1   PUBLIC HEARING
2   STATE OF NEW MEXICO
3   OIL CONSERVATION COMMISSION
4

    Pecos Hall, 1st Floor, Wendell Chino Building
5   1220 S. Saint Francis Drive
              Santa Fe, New Mexico
6

7 NOTICE OF PUBLIC HEARING FOR PROPOSED RULEMAKING
8   October 23, 2025
                    9:00 a.m.
9

10 HEARD BEFORE: HEARING OFFICER FELICIA ORTH
11 COMMISSION MEMBERS:
                 COMMISSIONER BLOOM
12   COMMISSIONER AMPOMAH
                 CHAIR CHANG
13

1   EXHIBITS

2   EXHIBIT   DESCRIPTION   PAGE

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1   HEARING OFFICER ORTH: Good morning.

2 My name is Felicia Orth, hearing officer tasked with

3 conducting a hearing in OCC 26483, relating to the

4 plugging of orphan wells and financial assurance.

5 We have reached another public comment session.

6   I'm joined here by Chair Chang and

7 Commissioner Ampomah. I see Commissioner Bloom on

8 the platform this morning.

9   I do have a number of names of folks that

10 I'll call out one at a time. And I'll turn to the

11 folks both on the platform and in the room. Just a

12 few things, I'll ask you to state and spell your

13 first and last name because we are making a

14 transcript.

15   The Commission rules require that I ask

16 you to swear or affirm that you will tell the truth

17 and will ask you to keep your comments to three

18 minutes. In the event you have more to say than

19 that, please submit your written comments to Sheila

20 Apodaca, the Commission administer.

21   Do we have Layne Moss with us, either in

22 the room or in the platform?

23   Mr. Moss, can you unmute yourself?

24   LAYNE MOSS: Mrs., not Mr.

25   HEARING OFFICER ORTH: Oh, very

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 1   sorry.  Thank you, Mrs. Moss.
 2                LAYNE MOSS:  You're welcome.
 3                HEARING OFFICER ORTH:  Would you
 4   spell your first and last name, please.
 5                LAYNE MOSS:  L-A-Y-N-E, M-O-S-S.
 6                HEARING OFFICER ORTH:  Thank you.  Do
 7   you swear or affirm to tell the truth?
 8                LAYNE MOSS:  I do.
 9                HEARING OFFICER ORTH:  All right.
10   I'll start your time.
11                LAYNE MOSS:  Did you ask me a
12   question?
13                HEARING OFFICER ORTH:  Oh, no, ma'am.
14   This is the time for you to make a statement.  Go
15   ahead.
16                LAYNE MOSS:  Oh, I'm sorry.
17           Good morning to everyone.  My name is
18   Layne Moss.  I have lived in New Mexico for seven
19   years, having moved here from Arizona.  I grew up in
20   West Virginia and moved to Charlottesville,
21   Virginia, where I entered the insurance industry.
22   After almost five years, I moved to Washington, DC,
23   where I worked in an insurance agency for almost ten
24   years and became a vice president.
25           We chose to move West, so we located in
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1 Scottsdale and later North Phoenix. Phoenix was

2 very small then.

3   Later, my daughter and I moved to Honolulu

4 where she graduated from criminal school and opted

5 to move back to Arizona. I remained in Honolulu and

6 continued working in the wholesale insurance

7 industry. This was an exciting change for me.

8   I was 70 years old when I retired as a

9 senior vice president to care for my ailing husband.

10 After he passed, many wholesalers attempted to

11 entice me back to work. After a total of 44 years

12 in this business, I felt it was time to retire for

13 good.

14   Ending up in the beautiful state of New

15 Mexico with my husband, who retired from the United

16 States Navy submarine service and enjoying the great

17 climate and the history of New Mexico, I have become

18 very concerned about keeping the cost of living

19 affordable, not only for retirees on a fixed income,

20 but for people in the small communities in this

21 state.

22   Increasing the cost of operating both

23 small and large oil and gas companies by the same

24 amount is absolutely inequitable. The current cost

25 of the projected increase is totally unfair and

1 should be rethought.

2   The demand for these huge fees would

3 impact everyone by increasing the cost of living,

4 especially seniors on fixed incomes. Also smaller

5 communities would be impacted as well.

6   Please consider the impact on the oil and

7 gas industry as well as the citizens of this state

8 if these fees are increased so dramatically. I want

9 to thank the Oil Conservation Commission for their

10 tireless efforts to make this happen for all of us

11 in New Mexico.

12   Thank you very much.

13   HEARING OFFICER ORTH: Thank you,

14 Ms. Moss.

15   Ken Hughes, do we have Ken Hughes? Oh,

16 Ken Hughes is in the room.

17   Mr. Hughes, if you would join us up here.

18   LAYNE MOSS: I cannot understand what

19 you said. Okay.

20   HEARING OFFICER ORTH: Mr. Hughes, if

21 you would spell your first and last name, please.

22   KEN HUGHES: Yes, ma'am. Ken Hughes,

23 K-E-N, H-U-G-H-E-S.

24   HEARING OFFICER ORTH: Do you swear

25 or affirm to tell the truth?

1   KEN HUGHES: I do.

2   HEARING OFFICER ORTH: Thank you.

3   I'll start your time.

4   KEN HUGHES: Good morning,

5   commissioners. I'm here in support of stronger

6   rulemaking to modernize New Mexico's bonding and

7   cleanup rules. These rules will protect New

8   Mexico's land, air, water, health, and taxpayers.

9   They can also lead to new uses of old wells.

10   When I worked across the hall here at the

11   Energy Conservation and Management Division for 13

12   years, our staff delved into various way of storing

13   energy. One of the more intriguing options

14   suggested by a Los Alamos scientist, Mark Bibeault,

15   was microhydro, which takes advantage of elevation

16   changes of at least 300 -- or 500 feet that generate

17   and store energy.

18   We now have a law this year that, Well

19   Repurposing Act sponsored by State Representative

20   Andrea Romero that allows, quote, "the conversion of

21   oil and gas well into a facility that provides or

22   supports energy storage or geothermal energy

23   development," unquote.

24   So rather than keeping wells limping along

25   producing a handful of gallons of oil and gas just

1   to avoid abandonment costs, it's time to take

2   advantage of the new law and not just abandon but

3   convert wells into much more useful purposes of

4   energy storage and geothermal development.

5   Bottom line is, if you drill it, clean it.

6   Thank you very much.

7   HEARING OFFICER ORTH: Thank you,

8   Mr. Hughes.

9   Next I have John Hoyt. Do we have

10 Mr. Hoyt on the platform, perhaps?

11   By the way, if you have dialed in using a

12 phone, you can press star-5 to raise your hand.

13   All right. Let's move to Kevin Bean. Do

14 we have Kevin Bean?

15   KEVIN BEAN: Good morning.

16   HEARING OFFICER ORTH: Good morning.

17   KEVIN BEAN: My name is -- my name is

18 Kevin Bean, and that's K-E-V-I-N, B -- B, as in boy,

19 E-A-N.

20   HEARING OFFICER ORTH: Thank you. Do

21 you swear or affirm to tell the truth?

22   KEVIN BEAN: I do.

23   HEARING OFFICER ORTH: Thank you. Go

24 ahead.

25   KEVIN BEAN: I am calling in support

1 of the rulemaking to modernize New Mexico's bonding

2 requirements for oil and gas wells. This seems very

3 sensible to me that -- that those bonds should be

4 adequate to cover the cleanup costs once those wells

5 have reached the end of their expected lives and

6 have to be taken care of, least not fall through the

7 taxpayers in New Mexico.

8   And addressing the first comment that we

9 heard this morning from the -- from Ms. Moss,

10 Mrs. Moss, I'll just point out that if those bonds

11 don't cover the cost of reclaiming and cleaning

12 those wells, then we're all going to pay for it

13 regardless. So it's much better to have that money

14 up front. And it is a cost of doing business in

15 this state. That only makes sense to me.

16   This problem has gone on far too long on.

17 I'm very heartened to see that the Oil Conservation

18 Division has seemed fit to address this issue now

19 and to modernize these rules so that these costs

20 will be paid for by the people who are making the

21 money who are in this business, and then it won't

22 follow the taxpayers to have to figure out where to

23 get the money to clean this up.

24   That's my comment.

25   HEARING OFFICER ORTH: Thank you,

1 Mr. Bean.

2   Sayre Gerhart. Sayre Gerhart.

3   Oh, all right. This is Jason Morales.

4   Mr. Morales, can you unmute yourself? You

5 might have to press control-shift-M to unmute.

6   It looks like you're unmuted. Oh.

7   JASON MORALES: Can you hear me?

8   HEARING OFFICER ORTH: Now I can.

9 Hello. Would you spell --

10   JASON MORALES: Can you hear me?

11   HEARING OFFICER ORTH: Yes, I can.

12 Would you spell your first and last name.

13   Hello. Would you spell your first and

14 last name, please.

15   JASON MORALES: It's J-A-S-O-N,

16 M-O-R-A-L-E-S.

17   HEARING OFFICER ORTH: Thank you. Do

18 you swear or affirm to tell the truth?

19   JASON MORALES: I do.

20   HEARING OFFICER ORTH: Thank you.

21 I'll start your time.

22   JASON MORALES: Good morning. My

23 name is Jason Morales. I'm a 55-year lifelong

24 resident of New Mexico.

25   I work as an engineer at the Department of

1   Defense here in New Mexico. I'm here today to

2   express my concerns regarding these proposed

3   regulations on the oil and gas industry. I want to

4   be clear, I support oil and gas development in New

5   Mexico. It's a vital part of our economy, providing

6   good paying jobs for our families across the state,

7   and generating significant revenue that funds our

8   schools, hospitals, and education.

9   And importantly, a strong domestic oil and

10 gas industry is crucial to our national security.

11 Not long ago the United States achieved energy

12 independence largely due to our domestic oil and gas

13 production.

14   These proposed regulations threaten this

15 independence, making us more vulnerable. This

16 national security element is personally important

17 (connection lost) to protect our nation. These

18 (connection lost) ordinance have something not

19 practical, and they put impacts on all independent

20 oil and gas companies, the very backbone of our

21 industry.

22   These companies, unlike the larger

23 corporations, often (connection lost) is your pride

24 of your ma-and-pa businesses. In fact (connection

25 lost) to shut down means lost jobs (connection lost)

 1   this opposition that seeks to eliminate oil and gas

 2   altogether (connection lost). We cannot simply shut

 3   down or make an industry (connection lost) without a

 4   viable (connection lost) critical services.

 5   I'm not against that environment

 6   (connection lost) safeguards (connection lost) for a

 7   reasonable --

 8   THE REPORTER: I'm sorry. Are you

 9   getting all this? It's going in and out.

10   JASON MORALES: -- that are --

11   HEARING OFFICER ORTH: Hold on,

12   Mr. Morales.

13   JASON MORALES: -- does that --

14   HEARING OFFICER ORTH: To the court

15   reporter, no. Mr. Morales is cutting out, so just

16   please capture what you can.

17   And to Mr. Morales, you've been cutting

18   out, and I'm happy to let you finish your statement

19   verbally, but I think it would also be a good idea

20   for you to email it to Sheila Apodaca. Go ahead.

21   JASON MORALES: I can do that.

22   HEARING OFFICER ORTH: Terrific.

23   Thank you.

24   JASON MORALES: (Connection lost).

25   HEARING OFFICER ORTH: You're cutting

1   out again, Mr. Morales. So we can't really hear

2   you.

3   JASON MORALES: Hello?

4   HEARING OFFICER ORTH: Hello. Thank

5   you.

6   JASON MORALES: Should I --

7   HEARING OFFICER ORTH: If you would

8   please email your -- email your statement to Sheila

9   Apodaca, and it will be part of the record.

10   JASON MORALES: Sure.

11   HEARING OFFICER ORTH: Sheila, I

12 think we're going to have to move on here.

13   I'm sorry, Mr. Morales.

14   I see John and Lisa Hoyt on the screen.

15 Can you unmute yourselves?

16   Now I can --

17   LISA HOYT: That will work?

18   HEARING OFFICER ORTH: Yes, it does.

19   LISA HOYT: Can you hear?

20   HEARING OFFICER ORTH: Yes.

21   LISA HOYT: Wonderful. Thank you.

22   HEARING OFFICER ORTH: So would you

23 spell your first and last names, please.

24   LISA HOYT: My name is Lisa Hoyt,

25 L-I-S-A, H-O-Y-T.

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 1                    HEARING OFFICER ORTH:  Okay.  And
 2   will John Hoyt be speaking as well?
 3                    LISA HOYT:  Yes.
 4                    JOHN HOYT:  My name is John Hoyt,
 5   J-O-H-N, H-O-Y-T.
 6                    HEARING OFFICER ORTH:  And do you and
 7   each of you swear to tell the truth?
 8                    LISA HOYT:  Yes.
 9                    JOHN HOYT:  Yes.
10                    HEARING OFFICER ORTH:  Thank you.  Go
11   ahead.  I'll start your time.
12                    JOHN HOYT:  I was born in Buffalo,
13   New York, where I lived and worked for the last 78
14   years of my life.  My wife and I moved here to
15   Albuquerque to be closer to her family in ABQ and my
16   sons in Utah and Colorado.
17             After earning a degree in marketing in
18   college, I spent most of my career in my family
19   business, photographic supplies.  We sold to all
20   types of photographic customers, amateur,
21   professionals, medical, and industrial, and also to
22   government at all levels, local, state, and U.S.
23             I've enjoyed traveling by cars for
24   business and pleasure through 40 of the United
25   States and developed a true appreciation for oil
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1   industry products.

2   Before moving to Albuquerque, my wife and

3   I spent several years active in the agriculture

4   community. We assisted in neighborhood farm and

5   day-to-day operations, as well as their Sunday -- or

6   Saturday markets. We were also members of our local

7   chapter of the New York State Farm Bureau.

8   Since moving here, I've learned how

9   success in the oil industry has been a benefit to

10   the state of New Mexico, as the second largest

11   producer of petroleum in the United States. Many

12   factors can affect it negatively, unfortunately,

13   including taxation and fees, and income to New

14   Mexico would drop by the addition of higher fees,

15   particularly the assurance fees.

16   Those fees which set -- that the OCC sets

17   the fees for -- and rules for oil producers. These

18   fees would cost the industry dearly and unfairly.

19   And a flat fee, regardless of the volume of the oil

20   produced, would go down as a result. Obviously,

21   smaller producers would be hurt the most. This

22   would cut taxes to the New Mexico government,

23   cutting aid to health, education, and many other

24   programs.

25   You can see greater production in New

1   Mexico has greater value to New Mexico. The

2   proposed operating costs, the assurance payments

3   would have a dire effect mostly on the smaller

4   producers operating in our state. A flat fee causes

5   producers to disincentivize new growth. It would

6   kill smaller operations five times more often than

7   larger companies who could absorb the increases

8   better. And that would add to value to the state.

9   Great value to the state would come from

10 more production, of course. There's considerable

11 value in growth, not this -- not loss. And add more

12 life to New Mexico.

13   Please consider that OCC adding these

14 increases would affect the overall economy of the

15 state of New Mexico.

16   HEARING OFFICER ORTH: Thank you.

17   Ms. Hoyt.

18   MS. HOYT: Good morning. I was born

19 in Virginia, spent most of my childhood in Potomac,

20 Maryland, a suburb of Washington, DC. In the early

21 '70s, my family moved to Scottsdale, Arizona, and

22 that's where I really learned to appreciate the

23 beauty of the desert. Couple years later my mother

24 and I moved to Hawaii where I finished high school

25 and after graduation, returned to Arizona for

1   advantages, where I married, had a couple of kids.

2   And in '97, we moved to a small village in

3   western New York. There I began my career as a

4   professional photographer. My bread and butter was

5   family portraits, weddings, and events. And later I

6   began going to professional photography groups

7   around New York state giving lectures in studio

8   management, sales, and how to design wedding albums.

9   After 25 years I retired from full-time

10   photographer and started my second career, which was

11   a great love of mine, gardening. I went to work for

12   a hydroponic farm in our area where I tended 720

13   indeterminate tomato vines from seedlings through

14   their 10-month life cycle. It was quite exciting.

15   Six months ago my husband and I moved to

16   Albuquerque to be closer to my family. Since being

17   here, we've become aware the impact the gas and oil

18   industry has on our new home state, not just the big

19   cities, but many small communities across the state.

20   I've learned there are many small companies within

21   the industry, not just the giants. And while all

22   will be affected by an increase in assurance

23   payments, the little guys will suffer the most, and

24   not just the folks who work for these companies, but

25   all the businesses and industry that support gas and

1   oil.

2   When these gas and oil companies are

3   forced to close their doors, the impact trickles

4   down through the communities, not just in loss of

5   tax revenue and funding for schools, but in loss of

6   all of these support businesses. Eventually, that

7   trickle-down effect reaches retirees, like us,

8   living on a fixed income.

9   And as you can see by all who have and

10   will give a little of their life stories, we

11   represent the millions of untold stories who are

12   affected daily by gas and oil industry.

13   And I would strongly urge you to consider

14   the impact an increase in assurance payments would

15   have on the gas and oil industry companies, large

16   and small, but also the trickle-down effect it would

17   have on all who call New Mexico home.

18   Thank you.

19   HEARING OFFICER ORTH: Thank you,

20   Ms. Hoyt.

21   Is there anyone else on the platform who

22   would like to offer public comment during this

23   session? There will be another session at 4:00 this

24   afternoon.

25   I see Carlos Matutes.

Examination by Commissioner Ampomah   19

1   Mr. Matutes, if you would unmute yourself,

2   please.

3   CARLOS MATUTES: Thank you. I just

4   was allowed to unmute myself. My name is Carlos

5   Matutes, C-A-R-L-O-S, M-A-T-U-T-E-S.

6   HEARING OFFICER ORTH: And do you

7   swear or affirm to tell the truth?

8   CARLOS MATUTES: I do.

9   HEARING OFFICER ORTH: Thank you.

10   Please go ahead.

11   CARLOS MATUTES: My name is Carlos

12   Matutes. I am the New Mexico state director for

13   Green Latinos. We're an environmental justice

14   organization serving the Latino communities and

15   other communities of color around the United States.

16   I am in full support of modernizing our

17   bonding rules around oil and gas. Now, I wasn't

18   always in the nonprofit world.

19   I grew up working on small industrial

20   equipment in South Texas. If, as a business, we

21   would leave trash everywhere, if we would dump used

22   motor oil and air filters and broken air lines

23   wherever we worked, we would be fined. We would

24   have to pay for that cleanup.

25   Now, as responsible business people, we

1 cleaned up our messes. We made sure that a work

2 area was left intact. That's all we're asking of

3 oil and gas, is that they do their fair share for

4 the profits that they pull. And much of that

5 profit, may I remind you, goes out of New Mexico.

6   All we're asking is for them to clean up

7 the mess of their profit-making ventures. That is

8 all. Leaving orphaned wells, spilling toxic waste,

9 fracking waters, or as they like to call it,

10 produced water, which is essentially just a toxic

11 sludge behind for us, the taxpayers, the people of

12 New Mexico, our communities to clean up. Otherwise

13 our waters be poisoned, our soils be toxic, our air

14 be polluted.

15   No. We're asking the businesses in oil

16 and gas to be responsible citizens, just like the

17 rest of us. When we make a mess, we're asked to

18 clean it up. And that's what we're asking for. And

19 that's why we support rulemaking around bonding for

20 oil and gas to clean up their messes.

21   Thank you very much.

22   HEARING OFFICER ORTH: Thank you,

23 Mr. Matutes.

24   Is there anyone else on the platform who

25 would like to offer public comment during this

1   session? Our next session is at 4:00 p.m. today.

2   You can raise your virtual hand or press star-5 to

3   raise your hand if you have called in.

4   No? All right. We will return to the

5   technical case, then.

6   Mr. Peltz, if you would rejoin us up here.

7   I forgot to ask if any counsel had a

8   preliminary matter before we go back here?

9   No. Okay, great.

10   I believe all the party questioning was

11   completed yesterday, and we'll turn now to the

12   commissioners.

13   Commissioner Ampomah.

14   EXAMINATION

15   BY COMMISSIONER AMPOMAH:

16   Q.   Good morning, Mr. Peltz.

17   A.   Good morning.

18   Q.   Thank you for being here to offer your

19   testimony on this important issue. I don't have a

20   lot of questions for you, but I do have a few.

21   So I want to pan over to your slides, and

22   this one will be slide number 9, Orphan Well Policy

23   Reform Across the state.

24   A.   Great.

25   Q.   So my first question to you is: In all of

1 these reforms, what were some of the motivations

2 that were included in these reforms to motivate

3 companies or protest to really plug their wells.

4   A.   Do you mean the motivation of the

5 legislators or regulators who put the reforms in

6 place?

7   Q.   Yes. So in terms of what were some of the

8 benefits to the industry, you know, in terms of some

9 of the provisions that benefits operators that do

10 plug their wells.

11   A.   Well, there's the benefit of being a good

12 corporate citizen by not orphaning their wells. The

13 primary benefit of these regulations is to protect

14 the taxpayers of the state from having to pay for

15 plugging working wells, the enviromental benefits

16 also.

17   And I think, you know, we haven't really

18 talked about this very much, but the presence of

19 orphaned wells tends to reduce property values.

20 There was a study in southwest Pennsylvania by a

21 University of Pittsburgh economist that found that

22 the presence of orphaned wells there reduced

23 building activity by 50 percent because people are

24 understandably hesitant to build around these wells

25 where you could have methane migration either

1   directly into substructures, like basements, or via

2   aquifers.

3   There is also benefit to new energy

4   development from plugging old vertical wells. I

5   know in the -- in the DJ Basin, the Denver-Julesburg

6   Basin, in Colorado, I was told that most vertical

7   well plugging activity was happening in order to

8   facilitate new shale development. And, you know,

9   you can't frack a well if you have old vertical

10 wells in the same formation because you'll lose all

11 of your pressure, and you'll get blowouts and things

12 like that. So that is a direct benefit to the

13 industry.

14   Q.   I appreciate that. And then I like one of

15 them. You said there's, more or less -- the company

16 will, more or less, become a prudent company, right?

17 A prudent company?

18   A.   Yes. I mean, no one -- no one want to

19 violate the law, you know. Operators want to show

20 that they're obeying the law in the state and that

21 they're prudently managing the surface and the

22 geology, I would think.

23   Q.   So then let me ask you: So how would you

24 describe a prudent operator?

25   A.   Well, one who, you know, recovers the

1 resource, obey all aspects of the law, is a good

2 community member, you know, works with local -- the

3 people who live near the development and ask, "Hey,

4 we're here. We're making money, you know, in your

5 community. How can, you know -- are you okay with

6 what we're doing? How can we do it better?"

7   I know that that happens often in the

8 industry, although not always.

9   Q.   And definitely, the opposite of that would

10 be the bad actors?

11   A.   Right.

12   Q.   Okay.

13   A.   You know, operators who, you know, don't

14 obey the law, whether through omissions or air

15 toxics or groundwater contamination or failure to

16 plug their wells. I see this sometimes, especially

17 where you have an out-of-state -- like a private

18 equity-backed company where they don't really have a

19 nexus with the state and they don't really care what

20 happens in the communities and they're just there to

21 extract as much revenue from their wells and then

22 leave. And it's -- you know, it's easy, because

23 they put the wells in these little LLCs that

24 facilitate orphaning.

25   So that's a -- that's a terrible case.

Examination by Commissioner Ampomah   25

1   And it seems to be happening more and more.

2   Q.   Yeah, so you are the last witness for the

3   applicant, right?

4   A.   Yes.

5   Q.   So yesterday Mr. Morgan, you know,

6   presented the Commission and convinced the

7   Commission that the marginal wells are the ones that

8   you have higher possibility to become an orphan

9   well.

10   A.   The less a well produces, the more likely

11 it is to become an orphan well. Obviously, you know

12 that slide that I showed that had all those wells

13 producing over 700,000 BOE per year, those aren't

14 going to become orphaned wells any time soon.

15   But eventually, when, you know, they --

16 they're produced out, that's when the chances rise.

17 And that's why we've come up with this risk-based

18 financial assurance schema that's oriented around

19 the lowest producing wells, because that's where

20 your risk really rises.

21   Q.   Exactly. So you've made your case to the

22 Commission that those wells, those marginal wells,

23 we should put one $3,000 bond, financial assurance

24 on all those wells; is that correct?

25   A.   Yes. Yes, that's the proposal.

1   Q.   Okay. Let's go to your Exhibit 66, that

2 would be on page 20. I do like this table a lot. I

3 just want to be able to understand this so we can

4 really dive into this one.

5   A.   Sure.

6   Q.   So will the 51,270, more or less, be the

7 total wells that are in the GO-TECH database?

8   A.   So it would appear, yes.

9   Q.   Yeah, as they appear here. Definitely, I

10 do see OCD's tentative national different number --

11 total number of wells, but let's just stick to this

12 one.

13   A.   Yeah, if only it were so that every

14 database had the exact same number of things.

15   Q.   That would be much easier, but we don't.

16 Okay. So in there is -- at least we do have about

17 51,270 wells as presented in the GO-TECH.

18   Now, I really do like this one a lot,

19 because in here, you know, you've shown the number

20 of operators with state, private, and federal wells

21 to be around 420. And then also the number of

22 operators with state and private wells that, more or

23 less, OCD is going to receive is about 342.

24   Did I read all of this correctly?

25   A.   Yes.

 1   Q.   Okay.

 2   A.   And that's consistent. I remember Duane

 3 showed a chart that the number of operators in the

 4 state has fallen to around 400. And so that's

 5 pretty consistent with this.

 6   Also, you know, this is the number of -- I

 7 believe it's marginal and inactive wells. So that's

 8 why -- that's why it's 51,000 and not the over

 9 60,000, I'm pretty sure. The total number of wells

10 is over 60,000, but I believe this chart is looking

11 at marginal and inactive wells.

12   Q.   But, okay, let's look at the green region.

13   A.   Yeah.

14   Q.   In that region. Now, are you saying that

15 operators -- more or less, you're focusing on the

16 operators that you have less than 15 percent

17 marginal wells or inactive wells; is that correct?

18   A.   Yes.

19   Q.   Then if you are saying that the 1,000 is 2

20 times the marginal wells, is, what, about 36,000?

21   A.   So 51 -- so I believe what this is saying

22 is that there's 51,270 marginal or inactive wells,

23 of which 36,020 belong to operators who have --

24 fewer than 15 percent of their total well population

25 is marginal and inactive. And 15,250 belong to

1 operators who have more than 15 percent, you know,

2 the portfolio risk operators.

3   Which is to say that, you know, those

4 operators in the below 15 percent category wouldn't

5 have to -- they would have to have $150,000 single

6 well bonds for their marginal and inactive wells,

7 but they wouldn't have to for all of their wells.

8   Q.   Okay. So those in the green shaded

9 region, they are good.

10   A.   Well, I don't know if good and bad is the

11 right -- you know, I'm --

12   Q.   So I'm -- yeah, I'm just saying that they

13 will not necessarily have to put $150,000 on all of

14 their wells.

15   A.   Oh, they wouldn't have to.

16   Q.   Now, let's focus on the yellow region. So

17 in the yellow region, you do have about 198

18 operators?

19   A.   Yes.

20   Q.   Now, let me ask this, though: With

21 regards to the operators, with this chart -- or

22 let's say the proposal that the applicant is putting

23 across here, does that -- does that distinguish

24 between the operators that do -- that, more or less,

25 are creating the well? And then also working

1   interest owners or is it only operators that we are

2   talking about here?

3   A.   It's just the operators.

4   Q.   And those with the working interest is not

5   really part of this?

6   A.   Well, I mean, if there was some kind of,

7   you know, enforcement action, there might be some

8   implications for the working interest owners. But

9   this is, you know, trying to look at separate legal

10   entities.

11   Q.   Yeah, so don't you believe that there is

12   going to be a little bit of confusion in terms of

13   OCD implementing this where there is going to be a

14   confusion, became operator, working interest owner,

15   which category do they fall into, and then, more or

16   less, become a little bit of a mess?

17   A.   I don't think so. I mean, I think that

18   the OCD, you know, knows how to work with operators

19   and knows how to work with working interest owners.

20   And this is what they do all day every day, so I

21   don't think it will be too confusing.

22   Q.   Yeah, okay. But if you look at, let's

23   say -- if you look at all the discussions that we've

24   had here, you go all the way to even being

25   bondsmen-less, you know, in terms of people who

1 have -- who can, more or less, operate in New

2 Mexico.

3   A.   So that's an analysis of, when considering

4 operator registration and transfer to try to

5 determine, you know, is there a risk that this

6 operator, because of the constituency of their

7 leadership, might be a bad actor. That's kind of a

8 different question than who gets what kind of bonds.

9   Q.   I like your explanation. So what I'm

10 getting to is that there could be someone who is not

11 an operator but a working interest owner. You have

12 multiple manual wells, but on record, they have to

13 be not operators. They are just working interest

14 owners.

15   So how are you going to be able to

16 distinguish going deep down, just know that this

17 working interest owner, they're not operator, but is

18 a bad actor?

19   A.   Well, for the -- for the case of bonding,

20 that's not analyzed. All that's analyzed is, does

21 the operator have, you know, over or under

22 15 percent of their portfolio in risk?

23   But when it comes to well transfers, which

24 is certainly a moment where you have a change of

25 risk, then there will be an analysis of the

1 individuals who are involved in that operation. And

2 that could potentially lead to a denial of transfer

3 or some other kind of conditions put on the

4 transfer. But all of that is at the OCD's

5 discretion. None of what we put in is mandatory for

6 OCD to consider and to act on.

7   Q.   Yeah, let's get back to our main

8 discussion here. I got sidetracked.

9   So after the 342 operators, this is going

10 to impact more than -- you know, more than

11 50 percent --

12   A.   Yes.

13   Q.   -- of operators in New Mexico.

14   A.   Yes.

15   Q.   And this 198 operators -- let me ask you:

16 So if as an operator you have 75 percent of the

17 wells active, not marginal, are they bad actors?

18   A.   Oh, this isn't about whether they're good

19 or bad actors. This is about their portfolio risk.

20   Q.   So I'm just asking you -- so I asked

21 you -- you know, let's say we are looking for high

22 risk --

23   A.   Yeah.

24   Q.   -- companies that might default --

25   A.   Right.

1   Q.   -- and not necessarily plug their wells.

2   A.   Right.

3   Q.   So I'm asking you: As a company, you have

4 75 percent of their portfolio in a marginal sense.

5 Do you take them as a high risk company?

6   A.   Well, yes, or potentially. But, you know,

7 if the surety company feels like they're low risk,

8 then that operator will be able to get those bonds

9 at a -- at quite a discount, and it won't have a

10 material impact, I wouldn't think, on the operator's

11 finance. So the surety company plays a role in this

12 risk determination as well.

13   You know, on the other hand, you know, I

14 understand what you're saying, which is that, you

15 know, this is just a proxy for risk, this portfolio

16 percentage. And so, you know, the OCD could do a

17 much more detailed deep dive into each operator's

18 finances and study them and study their assets and

19 make determinations on risk that way. But that is,

20 as I said in my testimony, intrusive to the operator

21 and labor intensive to OCD.

22   And so we went with this proxy of risk as

23 a way to simplify it. And then because the surety

24 company will make a -- their own determination of

25 risk and they'll figure out how much it will cost

Examination by Commissioner Ampomah   33

1   for that operator to get those $150,000 bonds, that

2   will -- you know, that's kind of a second order of

3   risking that will give you the dollar amount for the

4   operator.

5   Q.   So you said that OCD do have some

6   discretion, and then also the surety bond company

7   will also have discretion there to determine whether

8   this company, more or less, you know, qualify for a

9   bond.

10   Now, in your -- in the applicant's

11 proposal and -- the marginal wells and inactive

12 wells --

13   CHAIR CHANG: I'm sorry, I'm going to

14 interrupt. And just make sure -- I'm tracking the

15 questions here. If I understand the conversation,

16 though, those were two different things, right? The

17 15 percent is not discretionary and the --

18   ADAM PELTZ: Right.

19   CHAIR CHANG: -- bonding, but there

20 is discretion under the transfers. Is that -- is

21 that the answer?

22   ADAM PELTZ: Yes. And then also, you

23 were saying that the surety company has some

24 discretion. Of course they do. They're a private

25 industry, and they get to choose whether or not to

1   provide a bond and if so, you know, with what

2   premium and what collateral.

3   Q   (By Commissioner Ampomah) Yeah, Mr. Chair,

4   I was going to go to that. To clarify that, the

5   marginal wells and inactive wells and that is D,

6   Section 3, "An operator with 15 percent or more of

7   their wells in marginal or inactive well status, or

8   a combination thereof, shall provide a one well

9   plugging financial assurance in the amount of

10 $150,000 for each well registered to the operator

11 until the percentage of the operator's marginal and

12 inactive wells is decreased below 15 percent."

13   So there is no discretion to OCD on this.

14   A.   Correct.

15   Q.   Okay. Now, you were saying that

16 75 percent -- unless an operator with 75 percent in

17 marginal wells, you're saying that is a high risk?

