

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

APPLICATION OF COG OPERATING, LLC,
FOR CANCELLATION OF OPERATOR'S Case No. 14472
AUTHORITY AND TERMINATION OF (De Novo)
SPACING UNITS, YESO ENERGY, INC.,
DOW "B" 28 FEDERAL WELL NO. 1,
EDDY COUNTY, NEW MEXICO

APPLICATION OF THE NMOCDD, THROUGH Case No. 14547
THE COMPLIANCE AND ENFORCEMENT
MANAGER, FOR AN ORDER AUTHORIZING
THE DIVISION TO RECOGNIZE AN
OPERATOR OF RECORD FOR WELLS
CURRENTLY OPERATED BY YESO ENERGY,
INC.; LEA, EDDY, AND CHAVEZ
COUNTIES, NEW MEXICO

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TRANSCRIPT OF PROCEEDINGS
EXAMINER HEARING

BEFORE: CHAIRWOMAN JAMI BAILEY

June 29, 2011
Santa Fe, New Mexico

This matter came on for hearing before the New
Mexico Oil Conservation Division, JAMI BAILEY,
Chairwoman, and SCOTT A. DAWSON, Commissioner of
Public Lands, and ROBERT S. BALCH, Designee of the
Secretary of Energy and Minerals, on Wednesday, June
29, 2011, in Porter Hall, Santa Fe, New Mexico.

REPORTED BY: PAUL BACA, CCR #112
PAUL BACA COURT REPORTERS
500 4th Street, NW, Suite 105

1 A P P E A R A N C E S

2 For the Oil Conservation Division:

3 Sonny Swazo
4 Assistant General Counsel
5 1220 South St. Francis Drive
6 Santa Fe, New Mexico 87505
7 505-476-3463
8 sonny.swazo@state.nm.us

9 For the Judah Oil, LLC:

10 Michael H. Feldewert
11 Holland & Hart, LLP
12 110 North Guadalupe, Suite 1
13 Santa Fe, New Mexico 87501
14 505-988-4421
15 mfeldewert@hollandhart.com

16 For COG OPERATING, LLC:

17 J. Scott Hall
18 Montgomery & Andrews Law Firm
19 325 Paseo de Peralta
20 Santa Fe, New Mexico 87501
21 505-982-4289
22 shall@montand.com

23

24

25

| | | |
|----|--------------------------------------|-------|
| 1 | I N D E X | |
| 2 | Opening Statement by Mr. Swazo | 6 |
| 3 | Opening Statement by Mr. Feldewert | 12 |
| 4 | Opening Statement by Mr. Hall | 19 |
| 5 | OCD EVIDENCE | |
| 6 | WITNESS: | PAGE: |
| 7 | DANIEL SANCHEZ | |
| 8 | Examination by Mr. Swazo | 25 |
| | Examination by Mr. Hall | 32 |
| 9 | Examination by Mr. Feldewert | 42 |
| | Further Examination by Mr. Swazo | 54 |
| 10 | Further Examination by Mr. Feldewert | 57 |
| | Further Examination by Mr. Hall | 58 |
| 11 | | |
| 12 | COG EVIDENCE | |
| 13 | DAVID EVANS | |
| 14 | Examination by Mr. Hall | 60 |
| | Examination by Mr. Feldewert | 73 |
| 15 | | |
| 16 | JUDAH OIL AND GAS EVIDENCE | |
| 17 | JAMES BLAISE CAMPANELLA | |
| 18 | Examination by Mr. Feldewert | 82 |
| | Examination by Mr. Swazo | 118 |
| 19 | Examination by Mr. Hall | 145 |
| | Further Examination by Mr. Hall | 170 |
| 20 | Further Examination by Mr. Feldewert | 171 |
| | Further Examination by Mr. Swazo | 176 |
| 21 | | |
| 22 | Closing Statement by Mr. Swazo | 177 |
| 23 | Closing Statement by Mr. Hall | 180 |
| 24 | Closing Statement by Mr. Feldewert | 189 |
| 25 | CERTIFICATE OF COURT REPORTER | 197 |

EXHIBITS

| | | |
|----|---------------|-----|
| 1 | | |
| 2 | COG 1-9 | 73 |
| 3 | Division-8 | 42 |
| 4 | Judah A-O | 118 |
| 5 | Judah 8 and 9 | 165 |
| 6 | OCD-1-5 | 32 |
| 7 | OCD-7-11 | 32 |
| 8 | OCD-15-23 | 32 |
| 9 | OCD-27 | 32 |
| 10 | | |
| 11 | | |
| 12 | | |
| 13 | | |
| 14 | | |
| 15 | | |
| 16 | | |
| 17 | | |
| 18 | | |
| 19 | | |
| 20 | | |
| 21 | | |
| 22 | | |
| 23 | | |
| 24 | | |
| 25 | | |

1 MADAM CHAIRWOMAN BAILEY: Good morning.

2 This is a continuation of the Oil
3 Conservation Commission meeting. It's 9:00 in
4 Porter Hall in Santa Fe.

5 To my right I have Scott Dawson,
6 representing the Commissioner of Public Lands.

7 And to my left I have Bob Balch, who is
8 the designee of the Secretary of Energy and
9 Minerals.

10 I'm Jami Bailey from the OCD. So all
11 commissioners are here, and there's a quorum.

12 Today we're calling Case 14472, and
13 consolidated for the purposes of this hearing with
14 Case 14547.

15 Are there appearances?

16 MR. SWAZO: Sonny Swazo for the Oil
17 Conservation Division.

18 MR. HALL: I'm Scott Hall, Montgomery &
19 Andrews Law Firm, Santa Fe, appearing on behalf of
20 COG Operating, LLC, with one witness this morning.

21 MR. FELDEWERT: Michael Feldewert, with
22 the Santa Fe office of Holland & Hart. And I'm here
23 on behalf of Judah Oil, LLC, and we have one witness
24 today.

25 MADAM CHAIRWOMAN BAILEY: Would all

1 witnesses stand to be sworn.

2 (Witness sworn.)

3 MADAM CHAIRWOMAN BAILEY: Who's on first?

4 MR. HALL: Madam Chairman, on behalf of
5 Concho/COG, I discussed the order of proceedings
6 with Mr. Swazo. The division's application is
7 somewhat broader than the application COG originally
8 filed. We think it makes more sense, for the
9 commission's understanding for Mr. Swazo to present
10 his case first.

11 MR. SWAZO: May I approach counsel and
12 also the commission with a demonstrative exhibit?

13 MADAM CHAIRWOMAN BAILEY: Yes.

14 OPENING STATEMENT

15 BY MR. SWAZO:

16 The OCD is here today to ask for guidance.
17 We need to know who to recognize as the operator of
18 record for wells that currently appear in OCD's
19 system as well as operated by Yeso Energy,
20 Incorporated. It's unusual that this sort of
21 question gets to a hearing. Usually the current
22 operator and the new operator agree to a well
23 transfer.

24 Under OCD rules, the OCD may reject a well
25 transfer under certain limited situations, such as

1 when an operator is out of compliance with part 5.9
2 or if the wells are under a compliance order and the
3 new operator has not agreed to a replacement
4 compliance order or agreement.

5 But the OCD does not normally look at the
6 underlying terms of the transfer. The OCD does not
7 look at whether the new operator has the right to
8 operate the well or where that right comes from or
9 whether there's some other operator that may have
10 superior rights. But in this case, we have two
11 orders that complicate things, and we need the
12 commission's help in interpreting these orders.

13 I have handed out a demonstrative exhibit
14 which contains the language that we're asking the
15 commission to help us interpret.

16 The first order, which was issued in case
17 14294, is a -- that order was issued in a plugging
18 case against Yeso. It is a final order. There was
19 no appeal taken.

20 The order requires Yeso to plug the wells
21 or transfer each of said wells to another operator
22 not affiliated with Yeso and approved by the
23 division not later than March 15, 2010. If Yeso
24 doesn't plug or transfer the wells the OCD may plug
25 the wells.

1 Here is the situation we face.

2 Yeso did not plug or transfer any of the
3 wells prior to the deadline. The order allows the
4 OCD to plug the wells, but Judah -- but Judah wants
5 to become the operator of record of two of those
6 wells.

7 Generally, the OCD is in favor of an
8 operator taking over an inactive well and trying to
9 make it active. But in this case, we have concerns
10 about Judah based on exhibits that COG has filed in
11 this case, and I believe Judah has filed the
12 exhibits as well.

13 There is a purchase and sale agreement
14 that includes the two wells that Judah wants, and it
15 sets up an ongoing business relationship between
16 Yeso and Judah. It appears that the transfer only
17 goes through if Judah gets a saltwater disposal
18 permit from one of the wells, which happens to be a
19 well that COG also wants.

20 Once the permit is issued, Judah will pay
21 sellers \$50,000, and sellers will receive a nickel a
22 barrel fee for water disposed of in the well and
23 also retain an overriding royalty interest in oil
24 coming from the -- from the disposal well.

25 Our question is this. Given the language

1 in the order prohibiting the transfer of a well to
2 an affiliated entity, does this arrangement make
3 Judah affiliated with Yeso or should we allow the
4 transfer?

5 Or would we be allowing an end-run around
6 this order if we recognize Judah as the operator of
7 record -- as the operator of these wells?

8 The second order identified in the
9 demonstrative exhibit -- and I would just like to
10 point out that the full orders are in the exhibits
11 that the OCD has filed in this case.

12 The second order is -- this is the order
13 that COG obtained against Yeso. It applies to only
14 one well, the Dow B 28 Federal well.

15 You're going to be hearing a lot about
16 this well today, because that is the well that both
17 Judah and COG want to use as a disposal well. It's
18 the well that will be a cash cow for Yeso if it is
19 transferred to Judah and Judah obtains a saltwater
20 disposal permit.

21 After the OCD obtained a plugging order
22 for Yeso's wells, the OCD began plugging the wells.
23 We have spent over a quarter of a million dollars
24 plugging Yeso's wells. When we were about to plug
25 the Dow B 28 Federal Number 1 well, COG expressed

1 interest in this well. We stopped the plugging
2 process to see if COG or anyone else will take over
3 the well and use it.

4 COG filed an application for a hearing
5 asking that Yeso's authority to operate the Dow B 28
6 Federal well be cancelled and to terminate the
7 spacing units associated with the well. They got
8 this second order.

9 The order says two interesting things.
10 First, it says that the division hereby terminates
11 the authority of Yeso Energy to act as operator of
12 the Dow B 28 Federal Well Number 1.

13 The second interesting thing is that it
14 says COG shall file an application with the division
15 to use the subject well for disposal operations
16 without the necessity of a change of operator that
17 would ordinarily be required.

18 COG has since filed an application to use
19 the well as a disposal well, but COG has never asked
20 to be the operator of record.

21 Yeso has asked for a de novo review of
22 this order. That's the de novo case you're hearing
23 today. Yeso did not ask for a stay in this order.
24 This order is still in effect. Yeso later withdrew
25 from the de novo case. The order is still in

1 effect.

2 After COG got this order, Yeso and Judah
3 went on line and applied to transfer wells from Yeso
4 to Judah, including the Dow well.

5 Judah also filed an application for a
6 permit to inject into the well.

7 Here is the problem. Can Yeso transfer
8 the well if there's an order saying that its
9 authority to act as operator of the well is
10 terminated? We don't think so.

11 Another problem is, if we approve the
12 transfer, what does that do to the language in the
13 order allowing COG an application to use the well
14 for disposal without becoming an operator? We don't
15 know.

16 The day after Judah and Yeso applied to
17 transfer the Dow B 28 Federal Number 1 well, we
18 filed the application for hearing in this case. We
19 are in -- we're in a damned if you do, damned if you
20 don't situation.

21 The OCD believed that the fastest way to
22 resolve this issue was to go to hearing on who we
23 should recognize as the operator of record for these
24 wells. This allows any interested party to make its
25 case, and then the commission can make the call.

1 I don't know exactly how you want to do
2 this. I would like to go ahead and move for
3 admission of -- I would like to move for admission
4 of my affidavit regarding the notification that OCD
5 did in that case. I don't know if...

6 MADAM CHAIRWOMAN BAILEY: Are there any
7 objections?

8 MR. FELDEWERT: No objections.

9 MR. HALL: No objection.

10 MR. FELDEWERT: Just as a matter of order,
11 it seems to me -- I appreciate the opening provided
12 by Mr. Swazo. This is a very confusing matter.

13 I do have a few statements I would like to
14 make on behalf of my client to help clarify where
15 we're going here today, and I do think it would be
16 helpful to the commission.

17 MR. SWAZO: I can move for admission of
18 the exhibits at a later point.

19 MADAM CHAIRWOMAN BAILEY: All right.

20 OPENING STATEMENT

21 BY MR. FELDEWERT:

22 We are -- Judah Oil, LLC, is here today
23 under a Case Number 14547, which to keep it all
24 straight, is the division's case under which they're
25 seeking guidance from the commission about who to

1 recognize as the operator for certain wells.

2 We, Judah, my clients, are only involved
3 in two wells: The Dalton Federal Number 1, and the
4 Dow B 28 Federal well.

5 These wells are both located on federal
6 lands. Judah is the operator of record with the BLM
7 for these two federal wells and have been since
8 August of last year.

9 Judah is the only operator that has
10 stepped forward for these two wells and taken over
11 financial responsibility for these wells.

12 They're the only operator that has put all
13 the bonds that are in place and necessary to operate
14 these wells pursuant to the BLM rules and
15 regulations.

16 It's the only operator that's obtained all
17 the necessary approvals for them to operate these
18 wells and to convert one of them, the Dow B 28 --
19 I'll just call it the Dow B -- into a saltwater
20 disposal well.

21 It's the only operator that, last August,
22 filed a request with the division to change the
23 operator from the prior operator, Yeso Energy, to
24 Judah Oil, LLC. And the day after we filed that
25 request, that's when the division filed their

1 application for guidance. So that's why we're here
2 today.

3 And I understand the purpose of their case
4 is to obtain guidance from the commission about what
5 they should do about this change of operator
6 request. And as you can glean, they have not yet
7 approved Judah as operator of these federal wells.
8 We have been trying to find out why.

9 Mr. Swazo has been very helpful recently
10 in articulating the reason. And they're essentially
11 concerned about some affiliated arrangement between
12 Judah and the prior operator, Yeso. And they're
13 concerned that they're trying to accomplish some
14 end-run around these orders that were entered in
15 another case, but in which we were not a party.

16 Mr. Campanella is here. He's going to be
17 our witness here today. He is here today to tell
18 you that that's not the case. They were approached
19 by Yeso about purchasing these properties in July.
20 They entered into a purchase and sale agreement with
21 Yeso in August.

22 There was consideration that was paid
23 under that purchase and sale agreement. It did
24 include an overriding royalty, or what is consistent
25 with an overriding royalty interest, I guess, in

1 whatever oil is produced as a result of the disposal
2 operations. There's a reservation of -- they get a
3 certain cents per barrel for any saltwater that's
4 disposed.

5 If Judah, for whatever reason, sells the
6 properties within a year and a half, there is some
7 additional consideration that is paid. These are
8 typical types of business arrangements, but he's
9 going to tell you that it's not -- they are not
10 affiliates. Yeso has got no control over what Judah
11 does. Judah is in complete control of the
12 operations. We can run through all of that and
13 dispense with the concern about there being some
14 kind of an affiliate arrangement between Judah and
15 Yeso.

16 I can't tell you the history of these
17 cases. I do know that if you read these orders,
18 they're rather confusing. One of them, the one at
19 the bottom, provides that COG can seek authority to
20 use this Dow B well for saltwater disposal
21 operations without the necessity, it says, of
22 seeking a change of operator for the well, which is
23 pretty odd.

24 If you look at the order, it doesn't
25 really grant anything. It says COG can attempt to

1 utilize the well for saltwater disposal operations,
2 so it really doesn't do anything. It just says COG
3 can go out and try to get authority to use the well.

4 But it is unusual, in that it says that
5 they can do that without seeking a change of
6 operator. Because one has to -- I have to ask
7 myself, how can a company like COG seek approval to
8 use a federal well on federal lands for saltwater
9 disposal when they're not the operator, they're not
10 the recognized operator by the BLM, and they have
11 got no right to use the well?

12 So the order doesn't make a whole lot of
13 sense, and I think that's why it's on appeal.

14 But again, we are not part of that case.
15 We're here because the division is seeking guidance
16 on who to recognize as operator.

17 So I think when you step back, there's a
18 couple of important points. Judah Oil, LLC, is
19 the -- unquestionably the BLM-recognized operator of
20 record for these federal wells. And I think
21 everyone agrees that it's the BLM, initially, and
22 not the Oil Conservation Division, that decides who
23 is going to be the operator of the federal wells.
24 They have certain regulations and methodologies for
25 making that decision. It has been made.

1 So I think the only question for this
2 commission is whether there is any legitimate reason
3 why it should not likewise recognize Judah Oil as
4 the division-recognized operator for these federal
5 wells. I think that's the real question before you,
6 and we're prepared to address that question.

7 So we're involved in here, in this one
8 case, precisely because we're the only party that is
9 recognized by the BLM to operate these wells and
10 have the right to use these two wells.

11 We're the only party that is fully bonded
12 with the BLM to operate and use these two wells.
13 We're the only parties that have submitted a
14 saltwater disposal plan for one of these wells, the
15 Dow B, to the BLM; that has been approved. Our plan
16 has been approved by the BLM.

17 And another important point that's going
18 to come out here is that this Dow B Federal well is
19 part of a much larger commercial disposal project
20 that Judah Oil is putting in place in this part of
21 the state.

22 This larger disposal process is being
23 permitted by the BLM, and actually expect approval
24 of the project within the next week or month. I
25 can't remember which -- next week. Within the next

1 week there is going to be a permitted larger
2 disposal project.

3 And this Dow B well they're going to add
4 to this disposal project as one of the disposal
5 wells. It's going to serve over 50 trucking
6 companies out there as a commercial disposal
7 operation, so it's an important part of this
8 project.

9 So we're dealing with a well that's going
10 to be part of a -- an important part of a large
11 disposal project. It's a well on federal lands.
12 And the BLM has already decided who's going to
13 operate these wells following their procedures and
14 bonding requirements. That's Judah.

15 And so again, the only question you have
16 to answer is: Is there any reason why the
17 commission or the division should not recognize
18 Judah as the operator of these wells just like the
19 BLM has?

20 And the other thing to keep in mind, and
21 maybe another way at looking at this: Is there any
22 reason to create a conflict between who the BLM has
23 recognized as the operator of these wells and who
24 the division is going to recognize as the operator
25 of these wells?

1 And we're going to show you there's no
2 reason to create that conflict. There's no reason
3 to have two different designated operators.

4 MADAM CHAIRWOMAN BAILEY: Mr. Hall?

5 OPENING STATEMENT

6 BY MR. HALL:

7 Madam Chairman, COG proposes to present
8 evidence to you today outlining the very simple
9 scope of their application.

10 Their application began when COG came to
11 the division and explained it's a growing operator
12 that has an increasing demand for disposal capacity
13 to support its operations in the Southeast.

14 COG identified, on the division's plugging
15 list, a couple of candidate wells set for plugging
16 in a matter of days that it thought it could take
17 and use and convert to disposal, saving the State of
18 New Mexico a plugging cost.

19 Under the circumstances of this case there
20 was some uncertainty how to go about that, because
21 it had been revealed to COG that the -- obtaining
22 the approval of the prior operator, Yeso, was not
23 likely to happen.

24 That precipitated COG's formal hearing
25 adjudication application, and a hearing was had on

1 that. COG received an order, and it is satisfied
2 with its order.

3 The order provides that the division will
4 delay plugging of the well for such time as to allow
5 COG to pursue a C108 disposal application with the
6 State, which it has filed. And then also,
7 separately, obtain right to use the well bore from
8 the BLM through a right-of-way application, which it
9 has also filed and which it has not been denied.

10 We will also present to you some evidence
11 of the intervening facts, circumstances,
12 transactions, for you to consider. And then we will
13 discuss with you whether those facts, circumstances,
14 transactions, had the effect of evading or avoiding
15 the regulatory provisions of the Oil and Gas Act and
16 the division's regulations governing the transfer of
17 well operations, particularly in view of an operator
18 that has avoided compliance before.

19 So that is the simple scope of COG's
20 application.

21 COG is not here today to ask you to
22 transfer title to a well bore to it. We don't think
23 that you can do that. We don't think that you have
24 the power to deliver title to equipment by way of
25 generating a bill of sale.

1 Rather, I think the providence of the
2 claims of all of the parties, and the interest of
3 the division here, are regulatory in nature. The
4 relationship of the parties is regulatory in nature.
5 And so it's going to be a decision for the
6 commission to make whether or not, under these
7 particular circumstances, a proposed transfer --
8 transferee of a well, either Judah or COG, is in
9 compliance with the Oil and Gas Act and in
10 compliance with the division's regulations in such a
11 manner as to uphold the integrity of the division's
12 compliance and enforcement regulations and its
13 administration of abandoned well bores.

14 With that, we will present one witness
15 this morning.

16 We do have a couple of procedural matters
17 I think we need to discuss with the commission
18 today. It's a strange situation, in that we are
19 here on a de novo appeal, and the de novo applicant
20 has not appeared before you today.

21 So what do we do with that situation?

22 I think, given the history of disobedience
23 of Yeso Energy, it would be inappropriate for the
24 commission to relinquish jurisdiction over a party
25 that has invoked the commission's processes to bring

1 a commission hearing before you.

2 On the strength -- a letter, perhaps an
3 e-mail, I believe, an individual from Chica or Yeso
4 requested that the commission simply drop its de
5 novo appeal. After all of the parties have appeared
6 and presented exhibits, prehearing statements, you
7 hear nothing from Yeso, just a request that, "Well,
8 we no longer have an interest in this well. Please
9 let us go away into the night."

10 I don't think that's appropriate in this
11 case. I think what I would suggest the commission
12 do in this circumstance is provide findings, in the
13 order that results from this case, that Yeso Energy
14 was a de novo applicant. A hearing was called on
15 its de novo application. The applicant failed to
16 attend the hearing, and the applicant failed to
17 present any evidence in support of its position
18 under the de novo application. Therefore, the de
19 novo application should be dismissed and denied.

20 But a simple order in the file that says
21 the de novo appeal is dismissed strikes me as wrong.
22 I think it would be the better course for the
23 commission to maintain jurisdiction over Yeso Energy
24 under this circumstance.

25 One other procedural matter. The order

1 that COG received last July, Order R-13294, had a
2 provision in there that obligated the division to
3 delay plugging of the Dow B Federal well until
4 July 31, 2011.

5 We're just about there. And what I would
6 ask the commission to do -- or with the division's
7 concurrence -- is to extend that plugging date,
8 refrain from plugging the well until the resolution
9 of this case.

10 MADAM CHAIRWOMAN BAILEY: All parties will
11 be requested to submit draft orders at the
12 conclusion of this hearing. So please include what
13 findings you believe are important in your draft
14 order, but each of the attorneys will be requested
15 to do so.

16 MR. HALL: We are prepared to do that.

17 MADAM CHAIRWOMAN BAILEY: Okay.

18 Are we ready?

19 MR. HALL: We are.

20 MR. SWAZO: I would like to call Daniel
21 Sanchez to the stand.

22 THE WITNESS: My name is Daniel Sanchez,
23 D-A-N-I-E-L, S-A-N-C-H-E-Z.

24 MR. SWAZO: Actually, Madam Commissioner,
25 before we begin, I would like to go ahead and move

1 for the admission of OCD Exhibit Number 1, which is
2 my affidavit of notice and publication in this case.

