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ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

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

ORIGINAL

APPLICATION OF THE NEW MEXICO OIL  
CONSERVATION DIVISION FOR A COMPLIANCE  
ORDER AGAINST C. W. TRAINER

CASE NO. 14103

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Jr., Legal Examiner  
WILLIAM V. JONES, Jr., Technical Examiner  
TERRY WARNELL, Technical Examiner

April 3, 2008

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico  
Oil Conservation Division, DAVID K. BROOKS, Jr., Legal  
Examiner, and WILLIAM V. JONES, Jr., Technical Examiner, on  
Thursday, April 3, 2008, at the New Mexico Energy, Minerals and  
Natural Resources Department, 1220 South St. Francis Drive,  
Room 102, Santa Fe, New Mexico.

REPORTED BY: JOYCE D. CALVERT, P-03  
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A P P E A R A N C E S

FOR THE DIVISION:

GAIL MACQUESTEN, ESQ.  
DEPUTY GENERAL COUNSEL  
Energy, Minerals and Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

FOR THE RESPONDENT:

OCEAN MUNDS-DRY, ESQ.  
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110 North Guadalupe, Suite 1  
Santa Fe, New Mexico 87504-2208

1 EXAMINER JONES: So let's call Case No. 14103,  
2 Application of New Mexico Oil Conservation Division for a  
3 Compliance Order against C. W. Trainer.

4 Call for appearances.

5 MS. MACQUESTEN: Gail MacQuesten for the OCD.

6 MS. MUNDS-DRY: Ocean Munds-Dry with the law firm  
7 Holland & Hart, here representing C. W. Trainer.

8 EXAMINER JONES: Any other appearances? Witnesses  
9 for both parties?

10 MS. MACQUESTEN: Mr. Examiner, I intend to present  
11 this case through the testimony of Daniel Sanchez. I also have  
12 available Jane Prouty if any questions arise as to OCD records.

13 MS. MUNDS-DRY: I have no witnesses.

14 EXAMINER JONES: Will Mr. Sanchez stand to be sworn?  
15 [Witness sworn.]

16 EXAMINER JONES: Okay.

17 MS. MACQUESTEN: Mr. Examiner, we are here today  
18 asking for a Compliance Order against operator C. W. Trainer  
19 under Section 70-2-14B. That statute provides that if an  
20 operator fails to comply with OCD rules -- after notice of  
21 hearing -- the OCD may order any well plugged and abandoned by  
22 the operator or surety or both and may forfeit the financial  
23 assurance if the order is not complied with.

24 The application alleged violations of five OCD rules.  
25 We will be proceeding on four. We are dismissing the

1 allegation that the operator failed to file production reports  
2 because the specific reports addressed in the application have  
3 been filed timely. So we are left with looking at four  
4 different sets of rule violations:

5 Violations of Rule 202, which is the rule that  
6 requires well sites to be remediated within one year of  
7 plugging; Rule 201, the inactive well rule, which requires  
8 wells to be T/A'd, plugged, or returned to productive use  
9 within one year or 90 days of continuous inactivity;  
10 Rule 101.B, which requires single well financial assurances for  
11 all state or fee wells inactive for more than two years; and  
12 Rule 116.D that requires the operator to clean up releases.

13 We are requesting an order requiring the operator to  
14 plug all his wells because other attempts to obtain compliance  
15 including agreed compliance orders and hearing orders imposing  
16 penalties have been unsuccessful.

17 You have an evidence packet in front of you.  
18 Exhibit No. 1 is an affidavit of financial assurance.  
19 Mr. Trainer has posted a \$50,000 blanket plugging bond with  
20 U. S. Specialty Insurance Company. As also shown in the  
21 affidavit, Mr. Trainer has no single well financial assurances  
22 in place at this time.

23 The second exhibit is an Affidavit of Notice and  
24 Publication. We were able to obtain service on both  
25 Mr. Trainer and his surety. Notice of the hearing was

1 published in the Roswell Daily Record and the Lovington Leader,  
2 newspapers of general circulation in the counties in which the  
3 wells are located.

4 Unless there's an opening statement from  
5 Ms. Munds-Dry, I'd be ready to present the evidence.

6 EXAMINER JONES: I will ask if you want to have an  
7 opening statement.

8 MS. MUNDS-DRY: I do not.

9 MR. BROOKS: Just for clarification, are you  
10 appearing for Mr. Trainer only or for both him and the  
11 insurance company?

12 MS. MUNDS-DRY: Just for Mr. Trainer.

13 MR. BROOKS: Just for Mr. Trainer, okay. Thank you.  
14 Go ahead.

15 MS. MACQUESTEN: With that, I will call Daniel  
16 Sanchez.

17 DANIEL SANCHEZ  
18 after having been first duly sworn under oath,  
19 was questioned and testified as follows:

20 DIRECT EXAMINATION

21 BY MS. MACQUESTEN:

22 Q. Would you please state your name for the record.

23 A. Daniel Sanchez.

24 Q. And what is your title?

25 A. I am the Compliance and Enforcement Manager.

1 Q. For the --

2 A. Oil Conservation Division.

3 Q. Do your duties include supervising the district  
4 offices and overseeing the enforcement activities of the OCD?

5 A. Yes, they do.

6 Q. Are you familiar with OCD's enforcement  
7 activities with regard to C. W. Trainer?

8 A. Yes, I am.

9 Q. First, I'd like you to give the Examiner an  
10 overview of C. W. Trainer's operations in New Mexico. I'd like  
11 you to turn to what has been marked as Exhibit No. 3.

12 A. Okay.

13 Q. Could you identify this document for us?

14 A. Exhibit No. 3 is the well list for C. W. Trainer.  
15 It indicates that there are 13 wells being operated by  
16 Mr. Trainer. And this report was produced on April 1st of  
17 2008.

18 Q. Okay. Could you look at the column that's marked  
19 "last production injection"?

20 It's the fourth column from the right.

21 A. Yes.

22 Q. What do the dates in that column tell us?

23 A. These dates show the last time production or  
24 injection were reported to the OCD.

25 Q. What does it mean if nothing appears in that

1 column?

2 A. Usually, it means that there has been no -- been  
3 no production or injection, and it can also mean that the well  
4 was possibly a dry hole.

5 Q. Okay. How many of C. W. Trainer's wells are  
6 currently reporting production or injection?

7 A. Just one, right now.

8 Q. And which is that?

9 A. That is the Barbara Federal #001.

10 Q. That's the first well on the list?

11 A. Yes.

12 Q. Could you turn to what's been marked as  
13 Exhibit No. 4, please?

14 A. Okay.

15 Q. Is this the production report for Mr. Trainer's  
16 wells for January 2008?

17 A. Yes, it is.

18 Q. And that's the most recent reported production or  
19 injection?

20 A. Yes, that we have.

21 Q. Could you look at what he reported for the  
22 Barbara Federal #001? And that's the second well from the  
23 bottom of the first page.

24 A. The only production reported at that time is  
25 water production.



1 Q. So we have no production of oil or gas in January  
2 2008 from any well operated by C. W. Trainer?

3 A. No, not according to this report.

4 Q. Could you turn to what's been marked as  
5 Exhibit 5, please?

6 A. Okay.

7 Q. And what does this document show?

8 A. This shows the production reported by  
9 C. W. Trainer for 2007.

10 Q. This is just for the Barbara Federal #001, also?

11 A. Yes.

12 Q. And what did that well produce in 2007?

13 A. According to this report, it only produced water.

14 Q. So of the 13 wells, we only have one reporting  
15 any production, and that production is water?

16 A. That's correct.

17 Q. Let's go to the first rule violation at issue.

18 And I'd like you to start with Rule 201 regarding mediation of  
19 well sites. Are you familiar with that rule?

20 A. Yes.

21 Q. Could you summarize its requirements?

22 A. Rule 202 basically states that a well must be  
23 plugged -- or when a well is plugged, that the operator has a  
24 year from that plugging date to go in and remediate the site.

25 Q. Okay. If you would turn back to Exhibit No. 3 --

1 we're going to be using Exhibit No. 3 throughout the evidence  
2 today. On the general well list, did you identify any wells  
3 operated by C. W. Trainer that you believe are in violation of  
4 Rule 202?

5 A. Yes. There are five wells. Those are coded in  
6 blue. They are the Hope State #001, the Lea DS State #001, the  
7 M&G Medlin #001, the Nancy #001, and the Tower #002.