18   A.   Yes. So that's our position.

19   Q.   So then let me ask you: How is that

20 15 percent really determined?

21   A.   Ah. So there are a whole bunch of

22 exhibits presented by Duane and also by me showing

23 how that's a natural risk breakpoint based revenue

24 and -- you know, per well and other factors.

25   Q.   Okay. So let's continue on that. So out

1 of this 198 companies, let's say you have

2 15 percent -- or more than 15 percent of their wells

3 in marginal or inactive status, so they are

4 classified as a high risk.

5   Now, you know, my first question to you

6 that we're talking about was: Don't you believe

7 that the active bonding, the financial assurance

8 required for the active wells was, more or less,

9 sort of a motivation where you cap the blanket bond

10 at $250,000? Do you agree with that?

11   A.   I'm not sure I understand your question.

12   Q.   Okay. So what I'm saying is that: Don't

13 you believe that -- according to the statute, don't

14 you believe that the 250- cap, that was put as a

15 blanket bond on active wells, shows that these wells

16 are not really -- these wells are not really high

17 risk?

18   A.   Well, you know, I'm attempted to ask to

19 put up that -- the rainbow again, because it doesn't

20 actually say active wells in that clause for the

21 $250,000 blanket bond.

22   Q.   I mean, that represented a really big

23 deal.

24   A.   I agree. That's the core -- you know,

25 that's the core legislative piece that all of this

1 rides on.

2   Q.   But I will also tell you that according to

3 the applicant's own application to the Commission,

4 they define active wells. And in there, all they

5 say, they affected the active wells. And in there

6 they cap the bond, the financial assurance to

7 250,000. Why did they do that?

8   A.   Well, the legislature in its wisdom, in

9 that first sentence, allowed the OCD to create

10 additional categories. And so if the OCD believes

11 that there is a class of operator that presents a

12 systemic risk to the state, the statute allows OCD

13 to create a category, like this portfolio risk, to

14 deal with that.

15   Q.   Now, with your own application where you

16 are capping active wells, that does not meet

17 marginal well category to $250,000 cap financial

18 assurance. Why should we not leave the active wells

19 alone?

20   A.   So operators that have -- that don't fall

21 into this new category of portfolio risk wells can

22 still avail themselves of that $250,000 blanket

23 bond.

24   Q.   You know, I think also as commissioners,

25 we have a responsibility. I'm a little bit

1 concerned about, you know, putting up a rule that

2 impacts about, let's say, more than -- more than

3 50 percent of our entire operators, where, in the

4 statute, if they are following the law -- you know,

5 if these were -- so not necessarily the operators.

6   If this was in compliance, if these

7 wells -- and in here we're talking about 15,250

8 wells that are, more or less, in marginal category,

9 and you are saying that this is not a total number

10 of wells that we do have in the state.

11   A.   Right. This doesn't include the, you

12 know, wells that don't fall into the marginal or

13 inactive status. So the higher producing wells

14 aren't covered in this chart.

15   Q.   Exactly. But your 15 percent that you are

16 imposing would impact all those wells that, more or

17 less, operators would do that too.

18   A.   But if those operators are low risk

19 according to the surety companies, they're

20 additional, you know, monthly outlay will be pretty

21 minor.

22   Q.   Yeah, but that is -- I mean, for us, as

23 regulators too, I don't really care much about what

24 the surety bond company is going to do, but I want

25 to make sure that I'm doing it right in here,

1   where -- let's say, you do have operators -- no,

2   even this one. Let's put it -- a well in

3   compliance. A well, a particular well is in

4   compliance. I still do not understand why we should

5   put $150,000 financial assurance on those wells that

6   are in compliance.

7   Anything -- if the Commission agrees with

8   the $150,000 for all marginal wells, the applicants

9   still achieve their goals here. Because all these

10 wells that, as you said, OCD will be responsible for

11 in the future are, more or less, already taken care

12 of.

13   A.   Well, there is this portfolio risk

14 question and, you know, maybe the operator will go

15 bankrupt and leave a lot of wells orphaned.

16 Although probably what would happen if there is a

17 bankruptcy, some of those wells would get bought up.

18 That's certainly true.

19   There's also an incentive built in for the

20 operators to increase their production, right? And

21 so if you increase your production on some of your

22 low producing wells, then you can get out of that

23 additional bonding. And that's good for the state.

24   Q.   So, you know, you brought up a good point.

25 You know, as an engineer and with experience in

1   recovery projects, I mean, I can tell you that, and

2   we've had this discussion extensively, where wells,

3   you stop producing, primary recovery. Wells will

4   start going down once the energy is done.

5   But it's not all the wells. Some few

6   wells will go down in its energy, and the company --

7   from your proposal, the company will automatically

8   have to start water injection. I mean, from a

9   professional point of view, it's not really

10 effective.

11   So I'm really concerned about -- let's say

12 these wells that are, more or less, getting -- you

13 know, they are not able to produce because of the

14 energy, but once we stop putting water in, it will

15 start coming up, right? At some point, these wells

16 will fall into the marginal category. You know, it

17 will fall into that. And even once we start that

18 water injection, it will come back up.

19   A.   Right. Although it's not just, you know,

20 waterfloods and, you know, CO2 EOR. You can also

21 recomplete the well. You know, you could do acid

22 treatments. It depends on the basin. Obviously,

23 you know, I'm not an engineer, but there's all sorts

24 of ways to increase production.

25   Q.   Not necessarily, because if the oil

1 saturation is below the received water-oil

2 saturation to, let's say, primary posturing, there

3 is no amount of andesine in, or whatever that you do

4 will produce, because we've already hit the received

5 water-oil saturation to the primary energy.

6   So we need to put in water to be able to,

7 more or less, buck it up. You know, so it's not

8 always that A-diocese in and all of that is going to

9 work, right? And even at some point, no amount of

10 water that you inject into the system would displace

11 this oil. So there, too, you're going to get a

12 marginal well there, you know.

13   A.   Yeah, it's certainly true that you can't

14 avoid marginal status forever.

15   Q.   Exactly. So I'm a little concerned about

16 operators who will, more or less, have wells in

17 compliance and still putting up $150,000 bond on

18 them. How is that even helping us to achieve the

19 plug-in -- the plug-in -- the plug-in -- the

20 incentives for these companies to plug their wells?

21 I mean, how is that even helping us in any way?

22   A.   Well, if the operator, instead of -- you

23 know, once they run out of options to increase

24 production for the well, if they then say, "Okay, we

25 got to plug this one," then that takes that out of

1   the risk pool for the state. It improves the

2   geology. It reduces environmental risk. So that

3   sounds like a good deal to me.

4   Q.   And then when they want to go water plug

5   to draw on another well, is that not causing waste?

6   A.   Not necessarily.

7   Q.   Not necessarily? I mean, would OCD now

8   say that you are causing waste when you're just

9   going and drilling wells everywhere, everywhere at

10 each production profile in the life of the field?

11   A.   Well, the operator doesn't have to plug

12 the well. You know, they can just keep the well

13 operating and pay the bond. And if they're low

14 risk, that shouldn't be -- as I said, that shouldn't

15 be a significant financial outlay.

16   Q.   So what if we move the 15 percent to

17 25 percent?

18   A.   That's certainly a possibility.

19   Q.   30 percent?

20   A.   I mean, are we doing an auction?

21   Q.   I'm just looking for the threshold where

22 the applicant -- and I think this one is mostly

23 going to be on OCD to really try to explain to us --

24 you know, I've seen all the evidence, but I still

25 feel like an active well that is in compliance

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1   should be left alone.

2   Because the applicant's objective is still

3   going to be achieved when all these marginal wells

4   we put that bond of $150,000 on, because OCD will be

5   responsible if, let's say, these wells are not

6   plugged.

7   A.   I think there is room to think about where

8   the threshold should best fall, you know. It's kind

9   of a risk judgment factor. And ultimately, it's the

10 OCC's determination of, you know, what is the risk

11 tolerance of the state.

12   COMMISSIONER AMPOMAH: Mr. Peltz,

13 thanks so much for your time.

14   ADAM PELTZ: Thank you.

15   COMMISSIONER AMPOMAH: And I do

16 appreciate the discussion.

17   ADAM PELTZ: Likewise.

18   HEARING OFFICER ORTH: Thank you.

19   Commissioner Bloom, on the platform, do

20 you have questions of Mr. Peltz?

21   COMMISSIONER BLOOM: I do. Thank

22 you, Madam Hearing Officer. And pardon my virtual

23 presentation. I'm a little under the weather today.

24

25

1   EXAMINATION

2   BY COMMISSIONER BLOOM:

3   Q.   Mr. Peltz, good morning.

4   A.   Good morning.

5   Q.   I know you've been through this a few

6   times, but just once more, how many wells are there,

7   in the applicant's estimation, that are in danger of

8   becoming orphaned?

9   A.   Well, there's around 50,000 wells that are

10   marginal, as to -- as we define, or inactive.

11   Q.   That's the number I got, too, from your

12   conversation with Dr. Ampomah. Thank you.

13   Mr. Peltz, I'm guessing you're familiar

14   with Einstein's definition of insanity, which is

15   doing the same thing over and over again and

16   expecting different results?

17   A.   I am.

18   Q.   Do you recall how long New Mexico has had

19   a reclamation fund?

20   A.   I don't know, actually. I imagine many

21   decades.

22   Q.   My research shows since the 1980s, so I

23   think that's consonant with many decades. Thank

24   you.

25   And yet, in your opinion, has this fund

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1   plugged all the wells it should have? Has it

2   stopped new wells from becoming orphaned or being in

3   jeopardy of becoming orphaned?

4   A.   No, the reclaimant certainly can't do

5   that. All it can do is try to plug wells that have

6   already become orphaned. And obviously, there are

7   still a lot of orphaned wells to plug.

8   Q.   So what does this approach do differently?

9   Does it create impetus to keep wells from becoming

10   beneficial -- non-beneficial or marginal?

11   A.   It does. It both incentivizes increased

12   production where possible and it incentivizes the

13   operators to plug the wells where -- when that's no

14   longer possible.

15   Q.   When I look at the first document filed in

16   this case, I see June of 2024. Does that sound

17   about right to you?

18   A.   I believe so, yes.

19   Q.   And would you believe me if I said we had

20   a 60-day legislative session between June of 2024

21   and now that ran from mid-March -- I'm sorry -- mid

22   January to mid-March of 2025?

23   A.   Yes.

24   Q.   So our New Mexico legislators had

25   approximately six months between the beginning of

1 the session and June of 2024 to introduce a bill on

2 this topic, had they chosen to do so?

3   A.   That sounds correct to me.

4   Q.   But the legislature didn't pass any

5 legislation in this area in 2025, did it?

6   A.   Not that I'm aware of.

7   Q.   Do you believe there are instances when it

8 takes years for a bill to pass despite promises and

9 people's belief that action is imminent?

10   A.   Yes, years, decades.

11   Q.   Yeah. Yesterday there was a comment made

12 that I would say -- would you believe me if I said

13 that, you know, we three -- we were called

14 bureaucrats yesterday -- are the designees of the

15 governor and/or her administration or the

16 Commissioner of Public Lands?

17   A.   That's my understanding. Regulators are

18 hard working people.

19   Q.   Thank you. And that these elected

20 officials, the governor and the Commissioner of

21 Public Lands, that they can ask their

22 administrations to pursue rulemaking in line with

23 state law?

24   A.   They can. And it would be inefficient if

25 they couldn't.

1   Q.   And do you -- do you believe that our

2 duties at the OCC includes rulemaking?

3   A.   Yes. And you're certainly well situated

4 to do it since you have minute understanding of

5 what's happening on the ground.

6   Q.   Do you also believe that the public has

7 the right to petition us to do rulemaking?

8   A.   I do.

9   Q.   And that they have the right to do this

10 regardless of what the legislature is doing or not

11 doing?

12   A.   Yes. That's part of the system.

13   Q.   And that we have a duty, as the OCC, to

14 respond to that petition?

15   A.   Yes.

16   Q.   Thank you.

17   COMMISSIONER BLOOM: Mr. Peltz helped

18 me clear up some potential issues there around the

19 role of the OCC rulemaking and how they're

20 bifurcated paths in our state to get into a goal.

21 There can be a legislative path, and there can also

22 be a rulemaking path.

23   Mr. Peltz, thank you for your time. I

24 have no further questions.

25   ADAM PELTZ: Thank you.

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1   HEARING OFFICER ORTH: Thank you,

2   Commissioner Bloom.

3   Chair Chang, do you have questions of

4   Mr. Peltz?

5   CHAIR CHANG: I think it's all been

6   covered quite thoroughly. Thank you.

7   HEARING OFFICER ORTH: All right.

8   Thank you very much, Mr. Peltz.

9   Any reason not to excuse him?

10   No? Thank you very much.

11   ADAM PELTZ: Thank you. It was my

12   pleasure.

13   HEARING OFFICER ORTH: Shall we take

14   a ten-minute break while we switch parties? Let's

15   do that. Come back at 10:10.

16   (Recess was taken from 10:03 a.m. until 10:14 a.m.)

17   HEARING OFFICER ORTH: I don't know

18   where Chair Chang is, but I imagine -- let's see,

19   let's come back from the break, please.

20   All righty. We're coming back from a

21   break now. And I believe we turn to the Oil

22   Conservation Division to hear from their five

23   witnesses.

24   Mr. Tremaine.

25   MR. TREMAINE: Thank you. Thank you

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1   Madam Hearing Officer. I do intend to start with

2   brief opening remarks, and then we will proceed with

3   the revised testimony order starting with Mr. Diede.

4   HEARING OFFICER ORTH: Great. Thank

5   you so much.

6   MR. TREMAINE: All right. Good

7   morning everyone, Madam Hearing Officer, Chair,

8   commissioners, parties, and participating members of

9   the public. I want to start out by thanking

10   everyone for the obvious immense amount of effort

11   and attention that goes into preparing for a hearing

12   of this nature, particularly on a pretty important

13   topic.

14   OCD participates in this hearing in

15   support of the petition. And really, that's what

16   I'm going to try to address at a high level now.

17   Why do we support this petition? That's the billion

18   dollar question.

19   I've had the pleasure of representing OCD

20   since January of 2021. I actually started here in

21   the middle of the waste rule hearing March 27th and

22   28th. That period of time happens to be very

23   important for -- in the discussion of orphaned

24   wells, because 2021 is when OCD effectively

25   implemented its current civil penalty authority and

1   actively picked up enforcement related to inactive

2   wells, after a period where OCD did not have civil

3   penalty authority. That periods represents more

4   recent, more consistent, and more detailed

5   information regarding orphaned wells, both in terms

6   of enforcement, in terms of coordinating and

7   communicating with operators at various different

8   sizes and types, and in terms of the plugging

9   program.

10   Later on Mr. Powell will discuss some of

11 the details or your lessons learned from the

12 enforcement and implementation of the orphan well

13 plugging program that I just referenced. But in

14 summary, the Division notes two key deficiencies in

15 the existing rule structure.

16   First, the existing rules do not allow for

17 the timely and effective enforcement for the

18 plugging of inactive wells. By the time an

19 actionable violation exists on an individual well

20 basis, that well, by definition, has not produced

21 and thereby has not generated any revenue for the

22 operator for 15 months. Okay? That's 12 months of

23 inactivity under 19.15.5.9. And then -- and then 3

24 months where the operator has not plugged a well

25 under 19.15.25.8.

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1   Further, by the time an operator's

2   portfolio falls out of compliance with OCD rules,

3   the operator will have experienced reduced or no

4   revenue from the portfolio for at least 15 months.

5   In OCD's experience, enforcement actions of any form

6   seeking operator compliance regarding specifically

7   plugging in this posture are ineffective. Despite

8   diligent efforts by OCD in good faith attempts to

9   communicate to accommodate responsive operators, we

10   settle all of these cases every time, everywhere

11   it's possible. It's simply too late. The operator

12   is not in a position, when their portfolio is

13   largely inactive, to plug their own wells -- or to

14   comply with commitments they make in settlement

15   agreements.

16   In the event -- the second issue, second

17   deficiency is that in the event that OCD plugs and

18   abandons wells or associated production facilities,

19   and this is a very important point, the focus of the

20   language and the discussions is largely on wells,

21   but we will talk at some length through our

22   presentation that we need to talk about associated

23   production facilities and everything that goes along

24   with that as well.

25   So payable financial assurance in that

1 event is wholly inadequate. The fact patterns

2 related to this conclusion are complicated, but even

3 in a case where an operator is fully compliant with

4 the latest financial assurance rules, there is a

5 massive delta between potentially -- and I highlight

6 potentially payable financial assurance and the

7 Division's costs for wellbore plugging.

8   And when I say that, I'm not talking about

9 surface reclamation. I'm not talking about

10 remediation. I'm not talking about other associated

11 expenses. There is a delta between payable

12 financial assurance and wellbore plugging.

13   This does not -- this does not factor into

14 those other costs. And redemption of financial

15 assurance and OCD's ability to redeem that is wholly

16 inadequate to reimburse expenses from the

17 reclamation fund.

18   I just highlight for the Commission's

19 attention that the reclamation fund statute does

20 authorize and, I think, implies a mandate that the

21 Division should be attempting to redeem FA and

22 overage expenses from operators or other parties

23 where OCD expends monies from the reclamation fund.

24 That is an authorized task of the Division. It's in

25 the plain language. The requirements of the

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1 bipartisan infrastructure law grant also expect the

2 Division to attempt to recover both FA where

3 applicable and seek indemnification where possible.

4 So those are the two key deficiencies.

5   Now, I think there is also a couple

6 questions that I believe will come up directly in

7 dogmatically through the course of the hearing. We

8 will hear a lot about industry's 95 percent success

9 rate. What does that mean?

10   So, first of all, the Division is not

11 going to stipulate to this number. But I do think

12 it's useful to establish a floor for discussion of

13 orphan well liability under the existing rules. If

14 you think about the statement like, look, we're

15 95 percent compliant, if you think about that, that

16 has a -- that has a compelling ring to it, right?

17 You think about, if I was in school and I took a

18 test and I got 95 percent on a test, you got an A,

19 right? But that's not a compelling analogy when

20 we're talking about liabilities that are known for

21 years and decades in advance.

22   A more appropriate analogy would be me

23 saying, look, I have a 95 percent compliance rate of

24 not speeding through red lights at Cerrillos and

25 St. Francis. If I had a 5 percent failure rate

Examination by Commissioner Bloom   53

1   and -- as some people do, and travel through a red

2   light at 60 miles an hour, I'm posing a significant

3   social risk.

4   So the scope and cost of the 5 percent

5   failure rate, which seems to be generally accepted

6   and consistent with the national average, that's

7   what we need to be focusing on. That 5 percent

8   failure rate, when you look at the actual costs

9   associated with those failures, it constitutes a

10 remarkable social cost and risk that will require

11 consistent OCD plugging for likely more than the

12 next decade where we sit today. All right?

13   The other concept that I wanted to

14 address, I think will come up is this concept of a

15 bad actor. What does a bad actor, operator, or

16 entity mean in the context of orphan wells? And

17 unfortunately, in this context, I don't think it's

18 actually a useful concept. Because the violating

19 conduct is, by definition, typically engaged in by

20 an entity that's effectively dissolved when we're

21 talking about large scale inactivity.

22   There are specific cases where we will --

23 we can note that an operator went inactive, evaded

24 some notification or certification or compliance

25 scheme and then got a new company and had further

1   problems, but that's atypical.

2   What the issue is, that operators who

3   aren't playing appropriately for a certain stage of

4   well production and development, if they go out of

5   business or they -- or effectively dissolve, even if

6   they don't dissolve or file bankruptcy, there's

7   not -- I'm looking for the right analogy -- but,

8   yeah, there's not much juice there for the squeeze

9   if we're going to look for indemnification or

10   recovery for orphan well plugging.

11   So whether it's -- whether it's

12   intentional or happenstance is not really

13   consequential, in my opinion. You know, industry

14   recommendations for compliance standards seek to

15   move enforcement triggers to a completely useless

16   and untimely point. For instance, attempting to

17   define beneficial use under our rules, as five years

18   of active -- inactivity is moving the needle in the

19   exact opposite direction of where it needs to go.

20   So that's the -- that's the concept of bad

21   actor, and this comes up a lot. But I just wanted

22   to clarify for the Commission. We're not talking

23   about operators in a posture where they're highly

24   likely to continue, once they're completely out of

25   compliance, operating and, then there's a recurring

1   violation. It's like they're kind of out of

2   business at that point.

3   So in support of the petition, we're going

4   to call five witnesses. Loren Diede is our first

5   witness. I will be conducting the examination. He

6   is a petroleum specialist who will discuss specific

7   examples of OCD orphan well plugging experiences.

8   And we hope that that helps explain the challenges

9   and uncertainty as inherent in plugging orphan

10   wells, as opposed to operator conducted plugging

11   experiences.

12   The second witness will be called by

13   Mr. Hall, is John Garcia. He's the supervisor of

14   OCD's Engineering Bureau, Special Projects Group.

15   He will discuss the development of OCD's master

16   orphan spreadsheet, which is OCD Exhibit 17, which

17   is a living document compiling information on OCD's

18   recent plugging activities.

19   Mr. Garcia will also discuss specific

20   examples of wells which will fall into the proposed

21   category of well classifications in the petition.

22   After that, Rosa Romero is OCD's

23   environmental bureau chief. She will testify to

24   various challenges in OCD's enviromental

25   remediations associated with work in plugging with

Examination by Commissioner Bloom   56

1   orphan wells and associated production facilities.

2   We hope that this information helps

3   explain the truly significant, but highly variable

4   remediation costs for orphan wells and those

5   associated production facilities.

6   I will call Ms. Romero. After that

7   Mr. Hall is going to call Justin Wrinkle. He is

8   OCD's engineering bureau chief. He will testify as

9   to his professional experience in managing low

10 producing wells on the operator's side.

11   And then we are going to -- at the end

12 here, we're going to call Mr. Brandon Powell.

13 Mr. Powell is OCD's deputy director. He is batting

14 cleanup and will discuss OCD's perspective on each

15 proposed update to the rule, OCD's process of

16 developing feedback to the original proposal,

17 response to the oft and future cited LFC report,

18 lessons learned from our enforcement and plugging

19 programs.

20   And if there are specifically problematic

21 and implementation questions, they are best

22 addressed to Mr. Powell.