3 We gave notice of this hearing to all
4 entities that we knew to be interested in the Yeso
5 wells, including Yeso itself, Chica, COG, and Judah.

6 We also noticed the BLM districts where
7 the wells were located -- where the wells are
8 located, and we published notices in the relevant
9 newspapers.

10 We have received return receipts from the
11 parties.

12 We did get a letter from Chica saying that
13 they did not want to participate in this case.

14 We also got a letter from Yeso saying they
15 did not want to participate in the case or the COG
16 case. And those letters are attached to the
17 affidavit.

18 So at this time, I would like to move for
19 admission of exhibit -- of OCD Exhibit Number 1.

20 MADAM CHAIRWOMAN BAILEY: Are there any
21 objections?

22 MR. HALL: No objection.

23 MR. FELDEWERT: No objection.

24 MADAM CHAIRWOMAN BAILEY: So admitted.

25 MR. SWAZO: Thank you.

1 DANIEL SANCHEZ,
2 after having been first duly sworn under oath,
3 was questioned and testified as follows:

4 EXAMINATION

5 BY MR. SWAZO:

6 Q. Good morning, Mr. Sanchez.

7 Would you please state your name for the
8 record?

9 A. Daniel Sanchez.

10 Q. And you're currently the Oil and
11 Conservation Division's compliance and enforcement
12 manager?

13 A. Yes, I am.

14 Q. And would you take a look at Exhibit
15 Number 27?

16 A. Okay.

17 Q. What is OCD Exhibit Number 27?

18 A. It is my testimony in this case.

19 Q. Did you help prepare that written
20 testimony?

21 A. Yes, I did.

22 Q. And did you help prepare the exhibits for
23 this hearing?

24 A. Yes, I did.

25 Q. Is this the testimony that you're adopting

1 for this hearing?

2 A. Yes.

3 Q. There has been some time since this case
4 was originally set for hearing, so I'd like to go
5 ahead and go through some of the exhibits to give
6 updated information.

7 Mr. Sanchez, would you -- will you look at
8 Exhibit Number 2, OCD Exhibit Number 2?

9 A. Okay.

10 Q. And that's the well list for Yeso Energy
11 Incorporated?

12 A. Yes, it is.

13 Q. Have you reviewed -- have you checked this
14 well list, since this well list was last -- since
15 this well list is for -- it was printed on Tuesday,
16 October 26, 2010. Have you reviewed the well list
17 since then?

18 A. Yes, I did, this morning.

19 Q. And does it remain unchanged?

20 A. Yes, it does.

21 Q. And would you look at OCD Exhibit
22 Number 19?

23 A. (Witness complies.)

24 Q. Would you identify that exhibit?

25 A. Exhibit Number 19 is a federal sundry --

1 BLM sundry. It's a notice of intent to produce the
2 Dalton Federal Number 1.

3 Q. And this was received by the OCD on
4 September 30, 2010?

5 A. Yes, it was.

6 Q. What action did the OCD take on this
7 federal sundry?

8 A. They denied it, based on Judah Oil not
9 being the operator of record at the time.

10 Q. And they denied it on the same day that it
11 was received by the office?

12 A. Yes.

13 Q. And would you take a look at OCD Exhibit
14 Number 20?

15 A. Can I make one quick point?

16 Q. Sure.

17 A. On that -- on that same sundry, Judah Oil,
18 LLC, proposes to return the well to production. The
19 well will be returned to production by October 1,
20 2010, condition pending upon NMOCD approval of
21 change of operator, just for clarification as to
22 what they were asking for on that.

23 Okay. Exhibit Number 20 is also a BLM
24 sundry, and this was a subsequent report of a change
25 of operator.

1 And there's a couple of stamps on this. I
2 would like to go on and clarify that as well.

3 Originally, it was received on
4 September 7, and it was sent back or rejected
5 because the API number for the Dalton Federal 1 was
6 incorrect at the time.

7 And then it was resubmitted on
8 October 15 -- or that's when we received it and
9 stamped it in.

10 And at that time it was denied because,
11 once again, Judah was not the operator of record.

12 Q. I heard some discussion in Mr. Feldewert's
13 opening statement concerning the BLM's recognition
14 of an operator of wells. And the question I had is,
15 if BLM recognizes -- if BLM recognizes an operator,
16 do we have to recognize the same operator?

17 A. No, we do not.

18 Q. Now, my understanding is that the feds
19 have bonding. Should the OCD recognize the same
20 operator as the BLM so that we, the OCD, has access
21 to those bonds?

22 A. No, the OCD does not have access to those
23 bonds. They're not the same type of bonding that
24 the OCD requires.

25 Q. And does BLM reimburse the OCD for wells

1 plugged on federal lands?

2 A. Not since I have been here. No, they have
3 not.

4 Q. And to your knowledge, has BLM ever
5 plugged a well on federal lands?

6 A. Not to my knowledge, no.

7 Q. Could they still have gotten the injection
8 permit for the Dow B 28 Federal Number 1 well?

9 A. In its current status, no. It's in
10 violation of 5.9.

11 Q. And are you concerned about Yeso having an
12 income stream from its wells while owing the State
13 over a quarter of a million dollars?

14 A. I would be concerned that they would have
15 the means of paying the State back and not be doing
16 it, yes.

17 Q. If you will, take a look at Exhibit
18 Number 15.

19 A. Okay.

20 Q. Would you identify this exhibit?

21 A. This was an e-mail from Julie Hodges with
22 Chica Energy. And it was objecting to the
23 commission -- commission allowing COG to use the Dow
24 B 28 as a disposal well.

25 Q. And what does Chica represent, concerning

1 its -- it being the operator of record for the Dow
2 well?

3 A. It claimed at that time to be the approved
4 operator, by the BLM, of that well.

5 Q. And would you take a look at Exhibit
6 Number 16 and identify that exhibit?

7 A. 16 is a BLM sundry. It's a subsequent
8 report of a change of operator. And this was
9 submitted by Chica Energy. It is also stamped
10 "Subject to like approval by the State." And that
11 is a stamp that the BLM puts on a lot -- well, many
12 of the documents when they're asking for a approval
13 from the State, as well.

14 Q. And so what's your understanding of that
15 stamp?

16 A. That the BLM was waiting for the OCD to go
17 in and approve Chica as the operator of record as
18 well, at that time that they would go ahead and move
19 forward on that application.

20 Q. And if you will, look at Exhibit
21 Number 17.

22 A. (Witness complies.)

23 Q. Could you identify that exhibit?

24 A. Exhibit 17 was an e-mail I received from
25 Duncan Whitlock -- a copy I received from Duncan

1 Whitlock, of the BLM. And it was in response to an
2 e-mail that he received from Julie Hodges concerning
3 the Gulf McKay Number 1 and Dalton Number 1 and the
4 Dow B 28.

5 On that, he responds to Ms. Hodges on the
6 request that the change of operator would have to be
7 acceptable to the OCD and BLM, or they were to
8 submit plugging procedures for the wells.

9 And then my response to Duncan was that
10 the OCD had not recognized Chica, at that time, as
11 the operator of those wells.

12 Q. So based on these documents, does the BLM
13 require us to recognize as an operator of record --
14 does BLM require us to recognize as an operator --
15 to recognize an operator as the operator of
16 record -- if it recognizes the -- if it recognizes
17 the operator?

18 A. In most cases that I have been working
19 with the BLM on, yes. They would like our -- our
20 approval of that operator, as well.

21 Q. But is it a requirement?

22 A. It's not a requirement that I'm aware of,
23 but they do request that from us on a regular basis.

24 MR. SWAZO: I don't have any further
25 questions.

1 And at this time, I'd move for the
2 admission of the OCD exhibits.

3 MADAM CHAIRWOMAN BAILEY: Any objection?

4 MR. HALL: No objection.

5 MR. FELDEWERT: You're moving for
6 admission of all of them, or the ones you just went
7 through?

8 MR. SWAZO: Well, I would move for
9 admission of -- I'll clarify that.

10 I'll move for exhibits -- I'll move for
11 admission of Exhibits 1 through 5, 7 through 11, 15
12 through 23, and Exhibit Number 27.

13 MR. HALL: I guess I have no objection.

14 MADAM CHAIRWOMAN BAILEY: Then they are
15 admitted.

16 MR. SWAZO: I'm done with this witness.
17 Thank you.

18 MADAM CHAIRWOMAN BAILEY: Pass the
19 witness?

20 MR. SWAZO: Yes.

21 EXAMINATION

22 BY MR. HALL:

23 Q. Mr. Sanchez, good morning.

24 If you could, explain to the commission
25 how a well advances from the inactive well list to

1 the plugging list.

2 A. The well, when it is transferred to the
3 plugging list, it goes through a certain procedure.

4 There's a hearing on those wells, a
5 hearing order is issued by a hearing examiner, and
6 there's a time frame usually given to an operator to
7 take care of that, either transfer it or plug it.

8 If that time frame isn't met, then the OCD
9 is given permission to go ahead and plug those
10 wells.

11 The legal -- or the attorney working with
12 the legal -- or the engineers -- hearing examiners,
13 reviews that list once that time frame is met, and
14 he adds it to a spreadsheet of other wells that have
15 gone through that process, and they become eligible
16 for plugging by the OCD.

17 At that time the OCD, given adequate
18 pluggers, will go ahead and schedule some of those
19 wells to be plugged.

20 Q. In the case of Yeso Energy, in this case,
21 they had a number of inactive wells, including the
22 Dow B, correct?

23 A. Yes.

24 Q. And what steps did the division seek to
25 bring Yeso back into compliance with those wells?

1 A. We had multiple cases over the last couple
2 of years trying to get them to bring those wells
3 back into compliance. They were given multiple
4 chances to either plug those wells or transfer them
5 to another operator.

6 They failed to meet any of the deadlines
7 that the hearing examiners had set. They were given
8 over a year, I believe, on the last group of wells
9 that were part of that R-12930-B order.

10 Q. And so that was preceded by Order Number
11 12930-A, issued by the division June 17th, 2009.

12 And that's your Exhibit 3.

13 A. Yes.

14 Q. Is that correct?

15 A. Yes.

16 Q. And what did that order provide?

17 A. The order actually lists the wells that
18 are in question which would be plugged if they were
19 not to be brought back into compliance by the
20 operator. And it gave them until August 20th of
21 2009 to get those wells back into compliance.

22 Q. And that order was preceded by Order
23 Number R-12930. Is that correct?

24 A. Yes.

25 Q. And is it true that in that order, the

1 division sought and obtained a termination of Yeso's
2 authority to act as operator at all?

3 A. I don't have that order in front of me. I
4 would have to review that.

5 Q. Do you recall the termination of Yeso's
6 authority?

7 A. Yes.

8 Q. What's involved in that? If an operator
9 no longer has authority, what is it prohibited from
10 doing?

11 A. It is prohibited from actually utilizing
12 those wells, transferring those wells, actually
13 doing anything with them.

14 Q. So it's prevented from producing wells?

15 A. Yes.

16 Q. It's prevented from transporting
17 production?

18 A. Yes.

19 Q. It's prevented from injection operations?

20 A. Yes.

21 Q. And it's prevented from obtaining
22 approvals of forms, permits, filed with the
23 division?

24 A. That's correct.

25 Q. Including transfers?

1 A. Yes.

2 Q. So if the division received a request for
3 transfer, a C145 -- what is a C145, by the way?

4 A. A change of operator form.

5 Q. All right. If the division had received a
6 C145 from Yeso, the division would have been
7 prohibited from approving it. Is that right?

8 A. That's correct.

9 Q. Orders R-12930 and 12930-A came from Case
10 Number 14294, correct?

11 A. Yes.

12 Q. And in the course of that proceeding, that
13 compliance proceeding with Yeso Energy, was Yeso
14 given the opportunity to bring its wells into
15 compliance?

16 A. Yes.

17 Q. And did it succeed in doing that?

18 A. No.

19 Q. Tell us what happened.

20 A. They were given a time frame to either
21 plug them or produce them, basically. And at the
22 end of each of those time frames that they were
23 given, the wells were pretty much in the same status
24 as they had been at the time of the hearing.

25 Q. And if we turn to your exhibit -- the

1 Division's Exhibit Number 4, is that an additional
2 order that resulted in that case, Case 14294?

3 A. Yes, it is. This is the order that
4 actually dictated to Yeso that they should properly
5 plug and abandon each of the wells described in the
6 finding paragraph of Order 12930-A or transfer each
7 said well to another operator not affiliated with
8 Yeso and approved by the division, not later than
9 March 15 of 2010.

10 Q. And is that finding paragraph 7 on page 2?

11 A. Actually, I was reading off the -- the
12 order in paragraph 1, on that same page.

13 Q. All right. Now with the division
14 directive in mind, did Yeso transfer the wells to
15 another unaffiliated operator or either plug the
16 wells by the March 15 deadline?

17 A. No, they did not.

18 Q. What happened next?

19 A. At that time, we moved forward by putting
20 those wells on the plugging list. And I do believe
21 we actually plugged some of the wells.

22 Q. And was that followed by the application
23 from COG to obtain authorization to utilize the Dow
24 B well?

25 A. Yes, it was.

1 Q. And in the course of that proceeding,
2 which resulted in Order Number R-13294, was it the
3 division's position that the well had been abandoned
4 by Yeso?

5 A. Yes.

6 Q. And if we look at the Division's Exhibit
7 Number 5, is that a copy of Order Number R-13294?

8 A. Yes, it is.

9 Q. And again in that order, did the division
10 find that Yeso's authority to operate the Dow B 28
11 was again terminated?

12 A. Yes, they did.

13 Q. And that provided for the division to hold
14 plugging in abeyance?

15 A. That's correct.

16 Q. It also asks for COG to file an
17 application to utilize the well. Is that correct?

18 A. Yes.

19 Q. With the proviso that it need not show a
20 change of operator. Is that correct?

21 A. Yes.

22 Q. Could you explain to the commission the
23 process that the division would like to see take
24 place to effect a change of operator from Yeso
25 Energy to COG for the Dow B 28 in this case, so that

1 COG becomes operator of record?

2 A. My understanding of how that would work,
3 now that the authority has been terminated by the
4 division, by Yeso, COG would -- or whatever operator
5 wants that well -- would have to submit a letter to
6 the attorney for the hearing examiners stating why
7 they believe they should become the operator of
8 record for that well and the background information
9 as to why it is there is no owner or operator of
10 record for that particular well.

11 At that time, legal will go ahead and
12 review that application and will make the
13 determination as to whether or not they'll allow
14 that transfer to occur without a change of operator.

15 If they -- if the operator who is trying
16 to get -- or someone else -- feels that that
17 determination is wrong in any way, then they can ask
18 for a hearing on that transfer.

19 Q. All right. So this process is not
20 outlined in any specific rule, is it?

21 A. I believe it is. Rule 19.15.9.9, Change
22 of Operator, Part B. The second paragraph of Part
23 B -- or second sentence of part B states that: "If
24 the operator of record with the division is
25 unavailable, the new operator shall apply to the

1 division for approval of change of operator without
2 a joint application.

3 "The operator shall make such application
4 in writing and provide documentary evidence of the
5 applicant's right to assume operations."

6 Q. All right. And that is, again, where the
7 operator is unavailable, correct?

8 A. Yes.

9 Q. Yeso Energy was available to us --
10 communicating with Yeso, correct?

11 A. Yes.

12 Q. After COG obtained its Order R-13294
13 authorizing it to make application -- if you will
14 turn to Division's Exhibit 8.

15 A. (Witness complies.)

16 Q. Can you identify that for us, please?

17 A. Yes. This is the application for
18 authorization to inject. It's Form C108 from the
19 division, by COG to apply for that injection pump.

20 Q. All right. And this is not a complete
21 C108 filing?

22 A. No. This is basically a cover letter.

23 Q. Okay. And if you look at the second page
24 of Exhibit 8, does it identify COG as the operator?

25 A. Yes, it does.

1 Q. And also indicates that there has been a
2 name change for the well?

3 A. Yes.

4 Q. And isn't it true that with C108s, it's
5 typical to file a C102 identifying the operator and
6 identifying the well?

7 A. I am vaguely familiar with that procedure.
8 That's how it goes.

9 Q. Okay. And is the C108 application, along
10 with Order R-13294, sufficient information for the
11 division to act to change the operator to COG in
12 this case, depending on the outcome of the
13 commission's decision?

14 A. Yes, depending on the outcome of the
15 commission's decision.

16 Q. Okay.

17 MR. HALL: Nothing further for
18 Mr. Sanchez.

19 I believe I'd like the commission to take
20 administrative notice of Exhibit Number 8. We would
21 move its admission. It's an incomplete copy of the
22 C108 filing for COG. We would be submitting a more
23 complete version with our set of exhibits.

24 MADAM CHAIRWOMAN BAILEY: Any objection?

25 MR. SWAZO: No objection.

1 MR. FELDEWERT: No objection. It's been
2 filed, I believe he said.

3 MADAM CHAIRWOMAN BAILEY: So admitted.

4 EXAMINATION

5 BY MR. FELDEWERT:

6 Q. Mr. Sanchez, my name is Michael Feldewert.
7 I'm here for Judah Oil, LLC. I don't know anything
8 about Yeso Energy or Chica Energy, and I don't -- I
9 wasn't involved in any of those proceedings.

10 I have a few questions, and I'll kind of
11 work backwards here. I was confused. You looked at
12 Exhibit 8 in this book. And it says -- on the
13 second page it identifies COG as the operator.

14 Do you see that?

15 A. Yes.

16 Q. Are you aware of any determination by the
17 division that -- under which COG became the operator
18 of this Dow B well?

19 A. No. At this time we haven't seen that as
20 the operator of record.

21 Q. Okay. And you're not aware of any
22 determination by the BLM that COG is the operator of
23 this well?

24 A. No, I'm not.

25 Q. Do you have any idea what the basis is for

1 COG to suggest in Exhibit 8, in filing this
2 administrative application, that they're the
3 operator of this well?

4 A. I believe they were probably going off
5 that specific order in R-13294, where it allows them
6 to go ahead and apply for that.

7 Q. Okay. And that is the order that you-all
8 found rather confusing?

9 A. Yes.

10 Q. Now, you seem to indicate a procedure
11 under which the operator, or which someone who wants
12 to become an operator, is to seek authority for, I
13 guess, an abandoned well, at least from the
14 division's perspective?

15 A. Yes.

16 Q. Okay. So you consider the Dow B, from the
17 division's perspective, to be an abandoned well
18 because you terminated the operator-ship of the
19 prior operator who was Yeso?

20 A. Yes.

21 Q. So from a division's perspective, it is an
22 abandoned well?

23 A. Yes.

24 Q. But that's not the case from the BLM's
25 perspective, correct? I mean if there's a

1 BLM-recognized operator for that well it's not
2 abandoned, is it?

3 A. Probably not with the BLM. But to us, it
4 would be still considered abandoned.

5 Q. Okay. So we're just dealing now with the
6 division.

7 So you had this C108 when COG was
8 representing to you it was the operator of this
9 well.

10 You also, then, I think in August of last
11 year if I'm understanding it, Mr. Sanchez, also
12 received a C145 change of operator form from Judah
13 Oil, correct?

14 A. I believe that's correct.

15 Q. Signed by Judah, stating its intent to
16 become operator of the well and taking over
17 financial responsibility?

18 A. I believe that was not the Dow well that
19 they had applied for, it was the Dalton Federal
20 well.

21 Q. Don't you recall one for the Dow as well?

22 A. No, I do not.

23 Q. I'll have a witness that will testify to
24 that.

25 But let me just assume that they submitted

1 a change of operator form for the Dow. Okay?

2 MR. FELDEWERT: May I approach the
3 witness?

4 MADAM CHAIRWOMAN BAILEY: Yes.

5 Q. (By Mr. Feldewert) Mr. Sanchez, I have
6 here our exhibits. I want you to turn to Exhibit N.

7 A. Okay.

8 Q. They are the exhibits for Judah Oil, LLC.
9 There should be a small black notebook that I handed
10 out earlier.

11 Do you recall receiving that, or were you
12 aware, Mr. Sanchez, that the division had received
13 that change of operator form?

14 A. No, I was not.

15 Q. Okay. Would you turn to the division's
16 Exhibit 27, which was your statement.

17 A. Yes.

18 Q. And if you will look at page 8 of your
19 statement -- it's in the division's exhibits on --
20 Exhibit 25, which is Mr. Sanchez' filed testimony.

21 MR. FELDEWERT: Which I think has been
22 admitted, was it not, Mr. Swazo?

23 MR. SWAZO: Yes.

24 Q. (By Mr. Feldewert) I'm on page 8, and I'm
25 looking at line 192. It says: "On August 18, 2010,

1 Judah and Yeso submitted an on-line application to
2 transfer Yeso wells from Yeso to Judah. The
3 application included the Dow B 28 Federal Number 1
4 and the Dalton Federal Number 1."

5 Does that refresh your recollection?

6 A. Yes, it does.

7 Q. Okay. All right. So the division then
8 received, in August of last year, a request from
9 Judah to become the operator of this well and take
10 over financial responsibility?

11 A. Yes.

12 Q. Correct?

13 A. That's correct.

14 Q. All right. And then in response to that,
15 rather than writing back to Judah and saying we
16 wanted more information, you-all filed, I think the
17 very next day, the application seeking guidance from
18 the commission?

19 A. The application was in progress --

20 Q. I see.

21 A. -- already, prior to that happening.

22 We didn't just get this and decided to go
23 and file a case at that time. We had already been
24 working on that case.

25 Q. Okay. I was looking at your testimony on

1 line 195.

2 A. Yes, we submitted the case on the 19th.

3 Q. It just happened to be the day after?

4 A. The day after, yes.

5 Q. Okay. I understand. All right.

6 But one of the reasons you filed that
7 application was to get guidance from the commission,
8 since you now had these competing requests, as to
9 who should be the operator?

10 A. That's correct.

11 Q. All right. So would you agree with me,
12 then, the question before the commission today is
13 whether they should recognize as the operator of the
14 Dow B 28 the same operator that had been recognized
15 by the BLM?

16 A. Our request is that they clarify what the
17 order states -- or actually, the two different
18 orders, one being 13294, where it terminates the
19 authority of Yeso and allows COG to apply for that
20 injection permit, or -- and the other one, which was
21 12930-B, which requires Yeso to transfer to another
22 operator not affiliated with Yeso by a given time
23 frame.

24 Q. Okay. But isn't it also one of your
25 requests from the commission to determine who should

1 be the operator?

2 A. Yes. Based on those orders, yes.

3 Q. And the other information that's going to
4 be presented here today?

5 A. Absolutely.

6 Q. Isn't that -- that's the purpose of this
7 hearing, if I'm understanding it correctly.

8 A. Yes.

9 Q. Okay. Now, you seem to be concerned about
10 Judah being recognized by the division as an
11 operator because of the purchase and sale agreement
12 with the prior operator, Yeso Energy?

13 A. No. We already recognize Judah as an
14 operator within the state.

15 Q. Okay.

16 A. The concern is the affiliation, or the
17 possible affiliation, and that is what we're asking
18 for guidance on, as well.

19 Q. Okay. So you --

20 A. Are they considered an affiliate based on
21 that agreement or based on Yeso continuing that
22 business relationship with Judah.

23 Q. That's one of the questions you want the
24 commission to answer?

25 A. Yes.

1 Q. I see. And it's my understanding that
2 your -- you mentioned something about being
3 concerned about an income stream to Yeso. Do you
4 recall that?