8 Q. There are dates handwritten in the margin next to  
9 those wells. What do those dates indicate?

10 A. Those dates indicate when the wells were plugged.

11 Q. Where did the OCD get those dates?

12 A. From the well files.

13 Q. Would you turn to what's been marked as Exhibit  
14 No. 6?

15 A. Okay.

16 Q. Are these the subsequent reports of plugging of  
17 the operator for each of those five wells?

18 A. Yes, they are.

19 Q. And these are the documents from which you got  
20 the plugging dates?

21 A. Yes.

22 Q. So looking at those dates, all of the five wells  
23 coated in blue, have they all been plugged more than one year  
24 ago?

25 A. Yes, they have.

1 Q. In fact, all of them have been plugged more than  
2 a year and a half ago?

3 A. That's correct.

4 Q. One was plugged back in 2002?

5 A. Yes.

6 Q. For any of these wells, does the well file show a  
7 subsequent report indicating the restoration work has been  
8 completed?

9 A. As of this morning, I went through the well  
10 files, and there's no additional paperwork filed for those  
11 wells.

12 Q. Is the filing of such a report required under  
13 Rule 202?

14 A. Yes, it is.

15 Q. Let's look at the second rule violation at issue  
16 today, and that's Rule 201, the inactive well rule. Can you  
17 summarize the requirements of Rule 201?

18 A. Yeah. 201 requires wells to be in compliance  
19 either through plugging or temporary abandonment, and it gives  
20 the operator a year and three months to get those wells into  
21 compliance.

22 Q. Which wells did the application allege were in  
23 violation of Rule 201?

24 A. Those were 11 wells on Exhibit -- Exhibit No. 3,  
25 that were coded in yellow.

1 Q. All right. Now, some of those wells have a solid  
2 yellow line through them, and some of them have yellow  
3 parentheses around them. What is the significance of that?

4 A. The ones in yellow parentheses show that these  
5 wells may be back in compliance at this time.

6 Q. All right. And the ones with the solid line,  
7 you're saying --

8 A. Are out of compliance.

9 Q. -- are out of compliance. Let's go through each  
10 one of those. And to make this a little easier, let's start  
11 with the ones that are also coded in blue, the five wells that  
12 are plugged but not released. These are also coded yellow as  
13 in violation of the inactive well rule. Why is that?

14 A. Well, you know, stated in Rule 202, the  
15 restoration of the sites must be completed within a year after  
16 the plugging has taken place, and that hasn't occurred on these  
17 wells.

18 Q. And all of these wells have been inactive for  
19 more than a year plus 90 days?

20 A. Yes, they have.

21 Q. In fact, even after the plugging activity,  
22 they've been inactive for a year and 90 days.

23 A. That's correct.

24 Q. So now, let's just discuss the remaining wells  
25 that are coded yellow. And let's start with the one on the top

1 and work our way down the list.

2 And the first one is the Gulf Deep #001. I notice  
3 that there's nothing in the column for last production or  
4 injection, so I take it this well never reported production or  
5 injection?

6 A. According to our records, it hasn't.

7 Q. Did you review the well file for this well to  
8 determine when the last activity took place on this well?

9 A. Yes, I did.

10 Q. Could you summarize what you found?

11 A. The well was actually drilled back in 1958 and  
12 was a dry hole. And it was plugged and abandoned back in 1958.  
13 In 2002, the operator, C. W. Trainer, went ahead and filed an  
14 application to re-enter that well. And they were given a year  
15 to complete that work on the well.

16 We don't have any indication of what happened after  
17 they re-entered or if they actually did re-enter that well.  
18 But as of March of 2008, they did file an intent to perform  
19 remedial work and a notice of intent to plug and abandon the  
20 well.

21 Q. Does that suggest to you that they did re-enter  
22 and that this well needs to be plugged?

23 A. Yes, it does.

24 Q. Could you turn to what's been marked as  
25 Exhibit No. 7?

1 A. Okay.

2 Q. Is this a collection of the documents from the  
3 well file for the Gulf Deep #001 showing the activities that  
4 you just described?

5 A. Yes, it is.

6 Q. Now, this isn't the complete well file, is it?

7 A. No. There was just the portions of it that we  
8 thought were relevant to the case.

9 Q. All right. Let's turn to the second well on  
10 Exhibit 3 that's coded yellow. And this is one that's in  
11 parentheses. It's the Gulf State Com #001. Does this well  
12 show reported production or injection?

13 A. No, it doesn't.

14 Q. Check on -- if you could take a look at that one?  
15 It's the Gulf State Com #001.

16 A. I'm sorry. I'm sorry, yes. I was thinking  
17 recently -- and it does show that the last reported production  
18 or injection was in April of 1999.

19 Q. Okay. Have you reviewed the well file of this  
20 well?

21 A. Yes.

22 Q. And has there been any reported activity in the  
23 well file since we filed the application for hearing in this  
24 case?

25 A. Yes, there has been. There has been a subsequent

1 report of the plugging and abandonment on the well.

2 Q. Is Exhibit No. 8 a copy of the Sundry Notice  
3 reporting the plugging of the well bore?

4 A. Yes, it is.

5 Q. And when was that filed?

6 A. This was filed on March 19th, 2008.

7 Q. So is this well in compliance with Rule 201 right  
8 now?

9 A. Yes. They did plug it. They do have a year to  
10 complete the remediation on the site.

11 Q. Okay.

12 A. So they would be in compliance.

13 Q. Is that why it has a yellow parentheses around it  
14 instead of a solid yellow line?

15 A. Yes, that's correct.

16 Q. And that compliance was just in the past --

17 A. In the past couple weeks.

18 Q. Okay. Let's turn to the third well that has a  
19 yellow coding, and that is the Harris Federal #001. What type  
20 of well is this?

21 A. This is the saltwater disposal well.

22 Q. When was the last reported injection on this  
23 well?

24 A. July of 2004.

25 Q. Have you checked the well file?

1 A. Yes.

2 Q. Is the well on approved temporary abandonment  
3 status?

4 A. No, it's not.

5 Q. What is the last reported activity in the well  
6 file?

7 A. It was a sundry filed in October of 2007  
8 indicating that they were going to squeeze perf.

9 Q. And is Exhibit No. 9 a copy of that sundry?

10 A. Yes.

11 Q. Why is this well coded in yellow in parentheses  
12 instead of a solid yellow line?

13 A. This well, too, may be in compliance, and we take  
14 it that they were working on it within the last year.

15 Q. So if you consider the perforating of the well an  
16 activity, that might restart the clock?

17 A. Yes. Yes, we would look at it in that respect.

18 Q. All right. Now, we've done the next three wells.

19 Those are the wells that have the well bore plugged and not  
20 released. So let's move to the Morse #001. Now, I notice  
21 there are two wells both called Morse #001. Why is that?

22 A. One of the Morse #001s is a saltwater disposal  
23 well. The other one is an oil well.

24 Q. All right. Let's start with the one on top. Is  
25 that the oil well?



1 A. Yes, it is.

2 Q. And when was the last production on that well?

3 A. That one was in March of 2001.

4 Q. Is the well currently on approved temporary  
5 abandonment status?

6 A. No.

7 Q. Does the well file show any recent activity?

8 A. Yes. There was an attempt recently to do a  
9 work-over on this well.

10 Q. Is Exhibit 10 a copy of the report that was filed  
11 on the work-over?

12 A. Yes.

13 Q. And when was this report filed?

14 A. On March 19th of 2008.

15 Q. So after the application in this case was filed  
16 and shortly before the hearing?

17 A. That's correct.

18 Q. If we count that work as bringing the well into  
19 activity, would that restart the clock?

20 A. Yes, it would.

21 Q. Is that why we have a parentheses around this  
22 well instead of a solid yellow line?

23 A. Yes, it is.

24 Q. Let's turn to the next Morse well, and this is  
25 the saltwater disposal well. When is the last reported

1 injection of this well?

2 A. November of 1997.

3 Q. Is this well on approved temporary abandonment  
4 status?

5 A. No, it's not.

6 Q. Does the well file show any activity since the  
7 filing of the application?

8 A. Yes. They have filed a notice of intent to  
9 temporarily abandon the well.

10 Q. Is Exhibit 11 a copy of that notice?

11 A. Yes.

12 Q. And when was that filed?

13 A. March 19th, 2008.

14 Q. To your knowledge, has the well actually been  
15 placed on approved temporary abandonment status?

16 A. Not as of today.

17 Q. So this well has a solid yellow line. Do you  
18 consider this still in violation --

19 A. Yes.

20 Q. -- until we receive different information --

21 A. Different information, yeah.

22 Q. -- that it has been approved for temporary  
23 abandonment status?

24 A. Yeah.

25 Q. Let's turn to the Thistle Unit #002. When is the

1 last reported production for this well?