23   I'm thinking of you, Commissioner Ampomah.

24 I know from some of your questions, we're going to

25 have a robust discussion.

```
 1          In summary, OCD's support of this petition
 2   is intended to achieve two results:  First, increase
 3   operator compliance by compelling informed decisions
 4   regarding plugging and compliance options at a point
 5   in time where the operators remain active and are
 6   generating revenue.  All right?
 7          The second one is to close the gap between
 8   OCD's expected plugging costs and recoverable FA.
 9   Two very different objectives.  There's, get
10   operators to clean up their own stuff across the
11   board, fix the delta between 95 and 100 percent.
12   And the second one is where OCD does have to step in
13   with its limited resources, limited reclamation
14   fund, et cetera, we could actually recover
15   meaningful funds and use those for future
16   activities.
17          So to achieve these goals, OCD
18   specifically recommended, in response to the
19   petition, the original petition, thresholds that
20   focused proposed changes on the highest risk wells
21   and the highest risk operator well portfolios.  And
22   those thresholds proposed by the Division fall well
23   below the generally accepted definitions of either
24   marginal or stripper wells.  All right.  We're
25   talking about a quarter or a tenth of what the
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1   stripper well definition is.

2   I want to underscore again how

3   conservatively OCD aimed with those recommendations,

4   Mr. Powell will be able to speak to that.

5   OCD's learned from over five years of

6   related enforcement and two years of stakeholder

7   engagement on this topic, the concepts from various

8   other states, and attempted to apply those lessons

9   it learned in our red line proposal.

10   I want to thank the petitioners for their

11 willingness to incorporate our recommendations and

12 extensive discussions. And I'm going to say that

13 unfortunately, I have never seen a red line or

14 concrete proposal from the NMOGA or IPA. There are

15 some recommendations that have been submitted in

16 this hearing, but nothing that meaningfully

17 incorporates or earnestly attempts to address the

18 deficiencies that I described earlier, which you

19 communicated very clearly.

20   Why am I bringing this up? I am not

21 attempting to be hostile to a group of people that

22 have otherwise noted, engaged with OCD in a

23 productive and professional manner. I'm

24 highlighting this to point out that there's a

25 critical point here where ultimately, for whatever

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1 reason, the regulated community as a whole is either

2 structurally incapable or unwilling to solve this

3 problem.

4   What does that mean? That that means the

5 government must take appropriate action. But the

6 problem with that is obviously within a purview of

7 the legislature. We stipulate to that. We agree

8 with that.

9   It's also already well within the purview

10 and statutory authority of the Division and this

11 Commission. And so that's what we're doing here

12 today. And at the summation of the record, we will

13 ask the Commission to adopt the petition along with

14 any changes that are deemed necessary by the

15 Commission throughout the conduct of the hearing.

16   That will resolve my opening statement.

17 And, Madam Hearing Officer, if we're ready to

18 proceed, I would call Mr. Loren Diede to the stand.

19   Due to -- we've been moving a little

20 faster than expected and because of travel

21 arrangements and the duty locations of various OCD

22 staff, we intend to call our first witnesses

23 virtually.

24   HEARING OFFICER ORTH: Thank you very

25 much, Mr. Tremaine.

1   Oh, I see Mr. Diede on the platform here.

2   Mr. Diede, would you spell your first and

3   last name, please.

4   LOREN DIEDE: Yes, it's Loren,

5   L-O-R-E-N, Diede, D-I-E-D-E.

6   HEARING OFFICER ORTH: Do you swear

7   or affirm to tell the truth?

8   LOREN DIEDE: I do.

9   HEARING OFFICER ORTH: Thank you very

10   much.

11   Go ahead, Mr. Tremaine.

12   MR. TREMAINE: Yeah, Madam Hearing

13   Officer, I'm going to ask Mr. Hall to assist me in

14   sharing the slides. So I would ask that he have

15   screen share capability, and he'll pull up

16   Mr. Diede's slides.

17   EXAMINATION

18   BY MR. TREMAINE:

19   Q.   Good morning, Mr. Diede.

20   A.   Good morning.

21   Q.   All right. Could you please tell the

22   Commission what your current job title is with the

23   OCD?

24   A.   Yeah. My current job title is petroleum

25   specialist, and I am focused almost exclusively on

 1   working with orphaned wells and forced plugging

 2   wells.

 3   Q.   Did you prepare in advance of this hearing

 4   a direct testimony, which is labeled as OCD Exhibit

 5   Number 4?

 6   A.   I did.

 7   Q.   And did you prepare a CV which is list --

 8   labeled as OCD Exhibit Number 5?

 9   A.   I did.

10   Q.   And did you prepare a visual aid which is

11   labeled as OCD Exhibit 6?

12   A.   Yes.

13   Q.   Are those exhibits prepared by you true

14   and accurate, to the best of your knowledge?

15   A.   Yes, they are.

16   Q.   Do you require any corrections?

17   A.   No major corrections. One typo that I

18   found, and that was all.

19   Q.   Okay. Can you tell us where the typo --

20   where the typo is? Is it in your direct or the

21   slide?

22   A.   It's on the slide.

23   Q.   Okay.

24   A.   I'll point that out as we get to it.

25   Q.   Very good. Do you adopt and affirm your

1 direct testimony for your -- as your testimony

2 today?

3   A.   Yes, I do.

4   Q.   Okay. We have up your visual aide, OCD

5 Exhibit 6. At this time, Mr. Diede, I'd ask you to

6 provide a summary of your testimony for the

7 Commission.

8   A.   Okay. And thank you, Mr. Hall.

9   And thank you, Mr. Tremaine.

10   LOREN DIEDE: And, Madam Hearing

11 Officer, due to some hearing issues on my side, I

12 prefer to use a headset during this testimony.

13   HEARING OFFICER ORTH: Thank you very

14 much.

15   A.   Okay. As stated previously, my name is

16 Loren Diede, petroleum specialist with OCD. I have

17 been with the OCD since February of 2024. I have a

18 bachelor's degree in geology from the University of

19 North Dakota. I have about 50 years of experience

20 in the oil and gas industry, domestically in West

21 Virginia, Pennsylvania, New Mexico, Colorado, Utah,

22 Oklahoma, and Texas.

23   I began my career as a wireline logging

24 engineer after graduation from the university. And

25 then after doing some wireline logging work, I

Examination by Mr. Tremaine   63

1 proceeded to work in the service business with

2 hydraulic fracturing design and supervision,

3 drilling and cementing design and supervision,

4 workovers design and supervision, and most recently,

5 plugging and abandonment design, supervision, and

6 regulatory oversight.

7   And just a very brief summary of my CV.

8 As stated previously, bachelor's degree from the

9 University of North Dakota. Wireline logging

10 engineer, then hydraulic fracturing and cementing.

11   And at one point in 1998, I had the

12 opportunity to become, through BJ Services joint

13 venture, the country technical manager of Algeria

14 operations.

15   In 20 -- 2004, I began Diede Consulting

16 Services focusing on hydraulic fracturing, drilling

17 and cementing, well workovers, and plugging and

18 abandonment. And most recently through NMOCD

19 starting last February, February of 2024, working

20 with P&As, regulatory and operational oversight.

21   I'd like to start with a definition that I

22 am going to be using for orphan wells. There have

23 been different definitions thrown about. New Mexico

24 has not yet, as far as I can tell, given us an

25 official orphan well definition.

1   I think pretty much what I'm using is the

2   standard understanding of what an orphan well is.

3   And this is to, quote, "a well where the OCD has

4   deemed, through various methods, such as hearing

5   orders, ACOI or other methods, that no viable

6   operator exists to perform the necessary plugging

7   and remediation of this well." That is the

8   definition I'm going to be following.

9   Along with that and overlapping in some

10 regards is forced plugging. Forced plugging are

11 wells where various regulatory agencies, such as the

12 State Land Office or the Bureau of Land Management,

13 is requiring an operator to plug a well for which

14 there is no operator of record anymore. And through

15 different obligations that the operator has through

16 leaseholds, and what have you, an operator is not

17 being asked to, and obligated to plug a well. This

18 is also what I will call forced plugging.

19   So between orphan well and forced

20 plugging, there are some overlaps, and most of my

21 time is spent working on both of those together. A

22 non-orphan well, of course, is plugged by an

23 operator of record, kind of in the conventional

24 manner in which we would normally conduct operations

25 and plugging operations.

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1   The New Mexico Administration Code NMAC,

2 if we will, 19.15.25.10. And the exact quote of

3 that is, "Before an operator abandons a well, the

4 operator shall plug the well in a manner that is

5 permanently -- that permanently confines all oil

6 [and] gas and water in...separate strata in which

7 they are originally found."

8   Now, that is a rather simplistic

9 statement. What it takes to comply with that and to

10 plug a well adequately, safely, and also isolate the

11 fluids in the different strata, as indicated, is

12 somewhat more difficult and takes a lot more time

13 and money than we often would wish it did. Most of

14 the difficulties that we have and encounter are

15 downhole conditions of the well that cannot be

16 estimated with any degree of certainty before the

17 operations begin.

18   We also want to make certain that, to not

19 only do this to comply with the NMAC 19.15.25.10,

20 that we also are complying with the pre-published

21 NMOCD conditions of approval that kind of guide how

22 we are going to accomplish that goal.

23   The information that's available for any

24 given well study, the history, condition of the

25 well, is not always completely available. As the

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 1 ownership of many of these wells have become

 2 orphaned wells or sometimes forced plugging wells,

 3 the ownership has changed numerous times. And it is

 4 obvious that these are often divested numerous

 5 times, and with every transaction, the quality of

 6 the data diminishes significantly.

 7   The OCD well files are often a main source

 8 of information that we have to deal with. And it's

 9 what the plugging contractors and the operators that

10 are conducting the forced plugging operations have

11 to rely on because the well files from the companies

12 that drilled and owned the wells over a period of

13 time are probably no longer in existence. And if

14 they are, they are not accessible to the people that

15 are conducting and preparing to do the P&A.

16   So some of the well condition factors that

17 would contribute to the difficulty of some of our

18 P&As -- and I'm going to inject just a real quick

19 side note here. I hear off and on comments about

20 reactivation of wells and -- where wells -- or

21 should be reactivated so that they don't become

22 orphan or don't need to be plugged.

23   What I have seen so far is that most of

24 the wells that are in a position where they have to

25 be plugged and are orphaned already, the conditions,

1 the mechanical -- mechanical integrity of the

2 wellbore and the conditions downhole in this well

3 would make it that the reactivation is not a viable

4 option at this point.

5   So going forward, saying that, okay, now

6 we're going to plug the well, some of the conditions

7 that are going to come into play stuck or parted

8 rods. That's something we run into very often.

9 Stuck and parted tubing, parted casing, unstable

10 ground around the well, and sometimes the wellhead

11 actually breaks off. You have unexpected pressures

12 or flow coming from the well. We'll have examples

13 of all of those here in just a little bit, so . . .

14   Next slide, please.

15   Okay. Now, just to illustrate, some of

16 the things that have been just mentioned, I prefer

17 to call some of these wells neglected wells. And

18 this is a photo of some severely corroded tubing

19 that, as we were trying to pull the tubing out of

20 the well, it parted. And this is a picture of why

21 it parted. It had been corroded to a point where it

22 no longer had any integrity. And as we were pulling

23 it out, it could not support the weight of the

24 tubing below it, which, in this particular case, was

25 about another thousand feet of tubing that was left

1   in the hole because it broke off at this point.

2   So now a fishing operation has to begin.

3   And a fishing operation is to go in and fish out the

4   remaining tubing. In a case like this, it's

5   probably one of the most time-consuming operations

6   that we encounter when we have difficulties.

7   Next, please.

8   Another is the stability of the ground

9   around the wellhead. In this particular case, this

10 is one of two wells in a close -- fairly close

11 together in the same field. We went out with the

12 rig to rig up on the well and proceed with our P&A

13 operations. And in the preparation and the writing

14 of the P&A procedure, without going to the site

15 itself, there's no way to know that this is what we

16 would encounter. And we couldn't tell how far down

17 this cavity went.

18   So we had to take quite a few precautions

19 to be able to assure that we could safely get the

20 rig in site and be able to support the rig. We have

21 no idea of what the stability of the ground around

22 this area was going to be and how far to extend it

23 or how deep. So that was just one more

24 illustration.

25   And sometimes this happens more frequently

1 than we would like to think, where you can see the

2 tubing coming out of the tubing hanger on the top of

3 this wellhead. Those slips and the supporting

4 hanger should come free and come out of that bowl,

5 but they did not. They are corroded and rusted in

6 place. And when we pulled on the tubing to dislodge

7 that out of the wellhead, the casing below the

8 wellhead broke off.

9   And now we have an open situation where

10 the well is opened to the atmosphere. We have no

11 way to control this thing. If it wanted to blow or,

12 you know, have any issues with bringing fluids to

13 the surface and pressure, we have no way to control

14 this. Fortunately in these -- this case, and most

15 often when this does happen, the well is depleted to

16 the point where it is virtually dead, and we -- you

17 know, we don't have that risk factor. But it could

18 definitely be a different scenario.

19   As I stated previously, it is difficult to

20 predict ahead of time what type of operational

21 difficulties time and expense are going to be

22 involved in plugging some of these wells.

23   In this particular case, the Cato San

24 Andres field in Chaves County, New Mexico, we were

25 doing some plugging. And we have two different

 1   wells that I would like to show as a comparison that

 2   were drilled in the same area by the same operator

 3   within several weeks of each other and it drilled in

 4   almost an identical way and cased in almost an

 5   identical way. We had the same P&A operator going

 6   to location to do this work, which they had also

 7   contracted the same P&A contractor. And we ended up

 8   with a vastly different scenario between these two

 9   wells.

10   Next, please.

11   So the Cato San Andres Number 50 and

12   Number 164 -- 150 and 164, as you can see by the

13   legal description, these are very close together.

14   The depth is similar. Casing is similar. The spud

15   date is within several weeks of each other. When we

16   look at, under Operational category, the listing of

17   what took place to plug these wells, the Number 150

18   well took 35 days. Number 164 well took seven days.

19   And there is no way to know this until you get into

20   the well, open the well, and start doing your

21   operation.

22   One of the major issues I touched on

23   previously in that illustration was fishing

24   operations, stuck pipe with multiple tool failures,

25   and we had to do repeated cementing to be able to

1   get down deep enough that we could actually plug

2   this well properly. The fishing operations,

3   multiple attempts were made to retrieve the stuck

4   tubing and parted pipe that was in the well.

5   Number 164 well, we had no issues like that at all.

6   And on the cementing, the Number 150 well,

7   we would pump cement plugs in place, and they did

8   not stay due to different conditions downhole. The

9   cement basically would travel by gravity down and

10 not stay in position where it should be over the

11 interval to be plugged.

12   Number 164 well, we didn't have those

13 issues.

14   There were some mechanic -- mechanical

15 issues on both wells, a little bit more on the

16 Number 150 well. And sometimes these mechanical

17 issues aren't necessarily just things that happen

18 with the rig on locations. Sometimes they are.

19 Sometimes they're also caused by some of the

20 conditions and the operating difficulty and stresses

21 involved in what you are trying to accomplish with

22 that rig to get either cement placed or getting the

23 tubing out of the hole or going in with your work

24 string tubing and getting it stuck and different

25 things that you have to deal with can sometimes also

1 cause some of the mechanical failures.

2   And overall, these two wells had

3 significantly different complexity in achieving our

4 goal. We were able to get both of these wells

5 adequately plugged and be able to comply with

6 isolating the various zones that needed to be

7 isolated and complying with the NMOCD conditions of

8 approval that had been applied to both of these

9 wells equally so that we had a good, safe plugging

10 operation.

11   Next, please.

12   We also have to deal with previously

13 plugged wells. In this particular case, in Lea

14 County, the community of Jal, New Mexico, a

15 landowner in the city of Jal called our OCD office

16 in Hobbs and said, "There's an old P&A marker

17 outside of my -- one of my outbuildings, and it's

18 leaking and it smells bad."

19   This gentleman also happened to have a

20 little bit of knowledge, a little bit of experience

21 in the oil and gas business and realized that if he

22 was smelling rotten egg smell coming out of that

23 marker, that it was most likely hydrogen sulfide gas

24 and had to be reported, and something needed to be

25 done.

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1   So as soon as that call came in, our

2   supervisor from Hobbs and the -- one of our

3   cementing contractor supervisors went to location to

4   investigate and saw that this P&A marker that the

5   gentleman had called about was within about 25 feet

6   of an outbuilding. And they did a gas test real

7   quick with a monitor, and they were getting readings

8   of 100 ppm hydrogen sulfide gas, and they were also

9   getting some volatile indications on their LEL

10 readings. The assessment was made of the location,

11 and preparations were starting to be made for how to

12 get in and approach this and get this done.

13   They -- we cordoned off the area. Talked

14 to the folks at Jal, New Mexico, the emergency

15 responders, police department, City council, and

16 alerted them to what was going on and had them help

17 us kind of keep people out of the area. And started

18 making arrangements on how to get this well taken

19 care of.

20   We started immediately looking at well

21 records that were available within the OCD website.

22 And that was the only indication of any records that

23 were going to be available because the company that

24 drilled this well in 1951 was long gone. The well

25 was plugged in 1953. And the records that we did

1   have were very sketchy.

2   The records indicated that after they

3   drilled the well at 7-inch casing, that the casing

4   was cemented in two different stages. We'll see

5   that on the diagram here in a minute. But there was

6   no indication of how much cement was pumped or

7   whether they had any indication of how high the

8   cement on the outside of the casing would be found.

9   So they did say in their plugging

10   paperwork in 1953 that 12 -- ten sacks of cement had

11   been placed in the casing at 1900 feet and ten sacks

12   had been placed at the surface. Well, in 7-inch

13   casing that is approximately -- depending on the

14   type of cement they used, is about 50 feet of cement

15   plug height. So they had two of those, one at

16   1900 feet and one at the surface.

17   Now, the well had been plugged, capped,

18   and the wellhead had been removed. A plate was

19   welded to the top of the casing with the marker and,

20   you know, the marker was leaking. So we knew that

21   whatever was between the surface and downhole was

22   leaking and had no integrity.

23   So to do this carefully, we had to

24   approach it as if the worst case scenario were going

25   to be experienced.

1   Next, please.

2   We didn't know what was going to happen

3   after we removed the P&A marker. There was

4   something leaking. We didn't know where, how. So

5   we started to excavate around the wellhead so that

6   we could get down deep enough to be able to do what

7   we needed to do to get a blowout preventer in place

8   so that we could open the well with the blowout

9   preventer in place.

10   To do that, since we also had some LEL

11   readings and we had volatiles, we were -- as we were

12   excavating, we had a nitrogen blanket being placed

13   around the area to minimize any chance of fire as we

14   were digging out this.

15   And also the people working on the crew

16   that was working in the area, we had to get them

17   recertified, make sure their H2S monitoring and

18   safety training was up to speed so they could work

19   in that environment. We had to go in with supplied

20   air for the crew working that environment, not just

21   for the H2S and the volatiles, but also because of

22   the nitrogen that we're placing into the area to

23   protect from flash fires.

24   We had to fabricate a number of different

25   things to be able to get the BOP mounted onto this

1   outside casing. There was no wellhead, no flanges

2   or anything for us to mount the BOP on. So all of

3   this had to be fabricated, and we had to be able to

4   install it on top of this casing without having --

5   not having to weld it because we didn't want to be

6   welding in that atmosphere.

7   So everything had to be clamped and bolted

8   in place. It took a great deal of fabrication. It

9   took us about ten days to get this all done so we

10   could get the BOP in place.

11   As soon as the BOP was in place, we were

12   able to remove the marker and then start going into

13   the well with a mill and some work string tubing.

14   What we found at the surface is, there was no cement

15   at the surface. The ten sacks that had been placed

16   at the surface were not found. We didn't see them,

17   didn't feel them.

18   Went on down. Got to 1900 feet. Didn't

19   find any cement there either. So what happened?

20   Well, with time -- and we're looking at a

21   significant amount of time here -- cement will

22   deteriorate. And depending on the type of cement

23   they used, we don't know what that was, it may not

24   have been adequate to the task. But with the amount

25   of time that transpired, no cement was found.

1   So we did get down to the bottom of the

2   well with the H2S alarms continually going off

3   because the well was still producing H2S. And we

4   circulated some scavenger to mitigate the H2S, along

5   with that, keeping everyone out of the way, keeping

6   our safety company in place with their monitors to

7   do everything we would normally do in an environment

8   like that in a workover situation or a drilling

9   situation. So that was added cost, added time.

10   We ran a cement bond log to evaluate our

11   casing condition and cement condition. What we

12   found was that most of the casing that had been

13   placed and cemented in 1951 was unsupported by

14   cement. And so we started designing, placing cement

15   as indicated by the CBL results and going along with

16   conditions of approval to kind of satisfy what we

17   were needing to accomplish here to get this well

18   plugged adequately.

19   It took us until September 29th, and we

20   started on September 6th. So it took us 23 days to

21   get to a point that we got this well properly

22   plugged.

23   Next, please.

24   Based on the information that we were able

25   to see and able to find, this is what the well

1   should have looked like. You can see the casing.

2   There was cement on the outside of the casing.

3   There's an open hole section down below that was

4   indicated on the records. TOC, or top of cement,

5   there on the right-hand side with a question mark.

6   We didn't know where we would find it to be. They

7   did have a diversion tool, a DV tool in place so

8   they did do two stages of cement, two relatively

9   small stages of cement. And this is kind of what we

10   were dealing with. That's all the information we

11   could -- all we had.

12   Next, please.

13   This is what it looked like when we

14   finished. We had to place cement. The dark gray

15   inside the casing is the cement that we placed

16   inside the casing. And the dark gray, as you see

17   towards the top on the outside, is where we actually

18   perforated and placed cement, not just inside the

19   casing, but outside the casing to seal the casing to

20   the formation. And we had to do that in a number of

21   places for a number of different reasons. I'm not

22   going to belabor the point.

23   But you can see how much they said they

24   had. And at that particular time in 1953 was

25   probably considered adequate and was approved as a

1 plugging plan. But to do it by today's standards,

2 this is what we ended up having to do to get this

3 well plugged in a -- in a fashion that complies with

4 our rules and conditions and standards for today.

5   Couple of photos from the call number 1.

6 The first photo is showing us the outbuilding that

7 the gentleman had and the P&A marker proximity to

8 the building. Numerous buildings in the area and

9 houses, of course, that aren't in the photo.

10   And the middle photo is showing us the

11 fabricated supports that we had to make in this

12 excavated area and attached to the old casing so

13 that we could safely and adequately get the BOP

14 stack on at the very top to control us while we went

15 into the hole, control any flows as we were going in

16 to do the work inside the casing.

17   The last photo is what we accomplished.

18 We adequately plugged the well. Had a new P&A

19 marker with a lot of cement inside and cement in the

20 cellar area. This was then covered and remediated

21 so that the gentleman didn't have a mess in his

22 backyard any more than he had to start with. And

23 probably better off than it was to start with.

24   That was the end of the call, call number

25 1.

1   Okay. Another example. Buckskin Federal

2   well number 2. I will probably say without any

3   reservations, this is probably the most difficult

4   well that I have had to deal with since I've been

5   here at OCD and probably one of the more difficult

6   wells I've had to deal with in my career.

7   We were notified -- OCD was notified of a

8   leak in February of 2024 on the Buckskin pad that

9   contained two wells. There was Buckskin Federal

10 Number 1, Buckskin Federal Number 2 wells on the

11 same well pad. It was leaking out of the casing

12 valve. Our OCD contractor that was -- plugging

13 contractor was working in the area, was -- and

14 investigated and repaired the leak.

15   So that was accomplished in February of

16 2024. It was decided, then, that this well needed

17 to be plugged. It's a federal well, federal

18 minerals. This well had been drilled in 1980 and

19 had been converted to injection in 1984.

20   So OCD had meetings with the BLM and

21 discussed how we were needing to plug this well. We

22 put together a plugging plan.

23   The OCD submitted that through our

24 plugging contractor to the BLM. Plugging plan was

25 approved. And we started to move in on location

1 with the rig and had to shut down because there was

2 a family of owls that made a home in the horse's

3 head on the Buckskin Number 1 well, and its

4 proximity to the Buckskin Number 2 is only about

5 100, 120 feet apart. So we were not allowed to

6 continue operations until the -- such time as the

7 owls decided to leave on their own.

8   We kept watching. And finally in October

9 of 2024, the owls had left, and we were able to

10 bring in two P&A rigs to simultaneously plug both of

11 these wells.

12   One of the wells, the Buckskin Number 1,

13 was a little over 6,000 feet deep. The Buckskin

14 Number 2 was about -- between 39- and 4,000 feet

15 deep. And we decided it would be best just to go

16 ahead and have all the equipment on location. To

17 save time, effort, and money, we'd have all of the

18 cement and equipment on location be shared between

19 the two rigs that were on-site. And it didn't work

20 that way.

21   Next, please.

22   Buckskin number 2 P&A difficulties. I'll

23 say I have a comparison coming up here to -- on a

24 table to show the difficulty between Buckskin

25 Federal Number 1 and Number 2. The deeper well,

1   Number 1, was basically plugged with hardly any

2   issues whatsoever. Buckskin Federal Number 2, this

3   was the well that was leaking back in February of

4   2024, and the casing valve that had broken off and

5   was leaking had been repaired. The area had been

6   cleaned up. And now we were back to go ahead and

7   plug the Buckskin Federal Number 2.

8   In an attempt to unseat the packer

9   initially, the well started flowing up the casing as

10   soon as the unpacker was unseated. We were getting

11   pressure up the casing. Sometimes you can allow

12   this to flow a long enough for the pressure to blow

13   down. It didn't blow down.

14   It started flowing water, sand, and rocks,

15   actually 1-inch rocks. We've got pictures of those.

16   Some of the rocks coming up the casing annulus

17   between the tubing and the 7-inch casing. We

18   attempted to kill this well with heavy mud. We

19   could pump down the casing to kill the well, but as

20   soon as you tried to do some work, it would start

21   flowing again.

22   And the fact that we had the packer

23   unseated and that the flow, rocks, sand, and what

24   have you, were coming up the casing had also

25   deposited on top of the packer, and now we not only

1   had a flow, but we had a packer that was stuck. And

2   we were not able to retrieve it and the tubing from

3   the well.

4   This was all happening in May, but with

5   the shutdown that we had due to the owls, this

6   didn't take us very long to get shut down and had to

7   stop and wait until October to be able to resume

8   work. So the well had been just shut in as it was.

9   And once the owls had left, we went back and -- with

10   a rig and started to do the operations, the plugging

11   operations on this Buckskin Number 2.

12   Okay. Next, please.

13   The pressure had built up as high as up to

14   1400-psi. And we were pumping -- at this particular

15   point when we started back on the job, we were

16   pumping cement down the tubing and able to get

17   cement down the tubing into the injection zone in

18   the hopes that we were able to shut the flow and

19   pressure off.

20   We pumped several cement plugs down the

21   tubing. The flow did not stop. So there must have

22   been some conduit outside the casing that was

23   allowing this flow to come back into the casing

24   between the casing and the tubing and was depositing

25   more debris on top of that tubing packer.

1   We had cemented inside of that tubing at

2 2405 feet, but when we went to find a free point

3 with a logging tool, we found the free point of the

4 stuck tubing at 918 feet. So there was a

5 significant amount of debris from the packer

6 location on up to 918 feet.

7   So we cut the tubing at 918 so that we

8 could try to clean this wellbore out, get back on

9 top of the tubing, fish the tubing out, and continue

10 with our P&A. Overshot was run to latch onto the

11 tubing. We were able to do that. We attempted to

12 pull the tubing. It was stuck. And we kept getting

13 additional influx of material.

14   And now the casing had been filled up with

15 the influx of up to 385 feet. We could kill the

16 well, but every time we went to try to clean the

17 well back out again, you have to release some of the

18 pressure that you were using to kill the well and

19 then more -- more material flowed in.

20   Numerous attempts were made to pump cement

21 to seal off this influx. And every time we got

22 cement in place, went to clean out that cement and

23 get a little bit deeper, the influx would overpower

24 our ability of the rig to maintain pressure control.

25 The well was shut in.

1   We brought in a larger rig with a larger

2   blowout preventer. And this was rigged up, and we

3   changed out from the lighter 2-3/8-inch work string

4   for a heavier 2-7/8-inch work string.

5   Now -- next, please. Okay. Thank you.

6   On December 12th of 2024, while we were

7   cleaning out material at 362 feet, a pressure surge

8   hit and pushed two joints of our 2-7/8-inch tubing

9   out of the well, up into the derrick, and bowed the

10   tubing up in the derrick and bent it in just a

11   matter of seconds.

12   At that point, everything was shut in.

13   The well was under control. We had discussions with

14   OCD management, engineering staff, BLM, our

15   contractors and decided at this point, between OCD,

16   engineering, BLM, and our contractor, that the best

17   decision was to bring in a snubbing unit that could

18   handle this kind of pressure and keep the pressure

19   in the well instead of having it try to blow us out.

20   It took a while to find a snubbing unit.

21   We got the one coming out of Louisiana. And in

22   January 28th, the rig was on the move, the snubbing

23   unit rig was on the move.

24   As the snubbing unit was rigged up, we

25   went in to tag, and the fill had now come up to

1   293 feet. And the snubbing unit was working to

2   clean this out with the snubbing operation in place

3   with a weighted mud, various types of downhole

4   tools, and maintaining constant pressure on the well

5   so that no pressure flow was going to be bringing

6   more material in. But no matter what we did, we

7   never got any deeper than 455 feet with the snubbing

8   unit.

9   Each trip that we spent getting back into

10   the hole, we were losing and fighting and getting

11   more and more influx of material, even by

12   maintaining pressure control.

13   While we were trying to attempt to clean

14   this out, the return contained cement, metal, and

15   wire. Where that came from, we don't know. We've

16   never seen that before. Formation sand and rocks

17   were still coming out of this well.

18   The concern of everybody at this point is

19   that if we kept working inside this casing, we were

20   going to be cutting holes in the casing and making

21   the situation even worse. We didn't know that we

22   were going to be able to maintain staying inside the

23   casing.

24   Next, please.

25   So we ended up in the end not getting past

1   455 feet, but a plug of 1120 sacks of cement was

2   plugged down to try to seal off the area below 455,

3   out and around the casing, wherever it was going to

4   need to go to shut off that pressure influx.

5   And the cement plug was then displaced

6   about 256 feet. We were monitoring pressures. And

7   at this point, we had the pressures under control.

8   And the snubbing unit was released. The

9   pressure had diminished, and we were monitoring it.

10 Snubbing unit -- the supervisors and owners and

11 engineers from the snubbing unit company determined

12 that they were not going to be able to go any

13 further with this and were not going to be able to

14 help us any further.

15   We set a bridge plug at that 256 feet.

16 The casing was pressure tested. We had good

17 pressure test on the casing. We know we had

18 integrity from 256 feet to surface. And we

19 monitored this pressure for two weeks. We had no

20 pressure increase, and the design -- we designed the

21 final P&A between ourselves and BLM to finish this

22 P&A, fill this completely full of cement.

23   And that is what we did. Casings were cut

24 off. A P&A marker was installed witnesses --

25 witnessed by the BLM representative. And we

Examination by Mr. Tremaine   88

1   considered that well plugged.

2   The table here, between the Federal

3   Buckskin Federal Number 1, Buckskin Federal

4   Number 2, I'm not going to belabor the point of

5   everything other than to indicate that on the

6   Buckskin Federal Number 1, took us ten workdays to

7   get that work completed. The initial casing

8   pressures are 250-psi versus what we would -- had

9   seen on the Buckskin Number 1 of 1450-psi, keeping

10   in mind these two wells are only about 100 some feet

11   apart.

12   We would have thought -- before we started

13   this project, we would have thought that the -- that

14   the deeper Buckskin Number 1 at 6600 feet would

15   probably be the one that could cause us some more

16   difficulties. This was not the case. The -- we ran

17   the logs, got to the bottom, cleaned the well out,

18   plugged the well with basically no issues.

19   Buckskin Number 2. We just went through

20   the scenario there as to what took place on the

21   Buckskin Number 2. Totally different scenario.

22   So once again, cannot determine ahead of

23   time based on well records or depth as to how these

24   are going to react when you try to plug them.

25   MR. TREMAINE: Madam Hearing Officer,

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1   can I get a time check?

2   HEARING OFFICER ORTH: Yes. You

3   have, let's see, 16 minutes left.

4   MR. TREMAINE: Thank you.

5   Please proceed, Mr. Diede.

6   A.   Yes, I think we can satisfy that

7   requirement. Thank you very much.

8   Buckskin Number 2, this is a very quick

9   wellbore diagram based on the information we had at

10 the time as to what we thought we were going to

11 encounter. We had a packer at about 3650 feet

12 inside two -- a 7-inch casing, perforations at 37-

13 to 3800 feet. And this was tubing that was being

14 used to inject into those perforations.

15   Next, please.

16   Whole different scenario here. We outline

17 some of the issues. Down at the bottom around the

18 packer and the perforations, this is some of the

19 cement that had been pumped down the tubing to try

20 to shut off the influx. And then at that point, we

21 realized that probably not all this influx was

22 coming from the perforations. It was very likely

23 coming from above that packer, coming into the

24 casing on the outside of the tubing, and filling up

25 our whole space inside the casing and inside the

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 1   tubing, for that matter, with debris.

 2   At the very upper section is where what we

 3   ended up doing with the snubbing unit and

 4   subsequently with the last P&A rig to finish this to

 5   the satisfaction of the BLM's requirements and --

 6   well, I take it back -- not to the satisfaction of

 7   anybody's requirements, other than we adequately

 8   sealed the well and were able to shut off the influx

 9   and had no pressure built up in the surface casing,

10   production casing. And we were able to pump cement

11   and cap this well off.

12   Okay. Number 1 slide on the left is what

13   we had in February of 2024 when the casing valve

14   failed and the water and oil material was flowing

15   out on the surface. This was repaired in February

16   of 2024. The area cleaned up to a point where it

17   satisfied some of the environmental requirements for

18   cleaning this up and then getting us ready to go in

19   and do the P&A work.

20   Middle slide is what we saw when we first

21   released the packer in May of 2024. This was the

22   material coming out of the 2-inch casing valve at

23   the surface.

24   The last slide is where we were going in

25   with the larger rig and a 2-7/8 work string to kind

1 of clean this well out. This is 2-7/8-inch tubing,

2 as you see in the derrick, that had been pushed out

3 as (sic) a matter of seconds. And at that point,

4 the decision was made that the regular conventional

5 rigs that we were using would not be adequate.

6   Next, please.

7   The left slide and the second to the left

8 are what -- if you have not been experiencing or

9 worked around a snubbing unit, the first slide is

10 what it looks like from a distance, a rather

11 significant amount of equipment.

12   The second slide shows a little closer

13 view of what it takes to get in a position where you

14 can snub. And basically snubbing is allowing you to

15 travel in and out of the wellbore without any

16 opening to the atmosphere. Everything is

17 self-contained as you move in and out of the

18 wellbore.

19   The third slide is the unexpected material

20 where we had sand and wire, cable wire of some sort,

21 coming out as we were trying to clean out with the

22 snubbing unit. We had not seen this before and

23 didn't expect it. But this is what we were getting

24 and weren't able to make any progress even with the

25 snubbing unit.

1   The last slide is the final P&A marker in

2   place on the Buckskin Number 2.

3   Next, please.

4   So in conclusion of my testimony, I just

5   want to reiterate that it is difficult to determine

6   with any certainty what cost and time is going to

7   take to plug any particular well before the

8   operations begin. Buckskin Federal Number 2 and

9   Coll Number 1 are good examples of this. But also I

10 want to make sure to state that these are extreme

11 examples. These are not normal. Normal operations

12 unplugging, even on some of the orphan wells, and

13 forced plugging wells go as procedure, but these are

14 two extreme examples.

15   Now, also I will have to say that of the

16 orphaned wells, the neglect that these wells have

17 probably experienced in their lifetime make them

18 more difficult to plug than you would normally find

19 in a normal non-orphaned, non-forced plugging

20 operation.

21   So New Mexico -- this number has been

22 bandied about some and it varies depending on the

23 data source. But this was a data source that I had

24 available to me. So we can say that somewhere

25 between 63,000 and 72,000 wells within the state

1 have not been plugged. Of those, how many Buckskin

2 Federal Number 2 wells are there waiting to be

3 plugged?

4   And then the next state would be -- New

5 Mexico has approximately 40- to 50,000 wells within

6 the state that are plugged, and an unknown subset of

7 those wells may have been inadequately plugged. The

8 question there is: How many Coll Number 1 wells are

9 still out there? The answer is: We don't know, but

10 we know that they're there. It's just a matter of

11 time until we deal with them.

12   That's the conclusion of my testimony.

13 Thank you very much.

14   Q.   Thank you, Mr. Diede.

15   MR. TREMAINE: Madame Hearing

16 Officer, we're not offering rebuttal or surrebuttal

17 through Mr. Diede.

18   So at this time I would move admission of

19 OCD Exhibits 4, 5 and 6. And I would make the

20 witness available for cross.

21   HEARING OFFICER ORTH: All right.

22 Thank you, Mr. Tremaine.

23   Let me pause for a moment in the event

24 there's an objection to OCD Exhibit 4, 5, or 6.

25   MR. CLOUTIER: I don't believe we do,

1   Madame Hearing Officer, but if you could unmute

2   Ms. Tripp since she is going to cross Mr. Diede.

3   And I appreciate it.

4   MS. TRIPP: Yes, I believe I'm

5   unmuted. This is Ann Tripp. No objections to

6   Exhibit 4, 5, or 6.

7   HEARING OFFICER ORTH: Thank you.

8   Anyone else?

9   MR. SUAZO: No objections from NMOGA.

10   HEARING OFFICER ORTH: Exhibits 4, 5,

11 and 6 are admitted.