5 A. Yes.

6 Q. What was your concern?

7 A. Well, that they may be getting around
8 their 5.9 issues, their being in violation of 5.9,
9 and being able to get -- or use the Dow B 28 on
10 their own and continuing to earn income off of that
11 well while they owe the State so much money for the
12 plugging that has already been done.

13 Q. Let me ask you this. If, indeed, they are
14 getting income off of this well by way of some
15 override on the barrels that are injected, if there
16 is any injected, or the oil that is recovered,
17 wouldn't the State be able to garnish that income to
18 help pay for the costs that it incurred?

19 A. I'm not aware of any mechanism that the
20 State has to garnish that, at least through the OCD.

21 Q. Well, couldn't you proceed to -- by some
22 other -- well, I know you're not a lawyer. I'm
23 sorry about that.

24 But have you visited about whether that --
25 the State would be able to tap into that income

1 stream to satisfy Yeso's debt as to the State?

2 A. We have looked at going after them at some
3 point for what they already owe the State, but no
4 details about how they would do a garnishment or
5 however...

6 Q. So it's a possibility?

7 A. I guess it's a possibility, yes.

8 Q. Okay. I also wanted one clarification.
9 You referred to Exhibit 2.

10 A. Yes.

11 Q. The Division's Exhibit 2.

12 And this was an inactive well list for
13 this prior operator of Yeso Energy, correct?

14 A. Actually, it's their well list at the
15 time. And they were still showing those wells as
16 being owned by Yeso at the time.

17 Q. Okay. I did not want there to be any
18 confusion. This is not an inactive well list for my
19 client, Judah Oil?

20 A. No.

21 Q. Okay. Have you looked at the inactive
22 well list for Judah Oil?

23 A. Not prior to this hearing, no.

24 Q. Are you aware that they are in full
25 compliance with Rule 5.9?

1 A. I haven't seen them on my radar, so I
2 would assume that they probably would be.

3 Q. What's that?

4 A. I haven't seen them on my radar, so I
5 assume that they probably would be.

6 Q. If I have you take a look at Exhibit D,
7 which is Judah's Exhibit D, do you recognize that as
8 the State's inactive well list?

9 A. Yes.

10 Q. Or a printout from the inactive well list?

11 A. Yes.

12 Q. Dated yesterday, correct?

13 A. June 28th, yesterday, yes.

14 Q. And this shows, if I am reading this
15 correctly, that Judah is operating, currently, 33
16 wells in the state?

17 A. Yes.

18 Q. And it has one inactive well?

19 A. That's correct.

20 Q. So that would mean they're in compliance,
21 correct?

22 A. Yes.

23 Q. Because I think, if I'm understanding the
24 rule, they are entitled to have two?

25 A. Two, I believe, yes.

1 Q. Okay. And I think you testified that just
2 as a general practice, the BLM would like the Oil
3 Conservation Division to recognize the same operator
4 for a federal well on federal lands?

5 A. Yes.

6 MR. FELDEWERT: Those are all the
7 questions I have.

8 MADAM CHAIRWOMAN BAILEY: Commissioner
9 Dawson, do you have any questions of this witness?

10 COMMISSIONER DAWSON: Not at this time,
11 no.

12 MADAM CHAIRWOMAN BAILEY: Commissioner
13 Balch?

14 COMMISSIONER BALCH: No.

15 MADAM CHAIRWOMAN BAILEY: I do.

16 OCD Exhibit Number 16 indicates that the
17 BLM approval of the change of operator was subject
18 to like approval by the State, and that was for
19 Chica?

20 THE WITNESS: Yes.

21 MADAM CHAIRWOMAN BAILEY: And Exhibit
22 Number 20 for Judah does not carry that same stamp,
23 that BLM approval is subject to State approval.

24 Would you speculate why BLM would not
25 require that same approval or concurrence with the

1 State?

2 THE WITNESS: I would think it's probably
3 the individual who was reviewing it. The individual
4 here who signed off on this was Mr. Whitlock. And
5 he is the individual who actually purchased the
6 stamp for state approval by the State, as well as
7 the BLM, and gave them to our office down there so
8 that we would have that -- that stamp on all our
9 documents when we receive them from the BLM.

10 So I don't know why he would have not have
11 put that same stamp on this document here.

12 MADAM CHAIRWOMAN BAILEY: Because it is
13 Mr. Whitlock's signature on Exhibit 16, isn't it?

14 THE WITNESS: I believe it is, yes.

15 MADAM CHAIRWOMAN BAILEY: So in theory, he
16 has approved both, but one he required State
17 concurrence.

18 Did you discuss this discrepancy with the
19 BLM?

20 THE WITNESS: Not specific to this case.
21 During our regular meetings -- and they'll have
22 calls with us on various operators, too, where they
23 have asked us to concur.

24 But on this specific case, no, I did not.
25 I didn't catch that.

1 MADAM CHAIRWOMAN BAILEY: Is there any
2 redirect?

3 MR. SWAZO: I do have some questions.

4 FURTHER EXAMINATION

5 BY MR. SWAZO:

6 Q. Mr. Sanchez, one of the questions that
7 Judah had asked you was whether you had
8 considered -- whether you considered the Dow well
9 abandoned because Yeso's authority to operate that
10 well had been terminated.

11 Wasn't that well -- isn't that well also
12 under a plugging order?

13 A. Yes.

14 Q. And the order required Yeso to plug and
15 abandon the well by, I believe, March 15, 2010?

16 A. Yes.

17 Q. And so that date has come and passed, and
18 Yeso did not plug or abandon the well by that point?

19 A. That's correct.

20 Q. And under the order, if Yeso did not plug
21 or transfer the well by that deadline, the OCD has
22 the authority to plug the well?

23 A. Yes.

24 Q. I wanted to talk about Judah's Exhibit N.

25 This document was not approved by the OCD,

1 right?

2 A. No, it was not.

3 Q. What actually happened with the document?

4 Did Judah take any steps with this permit?

5 A. Not that I remember off the top of my
6 head.

7 Q. And this change of operator, it's signed
8 after the deadline in the -- in the plugging order,
9 Order 12930-B, right?

10 A. Correct.

11 Q. And at that time, the OCD would have been
12 authorized to plug the well?

13 A. Yes.

14 Q. Have you asked Yeso for reimbursement for
15 the plugging costs that OCD has spent to plug the
16 wells?

17 A. Yes, I have.

18 Q. Has Yeso reimbursed the State for those
19 plugging costs?

20 A. No. They wouldn't respond to my letter.

21 Q. And Judah talked about being in compliance
22 with 5.9. Isn't it correct that the OCD may reject
23 a well transfer if a well is under a compliance
24 order and the operator does not have a replacement
25 agreement?

1 A. Yeah, that's true.

2 Q. And Yeso -- I mean Judah -- wants to
3 acquire two of the -- two of Yeso's wells, correct?

4 A. Yes.

5 Q. And both of those wells are inactive
6 wells?

7 A. Yes.

8 Q. And so once they --

9 A. According to our records.

10 Q. I'm sorry?

11 A. According to our records.

12 Q. So once Judah acquires those two inactive
13 wells, that would actually put it over -- that would
14 actually put it in noncompliance with part 5.9,
15 correct?

16 A. That's correct.

17 Q. And being out of compliance with 5.9 would
18 mean that the OCD would not be able to approve
19 Judah's injection permit?

20 A. That's also correct.

21 Q. And one way that Judah would be able to
22 resolve that is if they had an agreed compliance
23 order with the OCD?

24 A. Yes.

25 MR. SWAZO: I don't have any other

1 questions.

2 MR. FELDEWERT: I do have one followup.

3 FURTHER EXAMINATION

4 BY MR. FELDEWERT:

5 Q. Mr. Sanchez, I'm confused about this
6 question about authority to plug.

7 Is the OCD considering plugging a federal
8 well on federal lands where we have a BLM-designated
9 operator and the BLM has approved a plan to convert
10 the well by that operator to a saltwater disposal
11 well? Is that under consideration by the division?

12 A. We would rather see that well bore
13 utilized. We do not like to plug wells if we don't
14 have to. We don't like to incur the expense.

15 Q. Well, I'm confused here, because I know --

16 A. And we do -- we do work with the BLM on a
17 case-by-case basis when those issues do arise.

18 Q. Okay. So if we have a circumstance where
19 we have a BLM-designated operator, and we have a
20 circumstance where there's a plan approved by the
21 BLM to convert that well to a saltwater disposal
22 well, there's no reason for you-all to plug it, is
23 there?

24 A. No, there wouldn't be.

25 Q. Okay. Now you've mentioned if Judah

1 acquires these two wells that are currently shown as
2 inactive on the OCD records, that they would now be
3 out of compliance with Rule 5.9?

4 A. Yes.

5 Q. But isn't it true that as part of the
6 transfer of operator-ship, there could be a --
7 what's the term you use?

8 A. -- agreed compliance order.

9 Q. Agreed compliance order to bring them into
10 compliance within a certain period of time?

11 A. Yes.

12 Q. In fact, it would appear that at least one
13 of the wells is capable of producing but is
14 currently not producing because the division has not
15 yet changed the operator?

16 A. Yes.

17 Q. Okay.

18 MR. FELDEWERT: That's all the questions I
19 have.

20 FURTHER EXAMINATION

21 BY MR. HALL:

22 Q. To your knowledge, Mr. Sanchez, does COG
23 Operating have an OGRID number with the State of
24 New Mexico?

25 A. Yes, they do.

1 Q. Does it have a bond?

2 A. Yes.

3 Q. Is COG otherwise in good standing with the
4 State?

5 A. Yes, they are.

6 Q. How much money does Yeso owe the division?

7 A. It's about \$249,000.

8 Q. A demand has been made on them to pay?

9 A. Yes, on a portion of it. Not on the full
10 amount, but on a portion of it.

11 Q. How much do you expect it would cost the
12 State of New Mexico to plug the Dow B 28 well?

13 A. Somewhere between 35- and \$45,000.

14 MR. HALL: All right. No further
15 questions.

16 MADAM CHAIRWOMAN BAILEY: Anything
17 further?

18 MR. SWAZO: Nothing further.

19 MADAM CHAIRWOMAN BAILEY: This witness can
20 be excused.

21 MR. SWAZO: I don't have any other
22 witnesses, Madam Commissioner.

23 MR. HALL: Do you want us to start?

24 MADAM CHAIRWOMAN BAILEY: Yes.

25 MR. HALL: David Evans.

1 THE WITNESS: My name is David Evans.

2 D-A-V-I-D, E-V-A-N-S.

3 DAVID EVANS,

4 after having been first duly sworn under oath,

5 was questioned and testified as follows:

6 EXAMINATION

7 BY MR. HALL:

8 Q. For the record, again, state your name,
9 please.

10 A. David Evans.

11 Q. Mr. Evans, where do you live and by whom
12 are you employed?

13 A. I live in Midland, Texas. I'm employed by
14 Concho Resources.

15 Q. And is Concho also known as COG?

16 A. Yes, it is.

17 Q. What do you do for Concho?

18 A. I am the land lead for the New Mexico
19 shelf team.

20 Q. All right. And you previously testified
21 before both the division and the commission and had
22 your credentials as an expert petroleum landman
23 established as a matter of record?

24 A. Yes.

25 Q. You are familiar with the application

1 that's been filed by COG in this case?

2 A. I am.

3 Q. And you're familiar with the Dow B 28
4 Federal Number 1 well?

5 A. Yes, I am.

6 Q. And the subject lands.

7 MR. HALL: At this point, Madam Chairman,
8 we offer Mr. Evans as a qualified expert petroleum
9 landman.

10 MADAM CHAIRWOMAN BAILEY: He's so
11 accepted.

12 Q. (By Mr. Hall) Mr. Evans, explain to the
13 commission what COG has made application for in this
14 case.

15 A. We are applying to seek an order
16 cancelling the authority of Yeso Energy, Inc., as
17 operator of the Dow B 28 Federal Well Number 1 and
18 terminating all spacing and proration units at the
19 time dedicated to the well -- at this time dedicated
20 to the well.

21 These include the south half of the Cedar
22 Lake Morrow East, Wildcat Cedar Lake Mississippian,
23 and Cedar Lake Morrow pools, and the
24 Southeast/Southeast Cedar Lake Devonian pool in
25 Section 28, 17 South, 31 East, Eddy County, New

1 Mexico.

2 Yeso Energy is the current operator of
3 record of the Dow B 28 Fed Number 1, but the well
4 has been placed on the division's plugging list
5 pursuant to the compliance order.

6 And rather than see the State expend money
7 unnecessarily to plug the well, COG hopes to convert
8 the well to a disposal well for disposal operations
9 to support the Skelly unit.

10 Any remaining division authority that Yeso
11 might have as operator should be terminated and
12 other -- and any other permits and dedications
13 rescinded so that they are not regulatorily impeding
14 our separate C108 application for the COG
15 authorization to inject.

16 Q. Why does COG ask the division and the
17 commission to terminate the pool dedications to the
18 well?

19 A. This is so that we would not be impeded to
20 take over the well and start injection operations to
21 support the Skelly Federal unit that's north of it.

22 Q. In your view, that clears up regulatory
23 impediments to conversion?

24 A. Yes.

25 Q. Let's look at Exhibit Number 1 in your

1 exhibit notebook.

2 A. (Witness complies.)

3 Q. Would you identify that for us, please?

4 A. This is an outline of the Skelly unit. It
5 also shows the acreage assigned to COG.

6 And you can see the Skelly -- the Dow B 28
7 in the Southeast/Southeast of Section 28 there.
8 It's highlighted in yellow.

9 Q. Okay. Would you give the commissioners an
10 overview of COG's current operations and anticipated
11 operations in this area?

12 A. We have a large need for disposal
13 capacity. We're currently at volumes of over
14 30,000 barrels of water daily that need to be
15 disposed. Our current drilling operations in the
16 Skelly unit are going to require much more disposal
17 capacity.

18 This well is situated -- the Dow B is
19 situated in such a way that it could help impact our
20 operations on the Skelly unit. It will give
21 long-term life to the Skelly unit by improving
22 economic conditions favorable to Concho so that it
23 can extend the life of the unit.

24 Q. Could you explain how COG went about
25 identifying this particular well, the Dow B, as a

1 good candidate for disposal conversion?

2 A. I can. We watch, every month, wells that
3 come up on the plugging list, to see if one of those
4 wells on the State's list is suitable for conversion
5 to disposal.

6 This well came up on the list. We
7 immediately contacted the State, notifying them that
8 we had an interest and maybe that we could take it
9 over, assume the liabilities, plugging liabilities,
10 and make an application to convert it to a disposal
11 well.

12 Q. Now, have you conferred with Concho's
13 engineering staff and obtained an estimate of
14 approximate cost to actually plug the well?

15 A. Our estimated cost for plugging the Dow B
16 is about \$60,000.

17 Q. Okay. And what is the estimated cost for
18 a new drill to use for injection?

19 A. The new well would be -- cost between 3.1
20 and \$3.6 million.

21 Q. Okay. What's the lease ownership
22 situation in the southeast quarter of Section 28?

23 A. It's a federal lease that is -- the record
24 title is owned by Chevron.

25 Q. Is it HBP?

1 A. It's HBP.

2 Q. It's BLM surface and minerals. Is that
3 correct?

4 A. Yes.

5 Q. So there's no State financial assurance
6 associated with this well?

7 A. Absolutely not.

8 Q. Okay. Let's look at Exhibit 2.

9 A. (Witness complies.)

10 Q. If you would, identify that, please.

11 A. This is our application for the disposal
12 right-of-way for the Dow B, renamed to be the Skelly
13 28B.

14 Q. All right. And if we look at the second
15 page of Exhibit Number 2, it shows a signature and a
16 date next to the signature. What's the date?

17 A. September 2nd, 2010.

18 Q. Okay. And this application is necessary
19 for COG to obtain the right to utilize the surface
20 and the well bore for disposal?

21 A. That's correct.

22 Q. And it's submitted to the BLM?

23 A. Yes.

24 Q. So it remains pending with the BLM?

25 A. It does.

1 Q. It's not been denied by BLM?

2 A. It has not.

3 Q. If you will, look at Exhibit Number 3.

4 A. (Witness complies.)

5 Q. Can you identify that?

6 A. This is the OCD permitting well details.

7 It's a well data screen shot of the OCD Web site
8 showing the Yeso operations and the violations and
9 the dates that the well last produced and the fields
10 that they were in and the violations.

11 Q. All right. So is this what any member of
12 the public, any operator can see, from the
13 division's on-line records when it's searching for a
14 candidate injection well?

15 A. Yes. This is something we do every month.

16 Q. Let's turn to the fourth page of Exhibit
17 Number 3. And there is a heading there, I think.

18 A. Yes. Okay.

19 Q. There's a heading there on that page that
20 says "Orders."

21 Do you see that?

22 A. Yes.

23 Q. And it references a compliance order?

24 A. Correct.

25 Q. And it references "Comments." What is the

1 comment from the division's records?

2 A. "Issue, inactive wells. Order, Yeso plug
3 wells by 3-15-2010. OCD may plug."

4 Q. Okay. Let's look, then, at exhibits --

5 A. There's also -- further down it says
6 there's a violation for injection without authority
7 and a \$3,000 penalty was being ordered. I'm sorry.

8 Q. That's all right.

9 Let's look at Exhibits 4, 5, and 6.

10 First, the order -- well, tell me what
11 Exhibit 4 is.

12 A. Exhibit 4 are cases -- various cases that
13 have been held. But Exhibit 4 is the Case Order
14 Number 14008, Order Number 12930.

15 Q. And Exhibit 5?

16 A. Exhibit 5 is Case Number 14294, Order
17 Number 12930-A.

18 Q. And Exhibit 6?

19 A. Is Case Number 14294, Order
20 Number 12930-B.

21 Q. And if we look at Exhibit 6, page 2, the
22 order in paragraph 1, would you read that into the
23 record, please?

24 A. The order? Yes.

25 It says: "Yeso Energy, Order A-22170,

1 shall properly plug and abandon each of the wells
2 described in the finding paragraph 6A of Order
3 R-12930-A or transfer each of said wells to another
4 operator not affiliated with Yeso and approved by
5 the division no later than March 15, 2010?

6 Q. All right. And if we refer back to
7 Exhibit Number 3, the last page of that, is this the
8 Order R-12930-B that is referred to in the order
9 section on the OCD screen shot?

10 A. Yes, it is.

11 Q. Okay. To your knowledge, has Yeso Energy
12 appealed any of these three orders?

13 A. They have not.

14 Q. In 2010 -- let me ask you.

15 When did COG learn that the Dow B was
16 about to be plugged?

17 A. I want to say it's either late 2009 or
18 early 2010.

19 Q. All right. Let's look at Exhibit
20 Number 7.

21 A. (Witness complies.)

22 Q. Can you identify that, please?

23 A. This is a letter from Brett Robertson, a
24 former landman with Concho, asking for the NMOCD to
25 withhold plugging the well.

1 Q. And do you know the circumstances behind
2 this letter?

3 A. Yes, I do.

4 Q. What are they?

5 A. This is when we discovered that it was on
6 the list and that it would be a good alternative for
7 a disposal well for our Skelly.

8 Q. So did Concho approach the division and
9 ask them how to proceed to obtain the right to
10 convert the well?

11 A. Yes, we did. We received instructions
12 from them to make application and to follow the
13 process.

14 Q. And at the time that the Robertson letter
15 was sent to Mr. Sanchez, was it the company's
16 understanding that plugging of the well was
17 imminent, a matter of days?

18 A. It was imminent, in a matter of days. In
19 fact, within ten days or so.

20 Q. Okay. Is Exhibit 7 a true and exact copy
21 of the original letter that was issued by
22 Mr. Robertson, and a copy of which is obtained --
23 retained in Concho's files in Midland?

24 A. Yes, it is.

25 Q. Okay. Let's look at Exhibit Number 8.

1 A. (Witness complies.)

2 Q. Identify that for us, please.

3 A. This is Case Number 14472, Order
4 Number R-13294. It's an application by COG
5 Operating, LLC, for the cancellation of operator's
6 authority and termination of the spacing units at
7 Yeso Energy Dow B-28 Federal Well Number 1, in Eddy
8 County, New Mexico.

9 Q. Okay. Let's look at the last page of that
10 order in ordering paragraph Number 3. If you would,
11 read that into the record?

12 A. Order Number 3?

13 Q. Paragraph 3 on page 3.

14 A. Page 3. "I hereby order"?

15 Q. Yes.

16 A. "The division hereby terminates authority
17 of Yeso Energy to act as operator of the Dow B 28
18 Federal Well Number 1 located in Section 28, 17
19 South, 31 East, unit P, Eddy County, New Mexico."

20 Q. Let's jump down to paragraph 3 there.
21 What does that say?

22 A. "COG shall file an application with the
23 division to use the subject well for disposal
24 operations without the necessity of a change of
25 operator that would be ordinarily required."

1 Q. All right. So that leads us to
2 Exhibit No. 9.

3 Could you identify that for us, please?

4 A. This is our application for authorization
5 to inject, just as requested by the order.

6 Q. All right. This is a C108, correct?

7 A. C108.

8 Q. And if you look to the sixth page of that
9 injection well data sheet, it looks like this
10 (indicating).

11 A. Yes.

12 Q. That identifies the Skelly Federal 28, SWD
13 Number 1?

14 A. That's correct.

15 Q. Has there been a name change for the well?

16 A. Formerly known as the Dow B 28 Federal
17 Number 1.

18 Q. Does this page show COG as operator of the
19 well?

20 A. It does.

21 Q. And if we turn a few more pages in that
22 same exhibit, is there a C102 form, a dedication
23 plat?

24 A. Yes.

25 Q. It also -- does it identify COG operating,

1 obviously, as the operator of the well?

2 A. It does.

3 Q. Does this application remain pending
4 before the OCD?

5 A. Yes, it is.

6 Q. And is it your understanding that approval
7 is awaiting outcome of this particular case?

8 A. Correct.

9 Q. And does COG plan to register this well
10 under its OGRID number and become operator --
11 utilize its bond for the well?

12 A. Yes, it does.

13 Q. Were Exhibits 1 through 9 compiled by you
14 or at your direction and control?

15 A. Yes, they were.

16 MR. HALL: And at this point,
17 Madam Chairman, I would move the admission of
18 Exhibits 1 through 9. The commission may take
19 administrative notice of its forms and its on-line
20 data and the orders. Those would be Exhibits 3, 4,
21 5, 6 and 8.

22 That concludes my direct of this witness.

23 MADAM CHAIRWOMAN BAILEY: Any objections
24 to the exhibits?

25 MR. SWAZO: No.

1 MR. FELDEWERT: No.

2 MADAM CHAIRWOMAN BAILEY: They're so
3 admitted.

4 MR. HALL: Pass the witness.

5 MADAM CHAIRWOMAN BAILEY: Okay.

6 MR. SWAZO: I don't have any questions.

7 MADAM CHAIRWOMAN BAILEY: Mr. Feldewert?

8 MR. FELDEWERT: Yes, ma'am.

9 EXAMINATION

10 BY MR. FELDEWERT:

11 Q. Mr. Evans, you said that COG plans to
12 become the operator of the Dow B.

13 A. Yes, it does.

14 Q. But you haven't filed anything with the
15 BLM to become the designated operator of this well.
16 Is that correct?

17 A. We have made application. It's still
18 pending.

19 Q. Are you talking about your right-of-way
20 application?

21 A. That's part of the process, yes, sir.

22 Q. Is that the only thing that you've filed?

23 A. I'm not certain to that.

24 Q. Can you point to anything else that you
25 filed with the BLM to become operator?

1 A. No.

2 Q. Can you point to anything that you filed
3 with the BLM where you took over financial
4 responsibility for the Dow B well?