2 A. This shows November of 2000.

3 Q. Is this well on approved temporary status?

4 A. No.

5 Q. What is the most recent activity shown in the  
6 well file for this well?

7 A. This one, too, has a notice of intent to plug  
8 filed with the BLM. And that was filed on November 9th, 2007.

9 Q. Is Exhibit 12 a copy of that Sundry Notice?

10 A. Yes, it is.

11 Q. Are there any subsequent reports indicating that  
12 the well was actually plugged?

13 A. No, there are not.

14 Q. So this well has a solid yellow line. Do you  
15 consider this well to be in violation?

16 A. Yes.

17 Q. Did the OCD file a previous compliance case  
18 against C. W. Trainer to try to obtain compliance with inactive  
19 well rule?

20 A. Yes, we did.

21 Q. Is Exhibit No. 13 a copy of the order that was  
22 issued in that case?

23 A. Yes, it is.

24 Q. And when was that order issued?

25 A. On February 23rd, 2007.

1 Q. Does the order cover any of the wells at issue in  
2 today's case?

3 A. Yes. It covers the Gulf State Com Well #001, the  
4 Harris Federal #001, and the Morse Well #001, an oil well.

5 Q. And these are all wells that we've just addressed  
6 in connection with the inactive well rules?

7 A. That's correct.

8 Q. Could you turn to Page 3 of the order,  
9 Exhibit No. 13?

10 A. Okay.

11 Q. The section that talks about what Mr. Trainer is  
12 being ordered to do, what did the order require of him?

13 A. "Operator shall properly plug each of the subject  
14 wells in accordance with []Division Rule 202.A, 202.B(1) and  
15 (2), and the plugging procedure be approved by the Hobbs  
16 District Office or the Division, or shall otherwise bring each  
17 of the subject wells into compliance with Rule 201, on or  
18 before May 31st, 2007."

19 Q. Was there a penalty attached to this order?

20 A. Yes. There was a \$5,000 penalty.

21 Q. Was that penalty paid?

22 A. Yes, it was.

23 Q. All right. Did Mr. Trainer manage to bring the  
24 wells into compliance by that May 31st, 2007 deadline?

25 A. No, he didn't.

1 Q. Now, he has brought some of these wells into  
2 compliance now; is that right?

3 A. Yes. Now they are in compliance.

4 Q. The Gulf State #001, that's one that is now --  
5 has the well bore plugged?

6 A. Yes.

7 Q. And the Harris Federal #001, we had some  
8 perforations done?

9 A. Some perforations done.

10 Q. And the Morse #001, we have some remedial work  
11 being down on the well?

12 A. That's right.

13 Q. Could you turn to what has been marked as  
14 Exhibit No. 14?

15 A. Okay.

16 Q. What is this document?

17 A. This is an Agreed Compliance Order that was put  
18 into effect with C. W. Trainer and the OCD. I believe that was  
19 back in October of 2004.

20 Q. So this predates the hearing, the Plugging  
21 Hearing that we did on Mr. Trainer?

22 A. Yes, it does.

23 Q. And this set a schedule for coming into  
24 compliance; is that right?

25 A. Yes.

1 Q. Could you turn to what's been marked as  
2 Exhibit No. 15?

3 A. Okay.

4 Q. And what is this document?

5 A. This is an Amended Agreed Compliance Order, also  
6 for inactive wells for C. W. Trainer. And this was executed in  
7 2005.

8 Q. So just a year after the first one?

9 A. Yes.

10 Q. Did it change the schedule for compliance?

11 A. I believe it made it a little easier for  
12 Mr. Trainer to meet the compliance.

13 Q. Why was an Amended Agreed Compliance Order issued  
14 for Mr. Trainer?

15 A. Because he didn't meet the terms of the first  
16 one.

17 Q. And we were working with him?

18 A. And we continued to work with him, yes.

19 Q. Could you turn to what's been marked as  
20 Exhibit 16, please?

21 A. Okay.

22 Q. What is this document?

23 A. This is a Notice of Violation that was issued to  
24 C. W. Trainer on July 18th of 2006.

25 Q. This is after the two Agreed Compliance Orders?

1 A. Yes, it is.

2 Q. And what was the point of this Notice of  
3 Violation?

4 A. For failing to comply with the two Agreed  
5 Compliance Orders.

6 Q. And this predates the Plugging Hearing?

7 A. Yes, it does.

8 Q. So I take it the Notice of Violation didn't work?

9 A. No, it didn't.

10 Q. So to summarize, at least since 2004 we've been  
11 trying to obtain compliance with the inactive well rule with  
12 Mr. Trainer --

13 A. Yes, we have.

14 Q. -- through two Agreed Compliance Orders, a Notice  
15 of Violation and a Plugging Hearing?

16 A. That's correct.

17 Q. And now we are at a second hearing.

18 A. That's correct.

19 Q. Let's turn to the next rule violation at issue.  
20 This is Rule 101.B, the financial assurance rule. Could you  
21 summarize the requirements of 101.B?

22 A. All state wells that have been inactive for more  
23 than two years require -- or they must be covered by a single  
24 well financial assurance.

25 Q. Does this apply to where the well bore is plugged

1 but the site is not released?

2 A. Yes, it does.

3 Q. Why?

4 A. If for some reason an operator fails to remediate  
5 the site to OCD standards, the State could possibly be stuck  
6 with those costs.

7 Q. When did this single well financial assurance  
8 requirement go into effect for all wells in New Mexico?

9 A. January 1st of 2008.

10 Q. Did the OCD take any steps to notify operators of  
11 this new requirement?

12 A. Yes, they did. A letter was issued back in March  
13 of 2007.

14 Q. Is Exhibit 7 a copy of that form letter that was  
15 sent out to operators?

16 A. Exhibit 17, yes.

17 Q. 17. I'm sorry.

18 A. Yes, it is.

19 Q. And, of course, the financial assurance  
20 requirements were also a subject of the application in this  
21 case; isn't that right?

22 A. That is correct.

23 Q. So Mr. Trainer has known, specifically, which  
24 wells we've considered to be out of the compliance, at least as  
25 of late February, 2008, when the application was filed?



1 A. Yes.

2 Q. Has he posted any single well financial  
3 assurances?

4 A. No.

5 Q. Going back to our color-coded Exhibit No. 2, have  
6 you identified the wells you believe required financial  
7 assurance?

8 A. Yes. Those wells are coded in pink.

9 Q. All right. Let's go through those wells,  
10 starting with the top one, the Gulf Deep #001. Now, this is  
11 one that we don't have a report of production or injection. So  
12 how do you know that there's a well out there that's been  
13 inactive for more than two years?

14 A. This was the well that we showed in Exhibit 7  
15 that the operator had filed to re-enter back in 2002, so that  
16 they did -- they had gone back into the well.

17 Q. And, in fact, they filed a Notice of Intent to  
18 plug the well.

19 A. That's correct. In 2008 they did file a notice  
20 to plug.

21 Q. Let's go to the next well, the Gulf State  
22 Com #001. It shows last production or injection in 1999. I  
23 believe your previous testimony was that the well bore was  
24 recently plugged. So do they still need to file a financial  
25 assurance?

1           A. Yes, they do. They need to file it until the  
2 site has been fully remediated.

3           Q. Do we have the same situation with the next three  
4 wells coded in pink, the Hope State #001, the Lea DS State  
5 #001, and the M&G Medlin #001?

6           A. Yes. All of these well bores have been plugged,  
7 but they have been inactive for more than two years.

8           Q. Let's go to the Morse #001. And this is the oil  
9 well, Morse #001. I notice that the pink coding is in  
10 parentheses. Why is that?

11          A. Well, they had attempted a work-over in 2007 that  
12 was shown earlier. If they indeed actually did some work on  
13 it, then it would start the clock over again. So they still  
14 have some time.

15          Q. Let's go to the next Morse #001, the injection  
16 well. Why does that require financial assurance?

17          A. Once again, the well bore was plugged, but it's  
18 been inactive for more than two years. It's been plugged for  
19 more than two years.

20          Q. Is that one that's been plugged? I can't  
21 remember.

22          A. I believe it has been plugged.

23          Q. But, in any event, it's been inactive since '97?

24          A. Yes.

25          Q. Now, the last two wells, the Nancy #001 and the

1 Tower #002, those are ones that are also coded blue, so these  
2 are plugged and not released?

3 A. Yes.

4 Q. And they've been inactive for more than two  
5 years?

6 A. Yes. And I'd like to correct on the other Morse.  
7 I don't think that was plugged. I think I was thinking of one  
8 of these ones up here, looking at the exhibits. But, yes, the  
9 Nancy and the Tower were both plugged and have been inactive  
10 for over two years.