12   (OCD Exhibits 4, 5, and 6 admitted into evidence.)

13   HEARING OFFICER ORTH: Ms. Tripp,

14 would you like to begin your questioning of

15 Mr. Diede?

16   MS. TRIPP: Yes. Thank you, Madam

17 Hearing Officer.

18   EXAMINATION

19 BY MS. TRIPP:

20   Q.   And good morning, Mr. Diede. I'm also

21 attending remote so we can virtually connect here.

22 Thank you so much for taking time out of your day.

23 I know you have a real job with real C-103s to

24 review and get to because my clients are waiting for

25 those. But I appreciate all the time and effort

1   that's gone on into preparing and to explaining from

2   a very fundamental level what it takes to plug an

3   abandon well.

4   I do have some questions, so I'm going to

5   try to move quickly. But if there's any difficulty

6   understanding, you know, through this virtual

7   medium, please ask me to repeat.

8   The first thing I'll just say is that I

9   reviewed your CV, and I guess the only question I

10 have on that, is that: Is there any position that

11 you have not held within the oil and gas industry in

12 operating a well?

13   A.   Usually when we deal with anything on the

14 ground up, that's an area that I would hesitate to

15 say that I have much experience in. So I --

16   Q.   Okay.

17   A.   -- prefer to work below ground.

18   Q.   Got it. Have you been -- and -- well,

19 that makes sense. So in terms -- there's one -- I

20 believe it was slide 4 of your demonstrative where

21 you reference a term called "forced plugging," which

22 sounds like where the operator who is not of record

23 plugs a well upon request either from the State Land

24 Office or the BLM. Is that an accurate summary?

25   A.   That would be my understanding of that,

 1   yes.

 2   Q.   Okay. And so that -- those wells that are

 3   forced plugged by other operators, do you know in --

 4   we've been kind of banting about the 5 percent,

 5   95 percent. So I'm not asking you to adopt that

 6   exact division between wells that are plugged by

 7   industry and wells that are plugged by OCD.

 8   But do you know if that forced plugging

 9   number is incorporated into wells that OCD is

10   responsible for plugging or are they handled

11   differently in tallying that up?

12   A.   I don't believe -- and my understanding is

13   that those would be responsible as far as the same

14   way that an orphan well would be. An orphan well is

15   something that there is no operator liable to do

16   any -- or obligated to do any of that work.

17   So in a forced plugging, you still have

18   someone, an operator that is obligated to work on

19   that and, therefore, should not fall through as an

20   orphan well where the state would be using monies

21   that the state has, from whatever source, to pay and

22   furnish a PO and pay for that operation.

23   Q.   But in the situation of -- and if you're

24   not familiar with this area, please feel free to

25   kick me to the next witness. But where you have an

1 operator who's been requested to plug and there's a

2 forced plugging, that operator does not have --

3 typically doesn't have authority or permission to

4 enter the premises to operate the well to the extent

5 to plug it unless there's been some type of

6 enforcement action. And then the operator who's

7 coming in is acting underneath the OC authority; is

8 that right?

9   A.   I'm not sure I totally understand the

10 point of the question.

11   Q.   I'm just trying to distinguish -- trying

12 to run down -- we have some numbers, and there's a

13 concept of forced plugging, and trying to understand

14 whether the numbers of wells that operators are

15 plugging that are not theirs, whether that's

16 accounted for in the 5 percent or the 95 percent.

17   A.   Okay. Now I can -- I can understand the

18 question. And I will say I do not know.

19   Q.   Okay.

20   A.   All right.

21   Q.   All right. Thank you. And then

22 certainly, I -- you testified a little bit earlier

23 about -- excuse me -- the concept of reactivation

24 and that when wells have been abandoned for a very

25 long time, that they're not really a viable option

1   for that reactivation. But at the same time, you

2   also explained that these examples are extreme. And

3   just looking at the Cato San Andres unit wells,

4   there can be vast differences between those wells.

5   Is that fair?

6   A.   That would be fair, yes.

7   Q.   Okay. And so to the extent that one

8   orphan well is poor casing integrity, that's not

9   indicative of all orphan wells and certainly not

10 indicative of all marginal wells?

11   A.   It would probably be somewhat indicative

12 of an orphaned well because an orphaned well is

13 probably an orphan for a reason. And the reason may

14 be that it's not a viable candidate to be

15 reactivated or anything else be done with it.

16   Marginal wells is a different matter. And

17 that's something that -- you know, there's a lot of

18 argument about different type of definitions for

19 marginal. And I will leave that definition

20 discussion to someone else within OCD.

21   Q.   All right. I will not -- I will not pull

22 up a rainbow slide. I will not force you to go

23 through that activity, then.

24   A.   Okay.

25   Q.   Moving on to the Coll Number 1 well that

1 you discussed, where that well had been plugged in

2 accordance with the regulations at the time in 1953;

3 is that right?

4   A.   As near as we can tell, yes. The plugging

5 had been approved.

6   Q.   And so is it your understanding under the

7 financial assurance rules, the financial assurance,

8 either whether a surety bond or cash bond, that is

9 released after a well is plugged and certified

10 released?

11   A.   That would be my understanding, but what

12 took place in 1953, I don't think any of us here

13 would really know that.

14   Q.   Okay. But the way the rules are enforced

15 or followed today, an operator who has some type of

16 surety bond or cash bond in place, once they have

17 plugged the well and OCD has inspected and released

18 the well, that's when that bond is released from the

19 surety?

20   MR. TREMAINE: Objection, foundation.

21 Mr. Diede is not the bond administer or a supervisor

22 in charge of that program. We do have witnesses

23 available who will be able to talk about that,

24 Mr. Powell can address bond release.

25   HEARING OFFICER ORTH: Sounds like a

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1   better question for Mr. Powell.

2   MS. TRIPP: Okay. Thank you, Madam

3   Hearing Officer.

4   Q   (By Ms. Tripp) So the funds that were used

5   to plug Coll Number 1, those were reclamation funds,

6   correct?

7   A.   Yes, I believe they were. Now, I can't

8   say that with 100 degree certainty because it's been

9   a while.

10   Q.   Okay. But reclamation -- and reclamation

11 funds are only -- let me restate this. I'm trying

12 to -- I'll reorganize based on the fact that you've

13 not been called to testify about financial

14 assurance.

15   But your understanding of the way the

16 reclamation fund works and the way orphaned wells

17 are plugged by the OCD, the reclamation fund does

18 not consist of financial assurance alone?

19   A.   That, I think, is an issue, once again,

20 left to others in OCD that are more equipped to

21 answer that.

22   Q.   Well, we mentioned your extensive CV, and

23 you've certainly operated wells in New Mexico; is

24 that correct?

25   A.   I did not operate wells. I worked as a

1   service engineer or as a consultant for operators.

2   Q.   So you didn't assist with the acquisition,

3   drilling, or planning of wells in New Mexico?

4   A.   No. I like to stay below ground, as I

5   stated previously.

6   Q.   So the Cato San Andres and the Buckskin

7   Federal, I just want to restate your testimony that

8   those are some -- not the San Andres -- the Coll and

9   Buckskin, those are extreme examples; is that

10 fair -- is that correct?

11   A.   I would consider them to be rather

12 extreme, yes.

13   Q.   In preparing for this testimony for the

14 rulemaking, have you reviewed any of the other

15 testimony provided or attended these hearings?

16   A.   No. I saw some of the hearings yesterday,

17 but that was all.

18   Q.   Have you reviewed the proposed rules that

19 applicants have filed and then the revised proposed

20 rules?

21   A.   I did not review them. I -- anything I

22 know about them would be just from hearing

23 discussions, but not being involved in discussions.

24   Q.   Okay. Well, I guess moving on to the

25 Buckskin Federal Number 2. That was a federal well,

1 correct?

2   A.   Yes.

3   Q.   Which means that it is covered by federal

4 bonds -- federal lease bonds that are statewide or

5 individual lease?

6   A.   I would think it would have been, but I

7 can't state that for any certainty. That's not my

8 area.

9   Q.   Understand. It's also not your area to

10 say whether financial assurance proposed by these

11 rules would actually affect bonding levels for the

12 Buckskin Federal 2? You're not offering an opinion

13 on that?

14   A.   I cannot.

15   Q.   Do you know whether the -- we've been

16 using a figure of $163,000 for the cost of plugging

17 wells by the OCD. Do you know if that figure

18 includes the $5.2 million of the Buckskin Federal?

19   A.   I do not know.

20   Q.   Do you know who might be the best witness

21 to go down that rabbit hole with?

22   A.   I think some of the OCD witnesses may have

23 that in their pocket. I don't know.

24   Q.   Okay. All right. Thank you, sir. And

25 you also mentioned with the Buckskin Federal that

1   certainly, there's a lot of circumstances that you

2   don't know when you get into the hole or even when

3   you arrive on location, that there could be a family

4   of owls nesting nearby. Is that fair?

5   A.   That is also correct, and that is what

6   shut us down, you know, for five months.

7   Q.   So to the extent that applicants are

8   proposing a strict compliance measure in the

9   proposed rules where operators are no longer allowed

10 to have any percentage of wells inactive, those

11 circumstances that are outside of an operator's

12 control, like a family of owls, strict compliance

13 would mean that they are in violation of the rules

14 no matter how . . .

15   MR. TREMAINE: Objection. Calls for

16 a legal conclusion, and that's outside Mr. Diede's

17 testimony.

18   HEARING OFFICER ORTH: Ms. Tripp, it

19 does sound like a call for a legal conclusion.

20   MS. TRIPP: Well, we'll move on

21 because I know Mr. Diede hasn't proposed rules in

22 any detail.

23   Q   (By Ms. Tripp) So let's -- I want to touch

24 briefly -- your role within OCD, are you -- in

25 addition to reviewing plugging proposals, do you

1   also see the cost side of things, in terms of

2   invoices under the statewide pricing agreement?

3   A.   My focus has been almost exclusively on

4   the technical side. You know, I've been here a

5   little over a year-and-a-half, and it takes a while

6   to kind of establish a path, and my position has

7   been evolving slowly. But at this point, not to the

8   point of evaluating costs. I'm strictly sticking

9   with the technical and operational side, trying to

10   do what we can there to make it go as well as we

11   can.

12   Q.   I understand. And to the extent that

13   there are technical issues that may come up about

14   whether the Division needs to expend certain costs

15   for procedures, whether it's a fishing expedition or

16   whether it's additional equipment that wasn't

17   planned on, are you consulted in that fashion at

18   all?

19   A.   Yes. And if these are -- kind of an

20   ongoing oversight with the operators. If it's a

21   forced plugging, I'll work with the operators, such

22   as one of the operating companies that's in charge

23   of that. Or if it is an orphan well, a plugging

24   contractor that's contracted by the state, I will be

25   dealing with their supervisors and kind of

1   discussing issues as they come up.

2   On the other hand, if this is a federal

3   well, we also keep the BLM engineer and myself in

4   communications so that BLM and the OCD agree on the

5   best path forward to adequately plug the well.

6   Q.   Okay. And I'd like to share my screen. I

7   should be able to do it.

8   This is Exhibit 17 from the OCD, which is

9   the Master Orphan Spreadsheet. And you should be

10 seeing what looks like an Excel spreadsheet within

11 the window. Is it large enough? Or I can make it a

12 little bit larger.

13   A.   I can see it.

14   Q.   Okay. Because we discussed -- or you

15 discussed in your direct testimony, the Cato

16 San Andres Unit 164 and the Cato San Andres Unit 150

17 wells, which are also federal wells. And there's a

18 column, column S, Pluggable. And so I didn't know

19 if you'd seen this. Have you seen this spreadsheet

20 before?

21   A.   Yes, I have.

22   Q.   Okay. All right. And I don't know who

23 legally, necessarily, these -- who's answering these

24 questions. But in terms of the -- who was plugging

25 Cato San Andres 150 and 164, line 31 says, "Yes, if

1   BLM request." And then line 949 says, "BLM-Shell."

2   So were those wells forced plugging wells

3   or were those wells that were deemed orphaned and

4   then an OCD contractor plugged those wells?

5   A.   I know Shell was plugging the wells. But,

6   of course, Shell is no longer an operator within New

7   Mexico. All of the legal things that took place to

8   get it to that point had all taken place prior to my

9   arrival at OCD, so I don't think I can speak to that

10   with any clarity.

11   Q.   I understand. So you're not -- you can't

12   say for sure whether the funds to plug the Cato

13   San Andres 164 or the 150 came out of the

14   reclamation fund or whether it was a forced plugged

15   well that was plugged by another operator?

16   A.   I would not be able to answer that

17   accurately.

18   Q.   All right. Thank you, sir. And so to the

19   extent that you're involved just on the technical

20   side, you're not reviewing plugging invoices for per

21   diem or for a crew number or for mileage charges?

22   A.   No.

23   Q.   Do you know who at OCD performs that duty

24   normally?

25   A.   There are clerical and administrative

1   people that concentrate on that.

2   Q.   Earlier we heard some testimony about

3   whether or not there is correlation between depth

4   and well plugging costs. And are you familiar with

5   the current regulations for financial assurance and

6   plugging bonds?

7   A.   Once again, I would have to say not very

8   familiar with, but have heard references to that.

9   Q.   Okay. Well, in your -- prior to coming to

10   the OCD, I believe your testimony, you said 40 to 50

11   years as a contractor doing workover plugging

12   operations for wells?

13   A.   Yes.

14   Q.   Okay. And so in your experience in

15   that -- especially in New Mexico, whether the

16   San Juan Basin or Permian, do you believe that there

17   is any correlation between depth of the well and

18   plugging costs?

19   A.   Generally, but not necessarily always.

20   Q.   Okay. And so generally, meaning that the

21   deeper a well, the more cement, the more number of

22   plugs you will need to plug the well. Is that fair?

23   A.   That would be a fair statement.

24   Q.   Okay. And to the extent that you're going

25   to need more materials, there will be more waiting

1   time for cement to cure, which increases standby

2   costs, that will drive the cost of the well -- to

3   plug the well up?

4   A.   That could be a factor, yes.

5   Q.   So you've been in the industry for a fair

6   amount of time, and that's a compliment.

7   A.   It's not always, but, thank you.

8   Q.   Well, we haven't driven you off yet.

9   So are you familiar with the operator of

10   the -- certainly OCD's plugged a lot of Cato

11   San Andres unit wells. Are you familiar with the

12   operator who caused that?

13   A.   I have been in communication with them

14   from time to time when those were also federal, and

15   the BLM was involved primarily. And there would be

16   times that I would be asked to give an opinion.

17   Q.   Okay. And that operator that we're

18   speaking of is -- some may feel that they should not

19   be named, but I believe it's Cato Petro; is that

20   correct?

21   A.   I believe, yes.

22   Q.   Okay.

23   A.   I believe so.

24   Q.   Yeah. Okay. Are you familiar with the

25   reason -- the reason behind this orphaning, in terms

1   of Cano Petro's bankruptcy and how much money the

2   OCD's actually recovered from them?

3   A.   I am not.

4   Q.   Okay. In terms of the Buckskin Federal

5   Number 2, when you were reviewing the well file that

6   you mentioned in terms of, this is the only

7   information that we have to go forward from, did you

8   review the changes of operators behind that well?

9   A.   No, I did not.

10   Q.   Okay. So you're not familiar that there

11   was already an ACOI placed between New Mexico and

12   Energy Acumen at the time that Acumen took over?

13   A.   I don't know all the ins and outs of some

14   of those, like ACOIs. Those are things that I'm

15   familiar with the terms, but not necessarily with

16   all of the details and -- so I would have to say no.

17   Q.   Okay. Thank you. And then I just wanted

18   to touch on one of the points you made during your

19   summary of your direct testimony, and I think it

20   was -- I apologize, I'm not sure which well we were

21   talking about at the time, but the phrase was, you

22   know, this was depleted until the point the well was

23   dead. Maybe it was the call but -- or maybe -- it

24   refers to how much risk you had to approach the

25   well. Do you recall -- do you recall that

 1 statement?

 2   A.   Re-ask that again, please.

 3   Q.   Well, the phrase that I wrote down was,

 4 when you were approaching a plug on abandoned

 5 certain wells, that it was -- it was depleted to the

 6 point the well was dead.

 7   A.   I don't recall making that statement

 8 exactly in those words. But sometimes if you have

 9 some minor pressure, you can blow it down to the

10 point where you can work on it without the small

11 amount of pressure that had built up over time when

12 it was shut in.

13   Q.   Yes. Yes. Thank you for clarifying. I

14 do believe it was with respect to the amount of

15 pressure in the well. So to the extent that the

16 pressure is low, is merely pressure being low in a

17 well representative of recoverable hydrocarbons for

18 that well?

19   A.   No, because there again, I would leave

20 that for reservoir engineers to work on -- or answer

21 that more carefully. But when you're just working

22 on a well, if there's a small amount of pressure

23 that's built up over time, if it depletes very

24 quickly, then that would indicate to me that there

25 are no hydrocarbons there of any consequence.

1   Q.   And are you referring specifically to the

2   primary production period?

3   A.   Not necessarily, no.

4   Q.   Okay.

5   A.   I mean -- yeah.

6   Q.   Are you generally familiar with the

7   percentage of recovery ranges between primary,

8   secondary, and tertiary?

9   A.   Not to a point where I can speak on it

10   with any accuracy.

11   Q.   Okay.

12   A.   I would leave that to production folks.

13   Q.   Thank you. So just to the extent that you

14   make a comment about the amount of pressure in a

15   well, you're not making a statement or offering an

16   opinion about potential future life or purposes of

17   that well?

18   A.   That would be correct.

19   Q.   Okay. Thank you.

20   MS. TRIPP: And I'm going to review

21   my notes very quickly. I don't want to take up more

22   time than I have to, but I believe . . .

23   I have covered all the areas and questions

24   that I have for you, sir. Thank you very much for

25   your time.

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1   LOREN DIEDE: Thank you.

2   HEARING OFFICER ORTH: Thank you,

3   Ms. Tripp.

4   Mr. Suazo, would like to begin your

5   questioning or take the lunch break?

6   MR. SUAZO: I can begin my

7   questioning.

8   HEARING OFFICER ORTH: All right.

9   EXAMINATION

10   BY MR. SUAZO:

11   Q.   Good morning, Mr. Diede. My name is

12   Miguel Suazo, and I'm the attorney representing

13   NMOGA in this proceeding. How are you this morning?

14   A.   Very well. Thank you.

15   Q.   Excellent. Well, we certainly appreciate

16   your testimony today, and I just want to clarify a

17   few things based upon your slides and what you've

18   told your counsel and counsel for IPANM.

19   Just to confirm, you joined OCD recently,

20   in February of 2024, correct?

21   A.   That is true.

22   Q.   And prior to that, your work was primarily

23   a consultant or field supervisor for plugging and

24   workover types of operations; is that accurate?

25   A.   That is accurate.

1   Q.   And just to clarify the scope of your

2 testimony in this case, you are not offering an

3 economic or policy analysis of financial assurance;

4 is that right?

5   A.   That is correct, I am not.

6   Q.   So your testimony is limited to plugging

7 fieldwork, yes?

8   A.   In this testimony, yes.

9   Q.   Okay. Now, the two wells that you've gone

10 over in detail, the Coll Number 1 in Jal and the

11 Buckskin Federal Number 2, these are extraordinarily

12 extreme and challenging plugging jobs, correct?

13   A.   Yes. And they were intended to illustrate

14 that.

15   Q.   And has OCD done any sort of statistical

16 analysis of how many wells that experience these

17 types of extreme issues exist?

18   A.   I am not aware of that.

19   Q.   Okay. What percentage of wells the OCD

20 plugs would you say are more of the routine nature?

21 Are you able to put a general percentage on that?

22 Is it 90 percent? 95 percent?

23   A.   That is a percentage number that I don't

24 feel comfortable stating, other than I would say a

25 high percentage of wells -- without any data to back

1 it up, high percentage of wells is -- probably

2 experienced a lot less difficulty than those two

3 illustrations.

4   Q.   Okay. Then I guess just to summarize what

5 you can say about the nature of the wells OCD plugs,

6 is that the vast majority of them are routine

7 pluggings?

8   A.   I'm not sure how we can define routine.

9 They all vary.

10   Q.   Sure. But I guess routine in the sense

11 that they don't take an inordinate amount of time

12 and they don't generally exceed, you know, an

13 extraordinarily high monetary threshold?

14   A.   Again, a very difficult question to answer

15 with any certainty.

16   Q.   And it's not data that OCD, I guess,

17 tracks?

18   A.   I have not tracked that, and I'm not aware

19 if we have.

20   Q.   Okay. How does OCD prioritize the wells

21 that they plug? Is there a set of criteria that's

22 used?

23   A.   There are criteria that I may not be aware

24 of. When we're looking at issuing POs, that is

25 outside of my scope as to how those are determined

1   and which wells are included.

2   Q.   Can you clarify for the record what you

3   mean by PO, please?

4   A.   Oh, purchase order.

5   Q.   Okay. Thank you. Is it fair to say the

6   OCD would prioritize the oldest or riskiest wells

7   for plugging?

8   A.   I could not say that.

9   Q.   Who at OCD would know the answer to that?

10   A.   There are people within OCD that could

11 probably answer that much more accurately than I can

12 because they have the information that I don't have.

13   Q.   Okay. I'd like to ask you about your

14 testimony on rule 19.15.25.10, which requires

15 operators to permanently confine oil, gas, and water

16 in their original strata. Is that an accurate

17 description of that rule?

18   A.   That sounds like an exact stating of it,

19 yes.

20   Q.   And they have to do that before that well

21 is abandoned, correct?

22   A.   That is what the NMAC you stated says that

23 we are to do -- or the operator is to do.

24   Q.   And that rule has been on the books for

25 many years; is that right?

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1   A.   My understanding is that it probably has

2 been.

3   Q.   And the Coll Number 1 occurred -- the

4 issues occurred with that well because it was

5 plugged back in, I think, 1953, you said?

6   A.   I don't -- I know it was plugged in 1993,

7 because I have that in the records. Other than

8 that, I can't state anything about that plugging.

9   Q.   I'm sorry, did you say '93 or '53?

10   A.   1953. My apologies.

11   Q.   No problem.

12   And that was decades before today's rules

13 were in place, correct?

14   A.   I can't state that with any certainty

15 because I don't know when the rules were put in

16 place and any modifications to them, I don't know

17 that.

18   Q.   Would you say that you -- sorry, go ahead.

19   A.   I said I'm working currently with what we

20 have currently published and trying to follow those

21 the best we can.

22   Q.   So do you know anything about the rules

23 that were in place back in the 1950s?

24   A.   Most definitely not.

25   Q.   Okay. Is it possible there were no

 1 regulations covering the plugging of these types of

 2 wells at that time, to your knowledge?

 3   MR. TREMAINE: Objection,

 4 speculation. I think it's asked and answered, too.

 5   HEARING OFFICER ORTH: So, Mr. Diede,

 6 I do not want you to speculate in response. Do you

 7 have an answer that doesn't require speculation?

 8   LOREN DIEDE: Agreed, thank you.

 9   Q   (By Mr. Suazo) And just to confirm your

10 testimony, it's possible that the operators at that

11 time were conducting plugging operations in

12 accordance with what was appropriate at that time?

13   MR. TREMAINE: I must maintain my

14 objection. Mr. Diede has already testified that he

15 doesn't know what rules were in place and what

16 operators were doing in respect to the rules at the

17 time. He's merely testified to what is in the well

18 file with the casing diagram.

19   HEARING OFFICER ORTH: That's what I

20 heard as well, Mr. Suazo.

21   MR. SUAZO: I'll move on.

22   Q   (By Mr. Suazo) Mr. Diede, with respect to

23 the rule changes that are the subject of -- that are

24 the subject of this proceeding, we're generally

25 talking about wells that are much newer in vintage

1 than the wells that you discussed in your testimony

2 examples, correct?

3   A.   I would say that's probably true.

4   Q.   Now, for some of the wells that you've

5 discussed, you mentioned OCD was losing cement

6 downhole. Did OCD set a cast iron bridge plug in

7 those wells?

8   A.   There are times that you can't get into

9 the well, can't get into the casing far enough to be

10 able to do that. So you have to do the best you can

11 with the circumstances you have if you can't get the

12 tubing out or if the casing is corroded to the point

13 where you can't set a plug.

14   Q.   Okay. But do you know if in these cases

15 with the Coll and Buckskin, if it was attempted or

16 whether it was possible?

17   A.   Could you rephrase that, please. Because

18 these are two very different wells.

19   Q.   Well, I guess let's take each one in turn.

20 Let's start with the Coll. Do you know whether a

21 cast iron bridge plug was put in place or whether it

22 would have been possible for purposes of plugging

23 that well?

24   A.   Are you asking about the original

25 plugging?

1   Q.   No, sir. I'm asking about what OCD did.

2   A.   Well, we were able to get into that well

3 enough to set a bridge plug.

4   Q.   Okay. Does OCD keep track of how many

5 wells are successfully plugged by operators

6 annually?

7   A.   I do not.

8   Q.   Would you say that the overwhelming

9 majority of plugging in New Mexico is done by

10 operators?

11   A.   Well, that data is out there, I'm sure. I

12 don't have it.

13   Q.   Okay. So I guess with respect to your

14 testimony, is a fair takeaway that the rules that

15 are in place currently are adequate for effective

16 plugging, but the OCD infrequently or on occasion

17 encounters extreme examples?

18   MR. TREMAINE: Objection. It's a

19 compound question. I'm not sure what rules

20 Mr. Suazo is referring to.

21   MR. SUAZO: I can refer to the rule.

22   Q   (By Mr. Suazo) I'm sorry, I can be clearer.

23 The rule that you referenced on your slide,

24 19.15.25.10, would you say that rule is adequate for

25 effective plugging operations?

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1   A.   It had evidently been determined to be

2 adequate by someone. I didn't make it. I follow it

3 as best I can.

4   Q.   Okay. I think that's fair.

5   Mr. Diede, would it surprise you if

6 industry found some of these wells that are of older

7 vintage, let's say 50 to 100 years old, and industry

8 was able to rework them and produce them?

9   A.   Would it surprise me? Quite a few years

10 ago, I didn't think we could do horizontal wells,

11 and now we're doing it. So anything is possible

12 with technology advances. So I'm not sure the point

13 of that question.

14   Q.   Well, do you know of any wells that are of

15 older vintage, like the wells that you used in your

16 description, that were reworked and able to be

17 produced?

18   A.   I can't answer that with any accuracy. I

19 plug the ones that have been determined that need to

20 be plugged. I don't do remediation on old wells

21 anymore.

22   Q.   Okay. And just to be clear, your

23 testimony today is not offering an opinion in any

24 way for or against justifying increasing --

25 increases in bonding, correct?

  1   A.   That is correct. I am not offering any

  2   opinions on that matter.

  3   MR. SUAZO: All right. Thank you,

  4   Mr. Diede.

  5   NMOGA has no further questions for this

  6   witness.

  7   HEARING OFFICER ORTH: All right.

  8   Thank you very much.

  9   You've brought us to within three minutes

 10   of noon. So let's take our lunch break and return

 11   at 1:00.

 12   (Recess was taken from 12:01 p.m. until 1:04 p.m.)

 13   HEARING OFFICER ORTH: We are back

 14   after a lunch break, and we're going to continue

 15   with the questioning of Mr. Diede.

 16   Let's see. Mr. Sayer or Ms. Bradfute, do

 17   you have questions?

 18   Mr. Rankin, do you have questions?

 19   MR. RANKIN: Thank you, Madam Hearing

 20   Officer. I do have a few.

 21   EXAMINATION

 22   BY MR. RANKIN:

 23   Q.   Good afternoon, Mr. Diede. How are you

 24   today?

 25   A.   Very well. Thank you.

1   Q.   Thank you for the background on some of

2   that. Appreciate it. It's helpful for me to learn

3   some new terms and actually see some new photos as

4   well.

5   My name is Adam Rankin. I represent OXY

6   in this matter. I don't -- I don't suppose that you

7   were involved with any of the discussions between

8   OXY and the applicants in this case, so I'll

9   probably save my comments for appreciation for the

10 Division's engagement for another witness.

11   But just wanted to confirm that you

12 weren't involved with any of those discussions, were

13 you?

14   A.   No, I was not.

15   Q.   In your testimony, I think it's slide 1 --

16 I think I'll go ahead and pull it up. Oh,

17 there's -- I had my colorful slide up there.

18   In this slide number 4 here, you talked

19 about two different groups or categories of wells,

20 none of which is formally defined, but one is the

21 orphan well and the other is the forced plugging

22 well. The -- and I understand that -- just so I

23 understand, the wells that you gave examples of in

24 your testimony, were those all what you would call

25 orphan wells?

1   A.   The two Cato San Andres were probably --

2   would be what you would call forced plugging. The

3   Coll was kind of in a category all to itself since

4   it was an old P&A that we were just repairing. But,

5   yes, the Buckskin well was an orphan well.

6   Q.   So the Cato San Andres were wells that OCD

7   plugged, right?

8   A.   There was an operator plugging those under

9   more of a forced plugging because -- but that

10   operator was not even -- it's a rather complicated

11   arrangement, my understanding, so I don't have all

12   the details on that. But it was probably a forced

13   plugging with some input from the state since that

14   operator was not currently an operator within the

15   state of New Mexico.

16   Q.   Okay. Yeah. All right. I just wanted to

17   make sure I understood the examples that you were

18   giving, whether they were orphan or which ones were

19   forced.

20   Okay. So I'm interested in both, but the

21   forced plugging -- and you've only been with the

22   Division now for a little over a year-and-a-half --

23   about a year-and-a-half or so, right?

24   A.   That is correct.

25   Q.   In the -- in the year-and-a-half you've

1 | been with the Division, have you seen an increase in

2 | these forced plugging type situations?

3 | A.   I can't speak to that because I haven't

4 | been tracking. So I wouldn't be able to say whether

5 | it's increasing or decreasing.

6 | Q.   Okay. And just -- okay. What role does

7 | the -- do you have or does the Division have when

8 | it's a forced plugging situation, where it's a

9 | third-party operator coming in? What role does the

10 | Division have in that process?

11 | A.   Well, doing some oversight similar to what

12 | I would do on an orphan well plugging, and it might

13 | have to do in some regards to the fact that the

14 | operator doesn't always have all of the information

15 | that they would normally have on their own plugging.

16 | So I will get involved in formation top

17 | picks to make sure we have all of the formation tops

18 | that the conditions of approval will require. And

19 | then offer some guidance where I can along the way

20 | as they do their operation.

21 | Q.   Now, as to the forced plugging wells,

22 | sometimes it's the case that the operator, the

23 | designated -- the division-designated operator of

24 | those wells is no longer viable. And that might

25 | have been the case with the Cato San Andres wells,

1   right?

2   A.   Can you restate, please.

3   Q.   Sure. I guess my question is: For the

4   forced plugging wells, the operators of the

5   Division-designated operators of wells that are, you

6   know, forced plugged -- or identified as being -- to

7   be forced plugged by the State Land Office or the

8   BLM, it's sometimes the case that the

9   Division-designated operator is no longer a viable

10   entity, right?

11   Like for bankruptcy or some other reason,

12   they're no longer valid -- you know, they're no

13   longer around?

14   A.   The previous operator of record would not

15   be viable anymore at that point, yes.

16   Q.   But is it always the case that the

17   Division-designated operator of these forced

18   plugging wells is no longer viable? Sometimes they

19   just refuse to do the work, right? So then BLM or

20   the State Land Office will look to the lessee of

21   record or another operator of record to do the work;

22   is that correct?

23   A.   I can't -- I can't answer that accurately

24   because I don't have the information to substantiate

25   it one way or another.

1   Q.   Okay. So, yeah, you don't know whether

2   it's always the case that a forced plugged well, the

3   operator's always defunct or not viable, right?

4   A.   That would be correct, I do not know those

5   things.

6   Q.   Okay. And so it's not always the case

7   that a -- or you can't say whether it's always the

8   case that a forced plugged well is always an orphan

9   well, right?

10   A.   I could not state that either, no.

11   Q.   Yeah, okay. One thing that caught my ear,

12   I was just kind of interested in understanding a

13   little bit about it. I think it was when you were

14   discussing slide 6. You said something to the

15   effect that with every transaction -- you know,

16   every transfer of operatorship, the quality of the

17   data for the well or facility degrades or declines.

18   What did you mean by that? And how does

19   it -- how does the data decline over time with each

20   transfer or transaction?

21   A.   Okay. Well, you know, I stated that the

22   quality of the data diminishes because the records

23   that you would normally have, if you are the

24   operator of a well, like some of the clients that I

25   worked for before coming here, you know, they had a

1   whole file room of files that you could go through

2   to get all the information, every bit of history of

3   the well that was recorded in those records would be

4   available to you.

5   In this particular case, whether they're

6   orphan or whether they're being forced plugged, if

7   the ownership has, you know, changed hands a number

8   of times, those records are often never available to

9   the final holder, final person that has to do the

10 work. They just don't exist sometimes.

11   Q.   I see. So the distinction you're making

12 is that -- or the point you're making is that

13 because the entity no longer exists, those records

14 that are not public are not available to the OCD or

15 the operator who's been tasked to do the forced

16 plugging, correct?

17   A.   That would be correct.

18   Q.   And so that all they're left with is

19 whatever may be available publicly with the OCD,

20 correct?

21   A.   That is correct also.

22   Q.   All right. And so the older the well, the

23 less public information is probably available on

24 that well, correct?

25   A.   Generally, but not always.

1   Q.   Yeah. Okay. All right. So then the

2 other wells that you identified in your testimony

3 that you talked about and gave some more detail on,

4 I think it's the CS -- oh, those are the -- okay.

5   So you addressed two of the Cato

6 San Andres unit wells, the 164 and the 150. And

7 those were both forced plugging wells, correct?

8   A.   Those -- yes.

9   Q.   Okay. And then the Coll Number 1 and the

10 Buckskin were both orphan wells?

11   A.   The Coll well, I'm not sure how to define

12 that because that was just an old P&A that, you

13 know, failed and had to repair it.

14   Q.   Got it. And the Buckskin was an orphan

15 well, right?

16   A.   Yes.

17   Q.   Okay. In each instance, though, none of

18 those wells were recently active producing wells,

19 right?

20   A.   Cato San Andres well, I don't know how

21 recently they had produced, but as far as the Coll,

22 of course, it stopped producing in 1953. And the

23 Buckskin had, then, converted to an injection well

24 in 1984, and I don't know when it had stopped being

25 used.

1   Q.   In each case, production was -- I mean,

2 can you tell me whether production had stopped for

3 more -- was it more than a year, two years for each

4 of these wells? Or in the case of the Buckskin,

5 injection?

6   A.   I do not know the answer to that.

7   Q.   Okay. So you don't know the timeframe

8 between last production or injection for any of the

9 wells that you discussed off the top of your head?

10   A.   That's correct, I do not know.

11   Q.   Okay. But based on the condition of the

12 wells, can you tell me whether you think it was --

13 the wells were recently active or did it appear that

14 they were not recently active at all?

15   A.   Well, the conditions varied so much that

16 it's hard to answer that.

17   Q.   But obviously, the well records would tell

18 me, right, if I went and looked them up, how

19 recently they produced or injected, right?

20   A.   That would be public information, I'm

21 sure.

22   Q.   Yeah. Okay. Just based on your

23 experience, Mr. Diede, and all the years you've got

24 and the work you've done with the Division over the

25 last year-and-a-half and your testimony about the

1 wide range of costs incurred by the Division to

2 undertake plugging -- in particular, I guess the

3 Buckskin was one of the more expensive ones -- in

4 your opinion, is a -- is an average plugging cost

5 incurred by the Division a useful metric, given that

6 wide variety, especially in the case of orphan

7 wells?

8   MR. TREMAINE: Objection. Mr. Diede

9 has testified to the expensive time and oversight.

10 He's testified that he does not review -- he's not

11 responsible for financial records or money costs.

12 We will have witnesses that can address this in more

13 detail.

14   HEARING OFFICER ORTH: I remember

15 that.

16   MR. RANKIN: Well, I guess he's got

17 50 years' experience managing and overseeing

18 plugging. And he's testified about the wide range

19 of experiences and costs that were incurred by the

20 Division. I'm wondering, based on his experience

21 and testimony, whether he has an opinion about

22 whether an average cost is a useful metric. I think

23 that's within the scope of his experience and

24 testimony.

25   HEARING OFFICER ORTH: All right.

1   Excuse me, Mr. Diede, if you have an answer, go

2   ahead. Otherwise, not.

3   A.   I hesitate to answer that, so I do not

4   have an answer.

5   Q   (By Mr. Rankin) So the reason, I guess --

6   because you talk about in your testimony -- you do

7   reference costs, for example, of the Cato San Andres

8   wells, but you don't actually provide those costs in

9   your testimony or in your slides. And that's

10   because that wasn't a focus of your -- that's not a

11   part of your job description or -- you know, your

12   purview as a -- in your role; is that right?

13   A.   That is correct.

14   Q.   Okay. And I think Mr. Suazo asked you

15   about prioritization and how the Division

16   prioritizes. I think you answered that -- just to

17   be clear, I think that you said you didn't -- you

18   weren't aware about how wells were prioritized for

19   plugging, right?

20   A.   That is not an area that I get involved

21   in.

22   Q.   Okay. In your conclusion, you talked

23   about -- you left us with some thoughts -- I got

24   this highlighted here -- that there's, you know,

25   49,000 -- or nearly 50,000 wells in the state that

1 are plugged and an unknown subset of those wells

2 have been inadequately plugged.

3   Do you know if the Division has done any

4 sort of analysis to evaluate, based on its

5 experience remediating improperly plugged wells,

6 what fraction or portion of those plugged wells may

7 be an issue?

8   A.   I don't know how to answer that. But I

9 can say that of all of those wells that were

10 plugged -- and we talk about an unknown subset and

11 it's exactly that, it's unknown -- whether they were

12 adequately or inadequately plugged is to be

13 determined when they fail. And you don't know when

14 that's going to happen either.

15   Q.   So, yeah, I guess the more direct -- or

16 the -- you know, the piece -- the question I'm -- I

17 guess you can tell me yes or no, but you're not

18 aware of any study or analysis that the Division has

19 done to kind of -- try to quantify that, to your

20 knowledge, right?

21   A.   I am not aware of one, whether it existed

22 or not -- or exists or not.

23   Q.   On the prioritization question, I think

24 Mr. Suazo asked you who at the Division would be

25 able to answer the question about how the Division

1 identifies priority for its plugging. But I don't

2 think you gave him an answer.

3   Do you know who -- are any of the

4 witnesses slated to testify qualified to answer how

5 the Division prioritizes its plugging activities?

6   A.   I will leave that to someone at OCD

7 management to answer that question.

8   Q.   Do you know, among the witnesses

9 remaining, if that -- if any of those witnesses can

10 answer that question?

11   A.   I think some of those witnesses can give

12 you some more direction than I can.

13   Q.   Okay. So I'll ask each one in turn and

14 see where I go.

15   Okay. I think -- let me make sure I

16 covered everything -- that you would be able to

17 answer. I think you -- I think you did, but let me

18 just make sure.

19   And just to make sure I covered this

20 ground, Mr. Diede, I think I understood you to say

21 that you had some general discussions about

22 applicant's proposed rules, but you, yourself,

23 haven't reviewed them. So you're not familiar with

24 the way the applicants have defined the term

25 "marginal well," correct?

1   A.   That is correct. I have not been in those

2 discussions, other than I know those discussions

3 have been had, but not by me or not involving me.

4   Q.   Same thing with the term or -- a well that

5 would qualify as having no beneficial use, you also

6 are not familiar with how that's defined under the

7 proposed rule?

8   A.   Same answer for that, yes, sir.

9   Q.   Yeah. Okay. So, yeah, you couldn't tell

10 me whether any of the wells you discussed today or

11 reviewed for the Commission would qualify for any of

12 those categories of wells, right?