5 A. We have bonds in place to operate any well
6 within the state.

7 Q. Okay. And did you -- have you filed
8 anything with the BLM to bring the Dow B under your
9 existing bonds?

10 A. We were planning to once this matter was
11 settled here.

12 Q. But you haven't done anything as of yet?

13 A. No, sir.

14 Q. Okay. Have you filed -- outside of your
15 right-of-way, did you file anything with the BLM for
16 approval of any saltwater disposal plan?

17 A. Not yet.

18 Q. You have mentioned that your right-of-way
19 is still pending?

20 A. That's correct.

21 Q. It was filed in September of 2010?

22 A. That's correct.

23 Q. When was the last time that you checked to
24 see if it was still pending?

25 A. I want to say May.

1 Q. May?

2 A. Yes.

3 Q. Did you speak with someone at the BLM?

4 A. I did not, personally.

5 Q. Did someone from your company speak with
6 someone at the BLM?

7 A. Yes.

8 Q. So you were not involved in that
9 conversation?

10 A. No, I was not.

11 Q. So you can't testify as to what was said
12 or not said?

13 A. I was not in the room.

14 Q. Would it surprise you to learn that the
15 BLM does not consider your application to be still
16 pending?

17 A. That would surprise me.

18 MR. HALL: Objection. Calls for
19 speculation of the witness and hearsay.

20 Q. (By Mr. Feldewert) You -- now it's true,
21 if I'm understanding this correctly -- and I'm
22 looking at Exhibit 1 -- that COG currently has no
23 interest whatsoever in this federal property where
24 the Dow B is located.

25 A. That would be correct.

1 Q. Okay. And it is my understanding that
2 your -- your original intent was to use the Dow B
3 for lease disposal, correct?

4 A. For Skelly disposal, yes, Skelly unit
5 disposal.

6 Q. Skelly. So that would be -- it's not as a
7 commercial disposal well, but as a private disposal
8 well?

9 A. That's correct.

10 Q. Are you aware that Judah plans to use the
11 Dow B as part of a commercial disposal project in
12 this area?

13 A. I am now.

14 Q. Okay. If they did that, isn't it true
15 that COG would have access, just like anyone else,
16 to this disposal well for its need?

17 A. Not a certainty.

18 Q. Not -- you'd have to have a contractual
19 arrangement?

20 A. Correct.

21 Q. Okay. But at least you would have an
22 opportunity, like every other operator down there,
23 to utilize this commercial disposal facility that is
24 being permitted by the BLM, correct?

25 A. That's -- that's an assumption I can't

1 make. I don't know if they are going to allow us in
2 or not.

3 Q. Okay. Can you point to anything that
4 authorizes COG to use this existing federal well
5 bore?

6 A. No.

7 Q. Would you agree with me that the
8 determination of the right to use this federal well
9 bore is within the province of the BLM?

10 A. Well, it was my understanding what the
11 process between the OCD and the BLM was, once the
12 well was put on the list, that we could file for an
13 application to assume the liability for the State,
14 and then the State and the BLM would work together
15 to transfer the operations over to Concho.

16 That's what we were doing, following that
17 path. That's why we approached the OCD first and
18 the BLM second. That's why the applications have
19 not been totally completed, because we are still
20 going through the process.

21 Part of the process is the de novo --
22 unfortunately, the de novo. So based upon what
23 happens at the de novo, we will complete the
24 process.

25 Q. My question was: Are you -- do you agree

1 with the determination of the right to use the well
2 is within the province of the BLM?

3 A. I think that's what we're trying to
4 determine today.

5 Q. Would you look at what has been marked as
6 Judah's Exhibit O?

7 A. Okay.

8 Q. Have you seen this letter before,
9 Mr. Evans?

10 A. I can't say that I saw this exact letter,
11 but...

12 Q. Would you disagree with it?

13 Well, let me point you --

14 A. No, I don't disagree with what it is
15 saying.

16 Q. I'm looking at the last paragraph where it
17 says: "COG Operating, LLC, is not asking the
18 division to grant or transfer titular interest to
19 the well. The determination of the right to use the
20 well is within the province of the BLM."

21 Do you see that?

22 A. Correct.

23 Q. Okay. You don't disagree with that?

24 A. No.

25 MR. FELDEWERT: That's all the questions I

1 have.

2 MADAM CHAIRWOMAN BAILEY: Commissioner
3 Dawson, do you have any questions?

4 COMMISSIONER DAWSON: Not at this time,
5 no.

6 MADAM CHAIRWOMAN BAILEY: Commissioner
7 Balch?

8 COMMISSIONER BALCH: No questions.

9 MADAM CHAIRWOMAN BAILEY: I do.
10 Would you turn to your Exhibit Number 8,
11 which is the order of the division.

12 THE WITNESS: (Witness complies.)

13 MADAM CHAIRWOMAN BAILEY: And could you
14 read to us the date that this order was signed?
15 It's under the second paragraph there.

16 THE WITNESS: "Now this 13th day of July,
17 2010..."

18 MADAM CHAIRWOMAN BAILEY: Yes.

19 THE WITNESS: "...the division director,
20 having considered the testimony of the record and
21 the recommendations of the examiner."

22 MADAM CHAIRWOMAN BAILEY: Okay. So that's
23 July 13 of 2010.

24 You were present when OCD had their
25 exhibits admitted into the record.

1 Would your attorney please give you OCD
2 Exhibit Number 20 to look at?

3 (Counsel complies.)

4 MADAM CHAIRWOMAN BAILEY: While we are
5 waiting, we can go to your Exhibit Number 7.

6 And what is the date of your letter to the
7 OCD indicating an interest in the well?

8 THE WITNESS: April 5, 2010.

9 MADAM CHAIRWOMAN BAILEY: Okay. Which is
10 several months before Order Number R-13294 was
11 issued?

12 THE WITNESS: Yes, ma'am.

13 MADAM CHAIRWOMAN BAILEY: Yes.

14 Now looking at OCD Exhibit Number 20,
15 would you read to us the date that this change of
16 operator by the BLM was approved?

17 THE WITNESS: August 31, 2010.

18 MADAM CHAIRWOMAN BAILEY: Which is after
19 the date of the Order 13294?

20 THE WITNESS: Yes, ma'am.

21 MADAM CHAIRWOMAN BAILEY: And after the
22 date of your letter indicating an interest in this
23 well?

24 THE WITNESS: Yes, ma'am.

25 MADAM CHAIRWOMAN BAILEY: Those are all

1 the questions I have.

2 MR. HALL: I have no redirect.

3 MR. SWAZO: I have no questions.

4 MR. FELDEWERT: No questions.

5 MADAM CHAIRWOMAN BAILEY: All right. Pass
6 the witness.

7 MR. HALL: He may be excused?

8 MADAM CHAIRWOMAN BAILEY: He may be
9 excused.

10 THE WITNESS: Thank you.

11 MADAM CHAIRWOMAN BAILEY: Let's come back
12 at a quarter till.

13 (A recess was taken from 10:37 a.m. to
14 10:48 a.m.)

15 MADAM CHAIRWOMAN BAILEY: Now, we are back
16 on the record.

17 Do you have any further witnesses?

18 MR. HALL: No. That concludes our case.

19 MADAM CHAIRWOMAN BAILEY: Mr. Feldewert?

20 MR. FELDEWERT: Yes, Madam Chairman. We'd
21 call Blaise Campanella to the stand.

22 THE WITNESS: My name is James Blaise
23 Campanella. J-A-M-E-S, B-L-A-I-S-E,
24 C-A-M-P-A-N-E-L-L-A.

25

1 JAMES BLAISE CAMPANELLA,
2 after having been first duly sworn under oath,
3 was questioned and testified as follows:

4 EXAMINATION

5 BY MR. FELDEWERT:

6 Q. Mr. Campanella, where do you reside?

7 A. Artesia, New Mexico.

8 Q. What do you do for a living?

9 A. I am an oil and gas producer, and I
10 operate commercial disposal wells.

11 Q. How long have you been operating wells?

12 A. Since the mid '90s.

13 Q. Is that when you -- in the mid '90s you
14 began operating wells?

15 A. Yes, sir.

16 Q. Okay. What did you do prior to the mid
17 1990s?

18 A. I was a contract pumper. I took care of
19 other people's oil and gas wells.

20 Q. How long did you do that?

21 A. 15 years.

22 Q. So you've been in the oil and gas business
23 for a long time?

24 A. I started when I was 13 years old.

25 Q. Is that right?

1 A. That's correct.

2 Q. In Artesia?

3 A. Yes, I did.

4 Q. Do you currently operate wells under a
5 company called Judah Oil, LLC?

6 A. Yes, I do.

7 Q. How long has Judah Oil been a
8 division-recognized operator?

9 A. Since 2006.

10 Q. And how many wells does Judah Oil
11 currently operate in New Mexico?

12 A. 33 wells. That's including three
13 commercial disposal wells.

14 Q. Includes three commercial disposal wells?

15 A. Yes, sir.

16 Q. Okay. Would you -- I'm going to refer to
17 Judah Oil's exhibits in the small notebook.

18 Would you turn to what has been marked as
19 Judah Exhibit A?

20 A. (Witness complies.)

21 Q. And just for the record, Judah Oil had
22 submitted some initial exhibits that they had marked
23 with numbers. Going through those yesterday, I
24 realized we culled some of those down, so we
25 reorganized and renumbered our Exhibits A through O.

1 That's what I will be referring to here today.

2 Would you describe for the commission what
3 is Judah Exhibit A?

4 A. Yes. This is our articles of organization
5 that we filed with the New Mexico commission for --
6 to be a limited liability company with the State
7 Corporation Commission.

8 Q. Okay. And I think it's -- as you
9 page through it, there's some tax information along
10 with this, correct?

11 A. Yes, sir, there is.

12 Q. All right. Now, for purposes of dealing
13 with this concern about whether there's some
14 affiliation between Judah Oil and this prior
15 operator, Yeso Energy, would you tell the
16 commissioners, or identify for the commissioners,
17 all current and past officers, directors, or members
18 of Judah Oil?

19 A. It is my wife and I.

20 Q. Have there been any other officers,
21 directors, or members?

22 A. No, sir.

23 Q. Now, I note in here on page 3 of Exhibit
24 A, that the manager is Levi Operating Company. Do
25 you see that?

1 A. Yes.

2 Q. Okay. Who are the current and past
3 officers, directors, and members of Levi Oil and
4 Gas?

5 A. Levi Oil and Gas, the operators are my
6 wife and I, also.

7 Q. The same principals?

8 A. Correct.

9 Q. Okay.

10 A. Can I make a note real quick?

11 Q. Certainly.

12 A. We were Levi Operating. We're now Levi
13 Oil and Gas, LLC. It's the same -- the same -- we
14 changed from "operating," to "oil and gas," LLC.

15 Q. The same members, principals, directors,
16 your wife and you?

17 A. That's correct.

18 Q. Anybody else involved in these entities?

19 A. No, sir.

20 Q. Okay. Now, did you acquire properties
21 from Yeso Energy back in August of 2010?

22 A. Yes, I did.

23 Q. Okay. Is Judah's Exhibit B a copy of that
24 purchase and sale agreement?

25 A. Yes, it is.

1 Q. If I am reading this correctly -- and to
2 save time -- this was actually signed August 25th,
3 2010, but became effective August 11, 2010, correct?

4 A. That's correct.

5 Q. And the leases and wells that this
6 purchase sale agreement involved are on the last
7 page of this Exhibit B?

8 A. Yes, they are.

9 Q. And you see there listed is Dow B 28
10 Federal Well Number 1, that's --

11 A. You know, Mike, I don't have a copy of
12 that list.

13 Yes, these are the wells.

14 Q. And just to bring it back into
15 perspective, the Dow B 28 Federal Number 1, which is
16 listed on the last page of Exhibit B, is the Dow B
17 well that everybody has been talking about so far
18 here today, correct?

19 A. That's correct.

20 Q. Then we have a second well and associated
21 lease called the Dalton Federal Number 1?

22 A. Right. That's correct.

23 Q. That is a second well, that at least from
24 Judah's perspective, is at issue here with respect
25 to operator-ship, correct?

1 A. That's correct.

2 Q. And then there's the Doc Slavin federal
3 leases which are really not at issue here today?

4 A. That's correct.

5 Q. Is it true, Mr. Campanella, that this
6 conveyance included the well bores and related
7 equipment associated with the properties identified
8 in Exhibit A?

9 A. That's correct.

10 Q. And if I look at the first page,
11 paragraph 1C, it identifies the equipment?

12 A. It does.

13 Q. Now, there has been a lot of talk about
14 the consideration that your company provided to Yeso
15 Energy, and actually another company we heard about
16 here today, Chica Energy --

17 A. Uh-huh.

18 Q. -- in exchange for acquiring these
19 properties.

20 Would you just briefly outline for the
21 commission the consideration that is set forth in
22 paragraph 2 of this purchase and sale agreement?

23 A. Okay. Our agreement was that if we could
24 obtain the Dow B lease that's in question, also the
25 Doc Slavin leases, well bores and lease, and also

1 the Dalton Federal, and a well that's not listed,
2 the Gulf McKay, which was on the well list also.
3 That for -- to receive those, we would pay a
4 consideration to Yeso.

5 And to cover the disposal wells, we would
6 take it out in this manner: That if we permitted a
7 well, one of the disposal wells, the Dow well that's
8 in question or either one of the Doc Slavin wells
9 that are in Section 29, the same township and range,
10 we would pay \$50,000 once they were permitted, and
11 then we would pay an override of 5 cents a barrel to
12 Yeso.

13 Now, you can call it a fee or whatever you
14 want. It's an override, because they have no say-so
15 in our operations on this. They would also be
16 entitled to 10 percent of any oil sold on these
17 wells.

18 If we sold the wells before a year and a
19 half, it would be 18 months, then they would receive
20 20 percent of the sale.

21 The way that we came about this is after a
22 year and a half they should have received enough
23 income to compensate them for the sale, and so they
24 would not receive any other compensation after that
25 if we sold the well bore.

1 Q. So a lot of the consideration was
2 dependent upon whether you either resold the wells
3 or converted them to saltwater disposal wells?

4 A. That's correct.

5 Q. Now in addition to this financial
6 arrangement, did you also, as part of the
7 consideration, agree to take over financial
8 responsibility for certain wells?

9 A. Yes, I did.

10 Q. And which wells were those?

11 A. They were the Gulf McKay well.

12 Q. Let me stop you right there. Is that
13 reflected on the second page, in paragraph D?

14 A. Yes.

15 Q. Okay.

16 A. The Dalton Federal well.

17 Q. Which is?

18 A. Which is the subject well.

19 Q. Okay.

20 A. And any other leases that -- any other
21 lease in this agreement that we acquired, we would
22 take over any responsibility for those wells,
23 including the Dow B.

24 Q. Okay. Now you reference this, but I want
25 to just discuss it in more detail. Did either Yeso

1 Energy or Chica Energy, the sellers here, did they
2 retain any right whatsoever to operate these wells
3 or properties?

4 A. They have no say-so in operations.

5 Q. Who decides whether and to what extents
6 these wells are going to be utilized?

7 A. Judah Oil.

8 Q. Okay. Who decides if these properties are
9 actually sold?

10 A. Judah Oil.

11 Q. And does Chica Energy or Yeso Energy
12 retain any financial responsibility whatsoever for
13 any of these properties listed on Exhibit A?

14 A. No, they don't.

15 Q. Judah Oil is solely responsible?

16 A. Absolutely.

17 Q. Does either Yeso Energy or Chica Energy
18 have any percentage interest in your company?

19 A. None.

20 Q. Does either Yeso Energy or Chica Energy
21 exercise any control over the operations of your
22 company, Judah Oil, LLC?

23 A. They do not.

24 Q. The flip side of that. Do you or your
25 wife exercise any control over the operations of

1 Yeso Energy or Chica Energy?

2 A. We don't.

3 Q. Do you or your wife own any percentage
4 interest in either Yeso Energy or Chica Energy?

5 A. We don't.

6 Q. I want you to turn to what has been marked
7 as Judah Exhibit C.

8 A. (Witness complies.)

9 Q. Mr. Campanella, I'm going to represent to
10 you that these are two regulations promulgated by
11 the division that define what an affiliate
12 arrangement is.

13 And in particular, Rule 36.12-B, which is
14 the last page of this exhibit, the last sentence
15 says -- and I am on the last page of Exhibit B, Rule
16 36.12 -- I'm sorry. I am on the last page of
17 Exhibit C, Rule 36.12-B.

18 It says: "An affiliate of an applicant,
19 for purposes of Subsection B of" -- and it lists the
20 regulation -- "shall be a person who controls, is
21 controlled by, or under" -- or "under is,
22 controlled" -- I think that might be a typo -- "with
23 the applicant or a 25 percent or greater owner of
24 the applicant."

25 And that's specifically with respect to

1 Rule 9.8-B. It also refers to this 25 percent
2 interest and exercise of control.

3 Are you, Mr. Campanella, at all familiar
4 with the principals of Yeso Energy, Inc., or Chica
5 Energy, Inc.? Have you ever worked with them
6 before?

7 A. I have never talked with anybody from
8 either organization. I was actually approached the
9 first time that I had ever talked with Gene Lee, the
10 principal with Yeso, in July, who asked me if I --

11 Q. Let me stop you there. July of when?

12 A. It was in July of 2010.

13 Q. Okay. All right. And to put that in
14 perspective, BLM approved your operator-ship in
15 August of 2010, correct?

16 A. That's correct.

17 Q. All right. Go ahead.

18 A. He -- I was actually out working on one of
19 my disposal wells when I got a phone call. And he
20 asked me --

21 MR. HALL: At this point, Madam Chairman,
22 I believe we're getting into some hearsay testimony
23 about what Mr. Lee might have said. I object for
24 that reason.

25 MR. FELDEWERT: I think the division

1 has -- while they generally follow the Rules of
2 Civil Procedure, my understanding is it's not quite
3 so tight and that they have, in the past, generally
4 allowed testimony like this when it involves
5 companies that are at issue in the proceedings.

6 MADAM CHAIRWOMAN BAILEY: Since you were a
7 party to the conversation, I think we can allow it
8 at this time.

9 THE WITNESS: Okay. The point would be
10 that I had not talked with Gene Lee before until
11 that day. I have never been -- I didn't even know
12 who Gene Lee was until that day when he called me
13 and approached me about taking over some wells to
14 expand my saltwater disposal projects.

15 So that's the point that I would like to
16 make on this.

17 Q. (By Mr. Feldewert) So he approached you
18 about acquiring certain wells and properties to
19 increase your disposal capacity?

20 A. That's correct.

21 Q. The first time he talked you?

22 A. Yes, sir.

23 Q. All right. I probably need to ask you one
24 question, looking at this definition, that I may not
25 have covered before.

1 At any time has either Yeso -- a principal
2 of Yeso Energy or Chica Energy exercised any control
3 or been under common control with you or anyone else
4 involved with Judah Oil or Levi Oil and Gas?

5 A. No, sir.

6 Q. You've never been under one company
7 umbrella?

8 A. Never.

9 Q. Okay. You've never had a common purpose?

10 A. Never.

11 Q. Okay. All right.

12 And do you have any arrangement with Chica
13 Energy or Yeso Energy aside from what is set forth
14 in what has been marked as Judah Exhibit B, with
15 respect to this property?

16 A. No.

17 Q. Okay. All right. Now that we've
18 addressed this affiliate question, I want to turn to
19 the other reason that's been raised by the division
20 for not approving an operator, and that is the
21 inactive well list.

22 Would you turn to what has been marked as
23 Judah Exhibit D, as in dog.

24 A. (Witness complies.)

25 Q. Does this reflect, Mr. Campenella -- and I

1 think we've already gone through this -- that you
2 were in full compliance with Rule 5.9A --

3 A. Yes.

4 Q. -- inactive well list?

5 A. Yes.

6 Q. Is it true that since you operate 33
7 wells, it's your understanding that you would be
8 entitled to have two inactive wells and still be in
9 compliance?

10 A. Yes, it is.

11 Q. Now, it does show one inactive well here,
12 does it not?

13 A. Yes, it does.

14 Q. What do you refer -- how do you -- how do
15 you describe this particular well? What's the well
16 name to you?

17 A. The well -- we changed the name of the
18 well from the Tecolotes State Number 1 to the
19 Sandpoint State Number 1, because it's in the
20 Sandpoint area.

21 We have gone and entered the well bore,
22 squeezed the casing, drilled the cement out, run
23 rods and tubing, set a pumping unit, and actually
24 have put it into production. It produced for two
25 days.

1 We had a -- the well quit pumping, so we
2 had a truck come out and test it, and we still
3 couldn't get it to pump. So Monday, this past
4 Monday, I had a pulling unit set up to pull the
5 tubing -- or the rods out and swab it.

6 They weren't able to get on the location
7 because it's been so dry. The southeast -- and I
8 think everybody understands that -- that the road
9 had broke through, and so the pull unit wasn't able
10 to get onto the location.

11 And they let me know -- we called, and
12 that day we had the road repaired. And actually
13 this morning, they are hooked up on the well,
14 swabbing the well to clean it up so we can run rods
15 back in and get it back on production.

16 We have approximately \$200,000 into this
17 at this time.

18 Q. Do you expect -- or do you hope to have
19 this well active and producing within the next
20 month?

21 A. We're going to look at it. If it's
22 producing, we'll keep it. If not, then we'll apply
23 to have it plugged.

24 Q. Okay. So that deals with the lone well on
25 your inactive well list.

1 The other question I have, as we referred
2 to under the agreement as part of the consideration,
3 you took over responsibility for the Gulf McKay
4 well, correct?

5 A. That's correct.

6 Q. All right. Can you just describe for the
7 commission, what is the current status of the Gulf
8 McKay well that you took over responsibility for
9 under this purchase and sale agreement?

10 A. It is producing, and we've also addressed
11 the environmental issues under observation of the
12 OCD and the BLM, and have brought all the issues
13 back into compliance.

14 Q. Is that well back to beneficial use?

15 A. Yes, it is.

16 Q. Okay. Now, this transfer -- well, let me
17 ask you this, first.

18 This transfer of the Gulf McKay well was
19 part of your purchase and sale agreement with Yeso
20 Energy, correct?

21 A. Yes, it was.

22 Q. Did the Oil Conservation Division approve
23 your change of operator form for the Gulf McKay
24 well?

25 A. Yes, they did.

1 Q. Okay. And is that -- is that reflected in
2 Exhibit E?

3 A. Yes, it is.

4 Q. In Judah's application -- I'm sorry -- in
5 Judah's set of exhibits?

6 A. Yes, it is.

7 Q. Okay. So now, having done all of that, I
8 want to now turn to the two wells that are at issue
9 in this case, at least from the perspective of Judah
10 Oil, and why you are here. Okay?

11 One is the Dalton Federal Number 1, for
12 which the division has not yet approved the change
13 of operator. And then the Dow B -- the Dow B well,
14 which is the second well for which the division has
15 not yet approved the change of operator, correct?

16 A. Uh-huh.

17 Q. And they, like the Gulf McKay well, were
18 transferred under this purchase and sale agreement,
19 right?

20 A. That's true.

21 Q. Okay. Did -- with respect to the Dalton
22 Federal well, did you apply for a change of
23 operator?

24 A. Yes, I did.

25 Q. At the same time that you applied for

1 change of operator in the Gulf McKay well?