11 Q. All right.

12 EXAMINER JONES: I'm sorry. Which one was not?

13 THE WITNESS: I was just thinking to myself, the  
14 Morse -- the one previous -- the Morse #001 injection well may  
15 not be plugged. I think I said in my statement earlier that it  
16 was plugged.

17 EXAMINER JONES: Okay.

18 Q. (By Ms. MacQuesten): Let's go to the last rule  
19 violation issue, and that is the one regarding 116D, and this  
20 is with regard to the Harris Federal #001 well, the well that's  
21 coded in green. Could you summarize for us what Rule 116D  
22 requires?

23 A. It requires corrective action on spills by an  
24 operator within a certain time and reporting those spills.

25 Q. Could you summarize the issue regarding Rule 116D

1 at the Harris Federal #001? What happened?

2 A. There was a release on that well, that well site.  
3 And we're looking at remediation on that site from a  
4 previous -- or on another order and completion of that report  
5 to the OCD and an OCD-approved remediation plan.

6 Q. Okay. You mention an "order." Is that an Agreed  
7 Compliance Order?

8 A. Yes. It was an Agreed Compliance Order.

9 Q. Is Exhibit No. 18 a copy of that Agreed  
10 Compliance Order?

11 A. Yes, it is.

12 Q. Could you turn to the last page of  
13 Exhibit No. 18, and in Paragraph 4, could you tell us what  
14 Mr. Trainer agreed to do under the terms of this order?

15 A. Yes, he agreed to pay a \$5,000 penalty, and he  
16 agreed to -- within 60 days of the execution of the order -- to  
17 complete cleanup of the release at the Harris Federal #001 in  
18 accordance with an OCD-approved cleanup plan.

19 Q. All right. And when was the order executed?

20 A. This was on August 20th of 2007.

21 Q. So by the end of October he should have completed  
22 the cleanup?

23 A. Yes, that's correct.

24 Q. Did he pay a penalty?

25 A. I believe he did, yes.

1 Q. Do you know if he completed the cleanup?

2 A. As of today, I believe the cleanup is still going  
3 on.

4 Q. Could you turn to what's been marked as  
5 Exhibit No. 19, please?

6 A. Yes.

7 Q. Do you know who was supposed to do the cleanup  
8 work for Mr. Trainer?

9 A. Yes. That was O'Briant and Associates. They  
10 also do business as Sport Environmental Services.

11 Q. And what is Exhibit 19?

12 A. It is a letter from C. W. Trainer to Chris  
13 Williams, the district supervisor, letting him know that Sport  
14 Environmental will be doing the work.

15 Q. Could you turn to what's been marked as  
16 Exhibit No. 20, please?

17 A. Okay.

18 Q. And could you tell us what this is?

19 A. This is a well inspection history of the Harris  
20 Federal #001 from the Hobbs office.

21 Q. All right. And to actually get the contents of  
22 this, you have to turn it over to look at the next --

23 A. The backside.

24 Q. -- the backside of the page. But could you show  
25 us which entry deals with the release that we're talking about

1 today?

2 A. On the top -- the first one would be the sixth  
3 from the top. It's dated February 23rd of 2007. It indicates  
4 that it has been fenced, three strands of barbed wire, no  
5 cleanup has been started, this well is no longer T/A'd, as  
6 flowing to the tank from CSG, BLM TA status extension has  
7 expired. And it expired September of '06.

8 Q. All right.

9 MR. BROOKS: Which entry was this you were reading?

10 THE WITNESS: The sixth one from the top. And that's  
11 February 23rd, 2007. And then from there -- well, actually,  
12 that was the one below it. The February 28th is the one that's  
13 stated those ones.

14 On March 19th, 2007, the entry into the system was:  
15 Most of the locations in the surrounding area have been sprayed  
16 with oil; the ground around well is saturated with oil;  
17 connections on the water tank are leaking; fluids running west  
18 across location; no cleanup of contaminated soil has been  
19 started; needs cleanup as soon as possible.

20 And there's a couple of additional entries after  
21 that: Some dirt scraped up from the location, put on plastic;  
22 still has heavy oil stain over much of the location.

23 That was in April of '07.

24 October of '07, as per Gary Wing: Check well status;  
25 well currently shut-in; environmental cleanup in progress.

1 And November 15th what the last entry. And it was:  
2 Large excavation, dirt piles no longer on plastic.

3 Q. (By Ms. MacQuesten): Has the OCD had any contact  
4 from the contractor working for C. W. Trainer on this cleanup  
5 after that November 15, 2007 entry?

6 A. Yes. We had an e-mail from the contractor.

7 Q. Is that e-mail Exhibit No. 21?

8 A. Yes, it is.

9 Q. And could you summarize what the contractor told  
10 us?

11 A. Basically, that they were stopping work on the  
12 remediation projects because they have not been paid. And  
13 because of that, they would no longer be able to continue work.

14 Q. Mr. Sanchez, what relief are you asking for in  
15 this case?

16 A. We're asking that the Hearing Examiner issue an  
17 order having C. W. Trainer plug the rest of their wells,  
18 actually all of their wells at this time.

19 Q. Why are you asking for that and not just giving  
20 them a date to come into compliance and imposing penalties?

21 A. We have worked with the operator for a number of  
22 years already, and we've had numerous deadlines which have not  
23 been met. It seems like when we decide to take the extreme  
24 issue of going to hearing, then we get the operator to do a  
25 little bit of work.

1 But even with that, none of the work has really been  
2 completed. The one well that they do have reporting production  
3 at this time is only producing water. So we just feel that at  
4 this time, it's probably best to shut-in these wells and have  
5 them plugged.

6 Q. Now, we've seen some activity, especially after  
7 the filing of the application. Does that change your position  
8 on the relief?

9 A. No. Most of the activity has been to plug the  
10 wells anyway. So I just don't see that allowing them to  
11 continue operating is going to change how they have been  
12 operating over the last few years.

13 MS. MACQUESTEN: I would move to admit Exhibits 1  
14 through 21.

15 MS. MUNDS-DRY: No objection.

16 EXAMINER JONES: Exhibits 1 through 21 will be  
17 admitted.

18 MS. MACQUESTEN: This concludes my examination of Mr.  
19 Sanchez.

20 EXAMINER JONES: Ms. Munds-Dry?

21 CROSS EXAMINATION

22 BY MS. MUNDS-DRY:

23 Q. Mr. Sanchez, I just need help making sure I  
24 understand, since we're dealing with so many wells, what we're  
25 left with that so I can get an entire picture here.



1 Now, the blue code is for which rule violation? Is  
2 that 201?

3 A. That is 202.

4 Q. 202. And yellow is 201?

5 A. 201.

6 Q. And pink is 101?

7 A. 101.

8 Q. Okay. And then if it has a parentheses or sort  
9 of a bracket, that means that it may be in compliance?

10 A. It may be in compliance.

11 Q. Okay. I just wanted to understand that. Now,  
12 with the Barbara Federal #001 -- and I may tax your ability to  
13 remember all these wells as well, so I apologize for that --  
14 that well is in compliance with all OCD rules at this time?

15 A. Currently, yes.

16 Q. The Grama Ridge 8 State #001, that is also in  
17 compliance with all OCD rules?

18 A. Yes.

19 Q. Okay. The Gulf State Com #001, according to your  
20 Exhibit No. 3, is in compliance with Rule 201, but not -- is  
21 that correct?

22 A. Yes. It may be in compliance, depending on how  
23 you look at what was done to the well.

24 Q. Okay. I understand that. And let's go back to  
25 the Morse #001, the -- not the disposal well, but --

1 A. The oil well.

2 Q. -- the oil well.

3 A. Okay.

4 Q. What is the status of this well, now? Because I  
5 was trying to take notes while you were going through this.

6 A. Okay. It may be -- it is in compliance now  
7 because they did file to have it plugged. But we have yet to  
8 receive the final report showing that it has been plugged.