13   A.   I would not be able to tell you that.

14   Q.   Okay.

15   MR. RANKIN: I think that covers my

16 questions. Thank you very much, Madam Hearing

17 Officer.

18   Thank you very much for your time.

19 Appreciate it. Thank you.

20   LOREN DIEDE: Thank you.

21   HEARING OFFICER ORTH: Thank you.

22 Thank you, Mr. Rankin.

23   Mr. Maxwell, do you have questions of

24 Mr. Diede?

25   MR. MAXWELL: No questions, Your

1   Honor. Thank you.

2   HEARING OFFICER ORTH: Thank you.

3   I don't know if Ms. Nanasi is on the

4   platform.

5   No. Mr. Moore?

6   Sheila, can you make sure he can unmute

7   himself? He might be RM right there.

8   MS. APODACA: He has permission to

9   unmute.

10   HEARING OFFICER ORTH: Mr. Moore?

11   He may have stepped away.

12   Ms. Fox or Mr. Tisdel.

13   MS. FOX: Thank you, Madam Hearing

14   Officer. We have just a few.

15   EXAMINATION

16   BY MS. FOX:

17   Q.   Good afternoon, Mr. Diede. My name is

18   Tannis Fox. I'm a lawyer with Western Environmental

19   Law Center, and I represent applicants in this

20   matter. Thank you very much for your testimony.

21   I just have a few questions. I take it

22   from your testimony that this -- is your primary

23   responsibility with OCD overseeing the plugging and

24   abandonment of orphan wells?

25   A.   Yes, it is.

1   Q.   And you've been in your position, as

2 Mr. Rankin noted, about a little over a

3 year-and-a-half; is that correct?

4   A.   That is correct.

5   Q.   And within that time period, how many

6 orphan wells have you overseen the plugging and

7 abandonment for from beginning to end during that

8 period?

9   A.   I hesitate to say that. I have not been

10 keeping track, to be honest with you. So I don't

11 have a number. It's something I could find, but I

12 don't have it.

13   Q.   Would it -- if you could say without

14 guessing, would it be more or less than 20 wells?

15   A.   It would be more than 20. I know that.

16   Q.   Would it be less than 30 wells?

17   A.   There again, I'm sorry.

18   Q.   If you know. If you know.

19   A.   Yeah, I can't -- I can't get that any

20 closer because I have not been tracking them.

21   Q.   Okay. And how many people within OCD have

22 essentially the same job description as you?

23   A.   Pretty much myself.

24   Q.   Oh.

25   A.   I'm the only one that focuses on this

1   pretty much exclusively.

2   Q.   Okay. Going to the Buckskin Number 1 and

3   Number 2 wells. I take it from your testimony that

4   there was a big differential between the work done,

5   plugging and abandoning those two wells, correct?

6   A.   Yes, as the table shows that the Number 1

7   well was relatively uneventful.

8   Q.   And I also take it from your testimony

9   that you don't know the precise cost of differential

10   between the work between those two wells; is that

11   correct?

12   A.   Right. That is correct, I do not know.

13   Q.   I note that for Buckskin Number 1, the

14   casing depth was about 6800 feet, and for Number 2,

15   the casing depth was about 4,000 feet; is that

16   correct?

17   A.   That is correct.

18   Q.   And then I also note that for Number 1,

19   the depth reached was about 6600 feet, and the depth

20   reached for Number 2 was about 2900 feet; is that

21   correct?

22   A.   That is also correct.

23   Q.   And what exactly does that mean, depth

24   reached?

25   A.   That was -- on the Buckskin Number 1, we

1   basically were able to get into the well without any

2   obstructions to -- very close to the bottom or to a

3   depth at which we needed to begin plugging. So when

4   I say uneventful, we were able to access the

5   wellbore all the way down to where we needed to

6   start plugging. Buckskin Number 2, that was not the

7   case. We had many issues as described.

8   Q.   And then I think your testimony was -- and

9   please correct me if I'm misstating -- was that this

10   is an example where the depth of the well is not

11   correlated very precisely with the technical work

12   that's required to P&A the well or the cost to P&A

13   the well; is that correct?

14   A.   Yeah, the difficulty of the plugging

15   operation had nothing to do with the depth of the

16   well on either one of -- or of this -- of the

17   Buckskin Number 2 relative to the Buckskin Number 1.

18   Q.   What were the factors that played into the

19   amount of technical work and cost involved in P&A

20   Number 2?

21   A.   Getting some abnormal pressure flows with

22   unexpected -- number one, unexpected pressure and

23   number two, unexpected amount of particulate matter

24   including rocks up to an inch in diameter flowing up

25   the casing, which, you know, is just -- it's very

1 unusual. Very unusual.

2   Q.   In your experience with OCD and your other

3 experience, what factors other than well depth go

4 into the difficulty of plugging a well and the costs

5 for plugging a well?

6   A.   Primarily the access to get into the

7 casing would be probably one of the largest factors.

8 Can you pull the tubing, rods, pump, and everything

9 that's in the wellbore? Can you pull those all out

10 without any difficulty and then have full access to

11 the wellbore regardless of depth?

12   If you can do that successfully. And the

13 conditions of the wellbore, as illustrated in the

14 two Cato San Andres wells, can vary dramatically

15 from well to well in a very short distance on what

16 should be similar wells.

17   So if you can access the wellbore

18 successfully all the way to the bottom, then your

19 chances of successfully completing that P&A

20 operation are pretty much improved.

21   Q.   And then I believe you testified something

22 to the effect of, with regard to the Buckskin wells,

23 is that you would have anticipated -- given that

24 they were drilled around this same time and in the

25 same location and at about the same depth, that you

1   would have anticipated that the cost to P&A would be

2   similar. Is that what you -- is that a correct

3   recitation of your testimony?

4   A.   No, I'm not going to testify to costs,

5   but --

6   Q.   Okay.

7   A.   -- the two wells, the two Buckskin wells,

8   given information available.

9   Prior to the leak that we had on the

10   casing of the Buckskin Number 2, which was kind of

11   an indication that Buckskin Number 2 was going to be

12   potentially more challenging than the Number 1, I

13   would have -- not having known that, I would have

14   expected the Number 1 to cost more time than the

15   Number 2. That was not the case.

16   Q.   And so would it be fair to say that in

17   certain instances, it would be hard to predict the

18   cost to P&A a well, and you just have to get in

19   there to find out what the -- what the work will

20   involve?

21   A.   Yes. And you have to anticipate, of

22   course -- when you write your procedures, you have

23   to anticipate what you think it's going to require.

24   And given the amount of well history information

25   available, you make some determination of what's

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1   required when you write your procedure. And then

2   once you open up the wellbore, you'll truly find out

3   what you're dealing with.

4   Q.   Thank you.

5   MS. FOX: That's all the questions I

6   have.

7   HEARING OFFICER ORTH: Thank you,

8   Ms. Fox.

9   Mr. Tremaine, do you have any redirect?

10   MR. TREMAINE: I just have a couple

11 of questions. I'll be brief.

12   EXAMINATION

13 BY MR. TREMAINE:

14   Q.   Good afternoon, Mr. Diede. You partly

15 answered my first question, so I just want to

16 clarify here. Would you agree that relative to your

17 experience when you worked in industry, that the

18 quality of information about well construction and

19 history available to you at OCD when you're plugging

20 orphan wells is lower than that -- than what you

21 would have had in industry?

22   A.   Yes, that's correct.

23   Q.   And in your experience prior to OCD, did

24 you experience as high of a rate of tubing or casing

25 failure as you observe in reviewing orphan plugging

1 of wells at OCD?

2   A.   I think we're almost talking about two

3 different types of well categories, because most of

4 my experience in working with an operator as a

5 consultant, we were -- well, I was fortunate to be

6 working with an operator that was trying to be

7 proactive and take care of those things before they

8 deteriorated.

9   And I don't think that's the case that

10 we're looking at in orphan wells or possibly even

11 forced plugging wells. I think these have been left

12 to deteriorate longer than what I experienced in the

13 industry with the operator.

14   Q.   Thank you. In your experience, if a well

15 has degraded casing or tubing, would it be standard

16 practice to continue producing the well in that

17 condition?

18   A.   No. You'd have to -- you'd have to do a

19 workover of some sort. Depending on what the issue

20 was, you'd have to work it over, and I -- yeah.

21   Q.   And you received a number of questions

22 about the nature of the examples you provided as

23 extreme examples. Both of those extreme examples

24 that you outlined today, those were both observed

25 during your time working with OCD only in the last

    1   1.5 years, correct?

    2   A.   That's true, very short period.

    3   MR. TREMAINE: No further redirect.

    4   Thank you.

    5   HEARING OFFICER ORTH: Thank you very

    6   much, Mr. Tremaine.

    7   Commissioner Ampomah, do you have

    8   questions of Mr. Diede?

    9   COMMISSIONER AMPOMAH: Yes, very

   10   brief.

   11   EXAMINATION

   12   BY COMMISSIONER AMPOMAH:

   13   Q.   So my first question to you is: You know,

   14   one of our safety concerns, when you visit such a

   15   site, you know, similar to the examples that you

   16   showed your slide number 8, slide number 9, slide

   17   number 10, so concerning.

   18   A.   I'm sorry, was there a question there?

   19   Q.   Yeah. So can you hear me?

   20   A.   I hear you very well. Thank you.

   21   Q.   Okay. So before I ask you -- I ask the

   22   question one more time, you know, thank you for your

   23   service to our state.

   24   Now, back to my question. So I was asking

   25   you, on slide number 8, 9, and 10 where you were

1 showing some of the figures, the actual things going

2 on in the field, I was asking: What are some of the

3 safety concerns, you know, to you and then also to

4 even the plugging companies when you go to the sites

5 to do this type of job?

6   A.   Oh, yes. Sorry for misunderstanding.

7   The safety concerns are a variety of

8 safety concerns. You know, the examples of the

9 unstable environment and the surface -- ground

10 around the well, that is a major concern because you

11 have to -- you have to do some remediation before

12 you can safely move in a heavy piece of equipment

13 like the rig.

14   Some of the others, when you actually have

15 the rig in place and you start pulling on the tubing

16 and your casing parts, to me, that's pretty serious

17 because now you have no way to safely keep that well

18 confined. And so that is -- that worries me.

19   Q.   Yeah, surely it does. I mean, I was -- so

20 scary when I was seeing all of these figures --

21 pictures.

22   So, sir, since you are, more or less,

23 overseeing the orphan well plugging program and

24 based on your experience in 1.5 years with the OCD,

25 so what are some of the lessons that you've learned

1 from all of these wells that have already been

2 plugged? Some of the lessons that have already been

3 learned to at least guide OCD in moving forward?

4   A.   Well, first and foremost is be prepared

5 for almost anything. Do not assume that what you

6 think you know about the well is correct. And

7 number two, almost important -- as important would

8 be to have good communications with your field

9 supervisors that are actually physically looking at

10 and judging those safety concerns realtime on-site.

11   Q.   My last question to you is -- so you

12 talked about, on your conclusions slide, New Mexico

13 has 49,964 wells within the state data that are

14 plugged. Is there anything that OCD is doing in

15 terms of some random water train, or is there even

16 research that is being done or planned to at least

17 minimize the risk, you know, similar to what the

18 extreme case that you presented to us?

19   A.   I'm not aware of anything that is

20 currently being done in that regard. And like I

21 stated, you know, this was kind of something new to

22 me. I had not experienced this type of P&A failure

23 because I had never really been working around that

24 many old wells until coming here to OCD.

25   COMMISSIONER AMPOMAH: Thank you,

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1   sir, for your testimony, and thank you for being

2   here.

3   HEARING OFFICER ORTH: Thank you.

4   Commissioner Bloom, do you have questions

5   of Mr. Diede?

6   Commissioner Bloom may have stepped away.

7   COMMISSIONER BLOOM: I'm here. Thank

8   you, Madam Hearing Officer.

9   EXAMINATION

10 BY COMMISSIONER BLOOM:

11   Q.   Mr. Diede, thank you for your testimony

12 today. Just a few questions. I don't think we're

13 going to need too much time here. Let me pull them

14 up.

15   Mr. Diede, you discussed the Coll Number 1

16 well, the C-O-L-L Number 1, correct?

17   A.   Yes.

18   Q.   Did you mention that it was leaking H2S?

19   A.   We did see H2S when the -- our Hobbs

20 supervisor and contractor went to location to check

21 it.

22   Q.   I think the number I'm seeing is 100 parts

23 per million, correct?

24   A.   Um-hmm.

25   Q.   For those that might not be aware, can you

1   explain what H2S is?

2   A.   Hydrogen sulfide gas is basically

3   poisonous gas. Something that people that work in

4   the oilfield are very similar with and routinely

5   have training how to understand if it's present,

6   what to do about it if it is. Very poisonous.

7   Q.   Yeah. Does OCD staff in the field wear an

8   H2S monitor or alarm?

9   A.   I know our inspectors have monitors.

10   Q.   How -- again, how close was this well to

11 that building? It looked pretty nearby.

12   A.   Yeah, it's under -- I'm sorry for

13 interrupting. It's under 25 feet from the

14 outbuilding. I don't know the exact footage.

15   Q.   So in your opinion, can wells in need of

16 P&A, plugging and abandonment, threaten human health

17 and the environment?

18   A.   I think there are many things that can

19 threaten our -- our health and environment. Wells

20 are just one of them. And wells to be plugged, of

21 course, are also one. I don't know how to rank all

22 of those different things and different risks, no.

23   Q.   All right.

24   COMMISSIONER BLOOM: Thank you very

25 much for your time today, Mr. Diede.

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1   LOREN DIEDE: Thank you.

2   COMMISSIONER BLOOM: Appreciate it.

3   HEARING OFFICER ORTH: Thank you,

4 Commissioner Bloom.

5   Chair Chang, do you have questions of

6 Mr. Diede?

7   CHAIR CHANG: I do not.

8   HEARING OFFICER ORTH: All righty.

9 Any reason not to excuse Mr. Diede?

10   Thank you so much, Mr. Diede, for your

11 testimony.

12   LOREN DIEDE: Thank you all very much

13 as well. Thanks.

14   HEARING OFFICER ORTH: Mr. Tremaine

15 or Mr. Hall?

16   MR. HALL: Thank you, Madam Hearing

17 Officer. At this time OCD will call John Garcia.

18 He's available remotely.

19   HEARING OFFICER ORTH: All right.

20 Thank you.

21   I see him.

22   Hello, Mr. Garcia, will you spell your

23 first and last name, please.

24   JOHN GARCIA: Yes. J-O-H-N, and then

25 last name Garcia, G-A-R-C-I-A.

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1   HEARING OFFICER ORTH: Do you swear

2   or affirm to tell the truth?

3   JOHN GARCIA: I do.

4   HEARING OFFICER ORTH: Thank you.

5   Go ahead, Mr. Hall.

6   MR. HALL: Thank you.

7   EXAMINATION

8   BY MR. HALL:

9   Q.   Could you state your name again, please,

10 sir.

11   A.   John Garcia.

12   Q.   Mr. Garcia, how are you employed?

13   A.   I work for OCD as an engineering special

14 project supervisor.

15   Q.   Have you -- in preparation for this

16 hearing today, have you prepared written testimony

17 to be provided to the Commission?

18   A.   I have.

19   Q.   And is that Exhibit 1 of OCD's exhibits?

20   A.   It is.

21   Q.   And Exhibit 2, is that a true and correct

22 copy of your resume or curriculum vitae?

23   A.   It is.

24   Q.   Additionally, have you prepared some

25 slides to assist in your summary of testimony today

1   as Exhibit 3?

2   A.   I have.

3   Q.   Additionally, have you prepared three --

4   or have you presented three spreadsheets to be used

5   in evidence in this matter, namely Exhibit 17, the

6   Master Orphan Spreadsheet; Exhibit 25, which is well

7   plugging data from 2024; and Exhibit 16, which is

8   fiscal year 2024 production information?

9   A.   Yes. And just to clarify, Exhibit 17, the

10 Master Orphan Sheet, I built and created.

11 Exhibit 16 was partially built by Brandon Powell,

12 who will testify later, but I used some of the data

13 in there to justify some of my slides. So -- but, I

14 guess, just to clarify, he assisted in that

15 building.

16   Q.   And how about Exhibit 25?

17   A.   Exhibit 25, I have my slides in front of

18 me.

19   Q.   I can pull it up too.

20   A.   Which one?

21   Q.   I can pull that up. I believe that's some

22 well plugging information and different categories

23 from 2024 --

24   A.   Correct, that --

25   Q.   -- that you referred to in your testimony.

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1   And thank you for that clarification, Mr. Garcia.

2   Do you adopt and -- is all the information

3   contained, to the best of your knowledge, in each of

4   those exhibits correct? Do you have any -- I'm

5   sorry, go ahead.

6   A.   It is, and no modifications.

7   Q.   You have no modifications? Did I hear

8   that correctly?

9   A.   No modifications.

10   Q.   Okay. Are you prepared to present a

11 summary of your direct testimony to the Commission

12 today?

13   A.   I am.

14   Q.   I would ask you to go ahead and present

15 that. And if you'd like me to share any slides, if

16 you would please just let me know and I'll do my

17 best to do that.

18   A.   If we can share the slides so I can see

19 them. And, I guess, before we get started, can you

20 hear me okay?

21   Q.   Yes.

22   Can you see that, Mr. Garcia?

23   A.   I can.

24   Q.   Great. If you would please present a

25 summary of your testimony. Thank you.

1   A.   I'll start off, prior to this slide, my

2   testimony includes my written testimony, which I

3   summarize today. In addition is my resume and

4   experience. I'll summarize that briefly.

5   I came to OCD December 2019 as a drilling

6   specialist. I worked in the admin team processing

7   APDs, plugging summaries, drilling summaries, pretty

8   much any submission that OCD receives.

9   In 2023, January, I was promoted to the

10 engineering supervisor of the special projects. My

11 role and responsibility with that -- it's a special

12 projects team, so the roles vary. We encounter

13 hearings for OCD and the orphan plugging, of course.

14   The Master Orphan Spreadsheet got some

15 attention today. I'll talk about how we built it.

16 Originally, I was tasked by my management to build

17 this Excel sheet as -- when I first entered the

18 program, there was a number of places, whether it

19 was OCD's website or various Excel sheets, that

20 management was having to pull data from to keep

21 their reporting to whoever was accurate, whether

22 that was a federal or state government.

23   I was tasked by my manager, Brandon

24 Powell, to be specific to build a database for them

25 to use specifically. I met with multiple teams,

1   stakeholder meetings. It took quite a while to

2   build and pull off the data. A lot of the data was

3   built by me, reading and interpreting hearing

4   orders, with legal vetting my reading and

5   interpretation of those orders to get wells into the

6   Excel sheet.

7   We then built it into -- you'll see the

8   color scheme. It's not showing on the screen, but

9   there is a color scheme built into it where there is

10 a black color, a red color, et cetera. Those colors

11 were built for management to have a clear, concise

12 person of who they could contact responsible for

13 that data. For example, Engineering is dark blue.

14 That's mine and Loren's database that we're

15 responsible for on a day-to-day operational level.

16 That list contains about 1800 wells, as people had

17 talked about.

18   I think that's about it for that slide.

19   This slide was built just to show some of

20 the numbers of wells that are plugged in the state

21 of New Mexico. OCD plugged 100 wells in the

22 calendar year 2024. Forced plugging, same

23 definition that Loren used was 129. Industry

24 plugged, 173 wells. This data was used by sundries

25 that were submitted to OCD, subsequent plugging

1 sundries.

2   If you can find OCD and forced pluggings,

3 about 23 percent of the wells plugged were orphan.

4 If you don't want to count forced plugging at OCD,

5 about 10 percent were orphan plugging.

6   I believe that's it on that slide.

7   This graph was -- this graph was built by

8 me to try to show the Commission, if the petition

9 was adopted, how many wells it could potentially

10 affect. I will note there was some confusion

11 internally with OCD. Specifically, I had some

12 confusion with it, as well, in the original petition

13 on the reading of it.

14   There was some confusion on it. The

15 petition was supposed to be "and/or." Was it

16 supposed to interpret it as "or"? So, for example,

17 was it 180 days and 1,000 BOE or was it 180 days or

18 1,000 BOE for marginal wells?

19   I chose to use the word "or" in the code

20 because it showed the more severe consequence of the

21 rule, if adopted, so the Commission can have a, I

22 guess, worst case scenario mindset on it when

23 they're reviewing it.

24   And basically, this graph shows

25 33,000-plus productive wells, which are wells that

1 didn't fall into the categories. That was the

2 definition that I came up with it. It was not in

3 the petition. Marginal, inactive, and beneficial

4 use were definitions in the petition by the

5 applicants. But, again, I used the word "or" in the

6 code. So if a well hit 90 days or 90 BOE, it fell

7 into the no beneficial use category.

8   I think that's about it on this as well.

9   Now, the following slides are -- they're

10 wells that I picked. There's no specific reasons

11 these wells are picked, other than they're good

12 examples on some of the confusion that existed with

13 me and to show the Commission the difference of BOE

14 and the days produced.

15   For example, the Electra Federal

16 Number 22, we can see the last few years of its

17 production history. We can also see the last few

18 years of the days it reported production. This is

19 all operator provided data to OCD. This graph is

20 simply just showing the BOE versus days comparison.

21   If we can go to the next slide, I think

22 there's a more refined view of it.

23   So the Electra Federal well, but it's seen

24 again on the BOEs and also dropped the day count.

25 So the black line on the left that's crossing

 1   through the data is an indication marker of where

 2   the 1,000 BOE threshold is. Using the "or" mindset,

 3   this well would be marginal even though it had the,

 4   you know, 350, give or take, days reported

 5   production every year. The last two years it has

 6   fallen below the 1,000 BOEs for various reasons. So

 7   this is just an example of a well that became a

 8   marginal -- or became marginal.

 9   If you took the production by the year, it

10   was less than 1 BOE per day, just showing that this

11   well was showing signs of having some sort of

12   problem.

13   Next slide, please.

14   Similar -- I think the well name got cut

15   off of my side. The Eubanks BEN Com well, similar

16   example, it's just another well to show the

17   difference in BOE versus days. This well, we can

18   see, has a normal decline curve. The last few years

19   the production has been overall kind of stable. It

20   has been under that 90 BOE for this well. However,

21   this well I used just to show the fluctuation in

22   days that it's been producing over the last, you

23   know, 20 years or so, since 2006. Some years it's

24   produced every day of the year. Some years it's

25   barely produced on the day count. The BOE doesn't

1   really reflect that here as much. But it's just

2   showing a difference between BOEs and day

3   fluctuations.

4   I think the next slide is also zoomed in.

5   Same item, just a zoomed-in version of the previous

6   graph on the last ten years of production. Eight of

7   the last ten years this well has been below the 90

8   BOE. Again, with the mindset of "or," this well

9   would have been not beneficial eight of the ten

10 years.

11   This well was drilled in 2005 to about

12 4500 feet. I'll note this well had been sold three

13 times since 2016. I do not have the exact names it

14 was sold to. They're public record, but it has been

15 sold three times.

16   And then the last well is the Rock Queen.

17 Similar mindset, kind of showing the difference of

18 well to well. This well is an older well, 1993.

19 It's the earliest production OCD has on it. The

20 production looks skewed because they had a few good

21 years, 2015 and '16, which really brought production

22 up, but it -- inconsistent production from 1993

23 onward. The days of production were fluctuating

24 during the same time periods. I'm assuming the

25 operator did some sort of workover or recomplete on

1   it. And production came up, and the days still are

2   fluctuating even though BOE was coming up. And

3   that's just a graph showing the difference in days

4   as well.

5   Same well, just a more refined view of the

6   days and the BOEs overlaid on each other with the

7   90-day BOE threshold labeled as that red line.

8   This well has been sold nine times since

9   it was spud in 1955, which is quite a long life for

10   a well. It has a lot of selling to go along with

11   it. It was recently sold in 2024. And I'll note we

12   have had very little production on this well since

13   the selling.

14   This is my last slide, and basically there

15   was some questions to Loren about the wells he used

16   as examples of OCD's plugging efforts. These are

17   the same wells that Loren discussed. You'll notice

18   the Cato San Andres 150 and 164 on the left-hand

19   side.

20   This shows some the questions he was asked

21   earlier about how many times has that well sold. I

22   do not have the last day they produced on here, but

23   they are public records. Both of those wells follow

24   a similar lifespan, just like they did drilling.

25   They were depth -- drilled in 1967, sold to Sierra

1   in 1995. Again in 1999. In 2007, they became an

2   orphan well under order R-14795-A. And as Loren

3   discussed, they were plugged by Shell Oil Company.

4   The Cato San Andres and Buckskin well, as

5   Loren discussed, these are just showing the same

6   history for these wells, how many times they were

7   sold or divested. It was drilled by Olsen Company.

8   It was sold to R. Olsen in 1954, and then it was

9   originally plugged by Jal Oil Company in 1960. Our

10 records are a little unclear there why the operator

11 didn't plug that well. But, again, obviously, it

12 was replugged by OCD recently.

13   The Buckskin, which was our -- the one

14 that Loren discussed, was drilled by Lanexco in

15 1980. It was sold to another entity of Lanexco

16 d/b/a New Mexico. It was sold again to

17 Energy Acumen in 2022.

18   There was an NOV against Lanexco. When

19 they were sold, they were subject to an ACOI for a

20 settlement agreement with Energy Acumen. And

21 Energy Acumen failed to follow that, and OCD plugged

22 this well.

23   And I believe that concludes my testimony.

24   Q.   Thank you, Mr. Garcia.

25   MR. HALL: At this time, OCD would

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1 move to -- would offer and ask for admission of

2 Exhibits 1, 2, 3, 7 -- 16, 17, and 25.

3   MR. CLOUTIER: We'll be

4 cross-examining Mr. Garcia about that.

5   HEARING OFFICER ORTH: All right.

6 Are there objections, aside from Mr. Cloutier's

7 objection to 16?

8   SPEAKER: No. But we'll object to 16

9 also pending the outcome of that cross-examination

10 from Mr. Cloutier, but no objections otherwise.

11   HEARING OFFICER ORTH: All right. So

12 Exhibits 1, 2, 3, 17, and 25 are admitted. And we

13 will resume our discussion later of Exhibit 16.

14   (OCD Exhibits 1, 2, 3, 17, and 25 admitted into

15   evidence.)

16   Mr. Cloutier, are you going to begin our

17 (sic) cross-examination?

18   MR. CLOUTIER: I will do so. Thank

19 you, Madam Hearing Officer.

20   Mr. (inaudible), if I can switch places

21 with you.

22   If Ms. Tripp could give us screen sharing

23 authority, please.

24   MS. TRIPP: I believe I have it, yes.

25   MR. CLOUTIER: And we filed and

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Examination by Mr. Hall   161

1   served on all parties certain demonstratives that we

2   were up late last night building.

3   MS. TRIPP: You should be seeing IPNM

4   demonstrative Garcia as the head?

5   MR. CLOUTIER: Thank you. We've got

6   it. Thank you.

7   MR. TREMAINE: Madam Hearing Officer,

8   we have some objections to both of these exhibits.

9   If this is premature, that's fine. Or if you would

10   like us to, we can lodge those objections at this

11   time.

12   MR. CLOUTIER: We're not admitting

13   these exhibits here. We're using them as

14   demonstrative right now, and we'll provide testimony

15   on them later.

16   HEARING OFFICER ORTH: All right.

17   MR. HALL: May I present my

18   objections including based upon that basis?

19   HEARING OFFICER ORTH: Yes, present

20   your objection. We may or may not talk about it

21   right now, but go ahead.

22   MR. HALL: Very well. Thank you.

23   We have three general objections. The

24   main one being the timeliness. There was a deadline

25   of October 15th to file demonstrative exhibits at

1   5:00 p.m., while these came at 8:06 this morning,

2   less than one hour before the hearing started.

3   Additionally, related to that, Mr. Garcia

4   has not had very much time to review that or analyze

5   it and internalize that.

6   Also, he's mischaracterizing and altering

7   an exhibit that has been admitted into evidence.

8   HEARING OFFICER ORTH: All right.

9   Thank you for that.

10   Let's proceed through the

11   cross-examination. And just a caution for

12   Mr. Garcia.

13   Mr. Garcia, if you feel that you are

14   unable to answer a question or questions based on a

15   lack of time to review these, just say so.

16   JOHN GARCIA: Understood.

17   HEARING OFFICER ORTH: Go ahead,

18   Mr. Cloutier.

19   MR. CLOUTIER: Thank you.

20   EXAMINATION

21   BY MR. CLOUTIER:

22   Q.   Mr. Garcia, my name is Andrew Cloutier. I

23   represent IPANM. I do want to thank you for your

24   public service industry. And the regulators

25   sometimes row their oars in the same direction and

1   sometimes don't, and this is one of the times we

2   don't.

3   I've got up your direct testimony that you

4   submitted, correct?

5   A.   Correct.

6   Q.   And you described the creation of

7   Exhibit 16 as using -- in the second sentence of the

8   paragraph that we've got up there, applying --

9   "applying" is my word -- I quote now, "a simple

10   if/or script was programmed into the Excel

11   spreadsheet to return the category title based on

12   the parameters set in the petition." Did I read

13   that correctly?

14   A.   Correct.

15   Q.   And you tell the Commission in your direct

16   written testimony, "Those parameters are defined in

17   the petition," correct?

18   A.   Correct.

19   Q.   And it says, "As," and I quote, "'marginal

20   well,'" close quote, "which means an oil or gas well

21   that produced less than 180 days and less than

22   180 barrels of oil equivalent within a consecutive

23   12-month period," correct? That's your direct

24   testimony?

25   A.   Correct, 180 days and 1,000 BO -- barrels

1   of oil equivalent.

2   Q.   And that was your direct testimony with

3   the word "and" in between the two parameters,

4   correct?

5   A.   This was a copy and paste from the

6   petition, but, yes, the word "and" is present.

7   Q.   All right. And you have told us today

8   after I submitted our demonstratives that, in fact,

9   the word "or" was used when you created OCD

10   Exhibit 16 for marginal wells, correct?

11   A.   Correct. Again, there was some confusion

12   on the interpretation of the petition. So I chose

13   "or" based on direction from my management and legal

14   counsel.

15   Q.   Okay. Which management directed you?

16   A.   Brandon Powell, who will speak later and

17   can probably talk more about it.

18   I will note, I believe since I built that

19   exhibit, I believe the parties have had more

20   discussion on that, which Brandon may discuss later.

21   Again, I'm not offering an opinion on the rule, just

22   more of, here's what the most substantial

23   expositional could be, and "or" is the more

24   substantial text.

25   Q.   Correct. But in your written testimony,

Examination by Mr. Cloutier   165

1 you told the Commission, you told the parties that

2 you used the word "and" incorrect -- in doing this,

3 correct?

4   A.   As the petition defines, yes.

5   Q.   And that was -- when you wrote your direct

6 testimony after using the script that you used, you

7 incorrectly described the script here in your direct

8 testimony, didn't you?

9   A.   I wouldn't disagree. I would, again, say

10 there was some confusion on how you would read and

11 interpret the rule on a broad basis. And it's

12 confusing if you wanted the word "or" or "and."

13 And, again, per direction from my management, we

14 used the word "or."

15   So I would say the same is true in my

16 testimony, is here the petition aligns and how the

17 code worked, based on our interpretation of the

18 rule.

19   Q.   You tell us that you did it based on the

20 parameters set in the petition, and the petition

21 says "and" between the two categories -- or two

22 issues in marginal well. And, in fact, the script

23 said "or," and all the data in Exhibit 16 was based

24 on "or," not "and," correct?

25   A.   I still stand by my statement. I think

1 we're going in circles. My line 5 says an "if/or"

2 script was programmed. So I wasn't trying to, you

3 know, catch anyone off guard. I said I used the

4 word "or" based on the petition, which was copied

5 and pasted below, because there was some confusion

6 on interpretation of the petition.

7   Q.   I understand confusion -- there's a

8 possibility of confusion with the petition. But

9 were you confused when you signed your direct

10 testimony as to whether you used the word "or" or

11 "and" when you correct -- when you prepared

12 Exhibit 16?

13   A.   I used the word "or," and that's what I

14 signed.

15   Q.   What did you sign that used the word "or"?

16   A.   The exhibits, which included the code.

17   Q.   Okay. The Exhibit -- the Exhibits 16 and

18 17 did not include the script in it, did it?

19   A.   Exhibit 16 and 17 did not. Historically,

20 codes tend to get broken the more they're shared.

21 And so it showed the result of the code, but the

22 code was provided to IPANM per the request.

23   Q.   I agree. On the next page that we'll show

24 you -- in fact, why don't we go to the next page of

25 the -- very briefly.

1   We had a heck of a time re-creating

2   Exhibit 16 from the data, and I finally asked your

3   counsel if we could have the "if/or" script. And I

4   asked last week, and I don't think unpromptly, but

5   after October 15th, we were provided the script.

6   And this sets forth --

7   MR. HALL: Objection to the sidebar

8   and the testimony from Mr. Cloutier.

9   HEARING OFFICER ORTH: Mr. Cloutier,

10   please get to your -- get to your point here.

11   Q   (By Mr. Cloutier) This is us being provided

12   with the script, correct, Mr. Garcia, Monday,

13   October 20?

14   A.   According to what you're showing, that's

15   the day our counsel sent it to you.

16   Q.   Are you aware of any of the parties --

17   industry parties to this rulemaking getting this

18   script before October 20?

19   A.   Not to my knowledge.

20   Q.   All right. Thank you.

21   MR. CLOUTIER: Go back to page 1,

22   please, Ms. Tripp.

23   Q   (By Mr. Cloutier) And on the new beneficial

24   use, same -- we have the same "and/or" issue. You

25   used the word, "For at least 90 days and has not --

1   and has not produced at least 90 barrels of oil

2   equivalent," in your testimony that was written,

3   sworn, and submitted to the Commission, correct?

4   A.   Correct.

5   Q.   And, in fact, when you created Exhibit 16,

6   you used the word "or," not "and," in writing the

7   script, correct?

8   A.   Again, correct.

9   Q.   All right. And where in your testimony

10   did you advise the Commission or any of the parties

11   to this rulemaking that Exhibit 16 was, in fact, a

12   worst case scenario, not the parameters set forth in

13   the petition and the proposed rulemaking?

14   A.   Again, Exhibit 16 just shows how OCD was

15   interpreting this petition, and there's confusion in

16   our directive. This what we built to give the

17   Commission the mindset of what this could affect.

18   It was our interpretation of the rule. I

19   think we've seen a lot in this, that data could be

20   taken in different ways, and this is how we

21   interpreted the data.

22   Q.   Okay. All right.

23   MR. CLOUTIER: We've done the second

24   page, Ms. Tripp, so if we can go to the third page.

25   Q   (By Mr. Cloutier) This is a page that we

1 prepared last night after finally sorting out this

2 script and served this morning. It's Exhibit 16

3 with the script that you wrote up top, correct?

4   A.   I will note there's -- you guys caught it,

5 I believe, but there's a missing parenthesis, which

6 I think got lost in transit to you guys, between the

7 first "or" and H2.

8   Q.   Okay.

9   A.   Other than that, that's pretty accurate.

10   Q.   There was a missing parenthesis there,

11 correct? But that didn't -- that didn't affect the

12 numbers either, did it?

13   A.   One to the right, if it ran without the

14 parenthesis there, it would have probably caused

15 issues, but . . .

16   Q.   Okay.

17   MR. CLOUTIER: On the second -- why

18 don't we go to the next page, Ms. Tripp, since

19 that's what Mr. Garcia is talking about.

20   Q   (By Mr. Cloutier) So we fixed essentially

21 two things that were not completely proper here, and

22 one of them is the parenthesis that you're talking

23 about, but it didn't -- in our analysis, it did not

24 change the numbers in Exhibit 16 when we ran this

25 script.

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1   MR. HALL: Once again, object to

2   Mr. Cloutier's testimony. I would ask that he ask

3   Mr. Garcia a question instead of testifying.

4   MR. CLOUTIER: Sure.

5   Q   (By Mr. Cloutier) With these corrections,

6   do the numbers change on Exhibit 16? Were you able

7   to run the corrected script, Mr. Garcia?

8   A.   I have not.

9   Q.   Okay.

10   MR. CLOUTIER: Let's go to the next

11   page, Ms. Tripp.

12   Q   (By Mr. Cloutier) Now, correction number 2

13   that we've -- our labeled here, is changing before

14   the word -- well, let me talk about this script

15   here.

16   There's the "If SS," I-F-S, correct? Do

17   you understand that to be a command that if it meets

18   one of the categories in the sequential order, then

19   you stop because you categorized the well? Is that

20   your understanding of how the script works?

21   A.   Correct. This is a chunk statement, is

22   what I refer to it as, the reason the first chunk of

23   information and proceeds to the next one, depending

24   if it was a true or false result.

25   Q.   And you -- for the definition of an

Examination by Mr. Cloutier   171

1 active, which follows the parenthesis here, you have

2 asked the script to label as inactive if something

3 in H2 of the Excel spreadsheet or L -- spreadsheet

4 is 0; is that correct?

5   MR. HALL: Objection. Mr. Garcia did

6 not compile this document. Mr. Cloutier did. So

7 his characterization of you doing this would be

8 misleading.

9   MR. CLOUTIER: Anything in the red,

10 I'm talking about the work that he did, which is

11 what he did here, correct?

12   HEARING OFFICER ORTH: That's how I

13 understand it.

14   Q   (By Mr. Cloutier) That's what you did, was

15 used script that was intended to, if H2 or L2 equal

16 0, the well should be labeled as inactive. Is that

17 how you understand the script that you wrote?

18   A.   To clarify, if we're looking at

19 Exhibit 16, H2 and L2, call them H as days, call

20 them L as BOEs. L2 is the row number we're on and

21 so is H2.

22   So H and L, what this code is saying is,

23 if days equals 0 or BOE equals 0, label it as

24 inactive.

25   Q.   Okay. And this page that I'm showing you

1   for no beneficial use, we have changed from "ands"

2   to "or." You had it "or." If either the days were

3   less than 90 or the BOE was less than 90 in H2 and

4   L2, it should be defined as no beneficial use?

5   A.   Again, if you want to change how you

6   interpret the original petition to "and," you can

7   change the "or" to "and," it will result in

8   different numbers because you changed the parameters

9   and the data it was fed.

10   Q.   Okay.

11   MR. CLOUTIER: Ms. Tripp, why don't

12 we pull up the original petition beneficial use for

13 a moment, if we could.

14   MS. TRIPP: Yes. It will take me

15 just a second because I have the amended version.

16   MR. CLOUTIER: Yes. Thank you.

17   MS. TRIPP: Let me stop sharing.

18   You should now be seeing the application

19 that was filed June 25, 2024.

20   MR. CLOUTIER: If you could go down

21 to 19.15.25.9(A).

22   MS. TRIPP: 9(A)?

23   MR. CLOUTIER: The -- no. It's way

24 down there. It's not in the definitions.

25   MS. TRIPP: Okay. I got it. Sorry

 1 about that.

 2   MR. CLOUTIER: Assumption of

 3 Non-beneficial Use. 15.25 -- sorry, I did write it

 4 down. Can you do a control-F for beneficial?

 5   There we go. Next one. Keep going.

 6   MS. TRIPP: There's only 20.

 7   MR. CLOUTIER: I know.

 8   Done?

 9   MS. TRIPP: No.

10   MR. CLOUTIER: Three more?

11   CHAIR CHANG: Can I ask a clarifying

12 question while you're searching for that for a

13 second?

14   MR. CLOUTIER: Sure.

15   CHAIR CHANG: I believe my printed

16 materials here may have numbering of exhibits that

17 might be slightly different than yours, and you

18 refer to Exhibit 16, is what you're trying to cross

19 on. Can you give me the title of that document?

20 Because what I'm looking at doesn't seem to track

21 with what you're talking about.

22   MR. CLOUTIER: Exhibit 16 is the

23 slide that Mr. Garcia showed us, OCD Exhibit 16,

24 which was a pie chart that was in his . . .

25   MS. TRIPP: It's -- in the

1   demonstrative, it's a pie chart. Exhibit 16 is

2   actually an Excel spreadsheet.

3   MR. CLOUTIER: Okay. The

4   demonstrative was the pie chart.

5   CHAIR CHANG: Okay. But the pie

6   chart is -- I have it as slide in Exhibit 3 then; is

7   that correct?

8   MS. TRIPP: That is correct, yes.

9   CHAIR CHANG: Now we're on the same

10   page. Thank you.

11   MR. CLOUTIER: Thank you.

12   Q   (By Mr. Cloutier) Mr. Garcia, what you're

13   saying, though, is that you were personally confused

14   by the words "and" or "or," and you used "or" in the

15   script twice where the petition actually uses the

16   word "and," correct?

17   MR. HALL: Objection, asked and

18   answered four times.

19   HEARING OFFICER ORTH: Yeah,

20   Mr. Cloutier, he has answered this quite a few

21   times.

22   MR. CLOUTIER: Okay.

23   Q   (By Mr. Cloutier) Mr. Garcia, do you agree

24   that using the word "or" in the script for no

25   beneficial use wells instead of "and" would

1   overstate the number of wells for which there would

2   be a presumption of non-beneficial use?

3   A.   I would say using the word "or" would

4   show -- again, I'm not offering an opinion on the

5   rule. The word "or" would show the Commission when

6   they're evaluating this case between the parties on

7   the more substantial effect it would have against

8   industry, and it would show the more burden it would

9   provide industry.