2 A. Yes, I did.

3 Q. And the division approved the Gulf McKay,
4 but not the Dalton Federal?

5 A. That's correct.

6 Q. Do you -- so let's talk about that. Is
7 that well located on a federal lease?

8 A. Yes, it is.

9 Q. Does Judah Oil own a percentage interest
10 in that federal lease?

11 A. Yes, we do.

12 Q. What is your percentage interest?

13 A. 39 and a half percent working interest.

14 Q. Have you been approved as the operator for
15 that well by the BLM?

16 A. Yes, I have.

17 Q. And have you undertaken efforts, with
18 oversight from the BLM, to get that well to a point
19 where it's capable of being produced?

20 A. Yes, I have.

21 Q. Is that well currently producing?

22 A. No, it's not.

23 Q. Why?

24 A. Because the OCD turned down my change of
25 operator on the Dalton well. They approved the Gulf

1 McKay.

2 Q. Okay. And if they had approved your
3 change of operator for the Dalton Federal well, like
4 they had for the Gulf McKay, would that well be
5 producing?

6 A. Yes, it would be.

7 Q. And it would be active?

8 A. Yes, it would.

9 Q. All right. Let's turn to what has been
10 marked as Judah Exhibit F.

11 A. (Witness complies.)

12 Q. And if we look in the upper right-hand
13 corner, this is a change of operator form that you
14 filed with the BLM for the Dalton Federal Well
15 Number 1, correct?

16 A. That's correct.

17 Q. All right. And did the BLM approve your
18 change of operator form?

19 A. Yes, they did, with conditions.

20 Q. Okay. When was that approved?

21 A. In August of -- August 31st of 2010.

22 Q. Okay. Now, you mentioned with conditions.
23 What -- are those conditions listed on the second
24 page of this exhibit?

25 A. Yes, they are.

1 Q. Now, can you briefly outline for the
2 division what those conditions are?

3 A. It states that we must submit a sundry
4 notice, as a notice of intent, prior to beginning
5 operations, and that it may be approved with
6 conditions. And they have the conditions listed
7 below.

8 Oh, it also says I need to submit a plan
9 for the wells within 30 days, stating your intent
10 for the wells.

11 And one was to return the well to
12 production or beneficial use, and the other one is
13 to submit a notice of intent to plug or abandon.

14 Q. And you're operating under a 30-day
15 timeline there?

16 A. That's correct.

17 Q. To submit your plan and bring it to
18 beneficial use?

19 A. Right.

20 Q. Or submit a notice to plug?

21 A. Correct.

22 Q. Are you also under a timeline with respect
23 to addressing environmental issues at this point?

24 A. Yes, I was.

25 Q. What's is the timeline there?

1 A. 90 days.

2 Q. Did Judah address the status of the well
3 and address any environmental issues within the time
4 frame required by the BLM?

5 A. Yes, we did.

6 Q. If you would, turn to what has been marked
7 as Judah's Exhibit G.

8 A. (Witness complies.)

9 Q. Does this reflect that you met on site
10 with a gentleman from the BLM?

11 A. Yes, I did.

12 Q. Who was that?

13 A. Jim Amos.

14 Q. How many times did you meet with the
15 representative of the BLM at the well site?

16 A. Twice.

17 Q. And in the course of those meetings, did
18 you address the environmental issues and the efforts
19 to bring the well back to active status?

20 A. Yes, we did.

21 Q. Were you able to, with the oversight of
22 the BLM, bring this well back to an active status?

23 A. I was able to put it on and show that it
24 could be produced and not plugged.

25 Q. And is that reflected in the sundry notice

1 in the middle of the page?

2 A. Yes, it is.

3 Q. You then filed your sundry notice with the
4 BLM reflecting these operations, correct?

5 A. That's correct.

6 Q. And did the BLM approve this?

7 A. They did.

8 Q. On what date?

9 A. On October 15, 2010.

10 Well, they actually received -- yeah, on
11 the -- I don't have the approval date. I just show
12 where they accepted it for record, and it's signed
13 by Mr. Whitlock.

14 Q. Okay. And then they provided a copy to
15 the Artesia office?

16 A. That's correct.

17 Q. Okay. Then have you sold any well -- oil
18 from this well -- yet --

19 A. No, we have not.

20 Q. I'm sorry. Let me finish. Have you sold
21 any oil from this well yet?

22 A. No. I've not sold any oil from this well.

23 Q. And you are waiting on approval of the
24 change of operator by the division before bringing
25 this well on to active status?

1 A. That's correct.

2 Q. All right.

3 Judah Exhibit H, the very next exhibit,
4 does this reflect that you informed the BLM that
5 you're awaiting approval from the division, as
6 operator, before bringing this well back to a
7 productive status?

8 A. That's correct.

9 Q. Does this also reflect that you intend to
10 produce that well once the division approves you as
11 operator, as the BLM has?

12 A. Yes, sir.

13 Q. All right. So if I am correct, with
14 respect to this Dalton Federal well, which is one of
15 two wells at issue, you've taken over responsibility
16 for this well, correct?

17 A. That's correct.

18 Q. You put this well into a condition where
19 it can be brought back to production?

20 A. That's correct.

21 Q. You have done that with the oversight and
22 approval of the BLM?

23 A. Yes, sir.

24 Q. And you're just waiting approval from the
25 division for your change of operator?

1 A. That's right.

2 Q. All right. I want to now turn to the
3 other well that's at issue here, and that is the Dow
4 B well.

5 And just as an oversight, I want to ask
6 you a few questions before we get into the exhibits.

7 Has the BLM approved your company
8 officially as the operator of the Dow B well?

9 A. Yes, they have.

10 Q. Has the BLM approved -- approved a plan to
11 convert this Dow B well to a saltwater disposal
12 well?

13 A. Yes, they have.

14 Q. Has your company submitted an application
15 to the division for permission to inject into this
16 saltwater disposal well?

17 A. Yes, they have.

18 Q. Has your company gone out and obtained all
19 necessary bonds to operate this well as a saltwater
20 disposal well?

21 A. Yes, we have.

22 Q. And has your company submitted a
23 right-of-way application to the BLM for purposes of
24 bringing this commercial disposal facility into
25 operation?

1 A. Yes, we have.

2 Q. Would you turn to --

3 MR. FELDEWERT: And I think I can do this
4 rather quickly, members of the commission.

5 Q. (By Mr. Feldewert) If you would, turn to
6 exhibit -- Judah Exhibit I.

7 A. (Witness complies.)

8 Q. Is this the change of operator form that
9 you filed with the BLM on August 11th, 2010, for the
10 Dow B Federal well?

11 A. Yes, it is.

12 Q. And did you file this change of operator
13 form at the same time that you filed the change of
14 operator form for the Dalton Federal well?

15 A. Yes, it is.

16 Q. And was this approved by the BLM on
17 August 31, 2010, with the same conditions that we
18 just went through with the Dalton federal well?

19 A. Yes, it was.

20 Q. The same type BLM timeline?

21 A. That's correct.

22 Q. Did you submit an operating plan for this
23 Dow B well within 30 days, as required by BLM?

24 A. Yes, I did.

25 Q. Is that reflected in Judah Exhibit J?

1 A. Yes.

2 Q. Okay. Now, we actually have two sundry
3 notices with different dates. I want to walk
4 through them real quickly.

5 You developed and put in place an initial
6 plan with the BLM, correct?

7 A. That's correct.

8 Q. That's reflected on the first page?

9 A. Yes, it is.

10 Q. And in the middle of that, you noted for
11 the BLM and for the division your intent to convert
12 that well to a saltwater disposal well?

13 A. That's correct.

14 Q. And you reference in there that you had
15 already submitted an application to the Oil
16 Conservation Division for permission to inject into
17 that well bore?

18 A. That's right.

19 Q. Okay. And that was then submitted by
20 you -- this notice was submitted on September 7th,
21 2010, if I look at the bottom of the page.

22 A. Yes, that's correct.

23 Q. Okay. And the second page of this exhibit
24 is a second sundry notice that you submitted for the
25 same well on September 30, correct?

1 A. That's right.

2 Q. And is it true that in this second sundry
3 notice you provided to the BLM more detail about
4 what you intended to do with this particular well?

5 A. That's right.

6 Q. And you also noted, did you not, in the
7 middle of the page at the bottom, that you had in
8 place a \$25,000 bond with the Carlsbad BLM office,
9 correct?

10 A. That's right.

11 Q. And a \$100,000 additional bonding for this
12 property?

13 A. The \$100,000 was to cover the Dalton, the
14 Gulf McKay, and the Dow B well.

15 Q. Okay.

16 A. That was the condition that the BLM asked
17 for additional bonding.

18 And then the \$25,000 is to cover the
19 saltwater disposal requirement that the BLM has for
20 bonding.

21 Q. So you actually have two different bonds
22 in place for purposes of this Dow B well?

23 A. That's correct.

24 Q. Then I note, Mr. Campanella -- and I think
25 the reason we put this together as one exhibit -- is

1 that the BLM approved both of these sundry notices
2 on the same date, correct, December 7, 2010?

3 A. That's right.

4 Q. And it did so subject to certain
5 conditions of approval?

6 A. That's right.

7 Q. And those are noted on the third page of
8 this exhibit?

9 A. That's correct.

10 Q. So subject to these conditions of
11 approval, which deal with operating the saltwater
12 disposal well and keeping surface disturbance, for
13 example, to a minimum, they have essentially
14 approved your plan to convert this well from an
15 abandoned well to a saltwater disposal well?

16 A. Right.

17 Q. Okay. If I move on, here is Judah
18 Exhibit K, the application that you filed with the
19 division on August 17th, 2010, for approval to
20 dispose of saltwater into the Dow B Federal well?

21 A. That's correct.

22 Q. And this is, indeed, the application, is
23 it not, Mr. Campanella, that you referenced in your
24 sundry notice to the BLM, which we've marked as
25 Exhibit J, just went through?

1 A. That's it.

2 Q. Okay. Now you mentioned your bonding
3 requirements. If I look at Judah Exhibit L, does
4 Exhibit L contain the bonds that were required by
5 the BLM for this particular well?

6 A. Yes, they do.

7 Q. And you mentioned that you have two bonds:
8 The \$25,000 bond, which is the first couple of pages
9 of this exhibit, and then you have a \$100,000 bond
10 that was approved by the BLM, correct?

11 A. That's correct.

12 Q. That's reflected on the third page of this
13 exhibit?

14 A. That's right.

15 Q. How long have you had these bonds in place
16 with the BLM?

17 A. Since August 11 of 2010.

18 Q. So before you filed for your change of
19 operator.

20 A. Correct.

21 Q. Correct? Okay.

22 A. That was required.

23 Q. Do you also have a bond on file with the
24 division, since you operate wells in New Mexico?

25 A. Yes, I do.

1 Q. Okay. Does -- okay.

2 Now in addition to these sundry notices,
3 did Judah also file with the BLM a request for a
4 right-of-way for your disposal operations?

5 A. Yes, we did.

6 Q. And is it -- does Exhibit M reflect both
7 the category determination decision and then the
8 application for a right-of-way that was subsequently
9 filed with the BLM?

10 A. Yes, it does.

11 Q. All right. Now, can you explain these two
12 different documents to the commission, please?

13 A. Well, the first is your category
14 determination, which is something that the BLM
15 requires in order for them to go out and inspect the
16 property and to decide whether or not it's going to
17 be a -- okay to put a facility there. They want to
18 look over the land.

19 The second one is the actual application
20 that we applied to the BLM, their required
21 paperwork --

22 Q. Okay.

23 A. -- for the right-of-way.

24 Q. Let's talk about this category
25 determination document. Is that the first step?

1 A. It is.

2 Q. Under that document, do you have to submit
3 a fee?

4 A. Yes, we do.

5 Q. Okay. What happened after you submitted
6 your fee?

7 A. The BLM officer -- I spoke with him and
8 talked to them about the area that we are looking
9 at. We addressed the sand dune lizard -- oh,
10 whatever -- I can't even think of the name. But
11 anyway, we discussed the sand dune lizard and
12 decided -- and they saw that our right-of-way was
13 along an existing right-of-way, which they felt very
14 comfortable with.

15 So we talked about the actual area that we
16 were going to lay the water line, and that we were
17 not going to put any facilities on that well site
18 except a well bore and pump into the well, to reduce
19 land use.

20 Q. Did he do an actual inspection of the
21 area, to your knowledge?

22 A. I am sure he has. To be honest with you,
23 I don't know for sure if they followed up on this.

24 Q. But you had discussions with them about
25 your siting requirements and the endangered species

1 in the area, et cetera?

2 A. Yes.

3 Q. Okay. Did you subsequently, then, file
4 your application for a right-of-way?

5 A. Yes, we did.

6 Q. And when was that filed?

7 A. Oh, that was filed in -- on September 30th
8 of 2010.

9 Q. Okay. Now, there was some mention here
10 about a large-scale commercial disposal project.
11 How do you refer to that?

12 A. Well, we have looked for disposal in this
13 area for quite some time. And we have tried -- we
14 have applied for disposal on the south half of
15 Section 29, on the Doc Slavin Number 1, which was
16 denied by Oxy, and so we have tried to put a
17 facility in this area.

18 Under this agreement that we came under
19 with Yeso, that would allow us to take over that Doc
20 Slavin well that we were rejected before, and also
21 Doc Slavin Number 2, plus the Dow well.

22 And we were -- we are going to have a
23 broad scope, a large commercial disposal well,
24 because -- I'm sure COG would testify they need the
25 water to -- I mean there's just not enough disposals

1 in the area, and that's my business.

2 And so we were going to utilize all of
3 these well bores, including the Dow, in this
4 project, which is called the Cedar Lake Disposal,
5 SWD Disposal Project.

6 Q. How many trucking companies do you
7 anticipate serving with your Cedar Lake Disposal
8 Project?

9 A. We have over 50 signed up with us and we
10 have companies call us daily to get signed up with
11 our company to inject water.

12 Q. What capacity do you anticipate, once your
13 Cedar Lake Disposal Project is approved by the BLM
14 and put into place?

15 A. Around 30,000 barrels a day; 30- to 40,000
16 a day.

17 Q. And is the Dow B Federal well, one of the
18 wells at issue here today --

19 A. Yes, it is.

20 Q. -- part of this Cedar Lake Disposal
21 Project?

22 A. Yes, it is.

23 Q. What is the status of this project?

24 A. We have --

25 Q. With respect to the BLM?

1 A. We have submitted all of our right-of-way
2 applications and it is in process. They are
3 processing the application right now.

4 They -- we spoke with them. It should be
5 approved within the next week, for us to reenter
6 another well bore, the Jamoca, which is actually
7 right next to the disposal project.

8 So there will actually been five well
9 bores -- or four, I'm sorry. The Jamoca, which we
10 did receive OCD approval to inject, the two Doc
11 Slavin wells, Doc Slavin Number 1, Doc Slavin Number
12 2 Federal, and the Dow B Federal.

13 Q. Now in addition to these disposal wells, I
14 guess you've got some kind of -- what is it, is it
15 an unloading facility?

16 A. Yes. That's called the Cedar Lake
17 Disposal Facility.

18 Q. Okay. So basically what the BLM is going
19 to be permitting is the disposal facility and then
20 the associated disposal wells?

21 A. That's correct.

22 Q. Okay. How important is the Dow B Federal
23 well to your disposal -- your commercial disposal
24 project?

25 A. It is very important to our disposal

1 because of the disposal capacity that it can hold.

2 Q. Okay. Now with respect, then, to this
3 well that you have testified is important to your
4 project, if I am summarizing it correctly, you have
5 obtained whatever rights to this well that the prior
6 operator had in his well bore, correct?

7 A. That's correct.

8 Q. You've obtained approval from the BLM as
9 the operator?

10 A. Yes, we did.

11 Q. You have -- the BLM -- you've submitted,
12 and the BLM has approved, a plan to convert this
13 well as part of your saltwater disposal operation?

14 A. Yes.

15 Q. You have on file with the Oil Conservation
16 Division an application pending for authority to
17 inject saltwater into this Dow B well?

18 A. That's correct.

19 Q. You have all your necessary bonding in
20 place to operate the saltwater disposal well?

21 A. We do.

22 Q. Both with the BLM and the division?

23 A. That's correct.

24 Q. And you have a right-of-way on file with
25 the BLM for adding this Dow B to your Cedar Lake

1 project?

2 A. That's correct.

3 Q. All right. Then as part of this whole
4 process, back in August when you acquired these
5 properties, did you also apply to the OCD to become
6 the operator of record for this Dow B well?

7 A. Yes, we did.

8 Q. Is that reflected in Judah Exhibit N, as
9 in Nancy?

10 A. Yes, it is.

11 Q. And under this document, as the new
12 operator, you agreed to take over responsibility for
13 not only the Dow B well, but also the Gulf McKay and
14 the Dalton, correct?

15 A. That's correct.

16 Q. And the division has approved your change
17 of operator for the Gulf McKay well, but they have
18 not yet for either the Dalton or the Dow B?

19 A. That's correct.

20 Q. Were Exhibits A through N prepared by you
21 or under your direction and supervision,
22 Mr. Campanella?

23 A. Yes, they were.

24 Q. Okay.

25 MR. FELDEWERT: At this time, members of

1 the commission, I would move the admission into
2 evidence of Judah Exhibits A through N. And I would
3 also add the additional evidence of Judah Exhibit O,
4 which has already been referenced here today.

5 MR. HALL: No objection.

6 MR. SWAZO: No objection.

7 MADAM CHAIRWOMAN BAILEY: So admitted.

8 MR. FELDEWERT: I have no further
9 questions of this witness.

10 MADAM CHAIRWOMAN BAILEY: Okay.

11 EXAMINATION

12 BY MR. SWAZO:

13 Q. Mr. Campanella, good morning.

14 A. Good morning.

15 Q. Do you also go by the name of James?

16 A. Actually, I go by Blaise. I use James as
17 my signature and stuff, but my -- I go by my middle
18 name.

19 Q. Okay. It's -- I ask that question because
20 there are several documents that refer to James
21 Campanella, and I just want to make sure that
22 that's -- you're the same person.

23 A. Yes, I found out it's much easier if I use
24 James than Blaise, starting off. So we can kind of
25 work into Blaise.

1 Q. Okay.

2 Mr. Campanella, on August 11th, you had
3 submitted a signed federal sundry for Judah Oil,
4 trying to take over the Dalton well?

5 A. Yes.

6 Q. And had you applied with the OCD for
7 operator of record for that well, at that time?

8 A. I don't know if it was August 11 or -- I
9 don't have it in front of me.

10 Let's see. I think it's dated August 18,
11 isn't it? I don't know which one you're
12 referencing, because there's different change of
13 operators in here.

14 In our Exhibit E, we have our change of
15 operator. That's dated August 18th. Gene Lee
16 actually signed it on August 16th, and that may be
17 where you're getting your number from, so...

18 Q. But this change of operator was for the
19 Gulf McKay Federal Number 1.

20 A. Yes. It was actually for two wells, the
21 Gulf McKay and the Dalton.

22 And I actually believe that this -- I'm
23 not for sure, but I think it was also for the Dow B.

24 It was. It was also for the Dow B. It
25 was for all three wells.

1 Q. And on the change of operator, it says on
2 its face that it's effective on the date of approval
3 by the OCD. Is that correct?

4 A. That's correct.

5 Q. And we're actually here today because one
6 of the questions is whether or not Yeso can actually
7 transfer the Dow B Federal well to Judah, correct?

8 A. That's correct, through the New Mexico Oil
9 Conservation Division.

10 Q. Because -- because the transfer has not
11 been approved by the OCD?

12 A. That's correct.

13 Q. So this change of operator cannot be for
14 the Dow, because if you will look at the change of
15 operator, it says "NMOCD approval."

16 A. Well, this was actually submitted for all
17 three wells. It was submitted for the Dow.

18 Now, I don't know -- like I said, I don't
19 know which one you're referencing to, because I have
20 two separate change of operators dated the same day;
21 one which was approved, actually, for the Gulf
22 McKay, and then the other ones that were denied by
23 the OCD -- or they're actually still pending.

24 Q. Okay. Which exhibit is the one that was
25 approved for the Gulf McKay?

1 A. Exhibit E.

2 Q. Okay. And the other change of operator
3 that you're referring to was for the Dalton and the
4 Dow well?

5 A. That's correct.

6 Q. Okay.

7 MR. FELDEWERT: I think that is Exhibit N,
8 Counsel.

9 THE WITNESS: Exhibit N, in our exhibits.

10 MR. FELDEWERT: N as in Nancy.

11 Q. (By Mr. Swazo) Okay. So Exhibit E was
12 only for the Gulf McKay, and Exhibit N is for the
13 Dow and the Dalton well?

14 A. Exhibit N was actually for all three
15 wells. They were submitted at the same time, but
16 the OCD granted this well for the Gulf McKay on this
17 approval. I mean it's stamped "New Mexico OCD
18 approval," so it's the same OCD.

19 Q. And attached to this change of operator
20 is -- is the list of items that an operator
21 generally agrees to when they do a change of
22 operator.

23 And if you will read paragraph 2, doesn't
24 it say that an operator is not to operate a well
25 until approved by the OCD?

1 A. Yes, it does.

2 Q. And didn't you sign off on the same list
3 about a year earlier?

4 A. Yes, I'm sure I did.

5 Q. If you will look at the OCD exhibit -- OCD
6 Exhibit 18. Is that the list that you signed off
7 on?

8 A. You know, I don't have your exhibits.

9 Q. I apologize.

10 MR. SWAZO: May I approach the witness and
11 provide him with a witness binder?

12 MADAM CHAIRWOMAN BAILEY: Yes.

13 THE WITNESS: Which exhibit?

14 Q. (By Mr. Swazo) 18.

15 A. 18. Okay.

16 Q. And this is the document that you signed
17 off in -- on October 7, 2009?

18 A. Yes. And I don't know which -- is this in
19 reference to the Gulf McKay? Or which -- which well
20 is this in reference to?

21 Q. You're talking about Exhibit 18?

22 A. Yes, sir.

23 Q. Well, my point is that -- that you were
24 aware that you would not able to operate a well
25 until the OCD actually approved a change of

1 operator.

2 A. Uh-huh.

3 Can I go back in time a little bit and
4 explain what happened on this? Would that be okay
5 with you?

6 Q. Well, you can go ahead and have your
7 attorney follow up with that.

8 A. Okay, that's fine. Okay.

9 Q. So you were aware that you would not be
10 able to operate a well until the OCD actually
11 approved the change of operator?

12 A. No, sir, I was not.

13 Q. Isn't that what paragraph Number 2 says?

14 A. It does. But to be honest with you,
15 there's a lot of stuff that's -- I did not read this
16 when I signed it. That would be my fault.

17 But I was not aware of this rule until
18 later. We were waiting on OCD approval, and I had
19 to suffice the BLM to show -- because I had -- I had
20 to -- an obligation to them. Okay?

21 And so when we put that well on, the
22 Dalton, we were trying to suffice the BLM.

23 I was not aware of this. I signed it, so
24 that would -- you know I guess I'm guilty as
25 charged. But I did not read this Number 2, and I

1 didn't become aware of it until after we had put the
2 Dalton on.

3 Q. And that same statement is attached to the
4 change of operator form, is it not?

5 A. Yes, it is.

6 Q. Did you happen to go through a new
7 operator orientation with Daniel Sanchez?

8 A. You know, to be honest with you, I don't
9 recall the conversation. I do recall talking with
10 Daniel Sanchez.

11 Q. Did he go over this list with you, the
12 list of OCD exhibits -- OCD Exhibit 18?

13 A. To be honest with you, I can't remember.

14 Q. So the change of operator that you've --
15 going to Judah's Exhibit Number -- or letter N, the
16 change of operator form, that form was not approved,
17 right?

