOOM: Before we call it, would
25 you want to look at -- I don't know if we need to say

1 any more on the fracturing language as a reason for
2 variance. And there's also (d)(4), new language
3 around the 30 extra days.

4 MR. CHANG: I'm happy to do that.
5 D -- point me to the fracturing real fast.

6 MR. BLOOM: Yes.

7 DR. AMPOMAH: On the --

8 MR. BLOOM: So that is NMOGA's --

9 MR. CHANG: That's right.

10 MR. BLOOM: -- language, page 23.

11 MR. CHANG: That's right. You know,
12 I've got it in pink highlighting.

13 MR. SHANDLER: So, Mr. Chair, over the
14 lunch hour, I've tried to look at the indexes of all
15 the hearings. I made it through half before my system
16 crashed. I couldn't find the word halfway through,
17 but I guess if you're giving me more time, I can look
18 more. But as of so far, I have not found that word in
19 the transcript index.

20 MR. CHANG: As a policy matter, I have
21 no objections to retaining this. If there -- it may
22 or may not currently have a sufficient record to
23 support, but if we are opening this up for limited
24 briefing anyway, that might be something the parties
25 can solve, if we allow additional briefing on this

1 whole section anyway.

2 So as a matter of, like, public policy,
3 I don't have any opposition to including this line. I
4 don't know that we currently have the record, as
5 Mr. Shandler points out. But if we reopen the record,
6 then the parties can do a knockdown, drag out the
7 debate, and supplement the record.

8 MR. BLOOM: Would that be introducing
9 new evidence or more discussion of what the impact of
10 that sort of exclusion would be?

11 MR. CHANG: You mean on --

12 MR. BLOOM: -- labor. Yeah. For
13 proximity operation or interference, including nearby
14 fracturing, stimulation, et cetera.

15 MR. CHANG: I would imagine for a
16 complete record, if there isn't already evidence in
17 the record that the parties would attempt to introduce
18 some evidence, I can only hope that a few exhibits
19 will do and that nobody will try to come in with
20 witnesses. But that might be optimistic on my part.

21 MR. BLOOM: Okay.

22 MR. CHANG: Right. Because the idea
23 is --

24 MR. BLOOM: -- still thinking on that,
25 I'm not sure I have an answer right now. So --

1 MR. CHANG: Yeah.

2 MR. BLOOM: Yeah.

3 MR. CHANG: I mean, like, as a matter
4 of policy, I don't care -- it just becomes a process
5 question if we want to adopt it and process. We'd
6 have to -- I mean, we'd have to review, but if it's
7 not already in the record, then I would imagine you
8 need some evidence to build to buttress it.

9 MR. BLOOM: Okay. And then right below
10 that we have four, which is an attempt to create a
11 mechanism by which to handle the variance.

12 MR. CHANG: Oh, yeah. That one's fine.
13 I think we just -- I'm happy to talk about some words.
14 I think I already had a word. Thinking it was -- I
15 think commission counsel provided the same language
16 that we currently use for rehearing requests at the
17 commission. I would simply adopt that language in
18 here with, you know, with the 30 days instead of 10,
19 obviously.

20 DR. AMPOMAH: Okay.

21 MR. CHANG: So deemed denied. Go to a
22 hearing if you don't like the denial.

23 MR. BLOOM: We want to solidify some
24 language there so that comes out in a clean copy.

25 MR. CHANG: Sure. Do you have -- I'm

1 happy to read that into the record if commission
2 counsel has that language pulled up real fast.

3 MR. BLOOM: I do have it. Well, I
4 don't have it in front of us right --

5 MR. CHANG: Or you're welcome to read
6 it --

7 MR. BLOOM: Or Sheila could cut and
8 paste it, and we could just edit it a little bit.

9 MR. CHANG: Yeah. Yeah.

10 MR. BLOOM: Sheila, I can just email it
11 to you very quickly. Take one minute to get that
12 language. Sheila, I just sent the language we're
13 going to mark up to you.

14 MR. SHANDLER: So he's emailing you
15 this paragraph --

16 MR. CHANG: Splice them together?

17 MR. SHANDLER: Yes. So a new -- that
18 you -- it should go in between the first and second
19 one that Greg sent you, after the end of the first
20 sentence.

21 MR. CHANG: No. That's not the
22 sentence. So C --

23 MR. SHANDLER: Some words are missing.

24 MR. CHANG: Yeah. Quite a few words
25 are missing.

1 MR. SHANDLER: So you accidentally
2 deleted a little more from Greg's stuff.

3 MS. APODACA: Okay.

4 MR. CHANG: Sheila, would you like me
5 to just read it to you?

6 MS. APODACA: I think I got it. Let's
7 see.

8 MR. CHANG: "Upon receipt of an
9 operator's written variance request, the division
10 shall have 30 days to accept or deny the operator's
11 variance." It's not the commission here. It would be
12 the division's failure.

13 Failure to -- the division's failure to
14 act on the -- and instead of an application, it would
15 be the request or the variance request. Delete
16 application. "Within such period shall be deemed a
17 refusal." Okay?

18 "If the division denies the operator's
19 variance, the operator shall have 30 days in which to
20 file a request for hearing with the division. Normal
21 appeal and hearing procedures apply."

22 I don't think the last sentence is
23 necessary, personally, because it's -- it just
24 restates that -- 19.15.4 already exists with or
25 without it. So I think it easier to just strike that

1 last sentence -- wait. Wait. Wait. Before you do
2 though, leave the second -- so "file a request for
3 hearing with the division pursuant to 19.15.4 NMAC."