9 Q. Okay. And the Harris Federal #001, as I  
10 understand, is also a disposal well?

11 A. Yes.

12 Q. Okay. That is also in compliance with Rule 201?

13 A. 201.

14 Q. Okay. I think I understand that. When was the  
15 last contact you had with Mr. Trainer?

16 A. Personally, I can't remember the last time --

17 Q. Okay.

18 A. -- that we talked with the operator.

19 Q. Let's talk about the financial assurance  
20 requirements. I have -- you're showing here on your  
21 Exhibit No. 3 that there are one, two, three, four, five, six,  
22 seven, eight wells that are in need of financial assurance well  
23 bonds --

24 A. Yes.

25 Q. -- single financial assurance well bonds?

1 A. Yes.

2 Q. Do you know how that's reported on the OCD  
3 website? You may not know the answer to that question.

4 A. No, I don't know.

5 MS. MUNDS-DRY: All right. I think that's all the  
6 questions I have. Thank you, Mr. Sanchez.

7 EXAMINATION

8 BY EXAMINER JONES:

9 Q. Okay, Mr. Sanchez. She asked about a  
10 conversation with Mr. Trainer. Do you know about Mr. Trainer's  
11 staff? Is he just a sole proprietor with one person in the  
12 whole company?

13 A. No. He's a sole proprietor. I don't know how  
14 many people he has working for him or if he has any at all.

15 Q. Do you know, is this all Lea County? No, this is  
16 all Chaves and Lea, isn't it?

17 A. Uh-huh.

18 Q. It looks like. Do you know if this is it for  
19 New Mexico for him?

20 A. Yes, it is.

21 Q. Do you know if he has anything anywhere else in  
22 Texas?

23 A. I'm not aware of that.

24 Q. That wouldn't be a thing that we would know, I  
25 guess. So we really don't know how many people he's got, but

1 your inspectors have talked to him or talked to his  
2 contractors, right?

3 A. That's correct.

4 Q. One of the contractors, this Clay Pearson says  
5 that he hasn't been paid; is that correct?

6 A. The name of the company -- I don't know if Clay  
7 Pearson works for him, but the name of the company is Sport  
8 Environmental.

9 Q. Okay.

10 A. And that was the reason for them stopping work.

11 Q. When was that? When did they say that?

12 A. January 29th of 2008, so recently, two months.

13 Q. Okay. Do you have a good address for  
14 Mr. Trainer?

15 A. Yes, we do.

16 Q. You testified that you --

17 MS. MACQUESTEN: We were able to receive the green  
18 card back. And he has an attorney here, so he got the word.

19 Q. (By Examiner Jones): Any idea why he didn't show  
20 up for this hearing, except through counsel?

21 A. I have no idea.

22 MS. MUNDS-DRY: I can answer that, if you want.

23 EXAMINER JONES: I guess I should probe a little bit  
24 about that. Was it just decided that was the strategy to have  
25 here or --

1 MS. MUNDS-DRY: It certainly wasn't a strategy.  
2 Mr. Trainer was actually out in the field yesterday dealing  
3 with these wells and has been dealing with them since the  
4 application was filed and just couldn't make it to Santa Fe.  
5 And Mr. Trainer is also elderly. I know that's not really an  
6 excuse, but he's working in the field as we speak to correct  
7 these wells.

8 Q. (By Examiner Jones): The issue of handling the  
9 bonds, do you have any idea that he's been trying to do that,  
10 the bonds?

11 A. I have no idea what he's attempting to do at this  
12 point.

13 Q. He is aware. He got these letters that got  
14 mailed out about the rule, the new rule on the bonding, and it  
15 seems like a lot of operators have either not jumped right on  
16 that -- or does anybody know of his awareness of this bonding  
17 issue?

18 MS. MUNDS-DRY: He is aware.

19 EXAMINER JONES: He's aware?

20 MS. MUNDS-DRY: I know he's been talking to his  
21 bonding company.

22 EXAMINER JONES: Okay. And they would forfeit --  
23 that bond would be forfeited, I guess, in this case. And they  
24 didn't make an appearance here, right, U.S. Specialty Insurance  
25 Company?

1 MS. MUNDS-DRY: I do not represent them.

2 EXAMINER JONES: Okay. I'm just searching for  
3 reasons why this is going on. Apparently, the guy's older, and  
4 he's too busy to handle his wells.

5 Q. (By Examiner Jones): Why would he report only  
6 water on this one well, and why would we keep it operating with  
7 only water production? That doesn't make sense, unless there's  
8 a mistake in the reporting.

9 A. And I have no idea why that would be.

10 Q. There's no way to check and see if production  
11 taxes are being paid, or anything like that. We don't do that.  
12 I realize that. That's just -- if they don't report  
13 production, they don't report production. It's one of the  
14 rules.

15 So we got -- we're dismissing the failure to  
16 report -- to file production reports, anyway, off this case?

17 MS. MACQUESTEN: That's right.

18 EXAMINER JONES: We're left with Rule 201, 202, 101.B  
19 and 116.D for these specific issues. And how would this be --  
20 if this gets scanned in, how are the people reviewing this case  
21 file going to know what --

22 MS. MACQUESTEN: They need to scan it in color as  
23 they would a map.

24 EXAMINER JONES: Good answer.

25 Q. (By Examiner Jones): And you're asking for the

1     OCD to have permission to proceed with plugging all the wells?  
2     Do you have a schedule for that? Or just no more fines, just  
3     the plugging.

4             A. Yes.

5             Q. And you're asking for him to plug all the wells?

6             A. All the wells.

7             Q. All the wells.

8             EXAMINER JONES: Does Mr. Trainer say anything about  
9     these issues? Does he want more time?

10            MS. MUNDS-DRY: All I have for you today is his  
11     affidavit since he couldn't be here. So I can give you that.

12            EXAMINER JONES: Okay. You're going to show us that  
13     later. Okay. We're just asking Daniel questions here, right  
14     now. I better pass this on to the other guys here.

15            Terry do you have questions?

16            MR. WARNELL: Well, it would appear to me that  
17     Mr. Trainer is not very willing to work with the State.

18            But I need a little clarification, Mr. Sanchez, if I  
19     could, please, on Exhibit 13 and Exhibit 15. And I may have  
20     been not paying attention when you went through that  
21     originally, but on Exhibit 13, there's four wells. And then on  
22     Exhibit 15, there's seven wells. Of those seven wells, three  
23     of them are also listed on Exhibit 13.

24            THE WITNESS: Okay. Exhibit 13 -- there were four  
25     wells on Exhibit 13. One of the wells is no longer operated by

1 C. W. Trainer, and that was at the State GB Well #001.

2 MR. WARNELL: The last one?

3 THE WITNESS: And the other three are part of this  
4 case.

5 MR. WARNELL: Okay. That's all.

6 EXAMINER JONES: Okay. Thank you.

7 Mr. Brooks?

8 MR. BROOKS: Yeah. I have a couple questions here.

9 EXAMINER JONES: We mentioned earlier that we're  
10 probably going to ask Mr. Brooks to be active in lending his  
11 expertise to writing these cases.

12 MR. BROOKS: That will be fine.

13 EXAMINATION

14 BY MR. BROOKS:

15 Q. And my first question here is, is Exhibit  
16 No. 4 -- I'm sorry that I don't understand these things. Some  
17 people will probably tell you I'm not very smart.

18 Exhibit No. 4 is the production report, right?

19 A. Yes.

20 Q. And we talked about the Barbara Federal #001, and  
21 I'm trying to find that on here. Next to the bottom of the  
22 first entry that I find for it is the next to the bottom on the  
23 first page of Exhibit No. 4.

24 What I don't understand is the -- you said -- you  
25 characterized it saying that it produced only water.



1 A. Yes.

2 Q. And I don't know how to rate it. I see in "oil  
3 produced" it says zero, zero, zero. However, it says "oil  
4 BOM." What does that stand for?

5 A. BOM is the beginning of the month; EOM is end of  
6 the month.

7 Q. Is that accumulative --

8 A. I believe so.

9 Q. -- production?

10 A. No, huh-uh. Excuse me. This report -- for  
11 questions on this report, they could probably better be  
12 answered by Jane Prouty, who is available here to answer that  
13 question.

14 Q. Okay. Very good. Well, then I will refer these  
15 questions to Ms. Prouty, as far as that's concerned. Because I  
16 don't understand what it shows on that report. It's not the  
17 format of reports that I'm accustomed to seeing a lot. It  
18 looks like -- I've seen them in a couple of cases. It looks  
19 like I'm going to have to get accustomed to seeing them.

20 Let's see what else I had. You were talking about  
21 the Gulf Deep #001. You said that at some point in time  
22 Mr. Trainer -- that it was drilled as a dry hole in 1958 in  
23 PNA. And sometime Mr. Trainer filed to re-enter. What was the  
24 date you gave them?