18 A. That's correct.

19 Q. Isn't it true that Judah actually deleted
20 that application on October 14, 2010?

21 A. We were told to resubmit new applications
22 for the Gulf McKay and the Dalton Federal through a
23 prehearing conference that my attorney was at.

24 I believe Daniel Sanchez attended. COG
25 attorney -- I believe you-all attended that

1 pre-conference hearing and came into -- from my
2 understanding, we were to submit a new change of
3 operator on the Dalton and the Gulf McKay, and that
4 they would go ahead and approve those.

5 They approved the Gulf McKay, but they did
6 not approve the Dalton.

7 Q. Okay. So this permit was actually
8 withdrawn by Judah?

9 A. Evidently it wasn't, because it was
10 approved by the OCD.

11 Q. Where is the -- where does the approval
12 appear on the change of operator forms? And I'm
13 referring to Exhibit N.

14 A. Okay.

15 Q. We see the approval on the other document,
16 but we do not see the approval on this document.

17 A. It's the same document. They're dated the
18 same date.

19 Q. But if you will look at the top of
20 Exhibit N, you will see there's a permit number.
21 And that's Permit Number 118864.

22 A. Okay. Yes. We -- we had to pull this out
23 and submit those other two, under the impression
24 that we were going to receive operator-ship of the
25 Dalton and the Gulf McKay.

1 Q. Okay.

2 A. So they actually used the same one, but
3 just -- we put a different permit, so it has a
4 different permit number on it.

5 Q. Okay. So if I understand you correctly,
6 this permit, Exhibit N, was withdrawn by Judah?

7 A. It -- I guess it was, if we withdrew it,
8 because they weren't going to approve this. And
9 they told us to submit two new -- with separate
10 wells on each application.

11 Q. And Exhibit Number E was the change of
12 operator that was submitted for the Gulf McKay well?

13 A. Which one are talking about?

14 Q. Judah Exhibit E.

15 A. Judah -- yes, that's -- that's correct.

16 Q. If you look at Judah Exhibit E, the second
17 page, the second paragraph that appears -- it is
18 numbered Number 2, under the -- "As the operator of
19 record of wells in New Mexico..."

20 A. Uh-huh.

21 Q. The last sentence says: "I understand
22 that if I acquire wells or facilities subject to a
23 compliance order addressing inactive wells or
24 environmental cleanup, before the OCD will approve
25 the change of op- -- the operator change, it may

1 require me to enter into an enforceable agreement to
2 return those wells to compliance."

3 Do you see that?

4 A. Now which one? Which exhibit are you
5 looking at?

6 Q. Okay. It's Judah Exhibit E.

7 A. Okay.

8 Q. The second page under the heading that
9 appears as: "As the operator of record wells in
10 New Mexico, Judah Oil, LLC, agrees to the following
11 statements."

12 A. Well, to be honest with you, it's not in
13 my exhibit. I don't have a signed signature page on
14 this one. Maybe it just didn't print off.

15 Q. The second page here? It doesn't have a
16 signature on it.

17 A. Okay. "Agreed to the following
18 statements."

19 Okay. I see where you're referencing to.
20 Yes, I see that. I'm sorry.

21 Q. The one that's numbered -- the one that's
22 Number 2?

23 A. Right. Okay.

24 Q. It says: "I understand that if I acquire
25 wells or facilities subject to a compliance order

1 addressing inactive wells or environmental cleanup,
2 before the OCD will approve the operator change, it
3 may require me to enter into an enforceable
4 agreement to return those wells to compliance."

5 You see that provision, right?

6 A. Yes, I do.

7 Q. Did you check with anyone to see if the
8 wells were under a compliance order?

9 A. I didn't. I actually went to the office
10 of Mr. Gray and the OCD office in Artesia,
11 district -- I think that's District 3. Is that
12 correct? District 2.

13 He said that they weren't allowed to do a
14 compliance order, because I was going to request
15 one.

16 And then he -- in order -- and then I
17 talked to Daniel Sanchez, who said that it was going
18 to go to hearing and they wouldn't enter into an
19 agreement compliance order.

20 So we did seek to receive one, but we were
21 not able to receive one.

22 Q. Okay. On October 19, 2011, the OCD filed
23 this case asking what we should do. Someone at your
24 office signed for the hearing on August 25th, 2010.

25 And if you will look at OCD Exhibit 1 --

1 and it's titled Exhibit H.

2 It shows the signature of that person is
3 John Paul Hammet.

4 When did you find out about the OCD's
5 hearing application?

6 A. I guess you need to be a little more to
7 the point. I don't understand which day you're
8 talking about.

9 Q. Okay. The OCD has filed -- the OCD filed
10 a hearing application in this case asking what we
11 should do --

12 A. Okay.

13 Q. -- as far as the wells.

14 When did you first learn about that
15 hearing application?

16 A. It was, I believe, sometime in either --
17 it was August, I believe, of 2010.

18 Q. And I am assuming that you read the
19 application?

20 A. No. Actually, I didn't have access to the
21 application.

22 Q. What happened with the application? I
23 mean...

24 A. I just -- it was -- I understood that
25 there was going to be a hearing on the docket to

1 cover these wells. And so then I got ahold of my
2 counsel to see what we needed to do, as far as
3 filing whatever papers we needed to.

4 Q. And did you understand that the main issue
5 was whether or not -- who we should recognize as the
6 operator of the Dow well?

7 A. Yes. Yes.

8 Q. And according to federal sundries filed by
9 you, you actually started to produce the Dalton well
10 on October 4, 2010?

11 A. That's correct.

12 Q. And at that time, you knew that you were
13 not the operator of record with the OCD?

14 A. I was with the BLM. And I was under --
15 under a time frame for them to show that the well
16 could be produced or not. I was trying to satisfy
17 them, yet we didn't apply for any -- to sell any oil
18 or any of that. We were just trying to suffice the
19 BLM to show that the well would be put back into
20 operating status.

21 Q. Okay. But you were not the operator of
22 record with the OCD?

23 A. Not with the OCD.

24 Q. And actually, the OCD denied several of
25 your federal sundry reports for the Dalton well

1 because you were not the operator -- because Judah
2 Oil, LLC, was not the operator of record of the
3 well?

4 A. That's correct.

5 Q. Is Judah currently producing the Dalton
6 well?

7 A. No, we are not.

8 Q. How long did Judah produce the Dalton
9 well?

10 A. I believe for six or seven days, just to
11 establish production on it.

12 Q. Have you filed the production reports?

13 A. Yes, we did.

14 Q. And under which entity's name?

15 A. Under Judah Oil, LLC.

16 I believe we did. To be honest with you,
17 I know we filed the Gulf McKay. I'm not for sure if
18 we have -- I don't think we could have filed the
19 Dalton. I don't take care of that, my -- the girls
20 in the office take care of it.

21 I know that we filed it with the BLM to
22 show them production, and we also filed the Gulf
23 McKay to show that it's actively producing.

24 Q. If you returned the well to production,
25 why did you think that it was okay to do so?

1 A. I became aware of -- that I was not
2 allowed to produce that well, even though this was
3 signed, like you're showing on paragraph 2.

4 I was under the impression that -- we had
5 had a prehearing conference. And in that prehearing
6 conference it was determined that they would -- the
7 OCD would give me operations of the Dalton McKay --
8 I mean the Dalton Federal and the Gulf McKay, if I
9 would file the appropriate paperwork. So we filed
10 the appropriate paperwork.

11 Meanwhile, I was on a timeline with the
12 BLM that I had to show that the well could be
13 brought into compliance with the BLM. So we put it
14 on for a short period of time, which I had Jim Amos
15 witness, to show -- so he could see my gauge and
16 show that the well could be put back on line. And
17 then we shut it in to wait on the OCD approval.

18 And then we sent a sundry to the BLM,
19 stating that we couldn't produce this well until we
20 had received OCD approval.

21 Q. When was the date of this prehearing
22 conference?

23 A. I don't know the exact date. It was in --
24 it was before our first hearing in -- I think it was
25 in September, because I think our first hearing date

1 was set in October. So we had a prehearing
2 conference -- it was about a month -- a little bit
3 before our first hearing date.

4 Q. But wasn't the OCD marking on your federal
5 sundries for the Dalton that they were denied
6 because Judah was not the operator of record?

7 A. Yes. That was before they had the
8 prehearing conference.

9 Q. Weren't some of those denials in late
10 September and in October?

11 A. I don't know. They denied me -- after we
12 sent the Dalton, they okayed the Golf McKay, but
13 they denied the Dalton.

14 Q. Look at OCD Exhibit Number 19, which is
15 actually the notice of intent that you filed for the
16 Dalton Federal well to return to production.

17 It actually states that the OCD denied it
18 on September 30, because Judah is not the operator
19 of record for the well.

20 A. Yes, that's on the Dalton. But that
21 was -- this, I believe, was after the pre-conference
22 hearing. And see, before, they had a pre-conference
23 hearing stating that we would file the paperwork and
24 be allowed to take over the operations of the Dalton
25 Federal and the Gulf McKay.

1 Q. But that's not what it says according to
2 this document, correct?

3 A. What this document is saying is that they
4 turned it down because I wasn't operator of record,
5 because they denied me operator of record.

6 But during the pre-conference hearing they
7 said that if we filled out the paperwork and put
8 each well on an individual -- send each one in as a
9 change of operator individually, that they would
10 approve the Dalton and the Gulf McKay. That's why
11 we received approval from the Gulf McKay.

12 Q. If you weren't approved as the operator of
13 record for the Dalton Federal well, then how did you
14 intend to file production reports?

15 A. I was just trying to show production to
16 the BLM, to show them that the well had produced,
17 that it was capable of producing, and then it was
18 shut in.

19 MADAM CHAIRWOMAN BAILEY: Mr. Swazo, will
20 you be continuing this line of questioning very much
21 longer?

22 MR. SWAZO: Yes.

23 MADAM CHAIRWOMAN BAILEY: Then shall we
24 break for lunch?

25 MR. SWAZO: When shall we return?

1 MADAM CHAIRWOMAN BAILEY: At 1:00.

2 (A recess was taken from 11:55 a.m. to
3 1:03 p.m.)

4 MADAM CHAIRWOMAN BAILEY: Back on the
5 record.

6 We were listening to Mr. Swazo ask
7 questions of the witness.

8 Are you ready?

9 MR. SWAZO: Yes, Madam Commissioner.

10 Q. (By Mr. Swazo) Mr. Campanella, how was
11 Judah planning on obtaining an injection permit for
12 the Dow well and any other privileges from the OCD,
13 if it was not the operator of record?

14 A. I'm sorry. I'm going to turn this off.
15 It came into my pocket by accident. I apologize.

16 Q. Sure.

17 So the question again was: How was Judah
18 planning on obtaining an injection permit or any
19 other privileges for the Dow Federal well from the
20 OCD, if it was not approved as the operator of
21 record from the OCD?

22 A. Well, we were going through the process.
23 That hearing had been set to cover that, so we had
24 to go through the hearing.

25 Well, originally, when we first applied, I

1 thought that we had time to do that. I wasn't aware
2 of the order, when we first started this process.
3 All I knew is that I needed to get my paperwork in
4 to the BLM, because I had called and talked to the
5 BLM and asked them what process I need to do.

6 And he says, "We need you to give me a
7 change of operator and a plan and stuff in order to
8 be the operator."

9 So that's what I did.

10 Q. But how about getting the approvals from
11 the OCD, if you were not recognized as the operator
12 of record from the OCD?

13 A. Well, that's -- we applied for the change
14 of operator.

15 Q. Well, without that change of operator, how
16 would you get those approvals?

17 A. Well, I mean I have two different
18 entities. I have the OCD I have to deal with and I
19 have the BLM, because it's BLM surface and federal.
20 So I have to deal with them, also.

21 So I filed my paperwork with the OCD for
22 change of operator, and I also filed with the BLM.

23 Q. I had some questions about the purchase
24 and sale agreement. The agreement was dated on
25 August 25th.

1 A. Uh-huh.

2 Q. But it actually went into effect on
3 August 11th. Is that right?

4 A. Yes, it is. Do you have an exhibit number
5 that I can look at?

6 Q. That would be in your Exhibit B.

7 A. Okay. We made it effective as of
8 August 11th because there was a --

9 To be honest with you, I mean, I can't
10 remember exactly what the reasoning was on that, the
11 August 11th deadline, why we set it back then. It
12 was a time factor issue that we had to have
13 something done.

14 And to be honest with you, I can't recall
15 why we made it effective as of August 11th.

16 Q. But the purchase and sale agreement wasn't
17 actually signed until August 25th?

18 A. Right. And the reason why is we had to
19 get the document together with our attorneys and
20 stuff. So...

21 Q. Wouldn't it have been effective on
22 August 25th, the date that the parties signed the
23 agreement?

24 A. No. You can make it effective for
25 whatever date you want to make it effective at.

1 Q. Okay. Now according to this document, the
2 sellers of the properties are Yeso and Chico, right?

3 A. Correct.

4 Q. And in -- Yeso had submitted a letter --
5 Yeso and Chico had submitted a letter to the
6 division indicating that they had transferred or
7 sold all of the interest to Judah.

8 What did you understand you were getting
9 from Yeso?

10 A. Basically what's described in this
11 purchase and sales agreement.

12 Q. What is that?

13 A. The Dow B well bore, the Dalton Federal
14 lease and equipment and the well bore, and the Gulf
15 McKay lease, equipment and well bore, and the Doc
16 Slavin lease.

17 Q. I'm sorry. Did you say the Gulf McKay
18 lease and well bore?

19 A. Federal, yes.

20 Q. Lease and well bore.

21 You indicated that the agreement gives you
22 the well bore for the Dow B. But according to
23 Exhibit A of the agreement, I only see that the
24 property is the lease for the Dow B well bore.

25 A. This is the purchase and sales agreement.

1 Do you have the -- let me look at the actual --
2 well, it says the Dow B Federal Number 1, which is
3 the well. And it covers -- and it has the lease
4 also listed.

5 Q. Okay.

6 A. It's the Dow B lease, but it's the Dow B
7 Federal Number 1, which is the well.

8 Q. So what about the well bore for the Dow B
9 Federal Number 1?

10 A. It's covered in this.

11 Q. Because when I look at this agreement for
12 the Dow B, the Dalton, it specifically states that
13 the sale is for the lease.

14 And for Item Number 3, for the Doc Slavin
15 Federal leases, it indicates the lease and the well
16 bores. So...

17 A. Yes. Because we -- those wells are
18 currently operated by Oxy.

19 Q. And so what about the well bores for the
20 Dow B and the Dalton Federal?

21 A. Well, we were -- received the
22 operations -- well, we are applying for operations
23 with Yeso, because they were -- they had been the
24 operator of record under these other wells. But
25 they were the leaseholder of the Doc Slavin lease.

1 Q. Okay. In looking at this agreement on
2 page 1 it says that the -- well, actually, I want to
3 back up just briefly.

4 What did you understand you were getting
5 from Chica?

6 A. You know, we -- we mentioned Chica in this
7 to make sure there wasn't ever any question. We
8 wanted to cover our interest, to make sure that if
9 there was any other agreements out there that Chica
10 was involved, so that we would receive what we were
11 applying for.

12 Q. And so what did you understand you were
13 getting from Chica?

14 A. Everything described in this agreement,
15 which would be actually the Gulf McKay, the Dalton,
16 and the Dow B.

17 Q. Okay. Now the way that this purchase and
18 sale agreement reads, it says that: "The following
19 provisions will apply to Lease Number 1, which is
20 the Dow well, in the event it is successfully
21 permitted as a saltwater disposal well. That the
22 sellers, Chica and Yeso, would get \$50,000, 5 cents
23 per barrel of water disposed, a 10 percent royalty
24 on oil collected by the saltwater disposal." Is
25 that accurate?

1 A. Yes. It would actually be a total of 5
2 cents. It doesn't make a difference if it's Chica
3 or Yeso. The total amount would be the 5 cents a
4 barrel.

5 Q. But that's what the agreement states,
6 right?

7 A. That is what it states.

8 Q. Where would you send the money to?

9 A. To Yeso or Gene Dow -- or Gene Lee, I'm
10 sorry.

11 Q. Would you send any money to Chica?

12 A. No.

13 Q. Now under the terms of this agreement,
14 does -- does Yeso continue to -- will Yeso continue
15 to receive the 5-cent-per-barrel disposal fee and
16 also the royalty interest as long as Judah operates
17 the well as a saltwater disposal well?

18 A. Yes.

19 Q. And what would happen if -- what would
20 happen if Judah is not able to obtain a saltwater
21 disposal well?

22 A. Then this agreement -- there would be no
23 compensation. But we still receive the Dalton, the
24 Gulf McKay, and the Doc Slavin wells. We receive
25 the lease.

1 Q. So if I understand you correctly, if Judah
2 is unable to obtain a saltwater disposal permit for
3 the Dow well, the conveyance will go through to
4 Judah?

5 A. We still receive the other wells and we're
6 no longer obligated to --

7 Q. But do you receive the Dow well?

8 A. Well, if we receive operator-ship of it,
9 yes, we do.

10 Q. Has the Dow well been conveyed at this
11 point?

12 A. It has been conveyed.

13 Q. I'm just a little confused, and maybe you
14 can help clarify things.

15 The agreement says that -- part of the
16 agreement says that all seller's right, title, and
17 interest is transferred to Judah, but then it has
18 that provision which applies specifically to the Dow
19 well, which states that: "The following provision
20 will apply in the event -- in the event that the Dow
21 well is successfully permitted as a saltwater
22 disposal well, sellers shall convey all of their
23 right, title, and interest in the Dow B to Judah."

24 A. We rec- -- on the assignment, we received
25 through the assignment, all of their rights and

1 titles and interest.

2 Q. What happens if the saltwater disposal
3 permit goes to COG?

4 A. I guess that's what we're going to decide
5 here, through this commission.

6 Q. Well, what would happen under the
7 agreements?

8 A. I wouldn't be responsible to Gene for the
9 Dow B, or to Yeso.

10 Q. And how much is a 5-cent fee worth under
11 this agreement?

12 A. Depending on how much water the well bore
13 takes.

14 Q. Now according to your saltwater disposal
15 application for this permit, you're estimating
16 10,000 barrels disposed a day?

17 A. That's what we estimate.

18 Q. With a maximum of 20,000 barrels a day?

19 A. Correct.

20 Q. And so 10,000 barrels a day, would that be
21 roughly \$500 a day that would be going to Yeso and
22 Chica?

23 A. Correct.

24 Q. That would mean that \$5,000 a day would go
25 to Yeso and Chica?

1 A. Yes, to Yeso.

2 My -- well, if you want to construe that
3 as Yeso and Chica, then that's fine, but it's going
4 to be paid to Yeso.

5 Q. And if we consider the 20,000 barrels
6 maximum, that could be \$1,000 a day?

7 A. Correct.

8 Q. Do you still want the Dalton if you don't
9 get the Dow?

10 A. Yes.

11 Q. And if Judah does not get the saltwater
12 disposal permit in this case, what are you guys
13 going to do with the Dow well?

14 A. Well, I will talk to my counselor and see
15 what he suggests and move forward. We're not going
16 to convey it. We don't have plans on conveying it.

17 Q. And if you look at the language in the
18 purchase and sale agreement where it states that:
19 "Yeso and/or Chica, with regulatory approval, will
20 transfer operator-ship of all wells to Judah," did
21 you understand that the sellers could get regulatory
22 approval?

23 A. I didn't know if they could or not. I was
24 probably under the influence, pretty much, that they
25 were not going to be able to, because I knew they

1 had problems with the OCD. That's why this whole
2 issue came up, after we had met and talked.

3 MR. SWAZO: I don't have any other
4 questions at this time.

5 MADAM CHAIRWOMAN BAILEY: Mr. Hall, do
6 you?

7 MR. HALL: I do.

8 EXAMINATION

9 BY MR. HALL:

10 Q. Mr. Campanella, can you tell us why we
11 don't see a bill of sale and assignment for the well
12 bore that accompanies your purchase and sale
13 agreement?

14 A. I don't know why. We probably should have
15 given you a copy of it.

16 We had to redo the assignment. I had to
17 run a title opinion. Because of the time factor
18 that we were looking at, we were not able to do all
19 of our due diligence that we needed to do to get our
20 agreement in place, because we were under the
21 impression that the OCD was looking at plugging
22 these wells, and that we wanted to be able to get
23 our stuff filed just so that we would be in line to
24 take over operations.

25 Q. Did you get a title opinion on the

1 property?

2 A. I got a title opinion on the Gulf McKay.

3 Q. Okay. It did not include Section 28?

4 A. It does not include that, no.

5 Q. Okay. If the commissioners still have
6 them in front of them, if we could look at Judah's
7 original exhibit notebooks and turn to Exhibit 8.

8 And do you have it available to you?

9 A. I have this notebook.

10 MR. HALL: May I approach the witness and
11 show him Exhibit 8?

12 MADAM CHAIRWOMAN BAILEY: Yes.

13 Q. (By Mr. Hall) Can you identify Exhibit 8
14 for us?

15 A. Yes. This is the conveyance of oil and
16 gas leases.

17 Q. All right. And is this a letter dated
18 September 10th, 2010, under your name, on behalf of
19 Levi Oil and Gas?

20 A. Yes, it is.

21 Q. And who is it addressed to?

22 A. To the Eddy County Clerk's Office.

23 Q. And the purpose of the letter was?

24 A. For conveyance.

25 Q. You're recording the conveyance. Is that

1 right?

2 A. Right.

3 Q. Let's look under that letter. There is a
4 document there.

5 Can you identify that, please?

6 A. Yes. This is the actual conveyance of the
7 oil and gas lease.

8 MR. HALL: I want to make sure that all
9 the commissioners are with me.

10 Q. (By Mr. Hall) Is that a true and exact
11 copy of the conveyance of oil and gas lease?

12 A. Yes, it is.

13 Q. Dated September 10, 2010, and recorded in
14 the Eddy County Clerk's Office at Book 826,
15 page 372?

16 A. It is.

17 Q. Tell us -- I believe the commissioners may
18 know. Tell us what an OGRID is. What's an OGRID?

19 A. An OGRID is something that the Oil and Gas
20 Commission, once they find out that you have met
21 their criteria for operating oil and gas wells in
22 the state, they issue an OGRID number.

23 Q. All right. Levi Oil and Gas has an OGRID?

24 A. Levi Oil and Gas is an owner. Judah Oil,
25 LLC, has the OGRID.

1 Q. Can you explain this to us? Why -- in the
2 conveyance that's attached to Exhibit 8, why is the
3 conveyance from Yeso to Levi and not to Judah?

4 A. Because Levi is the owner of the interest
5 in my property lease.

6 Q. And if we look at the first page of that
7 conveyance, that's paragraph 1D --

8 A. Uh-huh.

9 Q. -- is that the provision whereby Levi Oil
10 and Gas obtained title to well bores?

11 A. Yes, sir, it is.

12 Q. So Judah doesn't own the well bore?

13 A. Levi Oil and Gas owns the properties.

14 Q. Let's refer back to your Exhibit B, also
15 part of Exhibit 8, but it is the purchase and sale
16 agreement.

17 We will read a little bit more about that.
18 The second paragraph there references: "for and in
19 consideration of \$10 and other good and valuable
20 consideration."

21 Can you identify for us what other good
22 and valuable consideration they might have received
23 in this deal?

24 A. The 5 cents per barrel, the -- the
25 10 percent royalty, along with once a well is

1 permitted for injection they receive a \$50,000 --
2 not a fee, but we give them \$50,000 for that permit.

3 And then also if we sell the well, once
4 it's been put into operations after -- or before 18
5 months, then they receive 20 percent of the sale.