4 MR. CHANG: Yeah. And right now
5 there's a bunch of line breaks that you want
6 consolidate.

7 MS. APODACA: Yeah.

8 MR. CHANG: The only thing that I might
9 want to think about there is 30 days is really, really
10 short for the division. Meanwhile, if somebody has
11 already filed a variance request that got denied, and
12 all they have to do is resubmit as this hearing, I
13 don't know if they need 30 days.

14 So I would think about maybe 45 and 15,
15 because if -- and if -- they've already submitted a
16 variance request; right? All they're doing is
17 resubmitting it as a hearing request. So I don't know
18 why they would need 30 days. But happy to leave it at
19 30 days. But I think about extending the division's
20 timeframe.

21 MR. BLOOM: Forty-five and fifteen make
22 sense? Sure.

23 DR. AMPOMAH: And --

24 MR. BLOOM: No. I think we need 30 on
25 the end because --

1 MR. CHANG: That's fine. People
2 sometimes need --

3 MR. BLOOM: It looks like that
4 December --

5 DR. AMPOMAH: Christmas.

6 MR. BLOOM: -- Christmas break.

7 DR. AMPOMAH: Christmas break.

8 MR. BLOOM: Where the state
9 government -- use it or lose it on there.

10 MR. CHANG: Okay. Forty-five days is
11 the -- how would the commission feel about 60 days to
12 make it exactly two months so that it's on the
13 calendar? Easier to find than 45 days.

14 MR. BLOOM: So this is variance request
15 to not go into inactive; right?

16 DR. AMPOMAH: Yeah.

17 MR. BLOOM: Hold on. Let me go back.
18 I'm going to --

19 DR. AMPOMAH: So not to put that --

20 MR. BLOOM: Variance to not become a
21 low-producing well.

22 DR. AMPOMAH: Yes.

23 MR. CHANG: I'll tentatively ask for 60
24 days. Think about it. If there's concerns about
25 that, we can revisit when we meet on Thursday again

1 anyway.

2 But if I -- let's put 60 days in there
3 for now, because A, it's easier to look at on the
4 calendar being exactly two months out, and also
5 knowing our OCD backlog, very few things happen in 30
6 days here.

7 MR. BLOOM: Okay.

8 DR. AMPOMAH: I do not have any
9 objection to that.

10 MR. BLOOM: I'll say that's fine too.

11 DR. AMPOMAH: Yeah.

12 MR. CHANG: Okay. Sheila, are you
13 making that change from 45 to 60? Okay. Okay.

14 DR. AMPOMAH: Wow.

15 MR. CHANG: We've made it through all
16 of it except for one major -- one section, except
17 that's the heart of the rulemaking. So --

18 MR. BLOOM: Was there -- did we finish
19 up at the 19.15.25.8(b)(3)?

20 MR. CHANG: 19.15 --

21 MR. BLOOM: -- I don't know. I just
22 have that on my --

23 MR. CHANG: 19.15.25(b)? Is that what
24 you --

25 MR. BLOOM: No. 25.8(b)(3).

1 MR. SHANDLER: That was just a
2 reference, Mr. Chair, that I gave to you about the
3 one-year period. 25.8(b)(3) is not being changed by
4 the department.

5 MR. CHANG: I don't see a dispute.

6 MR. BLOOM: Okay. No. That was it.
7 Okay. So we need to move to continue or -- I don't
8 remember.

9 MR. CHANG: Well, we already have
10 another meeting set, so I don't think we would be
11 continuing this meeting; right? We would just -- but
12 we would --

13 MR. BLOOM: What did we do?

14 MR. CHANG: -- table this -- the -- or
15 table the -- I don't know. Any advice on how you
16 wordsmith that?

17 MR. SHANDLER: Mr. Chair, I don't
18 particularly care what verb you use. I think you're
19 articulating to the audience when you'll meet again on
20 this.

21 MR. CHANG: Okay.

22 MR. BLOOM: And for today, continue --

23 MR. CHANG: We'll end this meeting --
24 yes. And we will place this agenda item and continue
25 deliberation on case 24683 at the next regularly

1 scheduled Oil Conservation Commission hearing and pick
2 it up from there.

3 MR. BLOOM: Thank you.

4 MR. CHANG: And with that, I think
5 we're adjourned for today. Without objection? Thank
6 you all very much. I appreciate it.

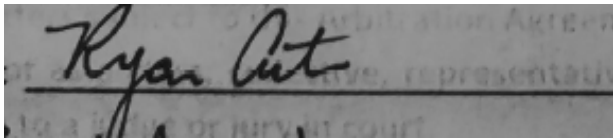
7 (Whereupon, at 2:42 p.m., the
8 proceeding was concluded.)

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CERTIFICATE

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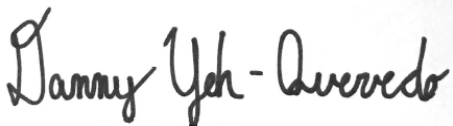
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RYAN AUTEN
Notary Public in and for the
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DANIEL YEH-QUEVEDO

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New Mexico Rules of Civil Procedure for the
District Courts

Article 5, Rule 1-030

(e) Review by Witness; Changes; Signing.

If requested by the deponent or a party before completion of the deposition, the deponent shall have thirty (30) days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by Subparagraph (1) of Paragraph F of this rule whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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