25 A. It was in 2002.

1 Q. 2002. Now, was there ever any production from  
2 that well?

3 A. None reported.

4 Q. Okay. And then you filed a notice that --  
5 Mr. Trainer filed a notice to PNA in 2008?

6 A. Yes. That was on March 19th, 2008.

7 Q. Okay. Now, on these wells that have been plugged  
8 where the well site has not been remediated, as I understand  
9 it, you said that the operator was required to file a notice.  
10 I'm having trouble finding where the rule says that. Can you  
11 point that out to me? Is it --

12 A. On the plugged wells, they are not required to  
13 notice, but 202 requires them to.

14 Q. Requires them to contact the district office when  
15 the well is ready for -- when the site is ready for inspection.  
16 What I didn't see is anything that required them to file  
17 anything in writing.

18 MS. MACQUESTEN: Mr. Examiner, if I could direct your  
19 attention to Rule 202C.

20 MR. BROOKS: Okay. Hold on. Let me find 202 here.  
21 I had it in front of me, and then I paged over something else.  
22 202C? Okay.

23 MS. MACQUESTEN: It sets out the reporting  
24 requirements for plugging, and the second paragraph, that says  
25 that within 30 days after completing all required restoration

1 work, operator shall file with the Division in triplicate --

2 MR. BROOKS: Okay. That's what I was looking for.  
3 Thank you for pointing that out.

4 MS. MACQUESTEN: It's important, Mr. Examiner,  
5 because we need that in order to actually release the well.  
6 And that benefits the operator, because once the well is  
7 released, he's relieved of financial assurance requirements and  
8 other obligations. So it's important that we get that  
9 paperwork from him.

10 MR. BROOKS: Thank you for pointing that out to me.

11 Q. (By Mr. Brooks): Do you know if in the  
12 Rule 202.B(4) says, upon completion of plugging and cleanup  
13 restoration operations as required, the operator shall contact  
14 the appropriate district office and arrange for an inspection  
15 of the well and location.

16 Do you know if that's been done, If the operator has  
17 contacted the district office and indicated that they were  
18 ready for inspection on any of these locations?

19 A. It has not been done.

20 Q. And you know that of your own knowledge? You've  
21 verified that with the people in the district?

22 A. Yes, sir.

23 Q. And the district office -- employees at the  
24 district offices that are responsible for tending to these  
25 matters, do they work under your direction?

1 A. Yes, they do.

2 MR. BROOKS: Okay. I think that's all I have.  
3 Except I need to get Ms. Prouty to explain this balancing  
4 report.

5 EXAMINER JONES: I have one more question of  
6 Mr. Sanchez before he steps down.

7 This is Chaves and Lea County, and we've got -- I  
8 guess it's all -- well, maybe just one well is in Chaves  
9 County? And the rest are Lea -- well, no, two -- two wells.

10 We're asking -- you're asking for an order to go  
11 ahead and plug these wells, and there's different methods of  
12 plugging wells. You know, you can recover casing, or you  
13 cannot in some cases. So the wells could be re-entered easily,  
14 more easily if the casing is not recovered in some cases.

15 And you've got district geologists that should be  
16 able to tell you if an operator has just obviously overlooked  
17 some potential zones to try in a well. Or do you talk to the  
18 district geologists about any of these issues and about the  
19 methods of plugging? What kind of methods on each one of these  
20 wells would you recommend? Is it -- obviously, some of the  
21 wells may not have any potential at all, and some of them might  
22 be a damage to the environment. And so what do you say?

23 THE WITNESS: No. I have not talked to the  
24 geologists on these. In the future, I could discuss those  
25 issues with the district office. They usually have one person

1 in there who handles plugging and approves plugging plans.

2 EXAMINER JONES: And it's not the same person as the  
3 geologist in some cases, right?

4 THE WITNESS: In some cases, it's not.

5 EXAMINER JONES: Okay. As far as the plugging  
6 procedure, if you get an order to plug a well, the districts  
7 would have to review it anyway --

8 THE WITNESS: That's correct.

9 EXAMINER JONES: -- and design a procedure.

10 THE WITNESS: Yes.

11 EXAMINER JONES: Okay. That's all the questions I  
12 have.

13 Ms. Prouty, would you please stand and be sworn?

14 JANE PROUTY

15 after having been first duly sworn under oath,  
16 was questioned and testified as follows:

17 EXAMINATION

18 BY MR. BROOKS:

19 Q. Ms. Prouty, I just want to get you to explain to  
20 me these entries on Exhibit No. 4. I was looking at the one on  
21 the Barbara Federal because that was the one that seemed to be  
22 on point.

23 MS. MACQUESTEN: It's on the first page.

24 MR. BROOKS: It's the next to the last entry on the  
25 first page.

1 Q. (By Mr. Brooks): First of all, why are there  
2 three lines there instead of just one? They're all dated  
3 March 19th, 2008.

4 A. Right. This report shows only oil and gas. And  
5 it shows production and disposition. And the goal -- it's a  
6 balancing report -- and the goal is for the production to match  
7 the disposition.

8 So what they reported was the top line has the API  
9 number in it -- 3002524598. And if they had reported any  
10 production, you would see it either under the gas produced  
11 column or further to the right under the oil produced column --

12 Q. Yes.

13 A. -- and they didn't. The second line is their  
14 reporting, the beginning and the ending balances, which are the  
15 same because they didn't produce anything.

16 Q. Okay. Now, that beginning balance, is that the  
17 cumulative production to date or --

18 A. It is -- and not exactly. Because -- Daniel  
19 could have explained this as well or better than I could. It  
20 is the -- it was what was left in the tank in prior months.  
21 But if they sold it, then it would be reduced.

22 Q. So it's not cumulative production. It's the  
23 actual amount of oil in the tank?

24 A. Yes.

25 Q. Okay. And when Mr. Sanchez said this report

1 showed that it produced water, it actually doesn't show that it  
2 produced water; is that correct?

3 A. Right. Because the intention of the report is  
4 just to show oil and gas. That's mainly what the public wants  
5 to see. And that's what we're interested in balancing, to make  
6 sure that taxes are paid correctly.

7 Q. So what it actually shows is it didn't produce  
8 oil or gas?

9 A. That is correct.

10 Q. And that's probably --

11 A. And also that they didn't transfer any oil.

12 Q. If it produced water, that's probably not  
13 relevant anyway because the -- well, they would have to show  
14 that it was somehow of beneficial use to produce water. And I  
15 wouldn't presume that that would be the case.

16 Was there another entry on the Barbara on here?

17 EXAMINER JONES: I thought --

18 MR. BROOKS: I thought they referred, and I saw  
19 another entry somewhere else on the Barbara Federal, but I  
20 didn't find it.

21 MS. MACQUESTEN: Mr. Examiner, there's a separate  
22 exhibit, the next one, Exhibit 5, which gives the cumulative  
23 production data for the Barbara --

24 MR. BROOKS: Yeah. So -- I see that.

25 MS. MACQUESTEN: The reason we had to do the

1 Exhibit No. 4 is that the cumulative production data for  
2 January isn't available yet. So we had to go specifically to  
3 January to show what was reported or not reported for that  
4 month to explain why when you look at the general well list,  
5 it's showing production for January.

6 MR. BROOKS: Okay. Thank you. That's all I need.

7 EXAMINER JONES: Ms. Munds-Dry?

8 MS. MUNDS-DRY: I have no questions.

9 MS. MACQUESTEN: Could I ask Ms. Prouty a couple of  
10 questions?

11 DIRECT EXAMINATION

12 BY MS. MACQUESTEN:

13 Q. Ms. Prouty, on the general well list, which is  
14 Exhibit No. 3, it shows production or injection for the Barbara  
15 Federal #001 for January of 2008.

16 A. Uh-huh.

17 Q. And did you check to see what was reported that  
18 caused the computer to show production or injection for  
19 January?

20 A. Yes. It was water.

21 Q. Then how can you tell that?

22 A. They let us know when they send in their C-115,  
23 they either put it in the gas, oil, water column, or the  
24 injection column.

25 Q. Okay. On Exhibit No. 4, the detailed balancing



1 report that shows each well's production for January of 2008,  
2 for the Barbara Federal, that third listing has a type listed  
3 as "W." What does that tell you?

4 A. That would be on the disposition side, and it's  
5 water dispositioned.

6 Q. Okay. So you know something is going on with  
7 water at that well?

8 A. Right.

9 Q. And then you were able to check specifically to  
10 see what the report indicated for production for that month,  
11 and it was water?

12 A. Right.

13 MS. MACQUESTEN: Thank you. That's all.

14 EXAMINER JONES: I have no questions.

15 MR. BROOKS: Nothing further.

16 EXAMINER JONES: Okay. Thank you, Ms. Prouty.

17 Does that conclude the applicant's case?

18 MS. MACQUESTEN: It does.

19 MS. MUNDS-DRY: Mr. Examiner, I'm handing you an  
20 affidavit from Mr. Trainer. Some of it is not relevant any  
21 more, as the Division has indicated that they are dismissing  
22 their claim for violation under 11-115.