6 Q. All right. And you'll agree with me that
7 Levi Oil and Gas, LLC, is not a party to this
8 purchase and sale agreement?

9 MR. FELDEWERT: Object to the form of the
10 question. I think it calls for a legal conclusion.
11 We have already demonstrated that Levi Oil and Gas
12 is a manager of Judah Oil, LLC.

13 MR. HALL: Let me rephrase the question,
14 then.

15 Q. (By Mr. Hall) Does the name Levi Oil and
16 Gas, LLC, appear on this document anywhere?

17 A. It does not, on this document.

18 Q. If we look down at paragraph 1B, it calls
19 for Yeso and Chica to assign all permits and
20 licenses, correct?

21 A. Correct.

22 Q. And paragraph 1C, equipment?

23 A. Correct.

24 Q. And then if we look at paragraph 2C, would
25 you read that into the record, please?

1 A. Paragraph 2C?

2 MR. FELDEWERT: Hold on, I object. Do we
3 really have to read the entire paragraph into the
4 record since we have an exhibit?

5 Q. (By Mr. Hall) Just the first sentence.

6 A. "The following provisions will apply to
7 Lease Number 1, Dow B, in the event it is
8 successfully permitted as a saltwater disposal
9 well."

10 Q. So that has not happened yet. Is that
11 correct?

12 A. That's correct.

13 Q. And so this portion of the agreement is
14 executory?

15 MR. FELDEWERT: Objection. I think that
16 calls for a legal determination.

17 But if you know what "executory" means, go
18 ahead and answer.

19 THE WITNESS: No, I don't.

20 Q. (By Mr. Hall) This portion of the
21 agreement is not capable of being performed right
22 now. Isn't that right? There has been no permit
23 issued?

24 A. That's correct.

25 Q. Looking elsewhere in the purchase and sale

1 agreement, Yeso and Chica warranted nothing. Isn't
2 that correct?

3 A. That's correct.

4 Q. Do you know why that was?

5 A. Well, we weren't able to do our due
6 diligence as of yet, and so this was an agreement
7 that we couldn't come back on them because we
8 haven't had a chance to do due diligence yet. So
9 therefore, that -- it was put in the provision.

10 Q. All right.

11 A. We would -- we would -- looking at it,
12 that we would take care of that issue if it arose.

13 Q. And if, on completion of your due
14 diligence you found that Yeso and Chica had nothing
15 to transfer, would you have any recourse against
16 them under this agreement?

17 MR. FELDEWERT: Object. Calls for a legal
18 conclusion.

19 MADAM CHAIRWOMAN BAILEY: Sustained.

20 Q. (By Mr. Hall) How would you get your
21 benefit out of this deal if they didn't own anything
22 to transfer to you?

23 A. Well, we would get no benefit out of the
24 deal if there was no properties transferred.

25 Q. All right. And in fact, the transfer is

1 contingent on State approval, correct?

2 A. Right.

3 Q. Is it accurate to say that Judah had no
4 capital outlay for acquiring whatever rights they
5 have attached to the Dow B 28 well?

6 A. We would have a capital outlay once we
7 took over the properties.

8 Q. Okay. So the answer to my question is
9 yes --

10 A. Yes.

11 Q. -- had no capital outlay?

12 MR. FELDEWERT: Object. That's not what
13 he said. He said he did have capital outlay when he
14 took over the property.

15 THE WITNESS: Once the properties were
16 taken over, we would have a capital outlay. We
17 would have to take over all the environmental
18 issues, we had to put the wells back into
19 compliance. That was our capital outlay.

20 Q. (By Mr. Hall) Did you deliver a check or
21 other form of payment to Chica and Yeso when you
22 closed on this purchase and sale agreement?

23 A. Not that I know of.

24 Q. Would you refer back to that letter, the
25 first page of Exhibit 8, your September 10, 2010,

1 letter?

2 Do you have that in front of you?

3 A. Okay. Which exhibit is it? Okay.

4 Q. And then can you tell us why there is no
5 reference on here -- strike that.

6 Can you tell me why the only reference to
7 well bores on this letter is to the Doc Slavin
8 Numbers 1 and 2?

9 A. Because we acquired the lease in this
10 purchase and sales agreement in this conveyance, but
11 the wells are currently -- the wells -- actually,
12 the Doc Slavin Number 2 is currently operated by
13 Oxy.

14 Q. Let me ask you. In the course of your
15 negotiations with Gene Lee, what did he say?

16 A. Could you be more specific? We talked
17 about several different things.

18 Q. Did Gene Lee tell you that he had
19 compliance issues with the State?

20 A. Yes. I knew he had compliance issues with
21 the State.

22 Q. Did he tell you that he was under a
23 disability to make a transfer of his permits to you?

24 A. Not at the time. He did not state that.

25 Q. How did you become aware of that?

1 A. Once we -- through counsel, once we
2 obtained the documents, what the -- with the ruling
3 that the OCD had had, once we retained those
4 documents. I was under the impression, when we took
5 this over, that he had rights -- he had all the
6 rights to do this.

7 We know that his -- the Doc Slavin Federal
8 lease, which we were also very interested in, is --
9 was -- that he had that lease.

10 Now, like we've said in the warranty
11 thing, that if we found out that none of this was
12 true, then we wouldn't be obligated to pay anything.

13 Q. Is that why you had that provision in the
14 purchase and sale agreement?

15 A. Right.

16 Q. So you had some idea that he was under a
17 disability to make the transfer?

18 A. We didn't know. We didn't know for
19 certain where -- what stood where. We just knew
20 that there was a time frame that we had to get our
21 paperwork in.

22 We had to come up with the purchase and
23 sales agreement, because I wasn't going to do
24 anything until I had some kind of agreement in place
25 with them.

1 So we were looking at this time frame
2 issue. Because my understanding was he was fixing
3 to lose the well bores, and we wanted -- before I
4 did anything, I wanted to make sure I had an
5 agreement in place, that I was covered in some
6 aspect.

7 Q. All right. And did Mr. Lee tell you that
8 there was an outstanding plugging order on the Dow
9 B?

10 A. There was an outstanding plugging order on
11 several wells.

12 Q. Including the Dow B?

13 A. Including the Dow B.

14 Q. And you were aware of that?

15 A. Right.

16 Q. Were you also aware of the termination of
17 Yeso's authority as operator in the State of
18 New Mexico?

19 A. I was not aware of that until later, after
20 we had entered into the agreement.

21 Q. Okay. And what did you do about that?

22 A. Well, then I knew -- to be honest with
23 you, I don't know. We had so much stuff going on.
24 I was trying to get agreements into place, I was
25 trying to get stuff to the BLM. So I can't even --

1 I can't tell you exactly what I did at that moment,
2 because I was scrambling doing so many things,
3 trying to get things in line so that we could take
4 over operations of these properties.

5 Q. Well, did you call it to Mr. Lee's
6 attention and tell him, "Hey, you don't have
7 anything to deliver here"?

8 A. Well, he didn't have operating rights. I
9 agree with you. But he had his interest that he
10 still had. I mean --

11 Q. Which interest is that?

12 A. Well, that's interest in the Dow -- the
13 Dalton well, which we obtained 39 and a half
14 percent. The Gulf McKay. And also, any interest he
15 had in the Dow B, the well bore. And then also the
16 Doc Slavin lease, the lease itself. We obtained all
17 those interests.

18 Q. Did Mr. Lee tell you that he owed the
19 State of New Mexico a half million dollars?

20 A. No. I didn't figure that was my -- that
21 had anything to do with me. That was with him and
22 the State. That was between him and the State, not
23 me as buying these properties.

24 Q. Did you -- when you became aware of Yeso's
25 lack of authority as operator, did you address that

1 question to the OCD in Santa Fe or the district
2 office at all?

3 A. I called and asked -- I had spoken with
4 the BLM, because we had sent in a change of
5 operator. It was denied.

6 I talked with the BLM and told them what
7 the deal was. And I talked with Dun- -- it was
8 actually Duncan Whitlock.

9 He said that what I need to do is get with
10 the OCD and get a -- a compliance agreement order in
11 place. Which I went and met with -- he said I could
12 meet with Mr. Gray in the Artesia office with the
13 OCD, which I did.

14 And then Mr. Gray said that he didn't have
15 the authority to do that through that office, that I
16 would have to go through Santa Fe.

17 And meanwhile, he talked with Mr. Sanchez,
18 who said that this was going to be coming up for a
19 hearing. So that was the process.

20 Q. That's as far as you took it with the
21 State, then?

22 A. Right. At that time.

23 Q. You didn't offer to enter into a
24 compliance agreement with the State?

25 A. Oh, absolutely. I wanted to. I

1 absolutely wanted to so I could go ahead and get
2 these wells into compliance, we could become
3 operator, and then they would go ahead and approve
4 my change of operator.

5 Q. All right. Didn't the BLM tell you that
6 any approval that they would issue Judah would be
7 subject to the approval of the State of New Mexico
8 as well?

9 A. There were some con--- that was a
10 condition -- that was a condition that they had
11 on -- on some of the change of operators. But they
12 also had these other conditions that I had to meet,
13 also.

14 Q. All right. Let's look at Judah Exhibit K,
15 which is also Exhibit 7.

16 Do you have that?

17 A. Yes, I have it.

18 Q. Is that Judah's C108 application?

19 A. Yes, it is.

20 Q. The Dow B well?

21 A. That's correct.

22 Q. It's in the name of Judah, not Levi?

23 A. That's correct.

24 Q. And if we look at page 3 of that, under
25 Roman Numeral I, tell us what the purpose of the

1 application is.

2 A. Page 3. The purpose was to -- for
3 administrative approval for conversion of the Dow B
4 28 of an abandoned or orphaned Morrow gas well to a
5 Wolf Camp commercial saltwater disposal well.

6 Q. So are we in agreement, then, that Judah
7 doesn't seek to utilize the Dow B well bore for
8 lease development purposes?

9 A. That's correct.

10 Q. So this is not lease operations?

11 A. That's not.

12 Q. Did that circumstance necessitate your
13 filing of Exhibit M, your right-of-way application
14 with the BLM?

15 A. That was part of the process. Because one
16 of the conditions for approval was that I file
17 something on the Dow B within 30 days. And that's
18 why I filed by C108, so I would have a plan. They
19 could see what I wanted to do with the well bore.

20 Q. So Judah or Levi is purporting to have
21 acquired working interests from Yeso in the
22 property, the south half of Section 28?

23 A. Yes, Judah.

24 Q. And so the record is clear, neither Levi
25 nor Judah was intending to use the Dow B 28 well

1 bore for exploration, production of hydrocarbons?

2 A. That's correct.

3 Q. Let's see. I need to do a little economic
4 exercise on the deal myself, based on your purchase
5 and sale agreement. Let me run it by you, and see
6 if you disagree with my conclusions.

7 A. That's fine.

8 Q. The deal calls for payment to Yeso and
9 Chica of 5 cents a barrel. And your C108
10 application represents an average daily disposal
11 rate of 10,000 barrels per day?

12 A. That's -- you just estimated. We don't
13 know how much it would take.

14 Q. It could be more, it could be less?

15 A. It could be less, correct.

16 Q. That gets us to \$500 a day. Is that
17 right?

18 A. That's correct.

19 Q. And 365 days a year, \$182,000 and change.
20 Does that sound about right?

21 A. That's correct.

22 Q. In addition to that, Chica and Yeso got --
23 are to get \$50,000 on approval of the injection
24 permit?

25 A. That's correct.

1 Q. And they're to get 20 percent of net
2 proceeds on skim oil sales?

3 A. That's right.

4 Q. Can you give us an idea of what volumes of
5 oil you might be able to recover with those volumes
6 of water?

7 A. You know, it really varies. But on an
8 average, three loads a month, roughly, at whatever
9 the price of oil is, which we take a pretty good
10 hit, because it is skim oil. Roughly \$10 a barrel
11 is what we lose off that. So...

12 Q. \$10 a barrel off the daily posting?

13 A. New Mexico sour -- or West Texas sour, I'm
14 sorry.

15 Q. I'm just curious to know. Do you pay
16 royalties on that?

17 A. No royalties. We pay it up front. They
18 charge us per barrel on fluids brought into the
19 disposal, so that's where they receive their
20 royalty.

21 Q. Do you pay taxes on that?

22 A. We do pay taxes to the State of
23 New Mexico.

24 Q. Severance taxes?

25 A. Yes, sir, we do.

1 Q. And you allocate that back to leases?

2 A. We are not required to allocate it back to
3 leases.

4 Q. Your haulers do that?

5 A. I don't know who allocates it back to
6 leases. But, you know, we're not required to do
7 that. So...

8 Q. Okay. So if you're successful in
9 obtaining permit approval, Yeso would have avoided
10 the plugging fee. Is that correct?

11 A. That's --

12 MR. FELDEWERT: I'll object to the form of
13 the question. It assumes that the well would be
14 plugged.

15 MR. HALL: It assumes it will be avoided.

16 MR. FELDEWERT: Well, you're assuming that
17 the OCD is going to go plug the well where the BLM
18 has a designated operator and a plan to convert it
19 to a saltwater disposal.

20 MADAM CHAIRWOMAN BAILEY: Would you like
21 to rephrase?

22 Q. (By Mr. Hall) How much would Yeso have
23 had to pay to plug the well?

24 A. Between probably 40- and 60-, \$70,000, I
25 would guess. I don't know what their costs would

1 run.

2 Q. All right. They're avoiding that cost?

3 A. Probably, yes.

4 Q. And they're avoiding all the other project
5 fees associated with converting that to disposal?

6 A. I don't know if you would say they're
7 avoiding it. We're making an agreement on our sales
8 agreement. We're not doing it for them to avoid
9 anything. I'm doing it as a business transaction
10 for -- to pay them for what they own in these
11 different leases.

12 Q. Let's turn -- if you have the old Judah --
13 the original Judah exhibit notebook there, Exhibit
14 Number 9.

15 A. (Witness complies.)

16 Q. Could you identify that for us, please?

17 A. This is a letter that Chica has sent to
18 the -- Mr. Fesmire of the Oil Conservation Division.

19 I guess they're appealing the case de
20 novo, however you pronounce that. I'll leave that
21 for you attorneys.

22 Q. Sure.

23 A. But anyway, that's basically what it is.

24 Q. The last paragraph there, I will just read
25 it to you: "Chica Energy, LLC, does not want to be

1 a party in any of these cases, since it no longer
2 holds -- no longer owns or holds any position,
3 interest, or right to any of the wells or issues
4 pertaining to the cases or de novo hearings pending
5 before the NMOCC."

6 Can you see that?

7 A. Yes, I do.

8 Q. That statement is false, isn't it?

9 A. To be honest with you, through this
10 hearing I hear the phrase "de novo" being used. I
11 don't even know what that is.

12 Q. Let me ask you. Does Chica own or hold
13 any position, interest, or right of any kind on the
14 well pursuant to your purchase and sale agreement?

15 A. I believe that that would be covered in
16 the purchase and sales agreement, that they don't
17 own any interest. I believe that would be an
18 accurate statement.

19 Q. They have an economic interest. Do you
20 agree?

21 A. Maybe an economic interest, I guess, if
22 you want to define the interest as an economic
23 interest and not an ownership of the interest in the
24 lease itself.

25 Q. All right.

1 MR. HALL: No further questions of
2 Mr. Campanella. Thank you.

3 We would move the admission of Judah Oil
4 Company Exhibits Number 8, and 9 from their original
5 hearing notebook.

6 MADAM CHAIRWOMAN BAILEY: Any objection?

7 MR. FELDEWERT: No objection.

8 MR. SWAZO: No objection.

9 MADAM CHAIRWOMAN BAILEY: They're so
10 admitted.

11 Commissioner Dawson, do you have any
12 questions?

13 COMMISSIONER DAWSON: The one question I
14 have is on the Judah Oil exhibits -- the ones that
15 were passed out today. The Exhibit Number E and
16 Exhibit Number N, the change of operator form.

17 On Exhibit Number E, that change of
18 operator form, was that taken from the well file for
19 the Dalton A well, or do you know?

20 THE WITNESS: Yes it was, because it is
21 approved.

22 COMMISSIONER DAWSON: Okay. And then on
23 Exhibit N, the change of operator form, on the upper
24 right-hand corner of the form it has the Dow B 28
25 Fed 1, Gulf McKay Fed Number 1, and the Dalton Fed

1 Number 1.

2 Did you put those names on that change of
3 operator form, or was that done by the OCD?

4 THE WITNESS: I wrote those on there so I
5 could identify this, so I would know what this was
6 for.

7 COMMISSIONER DAWSON: That's all I want to
8 know. Thank you.

9 THE WITNESS: You bet.

10 MADAM CHAIRWOMAN BAILEY: Commissioner
11 Balch?

12 COMMISSIONER BALCH: That addressed my
13 question, as well. I have no further questions.

14 MADAM CHAIRWOMAN BAILEY: I have a couple.

15 THE WITNESS: Okay.

16 MADAM CHAIRWOMAN BAILEY: So when you
17 signed the deal with Yeso at the end of August --

18 THE WITNESS: Okay.

19 MADAM CHAIRWOMAN BAILEY: -- the order
20 from the OCD removing them as operator of the Dow B
21 Federal well was six weeks prior?

22 THE WITNESS: Correct.

23 MADAM CHAIRWOMAN BAILEY: And that was not
24 mentioned as part of your negotiations?

25 THE WITNESS: I had no idea that that

1 order had even been -- was in place. I didn't know
2 until later, after we came in through the agreement,
3 that they even had an order in place.

4 I knew that the commission was going to
5 remove his wells, from my conversation with Gene,
6 and that he had to move on it pretty quick to get
7 the matter taken care of.

8 So we started the process of putting a
9 purchase and sales agreement in place to make sure
10 that I was covered, you know, everything was stated
11 in the agreement.

12 And then after we had signed the
13 agreement, then I actually found out that there
14 was -- the operating had been removed from Chica --
15 or not Chica, I apologize, Yeso.

16 MADAM CHAIRWOMAN BAILEY: I was curious
17 about your saltwater disposal project. Where do you
18 expect most of the produced water to come from for
19 the Dow B Federal well?

20 THE WITNESS: It will be through all --
21 they're doing -- COG and Cimarex and Newborn,
22 there's a lot of companies drilling in this area,
23 and they need to have a place to put their water,
24 all of these different companies, and they have
25 several different trucking companies hired to haul

1 the water for them.

2 And so it would be put into our Cedar Lake
3 project, the station itself where they unload the
4 water. And at that time we will pump it out to the
5 different well bores. So...

6 MADAM CHAIRWOMAN BAILEY: Oh, okay. Would
7 you expect COG to be one of the major contributors
8 to your produced water supply, then?

9 THE WITNESS: They would be one of the
10 contributors, yes, ma'am.

11 MADAM CHAIRWOMAN BAILEY: Okay. Who is
12 Billy Pritchard?

13 THE WITNESS: Billy Pritchard used to work
14 for the New Mexico Oil Conservation Division, and I
15 have him do my applications for permit to inject.
16 So...

17 MADAM CHAIRWOMAN BAILEY: Let's look at
18 the agreement that was signed. That would be under
19 Exhibit B.

20 THE WITNESS: (Witness complies.)

21 MADAM CHAIRWOMAN BAILEY: And Yeso sells
22 to you all of their interest in the Dow B Federal,
23 but they don't say if they own 100 percent or who
24 the other owners are. And in fact on that last page
25 on Exhibit A, it says "limited in depth to depths

1 below the base of the San Andres formation."

2 Who are the other owners of that well
3 bore?

4 THE WITNESS: I -- I'm not -- I don't know
5 for sure who owns the acreage above it, to be honest
6 with you.

7 We were strictly interested in the well
8 bore itself for disposal purposes. It's limited, I
9 guess, because of that reason, but I wasn't
10 interested in the -- the minerals or anything above
11 that, so I didn't really go after it or -- I guess
12 whatever you would say.

13 MADAM CHAIRWOMAN BAILEY: So you own some
14 portion of the well bore --

15 THE WITNESS: Yes.

16 MADAM CHAIRWOMAN BAILEY: -- but you don't
17 know how much you own?

18 THE WITNESS: I own approximately -- yes,
19 ma'am. I'm sorry. I interrupted you.

20 MADAM CHAIRWOMAN BAILEY: Go ahead.

21 THE WITNESS: I own approximately
22 80 percent, and I -- there's another company called
23 McKenness Resources that owns another 20 percent, I
24 believe.

25 MADAM CHAIRWOMAN BAILEY: That's all I

1 have. Thank you.

2 MR. HALL: May I follow up?

3 MADAM CHAIRWOMAN BAILEY: Yes.

4 FURTHER EXAMINATION

5 BY MR. HALL:

6 Q. Mr. Campanella, the Cedar Lake project,
7 it's over in Section 29, correct?

8 A. Yes, it is.

9 Q. It's going to go forward with or without
10 the Dow B well. Is that correct?

11 A. We have not -- well, we have a permitted
12 well, so we are going to go forward to that well,
13 but that is a limited well bore. It's not going to
14 take a whole lot of water because of where it's at.

15 We have plans on permitting the other two,
16 and it's just a process of whether or not we will be
17 approved for those well bores or not.

18 Q. So the answer is yes?

19 A. Yes, to answer your question.

20 MR. HALL: Thank you. No further
21 questions.

22 MR. FELDEWERT: May I just run through my
23 notes here and see if I've got any questions?

24

25

1 FURTHER EXAMINATION

2 BY MR. FELDEWERT:

3 Q. With respect to this agreement that's been
4 marked as Exhibit B, there's a question about the
5 consideration that was provided by your company in
6 exchange for receiving whatever Yeso and Chica
7 Energy had in these properties, and they talked
8 about paragraph 2.

9 Isn't it true, Mr. Campanella, that in
10 addition to the consideration that you provided
11 under this agreement, that you took over
12 responsibility, financial responsibility, for
13 various wells?

14 A. That's true.

15 Q. McKay, for example?

16 A. Yes, that's true.

17 Q. The Dalton Federal?

18 A. Yes, sir, that's true.

19 Q. Wells on the Slavin lease?

20 A. Once we receive ownership of those wells
21 we will, as far as operating.

22 Q. And were those wells conveyed to you?

23 A. They were.

24 Q. Okay. So have you -- and you've taken
25 over responsibility for those wells?

1 A. Oxy currently operates the Doc Slavin
2 Number 2, which is still an active well. We have
3 not taken over responsibility of that well bore.

4 Q. But you have for the McKay?

5 A. For the Gulf McKay.

6 Q. And you have for the Dalton Federal?

7 A. Yes, sir, we have.

8 Q. And that was pursuant to the terms of this
9 agreement?

10 A. That's correct.

11 Q. Okay. Now, with respect to getting
12 division approval of your change of operator
13 requests, it's my understanding -- you mentioned the
14 fact that there had been a prehearing conference
15 some time back?

16 A. That's correct.

17 Q. What did you understand, after having
18 attended that prehearing conference?

19 A. I did not attend it. I had counsel attend
20 it. And -- but what came from that hearing is that
21 I could go ahead and go forward with a change of
22 operators on the Gulf McKay Federal Number 1 and the
23 Dalton Federal Number 1 and fill out separate change
24 of operator forms for them. And then they would go
25 ahead and let those go through.

1 Q. And did you indeed submit, then, separate
2 change of operator forms, as instructed?

3 A. Yes, I did.

4 Q. Gulf McKay was approved?

5 A. Yes, it was.

6 Q. And for whatever reason, the Dalton
7 Federal was not?

8 A. That's correct.

9 Q. Now at the same time, were you also under
10 an obligation to conduct certain operations and
11 activities at the Dalton Federal by the BLM?