10   Using the word "and" would lighten the

11   numbers and lighten the burden the industry would be

12   under, if you used the word "and" instead of "or"

13   with this proposed rule.

14   Q.   If you used the word "or," you capture a

15   group of wells that, for instance, might have

16   produced more than 90 days, but produced less than

17   90 BOE, correct? For no beneficial use?

18   A.   Please repeat it, your question.

19   Q.   Yes. If you used the word "or" instead of

20   "and," Exhibit 3 would -- would calculate as --

21   would show as no beneficial use, for instance, a

22   well that produced more than 90 days, but less than

23   90 BOE, correct?

24   A.   Sure, because it's looking for either/or.

25   Q.   Right. And the same for marginal, if you

1 use the word "or," you're looking at a well that --

2 it could include wells that have more than 180 days

3 production, but produced less than 1,000 BOE,

4 correct?

5   A.   I can answer that question, but just for

6 me, can we see that slide that was just shown back

7 up?

8   Q.   Sure.

9   MR. CLOUTIER: Ms. Tripp.

10   A.   I like looking at numbers.

11   MR. CLOUTIER: We lost the visual.

12   MS. TRIPP: Can you see it now?

13   JOHN GARCIA: Yes.

14   A.   Can you repeat the question? Sorry.

15   Q   (By Mr. Cloutier) Sure. So we're looking

16 on the second line, you've got a formula for

17 marginal in red. We have the word "and." You have

18 the word "or" there, correct?

19   A.   Correct.

20   Q.   And by "perfect," you mean yes, correct?

21   A.   Correct, I said. Sorry.

22   Q.   That's all right. Just want to be clear.

23 And when you use the word "or," you would --

24   MS. TRIPP: Sorry about this.

25   Q   (By Mr. Cloutier) When you use the word

1 "or," you would -- you could capture a well that

2 produced less than 180 days, which is part of the

3 definition of marginal rule, but more than 1,000

4 BOE, correct?

5   A.   My general statement, I guess, on this

6 code that we're seeing here, the more I'm looking at

7 this would be, I'd heavily caution saying anything

8 against this code. The edits you made actually seem

9 to break the code because your graph below, you're

10 showing nearly 1,000 wells that are in the NA

11 category, which means the code didn't know what to

12 do with 1,000 wells.

13   Q.   Okay.

14   A.   And you're saying why it's doing it?

15 Because a lot of wells in this data sheet that have

16 0 days produced but they show BOEs, and they have

17 the opposite to --

18   Q.   Well -

19   A.   -- the BOE is 0 days is similar. So I

20 would be hesitant to say that wells are being

21 categorized correctly here.

22   Q.   I think you agreed with the parenthesis

23 there, and we did not change the word "or" in your

24 code. We just put the parenthesis there for

25 inactive, which is what you're using, correct?

1   MR. HALL: Objection to

2 Mr. Cloutier's testimony once again. He should ask

3 questions instead of characterizing the evidence.

4   MR. CLOUTIER: Well, he's just told

5 me that the code we're showing is wrong for the word

6 "inactive," and I'm just asking him if all we did

7 was add a parenthesis, which he agreed to at the

8 outset of his testimony.

9   HEARING OFFICER ORTH: Right, he

10 asked him to agree -- whether he agrees.

11   A.   The code that is being displayed on my

12 screen has multiple red things edited. With all of

13 those red edits, the code seemed to break because

14 you have 954 uncategorized. So I'm hesitant to say

15 you're changing of just the "or" --

16   Q   (By Mr. Cloutier) Okay.

17   A.   -- unchanged effects, marginal effects, on

18 this.

19   Q.   But my question, Mr. Garcia, was not

20 whether the code was broken or whether you agree

21 with the code. My question was: If, when you're

22 searching and classifying a well as marginal, you

23 used the word "or," you would pick up wells, for

24 instance, that produced less than 180 days, but

25 produced more than 1,000 BOE and classify those

1 wells as marginal, correct?

2   A.   Correct. I believe I've been very open

3 about that and using that electrical as an example

4 of confusing and issues that the rule could face.

5 The electro well showed a 350-day production

6 consistently with less BOEs. And, again, that's

7 what I discussed outside, about how the confusion of

8 this could be "tooken."

9   Q.   Okay. And so what you're telling us is

10 that internally at the Oil Conservation Division,

11 you knew that Exhibit 3 and Exhibit 16 were run with

12 script that used the word "or," but when you signed

13 your testimony, you used the word "and" in both your

14 definitions of marginal and no beneficial use,

15 correct?

16   A.   Again, my testimony says I used a "if/or"

17 statement, which is true and correct. The

18 definitions were copied and pasted out of the

19 petition. And the "if/or" was based on our

20 interpretation and reading of those definitions.

21 Those definitions are not mine. They are pasted.

22   Q.   So your --

23   MR. CLOUTIER: Can we go back to the

24 testimony, please, Ms. Tripp.

25   Q   (By Mr. Cloutier) So what you're telling us

Examination by Mr. Cloutier   180

1 is that we should have realized with the statement

2 "if/or" in the third sentence of this paragraph,

3 that you did not use the category title based on the

4 parameters set in the petition like you did -- you

5 say later in the same sentence you, in fact, did not

6 use the word "and" and substituted "or" for it,

7 correct?

8   A.   I don't understand the question.

9   Q.   Sure. Sure. You say at the end of the

10 sentence that whatever you did was, quote, "to

11 return the category title based on the parameters

12 set in the petition," correct?

13   A.   Correct.

14   Q.   And what you're telling us now is by using

15 the phrase simple "if/or" script, everyone should

16 have known that you were using the word "or" instead

17 of "and" when you wrote the script?

18   A.   Again, I can't testify to what everyone

19 should have known by reading that. I don't know

20 everyone's comfort level.

21   Q.   Is -- was that your intention in

22 writing -- in signing as true and accurate, this

23 sentence?

24   A.   This sentence shows how the Excel was

25 built with the "if/or" script based on our

1   interpretation of the petition.

2   Q.   And then your interpretation of the

3   petition is in the "if/or" script. And then in the

4   immediately proceeding next two sentences, you

5   demonstrate your understanding as of the date you

6   signed your testimony that the petition used the

7   word "and" in both the marginal well and no

8   beneficial use definition, correct?

9   A.   Again, yes, correct. I think we covered

10 that.

11   Q.   Would you agree that there's no statement

12 in your testimony that the exhibits you're --

13 running a script through Exhibit 16 was meant to

14 show a worst case scenario, not what the rule

15 actually would have resulted in?

16   A.   The words "worst case" do not appear in

17 this, what we're staring at on the screen.

18   Q.   Is there any affirmative statement in your

19 testimony that the script that you ran through

20 Exhibit 16 would not reveal to the readers and --

21 well, let's read the bottom of the sentence.

22   You tell everyone that based on -- that

23 looking at the data for 2024, running it the way you

24 did, "It shows, based on the petition, OCD would

25 have 33,211 wells deemed productive (which are not

Examination by Mr. Cloutier   182

1 in a petition category), 11,499 wells deemed

2 marginal, 6,400 wells deemed inactive, and 4,380

3 wells deemed as no beneficial use," correct?

4   A.   Again, correct. The results are based on

5 OCD's interpretation and directive from my

6 management who was in more meetings and discussions

7 about the rule and meaning behind the rule than I

8 was, but I relied on my management on the

9 interpretation and trusted them. And based off my

10 knowledge of my discussions, the word "or" was what

11 was to be used. So those numbers are correct.

12   Q.   When you used the word "or" in the

13 definition of marginal and no beneficial use, those

14 numbers are correct. Is that your testimony?

15   A.   Off OCD's original interpretation of it.

16   Q.   Yes. And there's at least the potential

17 that they're incorrect if you use the word "and"?

18   A.   I think if you change mindsets, anything

19 would change.

20   Q.   And you did this at the direction of

21 management?

22   A.   Correct, who I'm assuming would probably

23 cover any other questions on it as well.

24   Q.   Okay. Interesting.

25   MR. CLOUTIER: Okay. We object to

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1   admitting anything to do with Exhibit 16, Madam

2   Hearing Officer, as the data is being presented as

3   if its consistent with the petition, and it clearly

4   is not.

5   HEARING OFFICER ORTH: Mr. Hall?

6   MR. HALL: Yes, I -- Exhibit 16 has

7   nothing to do with this line of questioning, in my

8   opinion. It's not where the script went, and I

9   think he's referring to a pie chat -- a pie graph

10 maybe in a different exhibit.

11   Exhibit 16 should come in.

12   MR. CLOUTIER: And we object to the

13 admission of the pie chart as well.

14   HEARING OFFICER ORTH: So the pie

15 chart I think was part of Exhibit 3; is that true?

16   CHAIR CHANG: Page 4 of Exhibit 3; is

17 that correct?

18   MR. CLOUTIER: Yes.

19   MR. HALL: And I'm happy to respond

20 to that. I don't want -- if it's premature, I can

21 wait.

22   HEARING OFFICER ORTH: Yes, go ahead.

23   MR. HALL: That exhibit speaks for

24 itself based upon Mr. Garcia's testimony of how he

25 input the data and the code. They are free to make

1   their own -- everyone's free -- here is free to make

2   their own conclusions from that. And his testimony

3   associated does not make it inadmissible.

4   MR. CLOUTIER: And Exhibit 16 also,

5   Madam Hearing Officer, actually contains the

6   affirmative categories that resulted from the script

7   that Mr. Garcia ran through. So it categorizes

8   wells as non-beneficial use or inactive or marginal

9   based on the script that he ran, not on the

10 petition.

11   HEARING OFFICER ORTH: All right.

12 So, Mr. Hall, would you like to address that? I'm

13 looking at 16.

14   MR. HALL: Sure, the same.

15 Mr. Garcia has not hidden anything, as Mr. Cloutier

16 is at least implying. He has testified forthrightly

17 about the inputs he put in. He has subjected

18 himself to cross-examination.

19   The Commission is certainly free to draw

20 whatever conclusions from the results based upon the

21 inputs, that he has been an open book about how he

22 put them in. That doesn't -- again, that doesn't

23 make it inadmissible.

24   HEARING OFFICER ORTH: All right.

25 Mr. Suazo, do you have anything to add?

1   MR. SUAZO: No, Madam Hearing

2   Officer.

3   HEARING OFFICER ORTH: Mr. Rankin?

4   MR. RANKIN: I'm just wondering, I

5   think -- I think looking at Exhibit 16 and

6   understanding, I think, what happened, 16 is

7   confusing, and it does -- does not seem to align

8   with the petition.

9   So I'm wondering if there's an opportunity

10   just to -- and I don't know, but just to have

11   Mr. Garcia do it again. I think it would be useful

12   to see what the Division's understanding of the rule

13   is and how it breaks out the data. I haven't talked

14   with anybody else about this, but I just -- it is

15   misleading. I don't understand -- it seems to not

16   accurately reflect what the petition says. So I

17   don't know if the utility would serve to admit it.

18   But anyway, so my suggestion is maybe to

19   withdraw it and see if it can be done again with the

20   opportunity for counsel to review it and cross again

21   on that issue.

22   MR. TREMAINE: Madam Hearing

23   Officer -- this is Jesse Tremaine -- if I may?

24   Brandon Powell will be able to speak to this. John

25   Garcia did not generate Exhibit 16. That was a data

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1 pull, and John Garcia -- and I believe he did

2 clarify this, that he used Exhibit 16 and applied a

3 script to Exhibit 16 -- or the underlying Excel

4 sheet for 16, to generate the information that he

5 included in the pie chart.

6   So there is additional foundation that can

7 be laid here. But as the foundational data that

8 Mr. Garcia used, Exhibit 16 is not objectionable.

9   HEARING OFFICER ORTH: Anything

10 further, Mr. Cloutier?

11   MR. CLOUTIER: I would just say that

12 I'm not sure why Exhibit 16 is being tendered

13 through Mr. Garcia if he's not the one who can lay

14 the foundation for it.

15   HEARING OFFICER ORTH: As I

16 understood Mr. Tremaine just now, it's because he

17 used it to create the pie chart.

18   MR. CLOUTIER: So I still object to

19 its admission, and I object to the admission of

20 page 4 of Exhibit 3.

21   HEARING OFFICER ORTH: All right.

22 So -- I'm sorry, who said something?

23   CHAIR CHANG: May I also clarify a

24 question? Is there -- so I understand the pie chart

25 part. And in your demonstrative that was extensive

Examination by Mr. Cloutier   187

1   discussion of the lines of code. Looking at my

2   printout of Exhibit 16, which, of course, doesn't

3   show any code, what column exactly is the column at

4   issue? Or which columns are at issue? Could you

5   just put that into -- you know, just for the record

6   so we're all on the same page?

7   MR. CLOUTIER: Ms. Tripp, can you

8   pull that up for me? I don't have it up and don't

9   seem to be connected to Wi-Fi.

10   MS. TRIPP: Yes. Just know that it's

11 a large file, so it's taking me a second.

12   MR. CLOUTIER: All right.

13   MR. TISDEL: Madam Hearing Officer?

14   HEARING OFFICER ORTH: Mr. Tisdel.

15   MR. TISDEL: Yeah, I appreciate

16 Mr. Rankin's suggestion that we have OCD run those

17 numbers again. I would just say Mr. Purvis did do

18 something very similar to this in Applicant's

19 Exhibit 40. That was the scatter plot that showed

20 no beneficial use, marginal wells that had been

21 admitted into evidence and could just be used as a

22 replacement for Exhibit 16.

23   HEARING OFFICER ORTH: All right. It

24 seems to me that we might want to talk again about

25 Exhibit 16 when Mr. Powell is testifying. So let's

Examination by Mr. Cloutier   188

1   hold off on the admission of 16.

2   I do understand, though, that Mr. Garcia

3   prepared Exhibit 3? And the pie chart in Exhibit 3?

4   MR. CLOUTIER: Yeah.

5   HEARING OFFICER ORTH: All right.

6   MR. CLOUTIER: And I'm going to talk

7   about pages 5 and 6 of Exhibit 3, as well, with

8   Mr. Garcia with the time remaining.

9   HEARING OFFICER ORTH: Okay. I think

10 we've already admitted 3.

11   MR. CLOUTIER: Okay.

12   HEARING OFFICER ORTH: We have. So

13 let's hold off on 16. And perhaps the Division, the

14 applicants can talk about whether it is worthwhile

15 to file another 16.

16   We do still have plenty of hearing days

17 left and time to explore this topic further. So

18 let's hold off on the admission of 16.

19   Mr. Cloutier?

20   MR. CLOUTIER: What's my time, Madam

21 Hearing Officer?

22   HEARING OFFICER ORTH: Hold on one

23 second.

24   So you would have had, let's see here,

25 another 15 minutes or so, but we'll add -- we'll add

1 some minutes for our discussion just now.

2   MR. HALL: Madam Hearing Officer, may

3 I just interject a concern about what I see

4 happening a little bit here? And I just want to

5 raise it so it's not last minute if it comes up

6 again.

7   Seems a lot of stuff is getting shifted

8 over to Mr. Powell, and I just am a little worried

9 about being able to go through everything with

10 Mr. Powell. So I just want to raise that issue.

11   We each only have a certain amount of

12 time, and there's a lot of material to review,

13 bonding, financial assurance, language of the rule,

14 authority, a lot of material. And I do have a

15 little concern about it all getting bumped down to

16 Mr. Powell, and we only have a certain amount of

17 time to review all of that with one witness.

18   HEARING OFFICER ORTH: All right.

19 When we get to Mr. Powell, if you want to bring that

20 up again, we can talk about it again.

21   MR. CLOUTIER: Madam Hearing Officer,

22 if I may? It might a good thing for us to take up

23 at a different time, but probably before we start

24 preparing or finalizing our cross-examination for

25 Mr. Powell, because it will make a difference to us.

 1   HEARING OFFICER ORTH: Okay.

 2   MR. CLOUTIER: All of us, if you

 3 don't mind.

 4   HEARING OFFICER ORTH: All right. So

 5 we -- we're not going to get to Mr. Powell today.

 6 I'm just certain of it. Let's talk about this

 7 tomorrow.

 8   So let's see. Should we take perhaps a

 9 ten-minute break, and then you can resume with your

10 last 15 minutes of questions?

11   MR. CLOUTIER: Thank you, Madam

12 Hearing Officer. That would be fine.

13   (Recess was taken from 2:38 p.m. until 2:49 p.m.)

14   HEARING OFFICER ORTH: All right.

15 Mr. Cloutier?

16   MR. CLOUTIER: Thank you, Madam

17 Hearing Officer.

18   Q   (By Mr. Cloutier) Mr. Garcia, are you ready

19 to go back?

20   A.   Yes, sir.

21   Q.   I'm going to switch topics to --

22   MR. CLOUTIER: Let's pull up OCD

23 Exhibit 17 first, please.

24   A.   I can see it.

25   Q   (By Mr. Cloutier) Okay. And this is the

1   Master Orphan Spreadsheet that you testified you

2   created, correct?

3   A.   Yes, sir.

4   Q.   All right.

5   MR. CLOUTIER: And this exhibit cuts

6   off on what column please, Ms. Tripp?

7   Cuts off over here in the -- no. Is this

8   55 or -- yeah, this is -- well, Exhibit 55. Okay.

9   Q   (By Mr. Cloutier) So look at Exhibit 55.

10   MR. CLOUTIER: Let's go back to the

11 far left-hand side, then.

12   Sorry, Ms. Tripp, I miscommunicated with

13 you about which one I wanted up first.

14   Q   (By Mr. Cloutier) What does the words in

15 column C "plugged site released" mean, for instance,

16 as we see in line 10 next to the Sivley Jennings

17 Federal number?

18   A.   Plugged site release, in general for OCD,

19 is a term given to a well after the well has been

20 plugged and OCD has approved the plugging. And

21 depending on the well type, is it a federal or

22 state.

23   If it's a state well that OCD has been to

24 the site and, you know, our inspectors have been to

25 it, they're happy with the site the way it looks,

1   trash, spills, et cetera, we can plug site release

2   it.

3   If it's a federal site, OCD only plugged

4   the well, and then our database basically

5   automatically puts it in site release, as it is

6   assumed BLM will be handling any site cleanup.

7   Q.   Okay. And down below that, Mr. Garcia, I

8   think the first instance -- if I'm looking at it,

9   it's in line 19 -- the Tolmack State Number 2, we've

10   got plugged, not released. What does that mean?

11   A.   Correct. That's something very similar.

12   Basically plugged, not released means OCD has -- or

13   an operator or OCD, whoever is plugging the well,

14   has plugged the actual wellbore, and OCD has

15   approved that plugging. But the site has either not

16   been inspected for state wells or it could have been

17   rejected due to environmental factors, et cetera.

18   There would be numerous reasons why it was rejected,

19   but basically, it's pending site inspection and site

20   clearance.

21   Q.   Okay. All right. So it might be, as far

22   as -- in order to have the word "plugged" there in

23   column C, whether it's site released or not

24   released, that means OCD -- the plugging work has

25   been done and OCD has approved that plugging work,

1   correct?

2   A.   On the physical wellbore, correct.

3   Q.   Right. And up top, lines 5 -- sorry --

4   lines 4 through 8, it looks like we've got some

5   Lansfort wells that look like they're owned and

6   operated by Energy Acumen, correct?

7   A.   Correct, that's what this shows.

8   Q.   It shows active, correct, in their status

9   column, column C?

10   A.   Correct.

11   Q.   Yep.

12   MR. CLOUTIER: And if we scroll over

13   to the columns BI, BK, please, Ms. Tripp. Slow.

14   Q   (By Mr. Cloutier) So for these particular

15   wells, we've got actual plugging cost figures,

16   correct?

17   A.   That's what the Excel sheet has, correct.

18   Q.   Yes. And as far as -- you maintain it to

19   be an accurate representation of OCD's data,

20   correct, Mr. Garcia?

21   A.   I'd agree with that.

22   And just note I talked about testifying

23   earlier, and I didn't have it up. But since you do

24   the colors, on the 2, just like line 1, we see the

25   purple. It says, "Project Team." It has Jim's name

1 listed there along with a few others. Those are the

2 people responsible for this data. But according to

3 what OCD provided you, this is the data we had at

4 that time. Now, if that team has revised it in any

5 way, I cannot say if that's true or not.

6   Q.   And, yeah, thank you. And that's a good

7 correction. So other people have access to

8 different portions of this spreadsheet. For

9 instance, if we keep going --

10   MR. CLOUTIER: I don't want to,

11 Ms. Tripp.

12   Q   (By Mr. Cloutier) But if we were to keep

13 going to the right, there's a yellow section dealing

14 with bonding. And what you're telling me is

15 somebody else within the Division has -- responsible

16 for that yellow section, for instance, correct?

17   A.   Correct. Again, not to go over my

18 testimony, I built with this a lot of team

19 stakeholders. And the colors basically represent

20 those stakeholders, those team engagement and what

21 they were -- deemed important by their teams to be

22 included in this master Excel sheet.

23   Q.   And just I want to be clear for the

24 Lansfort wells here since -- it appears from the

25 purple, you would agree with me that if you were to

1 read for the Lansfort wells and you were to see

2 these actual plugging costs, that would indicate to

3 you that plugging activity has at least started on

4 these wells, if not been completed? Would that be a

5 fair interpretation?

6   A.   I would assume, based off the dollars, the

7 actual plugging cost has taken place or began.

8   Q.   And you, John Garcia, would be relying on

9 somebody else within the Division, in this case the

10 special projects area, to have accurately put that

11 data in? You wouldn't know one way or the other,

12 correct?

13   A.   Correct. And just to clarify, the special

14 projects team, I'm engineering special projects. I

15 do engineering special projects.

16   Q.   Yeah.

17   A.   There is also a Division-wide special

18 projects team which Jim oversees, and his team is

19 responsible for this data, not to confuse the two.

20   Q.   I appreciate the clarification,

21 Mr. Garcia, and I apologize if -- I did not intend

22 to misstate.

23   So with the Lansfort wells being active,

24 that would suggest to you in your part of the

25 spreadsheet, that at least you have not gotten word

1   that an inspector has gone out and inspected and

2   approved the plugging. Is that a fair statement?

3   A.   I would not rely on column C. I would

4   scroll over to the dark blue and the light blue.

5   The dark blue is my responsibilities, which talks

6   about if something has been submitted and approved.

7   The light blue is our inspections team that would

8   tell me if someone has been on-site, yes or no.

9   Q.   Okay. Let's -- tell me where to stop.

10 Okay. There is -- light blue is right over there.

11 Just a little bit further to the right. There we

12 go.

13   A.   Correct, yeah. So our inspector

14 supervisor -- are responsible for going out on-site

15 and seeing if it's approvable or not.

16   I will note on the dark blue to the left,

17 we saw that it says, "Rejected." So that's why

18 these are still in active status, is Loren, when

19 reviewing and rejected the sundries. Therefore, the

20 wellbore's approval is not done, hence the active

21 status still.

22   Q.   Okay. So work has been done on these --

23 and I'm asking these questions because I'm a little

24 confused as to why I was seeing plugging costs and

25 all that. And you've assisted me in understanding

1 that. So thank you, Mr. Garcia.

2   Now, I take it from your direct testimony

3 you don't have anything to do with OCD Exhibit 29,

4 the financial assurances report?

5   A.   I do not.

6   Q.   Okay. And you wouldn't be the right

7 person to ask any questions about that, correct?

8   A.   Not on financial assurance.

9   Q.   Thank you. Yep.

10   MR. CLOUTIER: Okay. Can we go back

11 to Exhibit 3, the slides, and page 5 and 6, please,

12 Ms. Tripp.

13   Q   (By Mr. Cloutier) And did you see the

14 rebuttal testimony submitted by Mr. John Nabors of

15 Spur?

16   A.   I did.

17   Q.   Okay. And Spur is the -- you understand

18 Spur to be the operator of this well, the Electra

19 Federal 22?

20   A.   Correct.

21   Q.   And Mr. Nabors basically stated, which I

22 think these visuals show as well, that, yes, indeed

23 the well produced less than the 1,000 BOE as

24 provided in the definition, but for all dates, it

25 produced more than 180 days during the year,

1   correct?

2   A.   Correct. That's what this -- that's what

3   this shows.

4   Q.   And in Exhibit 3, you categorized the

5   Electra 3 Federal -- I'm sorry -- the Electra

6   Federal Number 22 well here as marginal because you

7   were using the "or" rather than the "and." Did I

8   understand your direct testimony to that?

9   A.   Correct.

10   Q.   Okay. So this would not be a

11   representation to the Commission as to a potential

12   marginal well under the petition as it stands with

13   the word "and" in it. Would you agree with me

14   there?

15   A.   Yeah. If I may -- I guess I would say

16   between my testimony and Mr. Nabors, you know,

17   there's nothing wrong in his testimony, and I read

18   it. He talks about how Spur interprets the word

19   "and," and, therefore, this wouldn't be -- I think

20   my general statement was, and is, to the Commission,

21   to the parties is, the overall arching rule, this

22   needs to be clear and concise for all the parties so

23   there's no confusion on wells like this. Mr. Nabors

24   talked about why this well had -- I think just a

25   clear concise rule, if approved, is what we're

1 seeking.

2   Q.   Okay. But the rule in its current format

3 is confusing to you, correct?

4   A.   Yeah. I think we established that, but

5 you know, by reading Mr. Nabors' testimony, using

6 the word "and," this -- and the way he interpreted

7 it in his testimony -- or his rebuttal testimony to

8 me, I see where he's coming from. And it wouldn't

9 be marginal based on the way he interpreted the

10 petition.

11   Q.   And Mr. Nabors testifies about the

12 constraint takeaway problems for gas for this well.

13 Did you read that testimony?

14   A.   If I remember correctly, I believe he said

15 there was some tubing issues with this well, and

16 there was some costs, give or take, around $60,000

17 and that he had some other issues with takeaway.

18 But I believe those were the issues he stated.

19   Q.   Yeah. And are you familiar enough to know

20 that it's difficult to produce into a higher

21 pressure gas transmission line and impossible to

22 produce into a gas transmission line that the owner

23 shuts down?

24   A.   Yeah. I mean, if you can't meet your

25 pressure to get into it physically, you're never

1 going to get into it because of the pressure deltas.

2   Q.   Right. And sometimes systems are down for

3 repair and you can't get into it regardless,

4 correct?

5   A.   Yeah. I mean, oil and gas has a bunch of

6 issues they encounter.

7   Q.   Okay. And do you understand the

8 rulemaking to be proposed to give operators a break

9 on marginal and their beneficial use status if

10 there's something in the gathering system that

11 prevents them from producing the well?

12   A.   I wouldn't say I'm an expert on the full

13 petition that was written. I've read the original

14 petition. I think it's been revised a few times,

15 kind of my understanding. I tried keeping up with

16 all the exhibits. There's a lot in this case.

17   Q.   Okay.

18   A.   But I don't know if it specifically called

19 out -- I couldn't testify to that --

20   Q.   Okay.

21   A.   -- any breaks it gives.

22   Q.   And I didn't mean to ask you an unfair

23 question there, Mr. Garcia. And that's a fair

24 answer. Thank you.

25   MR. CLOUTIER: I'll pass the witness,

Examination by Mr. Cloutier   201

1   Madam Hearing Officer.

2   HEARING OFFICER ORTH: Thank you,

3   Mr. Cloutier.

4   Mr. Suazo?

5   MR. SUAZO: Give us just a second to

6   get set up, please.

7   MR. TREMAINE: Madam Hearing Officer,

8   may I interject while he gets set up with a quick

9   proffer?

10   HEARING OFFICER ORTH: Yes,

11   Mr. Tremaine.

12   MR. TREMAINE: So as Exhibit 16 and

13   slide 4 of Exhibit 3 have caused a great deal of

14   consternation, I verified that we have a copy of the

15   spreadsheet that is Exhibit 16 without the Category

16   column. So it was copies that she prepared for

17   Mr. Powell prior to Mr. Garcia's work.

18   We're happy to strike slide 4 and provide

19   to the parties a replacement Exhibit 16 that does

20   not have that column, whatever pleases the

21   Commission.

22   HEARING OFFICER ORTH: All right.

23   How do the -- how do the other parties feel about

24   that?

25   MR. CLOUTIER: For IPNM's part, we

1 feel that the slide 4 at this point has no value for

2 the Commission, so appreciate the Division's offer

3 to withdraw it.

4   And I think, Mr. Tremaine, you're talking

5 about column O that categorizes with the script in

6 Exhibit 16? Is that . . .

7   MR. TREMAINE: I -- in the PDF

8 version that I'm looking at, I believe it's the

9 Category column, I believe that would be O.

10   MR. CLOUTIER: Okay.

11   MR. TREMAINE: Although I'm not

12 looking at the --

13   MR. CLOUTIER: And you're striking

14 that Category column --

15   MR. TREMAINE: Well, striking --

16 providing the underlying sheet that does not include

17 that column.

18   MR. CLOUTIER: Let me put this way,

19 Madam Hearing Officer. IPNM is willing to look at

20 what the Division is proposing, and we'll let you

21 know whether we object. Because we don't have it

22 yet, so there's nothing to tender into evidence

23 and . . .

24   HEARING OFFICER ORTH: All right.

25 We'll take it up.

 1   Mr. Tremaine, if you would share it with

 2   all the other parties, and we'll take it up later.

 3   Mr. Suazo.

 4   MR. SUAZO: Thank you, Madam Hearing

 5   Officer.

 6   EXAMINATION

 7   BY MR. SUAZO:

 8   Q.   Good afternoon, Mr. Garcia. How are you?

 9   A.   Good. And you?

10   Q.   Fine, thank you. My name is Miguel Suazo.

11   I represent NMOGA in this proceeding.

12   MR. CLOUTIER: Sorry about that.

13   MR. TREMAINE: That's all right.

14   Q   (By Mr. Suazo) So, Mr. Garcia, I'm still

15   trying to understand the formula issues that were

16   identified during the cross-examination with you and

17   IPNM, and I may have some questions later depending

18   on how our experts who have not had the opportunity

19   to review the formula.

20   But I did want to talk to you more in

21   detail about how this MOS spreadsheet came together.

22   You testified that you personally created the MOS

23   spreadsheet; is that right?

24   A.   I would say I led the team that -- I led

25   the building of it. And what I did is, I met with

 1   multiple groups that are involved in the orphan

 2   project, engineering, inspections, environmental, et

 3   cetera, and basically had them -- you know,

 4   internally discuss with them and their supervisor

 5   and staff what items were deemed important to be

 6   tracked on a -- you know, one base where everyone

 7   could go, everyone could track. You know, so if the

 8   federal government or state government had

 9   questions, it's easy for our management to provide

10   them data. And that's how I came to be, so I did a

11   lot of stakeholder engagements on what they deemed

12   they needed for their teams.

13   Q.   Right. And that's kind of where I want to

14   explore a little bit more deeply with you, because I

15   feel like, you know, so many hands were into this.

16   I understand you supervised everybody. Was there a

17   work plan associated with putting together this

18   spreadsheet?

19   A.   Yeah. Basically, again, there was lots of

20   databases. One team would track things here and

21   another team would track things there. It caused

22   confusion so -- for management, they wanted it in

23   one place.

24   So I met with every team and identified

25   stakeholders, which typically consisted of the

1 supervisor and the direct staff that dealt with

2 this. To me, SOPs and databases should be built

3 ground up, so I asked the staff and the supervisors,

4 you know, what are your pain points? What problems

5 are you encountering with tracking your data,

6 getting to management, getting to these reports.

7   I'm not aware of the details. I know,

8 because of the federal funding of the orphan

9 program, they have -- management has a port to get

10 them. So what were the pain points? What is

11 everything that you guys were struggling with?

12   They met. They talked. They talked about

13 pain points. They talked about things they felt

14 should be tracked. And what I did is, I met with

15 every team, sometimes multiple times. And, you

16 know, we deciding: Was this important? Is it not?

17 You know, is it worth it? You know, we talked

18 about, is it important or not. Is it not? Okay,

19 perfect. Don't put it in there.

20   What I did after doing all that, I met

21 with the supervisors. They were happy. They signed

22 off on what their team needed. I then presented it

23 to the bureau chiefs, engineering, environmental,

24 financial, et cetera, and the deputy directors.

25   Actually, I basically jotted down all pain

1   points that all the teams had, what they deemed was

2   needed for the Excel sheet. And legal too. And

3   basically, I met with what I consider to be upper

4   management, bureau chief and higher, and showed

5   them, based on multiple meetings with staff and the

6   supervisors, you know, working through these, these

7   are the categories their staff deems needed to be in

8   here. Do you approve?

9   And so the bureau chiefs and the deputy

10   directors got together. They reviewed it, and they

11   signed off on it saying, yes, they agree. What's in

12   here will satisfy those reports that they are

13   required to, you know, submit to individuals.

14   After that -- sorry, a long process.

15   After that, basically came, okay, here's the data

16   capture phase, is what I called it. I believe we

17   had one to two months where we basically direct all

18   supervisors -- and you'll see those supervisor names

19   in the header of each colored column, was we've

20   identified wells with legal by reading all hearing

21   orders, searching our databases, all the hearings

22   that -- Bill Brancard assisted with it, too, because

23   he just had additional knowledge that -- he had been

24   with OCC for so long, he had databases of like NOV

25   orders.

1   So with him and legal, our current legal

2   staff, we went through, added wells to the Excel

3   sheet, which is that black category. I added the

4   API numbers and was able to scrape basically the

5   holster of information based on the IP number and

6   auto put that in there for everyone.

7   Once that API was generated, legal vetted

8   the hearing orders. They read the hearing orders,

9   made sure they were appropriate. And they added a

10   few other wells to the list based off things like

11   federal agreements and other things they have.

12   And then once, you know, legal and

13   management was like, okay, here's our list of wells,

14   we basically opened it up to all the supervisors in

15   the team and said, you have two months to play data

16   catch-up with everything that's in here. You know,

17   is there bond information missing? Is there

18   something that we've approved? Get it all in there.

19   And we had -- I think at first we had

20   biweekly meetings with management, but I forget the

21   interval we had. We had recurring meetings with

22   management showing the progress of the data getting

23   caught up, meeting with the supervisors, meeting the

24   bureau chiefs saying, here's where we caught up.

25   Here's what we've seen. Here's issues we

1   encountered so far in our data cleanup.

2   And that lasted for two or so months. And

3   then basically it's a living document now. So

4   people are in it daily.

5   For example, last week we plugged three

6   wells that are on the Excel sheet, so, you know, we

7   go in and update the data. Did we approve the

8   sundries? Did we check on the sites, et cetera?

9   They're very living documents.

10   Legal and management, if they pursue any

11   other hearing orders or settlement agreements -- I'm

12   not part of that -- like the settlement agreement

13   stuff, they'll let me know, hey, we had a settlement

14   agreement, and we can add more wells to it.

15   And that's how wells would get added, is

16   legal will let me know to add more wells to it.

17   That was a long answer. Does that cover

18   what you're looking for?

19   Q.   Well, it starts to touch on what I

20   understand to be the very, you know, broad scope of

21   what the Division was tasked with attempting to do.

22   And I would like to kind of unpack that a little bit

23   more granularly. So --

24   A.   Okay.

25   Q.   -- let's start with, you know, just the

 1   first thing that comes to mind, and we can move on

 2   to other things. When you say staff identified pain

 3   points, what do you mean by that?

 4   A.   So I'll give you an example. Say the

 5   federal government wanted to know how many -- how

 6   many rigs were active this year. At that time we

 7   didn't have in our database something that says

 8   like, our rig rigged up on February 2nd.

 9   So that was a pain point that our staff

10   identified, we should be tracking things like rig

11   update. So we added that to the list of -- so now

12   when Loren gets sundries, he can talk -- consistent

13   talks with the rigs, and they'll tell him like, hey,

14   24-hour notice, we're moving.

15   He tracks it. They rig up. He types it

16   into the MOS Excel sheet. That was one pinpoint

17   from engineering that's missing. We weren't

18   tracking rig updates, so we could provide the

19   federal government, or whoever it is, with data that

20   they want.

21   So, really, just trying to boost our data

22   that we could have captured better. Does that help?

23   Q.   It did. Can you remind, just for the

24   record, what was the purpose of the creation of the

25   MOS spreadsheet? If you can do that in one or two

1   sentences.

2   A.   Yeah. Simple, it is just the universal

3   place for staff and management to go to see all

4   aspects of the orphan plugging program.

5   Q.   And how many staffers would you say were

6   involved at putting this together?

7   A.   Individual staff and stakeholder meetings,

8   20, 25, including Division managers.

9   Q.   So this was assembled by committee across

10   the various Divisions. Is it fair that -- to say

11   that, you know, it's dependent upon the quality of

12   the data that the staff members made a judgment call

13   to include?

14   A.   I mean, I would say the categories were

15   put in there based on the staff and their

16   supervisors, what they deemed needed. I would trust

17   my counterparts that they chose what was needed for

18   the application.

19   Q.   So lots of staff were involved. But going

20   back to my initial question to you in terms of the

21   scope, in terms of organization to put this

22   together, was there a written plan with issues that

23   needed to be addressed for purposes of creating this

24   document?

25   A.   I don't know if there was a full written

1   plan that existed prior to creating it. I'm sure

2   there -- I have somewhere buried a list of issues

3   that the teams had as they encountered it. I

4   believe the initial issue was something of a higher

5   level that I wasn't a part of, and I was directed

6   because of whatever issue they encountered.

7   Q.   Sure. And is Mr. Powell the person who

8   would know maybe the overarching structure of how

9   OCD staff envisioned what was needed to put the MOS

10   together?

11   A.   Probably. I think he would be able to

12   answer -- I think Adam talked about timeline, I

13   think, not to refer to Brandon, but he would know

14   the interworkings on the real drive of why OCD

15   needed a universal Excel sheet and what upper

16   management was seeing across the Division that they

17   needed this for.

18   Q.   Okay. And you said that putting the MOS

19   together required a manual review of old hearing

20   orders, plugging reports, all that kind of thing,

21   correct?

22   A.   Correct.

23   Q.   And was there a methodology established to

24   go through all of these old hearing orders and

25   plugging reports that were determined needed to be

1   reviewed?

2   A.   Yeah. I'm not a lawyer. I spent a lot of

3   time in the hearings bureau, and I used to work real

4   close with Bill Brancard, our old OCD hearing

5   examiner. Between him and some of our legal

6   counsel, they had records that they had stored and

7   obtained through their careers of NOV or -- I don't

8   know what to call them -- plugging orders, I guess

9   we could call them, that went to hearings, and

10 hearing orders were issued.

11   So when it came time for looking at what

12 wells were to be on this list, Bill Brancard was a

13 very good resource for me. I don't know how long he

14 was at OCD, but I know he'd been at OCD for quite

15 some time when we did this project. And he was able

16 to provide me an extensive list of hearing orders,

17 that I should start with reading those -- you know,

18 because our hearing database is very PDF based.

19   So he may have had a hearing order, but it

20 doesn't say for sure that that hearing order

21 approved the plugging. It could have been a

22 dismissal of the case, et cetera.

23   So I spent a lot of time reading them with

24 our legal counsel, you know, with their

25 interpretation of hearing orders and saying, does

1   this meet requirements to go on this list, yes or

2   no, with legal counsel.

3   Q.   So using Mr. Brancard as an example, these

4   are records that he just kept on his own in his own

5   filing system from his time when he was with the

6   Division?

7   A.   Yes. And we can also query to an extent

8   words like NOV, enforced plugging in our database,

9   OCD database. The hearings go back to the '40s and

10   '50s. So kind of search anything from the '50s is

11   little difficult, but we also search tags of the

12   case types basically, yeah, case type, NOV, et

13   cetera.

14   Q.   So just to be clear on the timeframe

15   utilized to put together the MOS, it goes all the

16   way back to the 1950s to the present -- or I guess

17   earlier this year?

18   A.   I can't say for certain. I would have to

19   look at what the oldest order on there is. But,

20   again, our database is more accurate than -- more

21   modern when we get in time, the better the databases

22   get just because of technology.

23   Q.   Sure. So I guess it's fair to say that

24   this is not a 100 percent complete database. It's

25   as complete as you could get it with the records you

1   could access. Is that fair?

2   A.   Correct. And I would say it's a living

3   document. Legal, in what I'll say their free time,

4   which probably doesn't exist much, also tries to

5   review any historic orders. You know, we may come

6   across orders as other cases go on. It's a living

7   document, so wells can be added to it.

8   Q.   Did you identify anything that you wish

9   you would have had in putting together this document

10 that you just couldn't identify or find?

11   A.   As far as like a column data or -- I'm not

12 sure I under the question.

13   Q.   Just as far as data that you were trying

14 to acquire but that maybe -- not have been

15 accessible, for whatever reason.

16   A.   Not that I can think of easily. I mean,

17 there's a lot of long hours put into it, reading,

18 data comparisons. I don't think there's anything

19 that I wish I could have done better at this time.

20   The only thing I wish we could do

21 better -- and, you know, technology grows -- is

22 automating it more so there's less human

23 interaction.

24   Q.   Sure. No, that makes -- that makes

25 complete sense.