23 Mr. Examiner, this is the affidavit of Mr. Trainer,  
24 who I've explained to you is in the field and couldn't make it  
25 to Santa Fe. In sum -- and I'll give you a brief overview of

1 these exhibits.

2 Again, Exhibit 1 to this affidavit is the C-115  
3 report, which, again, really isn't relevant at this point.  
4 We're just indicating that the reports were filed.

5 Exhibit No. 2 of the affidavit -- and I just noticed  
6 it's cut off, so it's not very helpful -- it indicates which  
7 wells need a financial assurance report. And the only point  
8 that Mr. Trainer is trying to show with this is that it's  
9 slightly different than what the OCD is reporting. It shows  
10 that six wells require a bond, and the Gulf Deep is not  
11 included, and this may just be the way the reporting is done.

12 And there's one other well that was not on here.  
13 There were some slight discontinuities. There was just  
14 something that's different between what the Division's  
15 reporting and what the website is reporting. It's not a big  
16 deal.

17 Mr. Trainer is not claiming that he does have these  
18 financial assurance bonds in place.

19 Exhibit No. 3 is what the Division shows as an  
20 inactive well list. It shows there are four wells on the  
21 inactive well list; the Harris Federal #001; both the  
22 Morse #001 wells; and the Thistle Unit well that Mr. Sanchez,  
23 of course, has testified as to the list that he shows. It just  
24 shows that there's some, again, some difference there.

25 And then, finally, probably the most important are

1 the C103s -- and this has been marked as Exhibit No. 4 -- that  
2 Mr. Trainer has recently filed and probably have not been made  
3 of record yet in the OCD well files. This is for Gulf State  
4 Com #001 indicating that the surface cleanup has taken place;  
5 for the Tower #002 well, again, showing that the surface has  
6 been cleaned up; and the Hope State #001 well also showing that  
7 he's been out there cleaning up the surface. And all these  
8 sites, of course, are waiting for final inspections according  
9 to OCD rules.

10 In addition, Mr. Trainer states in his affidavit that  
11 a representative from his office -- I believe it was his son,  
12 but I'm not positive about that -- met with the Hobbs District  
13 Office staff. It was either last week or earlier this week,  
14 I'm not sure, to discuss the ongoing cleanup of the Harris  
15 Federal #001 site and the Lea DS site. And they are -- as I  
16 understand it, the district is office reviewing those further  
17 plans to give them the okay so that Mr. Trainer can complete  
18 the cleanup on that site.

19 And, finally, he states in his affidavit the Morse  
20 Well #001 -- that is the disposal well -- that the surface  
21 reclamation -- that they have requested a -- that the Division  
22 witness a pressure test.

23 What Mr. Trainer is trying to show in this affidavit  
24 is that he's been responding to the application and trying to  
25 work on these issues as best he can with, you know -- with the

1 time limits that he had in trying to respond here.

2 And with that, I would ask that -- and I've marked  
3 these sort of oddly; I apologize -- Exhibits 1, 2, 3, 4 and 5,  
4 which is actually the affidavit, be admitted into evidence.

5 MS. MACQUESTEN: Mr. Examiner, I object to the  
6 admission of this. Essentially, Mr. Trainer is trying to  
7 testify through an affidavit. That eliminates our ability to  
8 cross-examine him.

9 Now, when Mr. Sanchez was on the stand, you asked him  
10 quite a few questions that were really more properly directed  
11 to Mr. Trainer. That's why we would need Mr. Trainer here to  
12 testify. Instead, he gives us an affidavit that doesn't allow  
13 us to ask him any questions. Your questions aren't getting  
14 addressed. We certainly have questions that we would like to  
15 have addressed.

16 And the affidavit and the exhibits are completely  
17 inadequate. For example, look at the documents that he  
18 supposedly filed with the district office saying that the  
19 surface location has been cleaned on some of these sites.  
20 They're not even signed. They're not even certified.

21 We have plenty of questions we would like to ask  
22 Mr. Trainer, and we're not able to do that. The reason we have  
23 a hearing is for him to come in person and address these  
24 issues. Promises in an affidavit are not sufficient.

25 In addition, if you want to address the issue of why

1 our allegations go beyond what you would see in a list of  
2 inactive wells or a list of wells requiring financial  
3 assurance, we can certainly put Ms. Prouty back on the stand  
4 and go through that. The reason we went through each well in a  
5 rather tedious fashion of going through what was in the well  
6 file was to see what actually happened with each well and  
7 whether there was a well out there that had been inactive for a  
8 certain period of time.

9           The lists that show up on the computer for financial  
10 assurance for inactive wells only look at wells that produced  
11 at some point. If there was a well that was drilled that never  
12 produced and there's a hole in the ground out there, it's not  
13 going to be picked up by the computer. That's why we have to  
14 go to the well file itself and do the research, which is what  
15 Mr. Sanchez --

16           If you want to go through that and make a new  
17 allegation in the affidavit, if you want to go through that, we  
18 certainly can. We'll call Ms. Prouty back and we'll explain  
19 how the computer systems work.

20           But we are essentially fighting some pieces of paper  
21 here, and I don't think it's fair to the OCD.

22           EXAMINER JONES: Ms. Munds-Dry.

23           MS. MUNDS-DRY: Mr. Examiner, Ms. MacQuesten may  
24 argue about the weight of the evidence, but Mr. Trainer has  
25 testified under oath in this affidavit. I do understand that

1 we do not have him available to ask questions, but in terms of  
2 this being admitted as an exhibit, you can put whatever weight  
3 you want onto it. But it is admissible, and it's sworn under  
4 oath and signed by Mr. Trainer.

5 If you want to call him, let us continue this case  
6 and try to get him here in two weeks. And let's ask him these  
7 questions. But in terms of admission of this exhibit and these  
8 documents -- which are OCD website documents.' They come from  
9 the OCD website, they should be admissible.

10 EXAMINER JONES: Okay.

11 MR. BROOKS: Yeah. As far as the affidavit itself,  
12 it's clearly hearsay; is it not? Is there a reason why it  
13 would be eligible under any exception to the hearsay rule?

14 MS. MUNDS-DRY: You're going to test my knowledge of  
15 evidence, Mr. Brooks.

16 MR. BROOKS: Out of court statement offered to the  
17 truth of the matter.

18 MS. MUNDS-DRY: I suppose it is hearsay. It is  
19 offered for the truth of the matter.

20 MR. BROOKS: Okay. Now, the exhibits, you're telling  
21 us these are from OCD records.

22 MS. MUNDS-DRY: Exhibits 1, 2 and 3 are OCD records.  
23 Exhibit 4 was sent to me by Mr. Trainer. Since they have not  
24 been able to accept it for filing at the OCD district office  
25 yet, they are not an OCD record at this point. They were just

1 the most recent copy of what he sent so he could show what he  
2 had been working on in the interim.

3 MR. BROOKS: Okay. So Exhibits 1, 2, and 3 are OCD  
4 records.

5 MS. MUNDS-DRY: That is correct.

6 MR. BROOKS: Well, I think we can take administrative  
7 notice of the OCD records. If it's necessary to explain them,  
8 then the Division can explain them on rebuttal. So I would  
9 admit the attachments to the exhibits that are attached here to  
10 the exhibits. Exhibits 2 and 3, the ones that are labeled 2  
11 and 3, this daily balancing report. Now, was this attached  
12 to --

13 EXAMINER JONES: Exhibit 1.

14 MR. BROOKS: -- Exhibit 1? The affidavit itself is  
15 Exhibit 5.

16 MS. MUNDS-DRY: Right. I've numbered these oddly. I  
17 apologize for that.

18 MR. BROOKS: Okay. I would recommend to the Examiner  
19 that Exhibits 2 through 5 -- or 2 through, let's see -- 2, 3 --  
20 yeah, 1, 2 and 3 can be admitted under administrative notice.

21 Exhibits 4 and 5 appear to be hearsay at this point,  
22 and I would recommend that they not be admitted.

23 EXAMINER JONES: If there was no objection --

24 MR. BROOKS: If there was no objection; but there's  
25 been an objection. Ms. MacQuesten has objected. So I don't

1 think it's appropriate to admit hearsay evidence over an  
2 objection, if there's not an exception that applies.