12 A. Yes, I was.

13 Q. I think you've testified you had a short
14 timeframe to get that done?

15 A. I did.

16 Q. So you were -- were you kind of between a
17 rock and a hard place? You hadn't been yet approved
18 the division, but you had obligations to the BLM?

19 A. That's correct.

20 Q. So what did you do?

21 A. I had the BLM meet me on location, and we
22 actually had to put some belts on the unit so it
23 would run and get the well to where it would run.

24 And then I had to call the BLM, had them
25 witness the gauge and show -- and then put the well

1 on for a few days. I'm not for sure if it was five
2 or six days, whatever.

3 And then I sent in my form to the BLM
4 showing that the well is capable of producing.

5 Q. And then did you stop?

6 A. I stopped.

7 Q. Have you done anything since that time?

8 A. No, sir, I haven't.

9 Q. You fulfilled your obligations to the BLM?

10 A. That's correct.

11 Q. Okay. Did you -- at the time that you
12 were fulfilling your obligations to the BLM, did you
13 have an expectation that you were going to be
14 approved for the Dalton Federal, as you eventually
15 were for the Gulf McKay?

16 A. That was my understanding.

17 Q. When did you find out that you had not
18 been approved to be operator of the Dalton Federal.

19 A. It was later in September, when we had
20 received -- I called to find out why I hadn't
21 received -- because I looked on the OC Web site for
22 the change of operator.

23 And after -- like in the middle of
24 September, I finally called and asked them what the
25 problem was. And I talked to Dorothy Philips.

1 She said they had -- I believe she said
2 they had lost the form, and if I could resubmit it.
3 And so I resubmitted another form to her.

4 Q. Now, this was in September?

5 A. That's correct.

6 Q. Okay. When did you find out that they had
7 then denied your resubmitted form? Was it --

8 Here's my question. Was it before you did
9 the work that the BLM required you to do, or after
10 you did the work that the BLM required you to do?

11 A. It was after.

12 Would you rephrase your -- I was thinking
13 of something else, though.

14 Q. When did you find out that the OCD, the
15 division, had actually rejected your change of
16 operator request for the Dalton Federal?

17 Was that before you did the work that the
18 BLM required, or after you did the work?

19 A. It was after.

20 Q. Okay. And in your effort to obtain
21 approval by the division to become an operator, you
22 offered into -- you offered to enter into whatever
23 agreed compliance order they deemed appropriate,
24 correct?

25 A. That's correct.

1 Q. Did they ever present you with an agreed
2 compliance order to take to -- for consideration?

3 A. No.

4 Q. Do you recall requesting that they provide
5 to you an agreed compli- -- an agreed compliance
6 order that would satisfy their needs?

7 A. Yes, I did.

8 Q. Okay. And your understanding is that in
9 the course of all of that is when they then filed
10 this application for guidance with the commission?

11 A. That's correct.

12 MR. FELDEWERT: That's all the questions I
13 have.

14 Thank you.

15 MR. SWAZO: I had some questions to
16 clarify some of the questions that Counsel had
17 asked.

18 FURTHER EXAMINATION

19 BY MR. SWAZO:

20 Q. Mr. Campanella, isn't it true that the OCD
21 hasn't denied the change of operator for Jud- -- for
22 the Dalton well for Judah? Isn't that the subject
23 for today's hearing?

24 A. Actually, it does show denied on the OCD
25 change of operator.

1 Q. Which exhibit is that?

2 A. I believe -- oh, actually it wasn't. It
3 was on the Federal. It shows denied by Donald Gray,
4 and that was on my Federal request.

5 I'm sorry. I apologize.

6 Q. But the actual OCD change of operator
7 application for the Dow well has not been -- has not
8 been rejected by the OCD, has it, at this point?

9 A. No, it hasn't. It hasn't.

10 MR. SWAZO: That's all I have.

11 THE WITNESS: I'm sorry.

12 MADAM CHAIRWOMAN BAILEY: No other
13 questions?

14 MR. FELDEWERT: That concludes our
15 presentation.

16 MADAM CHAIRWOMAN BAILEY: All right. You
17 may be excused.

18 THE WITNESS: Thank you.

19 MADAM CHAIRWOMAN BAILEY: Any closing
20 statements to make?

21 MR. SWAZO: I just have a brief closing
22 statement.

23 CLOSING STATEMENT

24 BY MR. SWAZO:

25 As I stated in my opening statement, the

1 OCD is here to ask the commission for guidance. We
2 need to know who to recognize as the operator of
3 record for wells that currently appear in Yeso's --
4 currently appear in OCD's system as wells operated
5 by Yeso.

6 The reason why we have this question is
7 because there's two orders, one order which
8 indicates -- which states that -- which states that
9 Yeso -- that none of the Yeso wells shall be
10 transferred to anyone who is affiliated with Yeso.

11 And in this case, we had questions about
12 whether or not this purchase and sale agreement set
13 up an affiliation between Judah and Yeso for several
14 of the wells.

15 It appears to us that there is an
16 affiliation, based on this agreement. The agreement
17 allows -- the agreement allows Yeso to obtain
18 \$50,000 for Judah's operation of the saltwater
19 disposal well for the Dow well, and it creates a
20 continuing ongoing business relationship with Yeso,
21 where Yeso will receive a nickel a barrel fee for
22 each barrel of water disposed of in the well, and
23 also a 10 percent royalty fee in any oil derived
24 from the saltwater disposal well.

25 Another question that we had was based on

1 the order that is the subject of today's de novo
2 review concerning Yeso's termination of the --
3 termination of Yeso's authority to act as operator
4 of the Dow well.

5 If -- if the -- if the order terminates
6 Yeso's authority to act as operator of that well,
7 does Yeso have authority to transfer that well? And
8 that's an additional reason why we're asking the
9 commission for guidance with regard to who -- who do
10 we recognize as the operator of record for these
11 wells.

12 Judah -- if I understand part of Judah's
13 case, I believe that their argument is that because
14 the BLM has recognized them as the operator of the
15 Dow well, the OCD should, too, because it creates a
16 conflict.

17 Generally, the operator of record is --
18 the operator of record for OCD purposes is generally
19 the leaseholder of BLM federal lands, but that's not
20 always the case.

21 The operator of record, for purposes of
22 OCD's rules, is the person who has gone through the
23 change of operator -- change of operator process and
24 who has assumed responsibility for filing State
25 regulatory forms and also complying with OCD rules.

1 It may be the federal leaseholder, it may not be,
2 but usually it is.

3 But just because the BLM recognizes an
4 op- -- recognizes an entity as an operator does not
5 mean that we should, as well. And it doesn't create
6 a conflict or any problems as far as the OCD is
7 concerned.

8 And that concludes my closing statement.

9 MR. HALL: If I may approach the
10 commissioners?

11 CLOSING STATEMENT

12 BY MR. HALL:

13 Part of the job of all counsel here, since
14 we have a new commission, is to make you comfortable
15 with your authority and do the things we're asking
16 you to do.

17 So what we've done is prepared, on behalf
18 of COG -- and I'll give this to Ms. Davidson for
19 filing, and a copy to each of you -- is COG's
20 proposed findings and conclusions that will provide
21 you with some guidance for action in this case, also
22 outlining your authority under the Oil and Gas Act
23 and the current rules and regulations of the
24 division. So I would hope you would refer to that
25 and utilize that and get comfortable with what we're

1 about to ask you to do.

2 This is what the evidence has shown us
3 today about this transaction. You have two
4 competing operators competing for the same well
5 bore. And I have to say at the outset that COG
6 bears no acrimony to Judah Oil whatsoever. They're
7 business competitors. We wish them well, but we
8 don't wish them the Dow B Federal 28 well bore.

9 We think that the circumstances
10 surrounding the transaction for that well really
11 prohibit the OCD from granting approval to Judah for
12 a change of operations on that well and their
13 injection application.

14 And the reason for that is, as Mr. Swazo
15 has pointed out, there does appear to be some
16 consideration, a retained interest, an affiliation,
17 in the well bore in its use.

18 I tried to do the exercise that Mr. Swazo
19 just did with the witness, and this is what we've
20 learned, very roughly.

21 That at 10,000 barrels a day, a nickel a
22 barrel, that's \$500 a day, 365 days a year. That's
23 \$182,500 a year.

24 In addition, Chica and Yeso will receive
25 \$50,000 on permit approval if it is approved.

1 They get 20 percent of the skim oil,
2 pretty good deal.

3 They have avoided a \$60,000 plugging cost.

4 They have avoided the plugging bills for
5 the Connie Wells 3 and 4, almost \$50,000
6 associated --

7 (A recess was taken from 2:06 p.m. to 2:21
8 p.m. for fire alarm.)

9 MR. HALL: My closing statements are
10 always a form of fire drill anyway, so this will fit
11 right in.

12 I was recounting to you what we had
13 understood, through the testimony, what constituted
14 the retained interest, the basis of the affiliation
15 between Yeso and Chica and Judah, and now,
16 apparently, Levi Oil. And they are substantial.

17 We've talked about the plugging fees that
18 have been avoided on not only this well, the Dow B
19 well, but on the Connies 3 and 4.

20 We understood from the testimony of
21 Mr. Sanchez this morning that all told, because of
22 the actions or omissions of Yeso Energy over the
23 well, that in fact the division is owed almost a
24 half million dollars for plugging costs and other
25 costs they're not likely to get.

1 But it was Yeso Energy who originally
2 invoked the legal processes of the division to
3 obtain the commission's review of the earlier order
4 which allowed COG to go forward with its application
5 to convert the Dow B well to injection.

6 Then, Yeso neglects to show up at the
7 hearing today. They have managed to cause a
8 substantial delay, almost a year's worth of delay
9 from the first expression of interest by COG in
10 obtaining the well and putting it to good use and
11 sparing the State of New Mexico that \$60,000
12 plugging cost.

13 And in that period of time, Yeso Energy
14 was able to go out and shop its deal around and get
15 what I think is a very good deal for it.

16 And I think Yeso Energy [sic], likewise,
17 made a very good business deal for itself. I cannot
18 fault them for that. They have absolutely no
19 capital outlay and no risk at stake in their venture
20 to acquire at least the Dow B 28 well.

21 But as we explored that purchase and sale
22 agreement, we learned that it came with no
23 warranties at all. It is still executory, has yet
24 to be performed.

25 Yeso and Chica still owe assignments and

1 bills of sale for the wells to Judah only in the
2 event that the permits are obtained. And I think
3 that's the question in the laps for the commission:
4 Will you approve permits under these circumstances?

5 If you do not, if you allow COG to take
6 over the well and proceed with its conversion
7 application, is there any harm to Judah?

8 And I think the testimony in evidence
9 establishes that there will be no harm. Again, they
10 have no risk in the well, no capital outlay at all.

11 But if Yeso Energy is allowed to succeed,
12 what precedent does that set for other operators in
13 New Mexico? Will they follow what Yeso Energy has
14 done? Will the commission and the division, in
15 effect, allow itself to be worked so that its rules
16 and its regulations, its plugging orders, are
17 completely circumvented? And then a disobedient
18 party, an operator that is not in good standing, is
19 allowed to circumvent all of those rules, orders,
20 and regulations?

21 There's no consequences to Yeso, so far.
22 In fact, there is only reward. Can the commission
23 countenance that?

24 Do we need to worry about the approval of
25 the BLM?

1 I think we saw a few documents where it
2 indicated that there were BLM approvals and transfer
3 of operators. But in response to a direct question,
4 Mr. Campanella explained to us that the BLM had told
5 him quite clearly that the BLM's approval is
6 contingent upon the State's approval as well. It's
7 undisputed testimony coming from Yeso Energy -- I'm
8 sorry, Judah. So I don't think the BLM approval is
9 at issue here.

10 So what is the proper course of action for
11 the commission to take here?

12 Judah has not established that it has any
13 entitlement to an injection permit, and neither can
14 it compel the State to issue a permit to an entity
15 whose affiliate, in terms of its retained interest,
16 is not in good standing.

17 Another question pending before the
18 commission is whether it will allow an operator to
19 undertake conduct in circumvention of its rules,
20 regulations and orders, or whether the commission is
21 bound by a contract that is obviously undertaken in
22 circumvention.

23 And what I would like to suggest to you,
24 that there is precedent from the commission on a
25 similar question that came up several years ago.

1 If I may approach the commissioners again?

2 MADAM CHAIRWOMAN BAILEY: Yes.

3 MR. HALL: I've provided you with what I
4 believe to be the answer in this case.

5 I heard a lot of testimony about the
6 purchase and sale agreement. Ultimately, is it
7 binding on the commission?

8 And the answer is no.

9 Years ago in Case Number 12601 there was
10 an operator called Sun-West, who owned an unleased
11 mineral interest in Bettis, Boyle, and Stovall, and
12 the operator from Roswell, who was trying to take a
13 voluntary participation of Sun-West with its
14 unleased mineral interest in the Bettis well. It
15 was unsuccessful, so Bettis initiated compulsory
16 pooling proceedings.

17 Before the order issued in the compulsory
18 pooling proceeding, Sun-West turned around and
19 issued a lease to Gulf Coast, a company with which
20 it had some affiliation, at a healthy retained
21 royalty rate.

22 It also retained a 27 and a half percent
23 overriding royalty interest in the well. So the
24 effect of that was, if the interest was pooled, it
25 was only the working interest, not the royalty

1 interest and not the override that would have been
2 subject to the division's compulsory pooling order.

3 Bettis, Boyle, and Stovall thought that
4 was wrong. It took a case to the division. And
5 then the commission said, you know what Gulf Coast
6 has done, and Sun-West, they have acted in
7 circumvention of the division's rules and
8 regulations, and the transaction that Gulf Coast and
9 Sun-West did to avoid the compulsory pooling order
10 as to a substantial portion of the interest in the
11 well, should not stand.

12 And so what the division did, it entered
13 an order allowing it to disregard that transaction.
14 And it said for purposes of compulsory pooling, the
15 override and the lease interest would not be
16 recognized, and Bettis, Boyle, and Stovall would be
17 entitled to recover well costs, overhead, and
18 operating costs out of the full seven-eighths
19 interest attributable to this mineral interest.

20 And it did that because it found that the
21 parties acted in circumvention.

22 And it came up with a pretty equitable
23 result, citing to its authority under the Oil and
24 Gas Act and some similar case law authority
25 emanating out of the Oklahoma Corporation

1 Commission, where they did the same thing over
2 there.

3 The reason I offer you this case, I think
4 it offers us a path forward here. It gives the
5 commission an idea of its authority and what it can
6 do in this case to go forward.

7 I think in order to uphold the integrity
8 of the rules, regulations, orders of the division
9 with respect to regulating operators, noncompliant
10 operators, violations, transfer of operations, and
11 injection operations, it must act in a similar
12 manner in this case.

13 The commission ought to disregard the
14 purchase and sale agreement between Judah and Yeso
15 and Chica, and proceed to keep the existing order of
16 the division intact, allowing COG to proceed with
17 its C108 application to convert the Dow B 28 well.

18 COG takes no position with respect to the
19 other wells that are at issue between the division
20 and Judah. But with respect to this one well, we
21 think that's the proper result.

22 A miscreant operator is not allowed to
23 avoid the division's orders and rules and
24 regulations, and a well is put to good use. A
25 plugging cost is avoided by the State.

1 What we are not doing, however, is asking
2 the commission to issue a bill of sale to Concho.
3 We don't think you can do that.

4 But what you can do, and as our
5 authorities have pointed out to you in our findings
6 and conclusions, you can grant or withhold
7 regulatory permits and approvals.

8 In this case, we're asking you to withhold
9 a permit from Judah for the Dow B 28; instead,
10 allowing COG's to go forward.

11 That's all I have.

12 I stand for any questions.

13 MADAM CHAIRWOMAN BAILEY: We will be
14 asking all attorneys and all the parties to submit
15 proposed findings and conclusions. So within the
16 next two weeks the commission would like to have
17 proposed findings and conclusions.

18 You have sent in yours today. If you
19 would like to change those based on the events of
20 today you also have the two weeks, Mr. Hall.

21 Do you have a closing statement?

22 MR. FELDEWERT: I do.

23 CLOSING STATEMENT

24 BY MR. FELDEWERT:

25 You don't need to get comfortable with --

1 legally comfortable to authorize Judah to be the
2 operator of the well here. In fact, I sit here and
3 I scratch my head as to why anyone is objecting to
4 Judah as being the operator of the well here.

5 Judah is not Yeso Energy. Judah is not
6 Chica Energy. Judah is the operator of record with
7 the BLM. They're the ones that went out and went
8 through the BLM process to become the operator of
9 record for these orphaned wells, and in particular,
10 this orphan Dow B well.

11 And the fact that Yeso lost whatever
12 operating rights it had under some division order
13 had no effect on the BLM process, and it shouldn't
14 have any effect on who to recognize as the operator
15 here.

16 We have a current BLM-designated operator
17 of record that had stepped forward and taken full
18 responsibility for these wells. It is the only
19 party in this room with any right to use that well.
20 COG has no right to use that well. Only Judah.

21 And everyone agrees, I think, that because
22 these are federal wells on federal lands, it's the
23 BLM that should determine, through its processes,
24 who the operator is. And then the question becomes:
25 Is there any reason for the division not to

1 recognize the BLM-designated operator?

2 And why do we have any issue with Judah
3 Oil, when they're not Yeso?

4 They say, "Well, because you're somehow
5 affiliated with Yeso."

6 Affiliated comes out of a division order
7 that long -- well, it's been -- I don't know if it
8 it's been superseded or where it is. But at one
9 time the division wanted Yeso to transfer its wells
10 to another operator not affiliated with Yeso. Okay?

11 Legal term. It's defined in the
12 regulations. I gave you the regulations. We have
13 shown you that this purchase and sale agreement does
14 not amount to an affiliation between Judah Oil and
15 Yeso. They are two totally separate companies. All
16 that they have right now is a contract under which
17 Yeso holds a contingent right to additional revenue.
18 That's it. That's it.

19 If Judah permits the saltwater disposal
20 well, Yeso gets some additional revenue under their
21 agreement.

22 Why is that a problem? I mean if they owe
23 money to the State of New Mexico, wouldn't it be
24 nice if there was an additional revenue stream the
25 State of New Mexico could garnish and deal with

1 Yeso's debt? I don't see why that is an issue.

2 And Yeso didn't avoid anything in entering
3 into this agreement. They didn't avoid anything.

4 But again, we are not Yeso. I'm not here to defend
5 Yeso. I'm here trying to find out why Judah Oil is
6 not recognized as the operator of these wells.

7 You can -- you can disregard that
8 agreement. Mr. Hall is right. You can disregard
9 it. It's not the basis for Judah's request to be
10 the operator of the well.

11 The basis for Judah's request to be the
12 division-designated operator of the well is that
13 they're already a designated operator by the BLM,
14 and they have already moved forward with -- they
15 have taken over responsibility for these wells and,
16 more importantly, have a plan to use this Dow B well
17 as part of a large-scale commercial process.

18 That's the reason we're here today seeking
19 operator-ship.

20 I don't care anything about that contract.
21 We can disregard it if we want to. The only reason
22 it's potentially relevant here is some concern about
23 whether there was an affiliate arrangement, which
24 there is not.

25 If we step back, what the division wanted

1 was, "Yeso, we don't want you to be an operator
2 anymore. We want you out of those wells."

3 That's where we are today. Yeso is out of
4 those wells, and we now have an operator who is in
5 good standing with the division, who is a good
6 operator, who has stepped forward to take over these
7 wells, and we're sitting here ten months later
8 waiting for the division to approve the transfer of
9 these wells to a good operator.

10 Why are we doing that? That's why this is
11 before you. Why are we doing that? Why have we
12 made it so difficult for this company to step
13 forward and take over these wells?

14 They've spent a lot of money with me to
15 get this to the commission. They have spent a lot
16 of money with bonding. They have spent a lot of
17 money to get permits. They have spent a lot of
18 money to get themselves in a position to move
19 forward with these wells, and I don't understand why
20 it has become such an issue with the division. I
21 still don't get it.

22 COG is here. Well, you know, they want to
23 have it for themselves. They have got some economic
24 interest in this well. They want to use it for
25 themselves. Fine. They're entitled to come forward

1 and make whatever argument they want.

2 But they have never stepped forward to
3 take over financial responsibility for these wells.
4 They never went to the BLM and took them over. They
5 never became the authorized operator of these wells.
6 They never put them under their bond.

7 And they have absolutely no right
8 whatsoever to use those wells. I mean if you grant
9 them operator-ship of these wells, of this Dow B
10 well, okay, we now have the BLM over here saying,
11 "Well, wait a minute. Judah is the operator of the
12 well, and they have got a saltwater disposal plan,
13 and we're approving the plan."

14 And you're going to have the division over
15 here, saying, "Oh, wait a minute. We like COG
16 better, so now they are the division-designated
17 operator."

18 What happens after that? Now we have a
19 conflict. What happens? I really don't know. I'm
20 not sure what happens after that point.

21 So I get back to my original point. Why
22 are we here even considering creating a conflict
23 between what the BLM has decided as the proper
24 operator for these wells and then what they're
25 proposing here? Why are we even considering it?

1 There's no reason in this case to create a
2 conflict with the BLM. There is no reason in this
3 case not to recognize Judah as the operator of these
4 wells. They have taken full responsibility, they
5 have got a plan, they have got the permits in place,
6 they have got the bonds in place, they're not
7 affiliated with Yeso.

8 So why wouldn't we approve them as the
9 operator? That is what I can't figure out. But
10 that's why it's before you-all.

11 Thanks.

12 MADAM CHAIRWOMAN BAILEY: Two weeks from
13 today, if the attorneys could please submit the
14 proposed findings and conclusions.

15 The commission will deliberate on this
16 case at the next regularly-scheduled meeting of the
17 commission on July 28.

18 So this case is closed for any additional
19 testimony. It's only open for the proposed
20 findings, and the cases will be continued until
21 July 28.

22 Is there anything else?

23 MR. FELDEWERT: I just want to thank the
24 commission for accommodating my vacation schedule
25 and willing to sit today, rather than yesterday.

1 Thank you very much.

2 MR. SWAZO: I would just like to point out
3 that at OCD has filed a draft order in this case. I
4 would like to submit that in lieu of my proposed
5 findings of fact.

6 MADAM CHAIRWOMAN BAILEY: Okay. You don't
7 anticipate amending it in any way?

8 MR. SWAZO: I will think about it, but I
9 think I'm going to stick with the draft order.

10 MADAM CHAIRWOMAN BAILEY: Okay.

11 MR. HALL: Thanks very much.

12 MADAM CHAIRWOMAN BAILEY: Is there
13 anything else?

14 Then do I hear a motion to conclude this
15 hearing and continue these cases until July 28?

16 COMMISSIONER BALCH: I so move.

17 MADAM CHAIRWOMAN BAILEY: Is there a
18 second?

19 COMMISSIONER DAWSON: Second.

20 MADAM CHAIRWOMAN BAILEY: All those in
21 favor?

22 All those opposed?

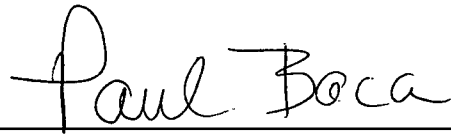
23 Three to zero. It passes.

24 I'll see you July 28.

25 (Proceedings concluded.)

CERTIFICATE

I, Paul Baca, RPR, CCR in and for the
State of New Mexico, do hereby certify that the
above and foregoing contains a true and correct
record, produced to the best of my ability via
machine shorthand and computer-aided transcription,
of the proceedings had in this matter.



PAUL BACA, RPR, CCR
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