```
 1            Is there a date after which you feel more
 2   confident about the information compared to older
 3   data?
 4       A.    I would say so.  Again, going back, I
 5   became supervisor in 2023, started coming more into
 6   the orphan program late '23, based off memory.  And
 7   the more data closer to my timeline being involved
 8   with the wells we plugged in, I'm more comfortable
 9   with, because I know those are sundries that I or
10   Loren approved ourselves, rigs that we talked to
11   ourselves.
12            We've -- I looked at sundries from like
13   2009 and other dates, and I vetted them just -- I'm
14   not aware of things.  And you'll see, like it will
15   say, "Rig update not applicable."  I wasn't there in
16   2009, so I would say that data is a little rougher
17   on the edges.
18       Q.    Okay.  That's helpful.  Thank you.  Let's
19   move on to orphan versus non-orphan wells.  You
20   testified that OCD plugged 100 orphan wells in 2024,
21   correct?
22       A.    Correct, based off subsequent sundries of
23   plugging.
24       Q.    But industry plugged 773 non-orphans
25   during that same year, correct?
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1   A.   Correct.

2   Q.   So over three-quarters of the wells

3   plugged by operators were plugged by operators and

4   not OCD; is that right?

5   A.   Yeah, depending on how we look at the

6   data. Again, there's some talk today between the

7   parties on, where does forced plugging go?

8   There's roughly 1,000 wells on that data

9   poll, industry plugged 773, which is, you know,

10 roughly 77 percent on their own. And there's 100,

11 even, for OCD, so roughly 10 percent. And I think

12 there were 130. So roughly 13 percent were forced

13 plugging.

14   Q.   Okay. Now, I can't say that I fully have

15 wrapped my arms around the formula that Mr. Cloutier

16 asked you about, and I'm going to have some of our

17 experts kind of look at that and see if they have

18 any other thoughts or questions.

19   But based on what I do understand, since

20 we just got that formula this morning, I do have

21 some general questions about the thresholds in the

22 petition and your spreadsheets.

23   MR. HALL: I have a quick objection

24 to that statement Mr. Suazo made as a predicate to

25 his question. That -- he might have been provided

1 that by Mr. Cloutier this morning, but he never

2 asked us for that. And so I don't believe it was

3 ever sent to him. And what they did between each

4 other is between them.

5   I just would like the record to reflect

6 that.

7   HEARING OFFICER ORTH: Okay. Thank

8 you, Mr. Hall.

9   Go ahead, Mr. Suazo.

10   Q   (By Mr. Suazo) So, Mr. Garcia, your

11 testimony, you applied the thresholds that were

12 listed in the petition; is that right?

13   A.   Again, yeah, so like using the mentality

14 of "or," I think we've talked about the confusion

15 that there was there, to like 90 barrels of oil or

16 90 days.

17   I know like we talked about Spur in that

18 one well. The "or" mentality on Spurs well is

19 marginal. When Spur looked at it, they used the

20 mentality of the word "and" and took it out of

21 marginal.

22   So I'm not sure, I guess, on how much you

23 want to go in depth, because it sounded like my

24 counsel was willing to scrap that exhibit. I'm not

25 sure. I guess that's an accurate statement. I

1 don't know if you want me to talk about something

2 they might scrap, I guess.

3   Q.   No. I think there's enough kind of

4 confusion around that issue where we may need to

5 come back to it. I'm just trying to understand for

6 my own self that I am clear about what it is that

7 you did.

8   So those thresholds, the 1,000 BOE for

9 marginal wells, 90 BOE for no beneficial use, those

10 were chosen by applicants, correct?

11   A.   The definitions of marginal, inactive, all

12 that, those were what was in the petition by the

13 applicants, correct.

14   Q.   Right. Okay. And did you perform any

15 sort of economic analysis to determine whether 90

16 BOE is economic or uneconomic?

17   A.   I did not.

18   Q.   Okay.

19   MR. SUAZO: Will you pull up that one

20 slide? I think some of these other questions are --

21 I'm not going to ask right now.

22   Q   (By Mr. Suazo) Mr. Garcia, can you see the

23 slide that is on the screen?

24   A.   I can.

25   Q.   And this is the Rock Queen Unit 043,

1 correct?

2   A.   Correct.

3   Q.   Now, in looking at the bottom left chart,

4 it shows from -- if my eyes can see that far -- from

5 1993 to 1999, there's pretty minimal production; is

6 that accurate?

7   A.   I think it would depend on the minimal. I

8 think sometimes this chart scales weird because of

9 the 2016 production. I don't have the numbers off

10 memory of what that production was in 1993 to 1999,

11 but it had production consistently, is what I would

12 say.

13   Q.   Okay. But from 2000 to 2008, it shows,

14 from what I can tell, 0 production; is that

15 accurate?

16   A.   Yeah, it looks that way. I would have to

17 dive into the data to make sure there was no like

18 10s or anything hidden in there that the visual

19 skews, but it looks to be nonproductive those years.

20   Q.   So there's a nine-year period from 2000 to

21 2008 -- eight-year period where there's effectively

22 no production, correct?

23   A.   Correct.

24   Q.   Okay. And so by these metrics, under the

25 rules proposed by the applicants, this well would

Examination by Mr. Suazo   220

1   have been shut in probably around 2001, correct?

2   2002?

3   A.   Based on production, I'm assuming the well

4   was shut in or, you know, temporarily abandoned.

5   Something could have gone on there.

6   Q.   But if you look further down the chart,

7   starting with 2009 through 2018, there is massive

8   production, it looks like, from a well that was

9   essentially dead for eight years, correct?

10   A.   Yeah, I'm not sure of the exact volume,

11 but there was a production spike in 2009.

12   MR. SUAZO: Madame Hearing Officer, I

13 think, given what we heard today, I would like the

14 opportunity to speak to Mr. Garcia again if we kind

15 of discover some new information. But at this time

16 I don't have any further questions.

17   HEARING OFFICER ORTH: All right.

18 It's 3:21. All right. Let's see here.

19   Mr. Sayer, do you have questions of

20 Mr. Garcia?

21   Thank you.

22   Mr. Rankin, do you have questions of

23 Mr. Garcia?

24   MR. RANKIN: I do. Madam Hearing

25 Officer, I do.

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1   EXAMINATION

2   BY MR. RANKIN:

3   Q.   Mr. Garcia, good afternoon.

4   A.   Good afternoon.

5   Q.   How are you doing today?

6   A.   Pretty good.

7   Q.   Good. You know me, I'm Adam Rankin with

8   Holland & Hart. I represent OXY in this case, which

9   we're making -- and I'm going to try to not retread,

10 but I may touch on a couple things if I feel like --

11 just for clarification or for record purposes.

12   Couple things to start out with. In your

13 testimony, you used the acronym SR. Is that for

14 subsequent report?

15   A.   Yes. Sorry if I didn't spell that out,

16 but subsequent report. So OCD uses that in general

17 for any work that -- a report after work has taken

18 place.

19   Q.   Then in your testimony, as with Mr. Diede,

20 you define an orphan well or what you -- your

21 meaning of how you use the word "orphan well,"

22 right?

23   A.   Correct.

24   Q.   And it's the same -- it sounds like it's

25 the same definition or approximately the same

 1 definition that Mr. Diede was using, as well; is

 2 that right?

 3   A.   They should be nearly identical.

 4   Q.   Okay. And you also talk about the forced

 5 plugging wells. Again, these being wells that are

 6 plugged by third parties at the bequest of or demand

 7 of the State Land Office or the BLM, right?

 8   A.   Correct.

 9   Q.   Those are -- those are -- the forced

10 plugging wells are different. How are they -- if

11 you could explain, how are they different than the

12 orphan wells?

13   A.   Yeah, I know it causes more confusion

14 because there's confusion with orphan wells to begin

15 with.

16   Forced plugging is a definition we came up

17 internally basically to help Loren and I's

18 day-to-day processing of applications. For example,

19 if I was an operator and I need to plug a well

20 that's not mine, there's extra checks that OCD has

21 to do through our legal counsel to make sure we're

22 not going to get in a bad spot or to make sure this

23 operator has the authority to plug a well which they

24 are not the operator of record for.

25   So by calling them forced plugging, it

1 basically alerts us to -- internally remind ourself

2 we need to get with legal counsel and make sure we

3 have all of our I's and T's finished.

4   Orphan wells are a different boat. We

5 don't -- legal and management has picked which wells

6 those are prior to us. The process is different for

7 us internally. They pick which wells are to be

8 plugged. They issue POs, and then they tell us,

9 here's the approved well list for you to plug. And

10 we start working on the technical aspects.

11   The forced plugging, we get a lot of

12 submissions from operators without notice in

13 advance. For example, this week I think we got ten

14 submissions from an operator that they want to plug

15 wells they're not the operator of record for. So we

16 call them forced plugging because -- again, just

17 changed our policy. We have to call the crew right

18 away. We have to make sure legal is okay with them.

19   Q.   Now, actually, I think it's a very useful

20 distinction, and that's why I'm asking the question

21 for the record, because I think this is an area

22 that's become more common, more common in the last

23 few years. Would you agree, that forced plugging

24 has become a more common practice in the last few

25 years?

1   A.   I don't know if it's more common in the

2   last -- I'll speak to the last two years because

3   that's when I've been involved. I don't know that

4   it's become more common. I would say OCD and

5   operators are probably getting better at the process

6   with each other on how to get these processed

7   through.

8   In the beginning, there was a lot of wells

9   that were plugged -- that would fit in the forced

10 plugging category that were plugged without OCD's

11 notification. We found out about, I don't know, 20

12 to 30 other wells that were plugged, forced plugged

13 without ever checking with OCD.

14   So I would say we're just getting better

15 with the process with industry getting out the door

16 and getting approved prior to the work taking place.

17   Q.   And just, again, for the record, the issue

18 here, right, is that under the Division's rules and

19 regulations, the only entity authorized to work on a

20 well is the Division-designated operator, correct?

21   A.   That's my understanding of how OCD

22 processes our applications.

23   Q.   And that's true unless and until there's a

24 forced plugging order from the Division or some

25 other legal instrument that authorizes another

1 entity to come in and plug that well, right?

2   A.   Correct. We wait until we hear our legal

3 counsel's thumbs up or, depending on the situation,

4 a letter associated with that. Sometimes we don't

5 have the letter because sometimes of forced plugging

6 on federal wells and we don't have -- you know,

7 their approval basically gives us the approval to

8 process sundries without that legal letter from OCD.

9   Q.   And I'm just exploring this with you

10 because I do think it's helpful for the Commission

11 to hear this and understand a little bit more about

12 this process that's not -- it's a little bit outside

13 the normal scope, right, because it's not the actual

14 operator that's plugging their own wells. It's

15 third parties plugging other operators' wells.

16   So I think it's -- I'm just asking about

17 this because I think it's helpful, and there's

18 some -- a lot of companies out there that are doing

19 this, and I think it's helpful for the Commission to

20 know.

21   So just to further clarify how this

22 process works, essentially your understanding is

23 that the State Land Office or the BLM will send a

24 letter making a demand of a third party for some

25 legal reason -- or have some legal connection to the

1 well demanding that they plug that well that they're

2 not the Division-designated operator of; is that

3 right?

4   A.   Correct. Through the State Land Office or

5 BLM processes, which I'm not an expert on, they

6 basically tell operator A, we would like you to go

7 plug this well because of X reason.

8   And then they will tell us, hey, we're

9 being required to plug this. What do we need to do?

10 And we work with them through that process.

11   Q.   Okay. So you don't know -- in this -- in

12 that situation, you don't know that the State Land

13 Office or the BLM might actually know who the proper

14 operator is and they might be a Division-designated

15 operator and they might be solvent. But for

16 whatever reason, the State Land Office or BLM is not

17 going to pursue that entity, instead has gone after

18 and asked for the third party to plug the well,

19 correct?

20   A.   I didn't say --

21   MR. HALL: I object. That calls for

22 legal conclusions. Thank you.

23   HEARING OFFICER ORTH: So,

24 Mr. Garcia, I know that you're not being offered

25 here as a lawyer. If you can answer the question as

1 part of the regulatory agency rather than as a

2 lawyer, go ahead.

3   A.   All can I say on the topic is both State

4 Land Office and BLM, through their processes, deem a

5 need to chase an operator. And that operator comes

6 to us and tells us they are being chased for

7 whatever reason the State Land Office or BLM deemed

8 fit.

9   And we work with them as good neighbors to

10 BLM and State Land Office to help get that process

11 through so they can plug the well to meet their

12 requirements under the other -- the teams. We

13 believe -- again, that's our legal counsel to vet

14 that stuff with whoever they need to vet it with.

15   Q.   Yeah, I'm not -- oh, sorry.

16   A.   I was going to say we can just pause --

17 once we get the sundries, we kind of pause until we

18 hear from our counsel saying, you know, good for

19 your technical review to go.

20   Q.   I'm not trying to ask you something you

21 don't know. The point here I'm trying to get at, I

22 guess, ultimately is that, the difference between an

23 orphan well and -- or at least a difference between

24 an orphan well and a -- and a forced plugging well

25 is that orphan well, you know for sure, right, that

1 the entity is no longer around or viable. But in

2 the case of plugging -- forced plugging, the

3 Division doesn't know whether that other entity is

4 solvent or not or what the situation is, only that

5 the other agency out there is asking for some other

6 party to plug that well, right?

7   A.   I would say for orphan wells, our wells we

8 vetted through various legal processes like

9 hearings, AC findings, et cetera. And those orphan

10 wells -- the forced plugging, they may have hearing

11 orders and State Land or BLM may beat us to plugging

12 that well by having someone else do it. Or they

13 could not. That's probably more of a legal question

14 on, if they all are orphaned or not. I couldn't

15 say.

16   Q.   Sure. Okay. Understood. I'm going to

17 ask you a couple more questions about that, where

18 you break out the difference between -- or lump them

19 together, plugging -- forced plugging and orphan

20 wells. I didn't mean to belabor that point. I just

21 think it was helpful to understand a little bit more

22 about the difference between those two pathways.

23   And that's -- I guess I'll just turn to

24 this slide here. It's your slide 3 on your -- on

25 your -- slide 3 of your Exhibit 3 where you kind of

1   show that -- or over the last year, at least in

2   2024, OCD has plugged 100 wells, and then there's

3   129 of these forced plugged wells. And those were

4   the wells we were discussing just now, right?

5   A.   Correct. Those are the separate

6   categories, and we kept them separate because of,

7   you know, distinction between them.

8   Q.   Right. And I've highlighted here -- and

9   you mentioned this a little bit in your intro

10   whether you clump them together or not. If you do

11   lump them together, it's 23 percent if you count

12   them as all orphan wells, right?

13   A.   Correct, yeah. I think it would be

14   23 percent roughly.

15   Q.   And I guess my point here is that the

16   Division hasn't gone through to ascertain or

17   determine legally whether those forced plugged wells

18   would fall under your definition of orphan wells,

19   right?

20   A.   I don't think I could fully -- again, we

21   typically wait on legal to assert whether or not we

22   can approve the plugging. There has been a few

23   forced pluggings we've had to tell the operator

24   that's trying to plug it, at this time OCD can't

25   approve this. And then we basically report them to

1 our legal counsel for further discussions.

2   So I'm not sure if I can say all of these

3 wells are not orphaned or not.

4   Q.   I guess my question, then, is: If you put

5 them in the forced plugged category, OCD has not

6 performed the analysis to determine that there is

7 not -- that they meet the orphan definition, right?

8   A.   Me and my team have not performed it, no.

9 If legal does when they talk to these operators on a

10 one-to-one basis, I couldn't say that.

11   Q.   Okay. I have a couple follow-up questions

12 for you on the creation of the Master Orphan

13 Spreadsheet. I was curious, when did OCD decide to

14 start building that spreadsheet?

15   A.   Good question. I don't know the exact day

16 in mind. I would say probably early '24, if I had

17 to guess.