3 EXAMINER JONES: Okay. Any other debate on this?

4 I'm going to go ahead and go with what Mr. Brooks has  
5 suggested.

6 MR. BROOKS: Okay.

7 EXAMINER JONES: And I would ask why Mr. Trainer  
8 didn't want to show up. And if he would be willing to come a  
9 month from now and show up for a hearing?

10 MS. MUNDS-DRY: I think I could persuade him. At  
11 least, I would do my best. He was out in the field addressing  
12 these wells, so he just couldn't get here up until yesterday  
13 afternoon, out there driving around trying to fix things. So  
14 it would be, I think, to his benefit if he show up. And I  
15 would sure do my best to persuade him to do that. I don't  
16 think he has --

17 EXAMINER JONES: But you don't know for sure.

18 MS. MUNDS-DRY: I don't mean to promise anything  
19 because that wouldn't be appropriate, either.

20 EXAMINER JONES: Let me talk to Mr. Brooks. Let's  
21 take a break until 15 minutes from now.

22 [Recess taken from 9:48 a.m. to 10:04 a.m., and  
23 testimony continued as follows:]

24 EXAMINER JONES: Let's go back on the record this  
25 morning. And what would you like? Two weeks or four weeks?



1 MS. MUNDS-DRY: I just called Mr. Trainer, and he  
2 said he would certainly show up. And I didn't ask him about  
3 two or four weeks. I don't know. You have the preference.

4 EXAMINER JONES: Our case has almost already been  
5 made --

6 MS. MACQUESTEN: No, Mr. Examiner, it has not been  
7 made. And I would like to object to continuing this to allow  
8 Mr. Trainer to come forward and present his case. Essentially,  
9 you're giving him a second bite at the apple.

10 You're requiring us to come in and put on our full  
11 case and then giving him a couple of weeks to put his case  
12 together and come back.

13 As your own experience will show, we often have  
14 compliance cases where the operator does not appear. This  
15 could be a pattern where the OCD has to present a case and then  
16 the operator says, "Oh, I will come back in two weeks to  
17 present my case."

18 I don't want that to happen. We have spent a  
19 considerable amount of time preparing this case and presenting  
20 this case. If Mr. Trainer is allowed to come in two weeks,  
21 essentially we have to redo the case. We have to research each  
22 one of these wells to find out what he did and be able to  
23 address it.

24 The amount of time and expense it takes the OCD to  
25 present compliance cases is completely out of line. Look at

1 this case. We have been working with Mr. Trainer since 2004.  
2 If you look only at the cases brought before the Examiner, we  
3 are now in our second case.

4 Look at the expense. We have to do certified mail  
5 letters. We have a transcript done. We have to advertise.  
6 The advertisement in this case was \$150, for example. The  
7 transcripts are quite substantial. That's just out-of-pocket  
8 expenses for the Division.

9 That doesn't take into account the fact that we have  
10 three petroleum engineers devoting their time this morning to  
11 this, and they're going to have to write an order. You have  
12 the attorneys. You have the witnesses. That's just for the  
13 hearing. You don't know about the hours of preparation it  
14 takes to come up with exhibits like this.

15 And now we're going to do it all over again because  
16 Mr. Trainer ignored an application for hearing and decided not  
17 to appear, and now he's getting a second bite. So I do object.  
18 I see this as a possible pattern in cases. And it makes these  
19 hearings, which are already burdensome to the Division, even  
20 more so.

21 EXAMINER JONES: Okay. Ms. Munds-Dry?

22 MS. MUNDS-DRY: Mr. Examiner, I appreciate what  
23 Ms. MacQuesten is saying. You know, give him the chance to  
24 show up to answer these questions. With all due respect, the  
25 work has been done. And I understand they may have to update

1 the records to come in, but their work has already been done in  
2 this matter, and there shouldn't be that much more to prepare.

3 If he doesn't show up in two or four weeks, then, you  
4 know, he really has no excuse left; does he? But at least give  
5 him that chance. He has shown -- I understand it wasn't  
6 admitted into evidence -- that he is trying to comply. He's  
7 been doing a lot of work. Give him a chance to show what he's  
8 been doing and answer your questions.

9 MS. MACQUESTEN: Mr. Examiner, the work he's saying  
10 he's doing is plugging the wells. Well, fine. The order would  
11 tell him to plug the wells. No harm done.

12 EXAMINER JONES: What other evidence you think he  
13 would put on if he did come?

14 MS. MUNDS-DRY: I think he could tell you exactly  
15 what work has been done on which wells. I think he could show  
16 you in terms of the paperwork that he's in the midst of filing,  
17 to then give you the copies from the OCD website.

18 I know he's had lots of conversation with the  
19 district office. He could testify to you about what he's been  
20 working on there. There's a lot of firsthand information that,  
21 obviously, I can't give you that he -- and then he can also try  
22 to explain himself. And I'm sure that's the question that you  
23 all have, and he should be allowed to answer that question more  
24 than anything.

25 EXAMINER JONES: And why wasn't he here today?

1 MS. MUNDS-DRY: He was out in the field working on  
2 these issues.

3 EXAMINER JONES: But he knew about this hearing for a  
4 while.

5 MS. MUNDS-DRY: He did. He did know about this  
6 hearing, and we did talk about him coming out, and he really  
7 wanted to work on these issues in the field and just couldn't  
8 get to Santa Fe once he was out in the field.

9 MS. MACQUESTEN: Mr. Examiner, I don't see the point  
10 of him coming in to explain what he's doing. He should be  
11 talking to the district office. He should be making the  
12 appropriate filings and getting it done. We don't need to have  
13 three examiners, a court reporter, attorneys, to hear it. He  
14 needs to go to the district office, and he needs to take care  
15 of business.

16 EXAMINER JONES: Mr. Brooks?

17 MR. BROOKS: Well, I think it's a matter of  
18 discretion. We can do whatever we feel is appropriate.

19 EXAMINER JONES: We don't want to set a precedent.

20 MR. BROOKS: Well, that's always an issue.

21 EXAMINER JONES: That is the biggest concern.

22 MR. BROOKS: I'll leave it to your discretion,  
23 whatever you think is appropriate. I think we can go either  
24 way.

25 MR. WARNELL: I find it rather interesting that he

1 chose today to go out to the field, and he's had years to go to  
2 the field.

3 MS. MUNDS-DRY: Mr. Examiner, not today, this was  
4 yesterday, and then just physically he's located in Midland,  
5 and he couldn't get here on time. That was the only issue.

6 EXAMINER JONES: I think we better just take this  
7 case under advisement right now.

8 MR. BROOKS: Okay.

9 EXAMINER JONES: And we'll draft an order, and then  
10 we'll go from there.

11 MS. MACQUESTEN: Mr. Examiner, I wanted to say, I  
12 have Ms. Prouty available if you want to go into the  
13 discrepancies between the inactive well list and the financial  
14 assurance list and what we presented today. If you wanted that  
15 to be on the record, she is available to testify. If that's  
16 not an issue for you, then we don't need her testimony.

17 EXAMINER JONES: I think that's -- let's just go  
18 ahead and take Case 14103 under advisement.

19 [Hearing concluded.]

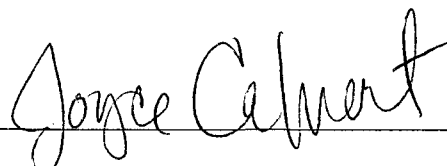
20 I do hereby certify that the foregoing is  
21 a complete record of the proceedings in  
22 the Examiner hearing of Case No. 14103  
23 heard by me on April 3 2008.  
24 David K. Brooks Examiner  
25 Oil Conservation Division

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## REPORTER'S CERTIFICATE

I, JOYCE D. CALVERT, Provisional Court Reporter for the State of New Mexico, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings and was reduced to printed form under my direct supervision.

I FURTHER CERTIFY that I am neither employed by nor related to any of the parties or attorneys in this case and that I have no interest in the final disposition of this proceeding.

A handwritten signature in cursive script, reading "Joyce Calvert", is written over a horizontal line.

JOYCE D. CALVERT  
New Mexico P-03  
License Expires: 7/31/08

1 STATE OF NEW MEXICO )  
2 COUNTY OF BERNALILLO )

3

4 I, JOYCE D. CALVERT, a New Mexico Provisional  
5 Reporter, working under the direction and direct supervision of  
6 Paul Baca, New Mexico CCR License Number 112, hereby certify  
7 that I reported the attached proceedings; that pages numbered  
8 1-61 inclusive, are a true and correct transcript of my  
9 stenographic notes. On the date I reported these proceedings,  
10 I was the holder of Provisional License Number P-03.

11 Dated at Albuquerque, New Mexico, this 3rd day of  
12 April, 2008.

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