18   Q.   Was it --

19   A.   Yeah.

20   Q.   Was the decision to create that Master

21 Orphan Spreadsheet part of this rulemaking effort?

22   A.   Not to my knowledge.

23   Q.   So --

24   A.   I think it was just internal items that

25 management was seeing could be corrected.

1   Q.   So rather than being part of a --

2   preparing for this rulemaking, the Division decided

3   to make this Master Orphan Spreadsheet as part of

4   its better management of its orphan well situation?

5   A.   Yeah. My limited view into the orphan

6   well program at OCD is, this was really just a step

7   in the right direction of getting us better --

8   similar team, you know, one goal, hopefully future

9   automating this. It was just a step in that

10 direction.

11   I was not part of the original rulemaking

12 discussion, so I don't know when those took place.

13 So I couldn't say relation on timelines to this.

14   Q.   So the intent -- the intent of the

15 creation of the -- I'm going to call it the MOS, was

16 to be able to better manage -- have a single,

17 uniform source of information for management

18 purposes to be able to track and manage orphan

19 wells, right?

20   A.   Correct. Like I could tell you, one

21 day -- I don't track the reports for the federal

22 government, but I know one day I got a call, and

23 they said, hey, you know, we told them we plugged

24 all these wells. Now the federal government would

25 like to see the sundry.

1   And that's why in the MOS now going

2   forward -- do you see the hyperlinks in there? So

3   it's easy for those who report to the federal

4   government to kind of copy and paste the hyperlinks

5   into whatever reports they're submitting. So to me,

6   it's just a better management tool.

7   Q.   What did the Division do before it had the

8   MOS? How did it manage its orphan wells before

9   that?

10   A.   I do not know. I wasn't part of it

11   really, prior to MOS. MOS was kind of my intro to

12   the orphan program, as well as starting to take over

13   the rig management. So how they reported all of

14   that before me, I couldn't answer that.

15   Q.   Who would -- who would be the one to be

16   able to address that question?

17   A.   Not to Kate, but possibly Brandon. And

18   that's a maybe there, because there's other teams

19   that are -- the OCD special projects team over --

20   overviews the entire orphan program, and none of

21   them are testifying today, I don't believe --

22   Q.   Okay.

23   A.   -- for this hearing.

24   Q.   Would that potentially also fall under

25   Mr. Wrinkle's purview?

1   A.   About how we reported prior to the MOS?

2   Q.   Yeah, how the Division managed the orphan

3   well program prior to establishing or creating this

4   MOS establish?

5   A.   I'll let you ask them because I could not

6   say for sure if that was a yes or no.

7   Q.   So I guess maybe Brandon? Maybe Justin?

8   Okay.

9   A.   Yes.

10   Q.   I'm sorry, what was that?

11   A.   I would ask both of them if I was you.

12   Q.   Okay.

13   A.   Sorry.

14   Q.   That's all right.

15   And then the intent of the -- of that list

16   is to capture all orphan wells under the Division's

17   definition that exists in the state, whether state,

18   federal, or private minerals, correct?

19   A.   Correct. It was just orphan wells.

20   Q.   Say that again.

21   A.   Correct. We were just looking for orphan

22   wells within New Mexico's state limits.

23   Q.   Right. So without respect to whether

24   they're State Trust minerals, federal minerals, or

25   private minerals, correct?

1   A.   Correct. There is federal wells on there

2   because we had plugged multiple federal wells per

3   BLM request, but, again, being a good neighbor to

4   our regulatory sibling, I guess. So there is BLM

5   federal wells in there because we're also helping

6   them out.

7   Q.   It sounds like it was an arduous process

8   in large part because some of the -- you know, some

9   of the determinations about whether a well is

10   orphaned or not is dependent upon having to review

11   individual hearing orders, correct?

12   A.   It was a lot of hearing orders.

13   Q.   And I think you said there was some

14   interpretation required when you reviewed hearing

15   orders. Just so I'm understanding and for the

16   record, what interpretation was needed to understand

17   when you reviewed the orders?

18   A.   I mean, I guess, you know, I do a lot of

19   hearings on my other part of OCD life. And this is

20   a broad statement. I feel like our OCD orders

21   nowadays are maybe cleaner and simpler to read.

22   When we started reviewing orders prior to

23   my time at OCD, there was some confusion in them.

24   They're not following our similar templates that we

25   use nowadays, so I leaned on our legal counsel for

1 interpretation. Again, some of the orders were

2 dismissals, continuances.

3   There's some old -- older orders that

4 are -- there's one example that I tease my counsel

5 that I hope they never do it because it's one order,

6 one case, and there's like 73 operators, and I think

7 there's like 700 wells on it. They were all forced

8 plugged potential wells.

9   So I really relied on the legal counsel

10 for that order because that order has been amended

11 multiple times, and the order says like, the wells

12 are good today. You need to do this. Exhibit B,

13 you need to do this. Exhibit C, you need to do

14 this.

15   It just goes 1,000 different ways in some

16 of the older orders. So they get real messy the

17 older you get. I think the orders nowadays are a

18 little cleaner.

19   Q.   So, there was no like electronic database

20 where you could see a checkmark, right, if something

21 was orphaned, right? You had to go through and kind

22 of create it from scratch based on the old orders,

23 right?

24   A.   Yeah. The older we get, the more PDF we

25 get, too, so there's no just query we can run.

1   Q.   Okay. Just -- Mr. Suazo and Mr. Cloutier

2   went through a lot of my questions. So I'm just

3   trying to make sure I don't duplicate myself

4   unnecessarily.

5   I think I'm going to raise an objection if

6   I ask this question, but basically, you're not the

7   person to ask: Of the 100 wells that OCD plugged in

8   2024, how many has OCD sought to redeem the bond

9   for?

10   A.   I guess I was pausing because you expected

11   an objection. I am not 100 percent --

12   MR. HALL: Is that your -- is that

13   for you or is that for Mr. Powell?

14   A.   Yeah, I would defer probably to

15   Mr. Powell. All I will note is in the MOS, in the

16   yellow category, there's a bonds team, and there's

17   talk about bonds numbers in there. That's the

18   extent of my knowledge.

19   Now, how much we've sought, I couldn't

20   answer.

21   Q   (By Mr. Rankin) Mr. Garcia, I'm just

22   following your advice. I'm going to ask each of

23   you, okay, and as things get kicked down, I'll

24   just -- I'll just ask the next one to the next

25   witness. Okay?

 1   So that's not your area, and you can't

 2   tell me of the -- of the wells you plugged, how many

 3   the Division has sought to redeem, right?

 4   So can you tell -- well, again, I guess

 5   I'll direct it to Mr. Powell, but you can't tell me

 6   if the Division hasn't, why it hasn't or what the

 7   issue is with bonding. I'll direct that to

 8   Mr. Powell.

 9   A.   Was that a question again?

10   Q.   No. It was just me like . . .

11   A.   You're fine.

12   Q.   Just me -- sorry, it's getting late in the

13   afternoon. Sorry.

14   All right. I'm sorting through -- I mean,

15   I had some issues last night sorting through what

16   Mr. Cloutier and Mr. Suazo were reviewing. So I'm

17   just trying to make sure I -- there's a few things I

18   might want to just -- I don't know that I need to

19   clarify any more than they did on the -- on the

20   testimony. But I -- I'm going to just touch on one

21   or two things here just to make sure it's clear.

22   Okay?

23   What I gathered from, you know,

24   reviewing -- I didn't -- because I didn't look at

25   the formula that you used for your Exhibit 16, so I

1 didn't -- I wasn't able to discern myself whether

2 the actual spreadsheet that generated this pie chart

3 had an error. But in reviewing the language of this

4 spreadsheet, I did discern for myself that there

5 might be a problem. And I think you explored that

6 thoroughly with Mr. Cloutier and Mr. Suazo.

7   But the bottom line is that this pie chart

8 is not accurate or reliable because it was using the

9 "or" for both marginal wells and no beneficial use

10 wells, correct?

11   A.   I would say --

12   Q.   And that --

13   A.   Sorry, go ahead.

14   Q.   Sorry, let me just clarify. This is

15 Exhibit 3, slide 4 that I'm referring to.

16   A.   Correct, and I can see it. I would say

17 the accuracy matches the "or" mentality. And I know

18 we talked about it a lot. I think there's a lot of

19 confusion.

20   The real takeaway from this -- and I know

21 you're going to review with your clients tonight,

22 is -- my takeaway is the rule -- I'm not a lawyer.

23 You know that. So my reading and talks to

24 management were kind of treating it with the word

25 "or," which I did. It shows the numbers that it

1 shows, which, again, is kind of like a worst case

2 scenario for the Commission to understand, if they

3 enacted this, this is how many wells they would be

4 increasing bonds on potentially.

5   What I will say is, I think it was -- the

6 OCC when they evaluate this, and the parties, I

7 think everyone is just looking for a clean, concise

8 rule. Now -- so is that a "days or BOE"? Or is it

9 "days and BOE"? Is it just a "BOE"?

10   I believe others will testify more about

11 it, because to my understanding, there's been more

12 talks about the wording in the addition that I

13 wasn't part of. But, to me, a simple rule that's

14 clean and cut for OCD and operators to go by so

15 there's no, you know, debates later down the road

16 of, does this well meet or not, is really what I'm

17 trying to get across with this slide.

18   There was some confusion. We just need a

19 clean rule. Now, is that what that looks like? I

20 don't have the answer to that at this time. I just

21 think we need a clean, easy-to-read rule.

22   Q.   Yeah. So -- but just -- again, this pie

23 chart does not reflect what the wells would be that

24 are marginal or no beneficial use under the petition

25 as it sits in front of the Commission right now,

 1   correct?

 2   A.   After talks with -- and I'm horrible with

 3   names. I'll call him Mr. Andrew. After talking

 4   with him and seeing how his clients read the word

 5   "and," this would not show the "and" mentality that

 6   him and his clients talked about, which they believe

 7   is the way the petition is supposed to read.

 8   Q.   Okay. I'm just trying to get it into one

 9   spot. All right.

10   I was interested in this last slide, 11,

11   of your Exhibit 3, although you don't provide a lot

12   of testimony on this slide, okay, in your -- in your

13   written testimony, nor did you really give much

14   around it in your summary.

15   But in your testimony, you said that these

16   wells ultimately became orphan wells, as I

17   understand, right? And that OCD had to plug them.

18   But they'd previously gone through a series of

19   numerous transfers from one operator to another.

20   And as I understand the issue here, the

21   Division identifies that as one of the -- one of

22   the -- you know, an indicator of potential orphan

23   wells when they get transferred down, down the

24   chain, correct?

25   A.   I don't know if I would say OCD as a whole

1 believes that. I think -- I put this slide

2 together, and you're right, I probably could have

3 put some more words in here about -- this slide was

4 to kind of show -- these, again, are the same wells

5 that Loren testified to, and he had talked about,

6 with each sale, data gets, you know, harder and

7 harder to come by.

8   So this really wasn't taking a stance on

9 the sale. It was really just showing the well that

10 Loren talked about, how many times they were sold

11 and how it became harder each time to get the data

12 to plug the well. That's kind of the take on this

13 slide. It's the same wells.

14   And to clarify, the wells on the right

15 side are the ones to be plugged. The Cato San

16 Andres are the wells that were deemed forced

17 plugging. Another operator plugged those wells.

18   Q.   Now, I mean, you've read the petition and

19 the proposed rulemaking. And Mr. Morgan did a very

20 good job of reviewing this portion of the rule that

21 identifies the concerns about, and empowering the

22 Division to review transfers of operatorship to

23 ensure that the transferee has the proper financial

24 wherewithal to manage the life cycle -- remaining

25 life cycle of the wells, right?

1   A.   I'll say I can see --

2   MR. HALL: Objection, multifarious

3   question. I heard about two or three different

4   questions there.

5   MR. RANKIN: It probably is true.

6   HEARING OFFICER ORTH: All right.

7   Mr. Garcia, can you answer the question or do you

8   want it broken down?

9   A.   All can I say is, I have not been present

10   for all testimony, Mr. Rankin. We've had a lot of

11   other items come up in the back that I've been

12   dealing with outside of the hearing.

13   So could you refine the question to get --

14   to specifically this slide we are discussing?

15   Q.   Well, it's a series of slides. And I

16   guess you're aware that the proposed rulemaking here

17   provides the Division with additional powers to

18   review the financial wherewithal of -- an ability of

19   the transferee to manage the life cycle of the wells

20   that they're going to be operating, correct?

21   A.   Yeah. I'm aware that the proposed

22   petition talks about OCD having, you know, like you

23   said, some oversight of the transfers and all that

24   stuff.

25   Q.   And once the Division has that power,

1 assuming this proposed rule gets adopted as

2 proposed, the issues that are identified in slide

3 11, do you expect them to be resolved by the

4 Division's ability to review the capacity of the

5 transferee to manage the life cycle of the well?

6   A.   I think in certain situations, it may

7 help, but certain situations, I don't know about the

8 difference. I don't know if I have a personal

9 opinion on this overall.

10   Q.   Okay. But just so I'm clear, I mean, you

11 put the slide together for a purpose, right? To

12 show that the more times often -- you tell me. I

13 mean, what was the purpose of showing the fact that

14 these things got transferred from one operator to

15 another?

16   A.   It was just to show the divestment history

17 of the wells that Loren discussed in his testimony,

18 just so the Commission and the parties had a

19 question -- or answers to questions. I kind of

20 assume that somebody was going to ask how many times

21 they were sold, which I believe somebody did ask

22 Loren and he couldn't answer. This slide is

23 basically in support of those questions.

24   Q.   So it wasn't intended to address the

25 Division's concerns or ability to manage or review,

1   oversee transfers going forward under the proposed

2   rule?

3   A.   My testimony doesn't have any opinion on,

4   you know, overall supporting or going against the

5   rule. I believe that is for Brandon. We kind of

6   discussed he'll talk about changes and support about

7   the petition.

8   This is just more factual testimony of,

9   these wells are wells that we've encountered issues

10   with. You know, here's how many times they were

11   sold.

12   Q.   So I'm going to ask you a question about

13   transfers. Has the Division conducted an analysis

14   to determine how many orphan wells the provision in

15   the rule that addresses transfers might prevent from

16   devolving into the OCD as orphan wells?

17   A.   I have not.

18   Q.   Are you aware of anybody at the Division

19   doing an analysis along those lines?

20   A.   I am not.

21   MR. RANKIN: All right. I think

22   you've answered -- let me just -- I think you've

23   answered all of my questions. Let me just make

24   sure.

25   I think you have, Mr. Garcia. It's a

1   pleasure. Thank you very much for your time today.

2   Appreciate it.

3   JOHN GARCIA: Thank you.

4   HEARING OFFICER ORTH: Thank you,

5   Mr. Rankin.

6   Mr. Maxwell, do you have questions of

7   Mr. Garcia?

8   MR. MAXWELL: No questions. Thank

9   you.

10   HEARING OFFICER ORTH: Thank you.

11   Is Ms. Nanasi with us?

12   Mr. Moore?

13   MR. MOORE: No questions, Madam

14 Hearing Examiner. Thank you.

15   HEARING OFFICER ORTH: Thank you very

16 much.

17   Ms. Fox, are you going to have questions,

18 or Mr. Tisdel?

19   MR. TISDEL: We will, very few

20 questions.

21   HEARING OFFICER ORTH: Okay. I'm

22 asking because we need a short break before public

23 comment, so can you do that after public comment?

24   MR. TISDEL: I'd be happy to, yeah.

25   HEARING OFFICER ORTH: Thanks so

1   much. Let's come back at 4:00.

2   (Recess was taken from 3:54 p.m. until 4:04 p.m.)

3   HEARING OFFICER ORTH: Let's come

4   back from the break, please.

5   All righty. Ms. Gerhart, would you like

6   to come up to the speaker's box up here, please.

7   Good afternoon. My name is Felicia Orth.

8   I'm conducting a hearing on well plugging and

9   financial assurance. We've come to another public

10   comment session today. I have several people

11   indicating a desire to offer public comment. Just a

12   few things about that.

13   We'll ask you to spell your first and last

14   name because we're making a transcript. Also,

15   please speak at a deliberate pace because we are

16   making a transcript. I'll ask -- the rules ask that

17   you be sworn in; that is to say I'll ask if you

18   swear or affirm to tell the truth.

19   And I will ask you to keep your comments

20   to three minutes. In the event you have a lot more

21   than that to say, please submit your comment in

22   writing to Sheila Apodaca, the Commission

23   administrator.

24   So, Ms. Gerhart, would you spell your

25   first and last name, please.

 1   SAYRE GERHART: My name is Sayre

 2   Gerhart, S-A-Y-R-E, G-E-R-H-A-R-T.

 3   HEARING OFFICER ORTH: Thank you.

 4   And do you swear or affirm to tell the truth?

 5   SAYRE GERHART: I do.

 6   HEARING OFFICER ORTH: I'll start

 7   your time.

 8   SAYRE GERHART: My name is Sayre

 9   Gerhart, and I live in Corrales, New Mexico. And I

10   am really just a member of the public coming to

11   support the modernization of the New Mexico's

12   bonding and cleanup rules. And I really know that

13   this is hard work. I have been an elected official

14   myself and want to commend everybody for working on

15   this.

16   My reason for speaking also is because as

17   a member of the public, we are paying attention.

18   And I know it's very nuanced what, you know, even I

19   was hearing for the last half an hour in the room.

20   But it's also very simple. You know, if you drill

21   it, you clean it up.

22   And as a taxpayer and as an advocate for

23   our stewardship of our beautiful state, I hope that

24   the commissioners will modernize the rules and

25   prevent the taxpayers from picking up the burden of

1   cleaning up after other people and also that, you

2   know, we resolve the orphan wells situation around

3   the state.

4   And that's really all I wanted to say.

5   HEARING OFFICER ORTH: Thank you very

6   much, Ms. Gerhart.

7   Do we have Kathleen Hepp on the platform?

8   KATHLEEN HEPP: Okay. Can you hear

9   me?

10   HEARING OFFICER ORTH: Yes, I can.

11   KATHLEEN HEPP: Okay.

12   HEARING OFFICER ORTH: Would you

13 spell your first and last name, please.

14   KATHLEEN HEPP: Okay. Kathleen, it's

15 K-A-T-H-L-E-E-N, and my last name is Hepp, H-E-P-P.

16   HEARING OFFICER ORTH: Thank you. Do

17 you swear or affirm to tell the truth?

18   KATHLEEN HEPP: Absolutely.

19   HEARING OFFICER ORTH: I will start

20 your time.

21   KATHLEEN HEPP: Okay. Well, hello.

22 My name is Kathleen Hepp. I live in New Mexico, for

23 30-plus years. I'm originally from Pennsylvania. I

24 raised my boys here, my three boys in Moriarty, New

25 Mexico, and they all attended public schools. All

1   three boys were in wrestling, and it gave them a

2   structure and it gave them discipline to become the

3   good, hardworking men that they are today.

4   So that being said, it also gave them

5   morals and values. Sorry. They've also received

6   scholarships, each of them, to go to college. My

7   hope is that their children have the same

8   opportunity as they did.

9   Cutting the funding would put a big damper

10   on that opportunity, I believe. One of my son's job

11   is working with the railroad, and I consider that a

12   very good career for him. I'm proud of him.

13   It would be a real impact on his job and

14   the community around to get products, meaning a rise

15   in the prices and less product for Americans.

16   Increasing products, in my opinion, in New Mexico,

17   we can't afford it right now. With the increase of

18   everything else, it would be -- it would hurt our

19   community because that -- we cannot afford that.

20   For you guys to raise the regulations, that would

21   hurt everyone.

22   It would also probably drive the companies

23   out of New Mexico, do business elsewhere. So please

24   consider people like me and my family before

25   deciding on any new regulations.

 1   And I appreciate the time that you're

 2   taking to listen to me. Thank you very much.

 3   HEARING OFFICER ORTH: Thank you,

 4   Ms. Hepp.

 5   KATHLEEN HEPP: You're welcome.

 6   HEARING OFFICER ORTH: Vicki

 7   Gottlieb? Do we have Vicki Gottlieb on the

 8   platform?

 9   She reached out earlier to speak at 4:00.

10   All right. If she joins us, Ms. Apodaca,

11   let me know.

12   MS. APODACA: I do see her on the

13   platform, and she has permission to unmute.

14   HEARING OFFICER ORTH: Oh, okay.

15   Ms. Gottlieb, I believe you have

16   permission to unmute.

17   Ms. Gottlieb, you might need to press

18   control-shift-M.

19   She may have stepped away.

20   All right. Let's move to the next person

21   with their hand raised, Sheila.

22   All right. This is Petra Ligon or Ligon.

23   Can you unmute yourself?

24   PETRA LIGON: Can you hear me?

25   HEARING OFFICER ORTH: Yes. Thank

1 you. Would you spell your first and last name,

2 please.

3   PETRA LIGON: Yes. It's P-E-T-R-A,

4 last name L-I-G-O-N.

5   HEARING OFFICER ORTH: Thank you. Do

6 you swear or affirm to tell the truth?

7   PETRA LIGON: Yes.

8   HEARING OFFICER ORTH: I'll start

9 your time.

10   PETRA LIGON: Okay. So hello,

11 everyone. Thank you, commissioners, for allowing me

12 to speak today.

13   My name is Petra Ligon. I was born in

14 Berlin, Germany, and moved to the United States when

15 my husband was transferred to Fort Eustis, Virginia.

16   After three years, I, too, decided to join

17 the Army working as a transportation management

18 coordinator. I separated after my second enlistment

19 and worked for various companies, mostly in the

20 administrative field.

21   Kirtland Air Force Base was my husband's

22 last duty station. He retired in 1997 after serving

23 24 years in the military. And we both retired

24 permanently this year.

25   I realize New Mexico heavily depends on

1 the revenue it makes from oil and gas companies to

2 fund education, Medicaid, and other programs.

3 Nevertheless, increasing fees for smaller oil and

4 gas companies will only drive them to elsewhere. As

5 a veteran, I know that the oil and gas companies are

6 composed of about 20 percent veterans. Supporting

7 those who have served our country is important, and

8 we should not take away that opportunity.

9   With that said, I believe it's very

10 important for our state not only to rely on the

11 revenue from oil and gas, but to incentivize larger

12 companies and manufacturing businesses to move to

13 New Mexico.

14   I'm asking to please consider the

15 importance of oil and gas for our state when

16 deciding on this issue.

17   Thank you for your time.

18   HEARING OFFICER ORTH: Thank you very

19 much, Ms. Ligon.

20   We'll move now to Stefi Weisburd.

21   STEFI WEISBURD: Hi. Can you hear

22 me?

23   HEARING OFFICER ORTH: Yes. Thank

24 you very much. Would you spell your first and last

25 name, please.

 1   STEFI WEISBURD: Stefi is S-T-E-F-I,

 2 Weisburd, W-E-I-S-B-U-R-D.

 3   HEARING OFFICER ORTH: Thank you. Do

 4 you swear or affirm to tell the truth?

 5   STEFI WEISBURD: I do.

 6   HEARING OFFICER ORTH: Thank you.

 7 I'll start your time.

 8   STEFI WEISBURD: Thank you for

 9 allowing me to speak today. I've lived in New

10 Mexico for 35 years.

11   I treasure the state's natural beauty and

12 how responsible use of our resource benefits us all.

13 Unfortunately, our state has suffered a subset of

14 examples of companies abusing the trust we place in

15 them to operate conscientiously and return the

16 borrowed environment to its prior state.

17   The oil and gas industry, in particular,

18 seems to be structured to encourage infrastructure

19 abandonment from small operators who acquire

20 marginal wells that do not guarantee enough income

21 to be cleaned up by their owners. The problem will

22 only be exacerbated by the eventual decline of

23 fossil fuels, leaving more stranded assets littering

24 our state.

25   Requiring operators to put up a bond

1 linked to well plugging and remediation cost is

2 common sense. After all, we wouldn't object to a

3 landlord requiring a security deposit and evidence

4 of cash flow to pay rent for an apartment. If

5 renters treat the property with respect, they will

6 get their security deposit back.

7   The impact of abandoned wells goes beyond

8 plugging and remediation costs. They can emit

9 substances toxic to humans, livestock, and wildlife

10 and contribute to a climate pollution. And we're

11 already confronting the costly consequences of

12 climate change where I live.

13   I'm terrified of wildfires ruining --

14 burning our communities. We have soaring insurance

15 premiums. We have water shortages. People are

16 having to drill deeper for wells. And we have a

17 harder time in the heat.

18   Naturally, climate-driven extreme weather

19 has bumped the average number of billion-dollar

20 disasters from three per year in the 1980s to 19 per

21 year over the last decade, according to Climate

22 Central. For the first six months of this year,

23 there have been 14 disasters costing $101 billion.

24   I was on when Senator Townsend and

25 Representative Montoya mentioned HB 403. It

1   redirects funds from education towards the

2   reclamation fund in lieu of modernizing bonding

3   requirements. I do not like taking the option of

4   support away from education, nor relying solely on a

5   rescue fund after the fact.

6   A sufficiently sized bond acts as more of

7   a deterrent to bad behavior than cleanup monies

8   widely sourced from taxes on the industry at large.

9   Some of the reclamation funding also comes from the

10   federal government, which is abandoning decades of

11   environmental protections and the funding behind it.

12   We must stand up for ourselves. I urge

13   you to adopt rules that protect our communities and

14   the lands, water, and air we all depend on to live.

15   Thank you very much.

16   HEARING OFFICER ORTH: Thank you,

17   Ms. Weisburd.

18   Ms. Gottlieb?

19   VICKI GOTTLIEB: Got it. Hello.

20   Yes.

21   HEARING OFFICER ORTH: Would you

22   spell your first and last name, please.

23   VICKI GOTTLIEB: Yes. My first name

24   is Vicki, V-I-C-K-I, Gottlieb, G-O-T-T-L-I-E, as in

25   every, B, as in boy.

 1   HEARING OFFICER ORTH: Do you swear

 2   or affirm to tell the truth?

 3   VICKI GOTTLIEB: I do.

 4   HEARING OFFICER ORTH: Thank you.

 5   I'll start your time.

 6   VICKI GOTTLIEB: Good afternoon,

 7   Chair and Commissioners. My name is Vicki Gottlieb,

 8   and I'm speaking as a resident of Placitas, where

 9   I've lived for 18 years, and other places where I've

10   lived since 1970, Albuquerque, Roswell, Santa Fe,

11   and El Rito.

12   I strongly support the proposed bonding

13   rule changes. Since moving to Placitas, I've helped

14   our community push Sandoval County to require air

15   quality monitoring by the gravel operators here and

16   forced their contracts and required reclamation

17   after operations shut down.

18   Resource extraction is common in New

19   Mexico. It's also common sense to make companies

20   extracting resources responsible for the expense of

21   work to clean it up, 100 percent of the time.

22   When I worked -- excuse me -- for The

23   State Department of Information Technology for 12

24   years before retiring, one of my responsibilities

25   was reviewing all agencies' information technology

1   contracts. We worked hard to get the bonding

2   requirements for expensive single and multiagency

3   projects increased. So I have firsthand knowledge

4   of the imperative for adequate bonding, as well as

5   the business of all state agencies who have anything

6   to do with oil and gas drilling.

7   Well cleanup costs are substantial, and

8   they fall to the state largely because oil and gas

9   corporations are not required to post sufficient

10   bonds to cover them. This exposes taxpayers, public

11   funds, communities, and the environment to harm and

12   contributes to a legacy of pollution in New Mexico.

13   As a grandparent, I owe it to my

14   grandchildren to protect the environment, conserve

15   state funds wherever possible, and ensure a legacy

16   that encourages them to consider New Mexico the best

17   option for working and raising their families in the

18   future.

19   Your decision impacts future generations

20   of New Mexicans as well. You owe it to them to

21   support the proposed bonding rule changes.

22   Thank you for listening.

23   HEARING OFFICER ORTH: Thank you very

24   much, Ms. Gottlieb.

25   Who else do we have here?

  1   Kevin Kirby, can you unmute yourself?

  2   KEVIN KIRBY: My name is Kevin Kirby,

  3   K-E-V-I-N, K-I-R-B-Y.

  4   HEARING OFFICER ORTH: Do you swear

  5   or affirm to tell the truth?

  6   KEVIN KIRBY: I do.

  7   HEARING OFFICER ORTH: I'll start

  8   your time.

  9   KEVIN KIRBY: Members of the New

 10   Mexico Oil Conservation Commission. Son, we've got

 11   to talk about this bond issue thing. Yeah, I know,

 12   we don't talk a lot about your oil business, but

 13   maybe now is the time. If your mother were here,

 14   she would tell you what she always told you, clean

 15   up your mess. Your room is like a pigsty.

 16   I'm sorry, she's not here to tell you

 17   herself. But you never listened. You and your

 18   buddies have made a mess of New Mexico, and this

 19   bond thing just says, we can't trust you. Your word

 20   is not your bond. And we need you to have a legal

 21   bond so you can do the right thing.

 22   When you make a mess, clean it up or pay

 23   the bond to do it. Yeah, I know you pay a lot of

 24   taxes. I know you make a lot of money. You got a

 25   big house and a nice family, but you don't live

1 here. I still do. We still live with the rusted

2 oil rigs, and your old mess is making us sick and is

3 killing New Mexicans. It's not been easy.

4   You say it's the cost of doing business.

5 You make a lot of money for New Mexico. It costs

6 too much to clean up the mess. We have to make a

7 profit. Well, here's the thing, this bond won't

8 save the world. You already took care of that. But

9 maybe, just maybe you can save New Mexico.

10   Just pass the bond, clean up your -- clean

11 up our land of enchantment.

12   Thanks for listening.

13   HEARING OFFICER ORTH: Thank you,

14 Mr. Kirby.

15   I believe I saw Nona Girardi raise her

16 hand.

17   Ms. Girardi?

18   NONA GIRARDI: Yes, hello.

19   HEARING OFFICER ORTH: Hello. Would

20 you spell your first and last name, please.

21   NONA GIRARDI: My first name is

22 N-O-N-A, last name G-I-R-A-R-D-I.

23   HEARING OFFICER ORTH: Do you swear

24 or affirm to tell the truth?

25   NONA GIRARDI: Yes.

 1   HEARING OFFICER ORTH: I'll start

 2   your time.

 3   NONA GIRARDI: Good afternoon, Chair

 4   and Commissioners. I'm speaking as a resident of

 5   Los Alamos, New Mexico, in strong support of

 6   proposed bonding rule changes.

 7   I've lived in New Mexico for more than 30

 8   years. As a family doctor working in various areas

 9   of rural New Mexico, I've seen the impact of

10   increased respiratory and cardiovascular diseases on

11   people living near oil and gas production areas.

12   Children suffer severe asthma attacks more

13   frequently and have difficulty controlling their

14   day-to-day symptoms. Older citizens have worsening

15   chronic obstructive pulmonary disease and heart

16   disease. And people die at younger ages, all due to

17   inhaling these pollutants.

18   The oil and gas corporations that drill

19   for extract and profit from our public resources

20   should be required to clean up after themselves,

21   100 percent of the time. They can't be allowed to

22   leave the cost and effort of plugging and cleaning

23   up unproductive wells to our taxpayers. If they

24   can't afford the cost of cleanup, they shouldn't be

25   drilling here at all.

1   If an ordinary person rents or leases a

2   house or apartment, they usually have to provide a

3   security deposit up front to cover any damages they

4   may cause. If an ordinary person owns or drives a

5   car in New Mexico, they need to have automobile

6   insurance to cover the cost of accidents, injuries,

7   or property damage. The same principle should apply

8   to oil and gas companies operating in our lands.

9   They should post the sufficient bond as

10   the proposed rule would require. In the past five

11   years, over $100 million in public funds, both state

12   and federal, have been spent to clean up abandoned

13   wells in New Mexico. And we still face up to

14   $1.6 billion in future cleanup costs.

15   The abandoned wells are dangerous, methane

16   and toxins leak into our air and groundwater,

17   harming wildlife and public health, especially in

18   rural and tribal communities. Leaking methane goes

19   to waste, worsening global warming without even

20   doing anything towards supplying our energy needs.

21   Please vote to adopt stronger bonding

22   rules. Let's protect our air, water, health, and

23   wallets and make sure no one gets to profit while

24   leaving the rest of us with the mess.

25   Thank you.

1   HEARING OFFICER ORTH: Thank you,

2   Dr. Gerardi.

3   Is there anyone else on the platform who

4   would like to offer comment at this time? If you're

5   joining us by phone, you can press star-5 to raise

6   your hand. And then as I understand it from some

7   information that Mr. Maxwell shared with us, you

8   would be hitting star-6 in order to unmute.

9   Let's see, I see someone named Eleanor has

10   raised her hand.

11   Can you unmute yourself, Eleanor.

12   ELEANOR SMITH: Yes.

13   HEARING OFFICER ORTH: Hello. Would

14   you --

15   ELEANOR SMITH: Hi.

16   HEARING OFFICER ORTH: -- spell your

17   first and last name, please.

18   ELEANOR SMITH: Eleanor, which is

19   E-L-E-A-N-O-R, and then Smith is just S-M-I-T-H.

20   HEARING OFFICER ORTH: Thank you. Do

21   you swear or affirm to tell the truth?

22   ELEANOR SMITH: Yes.

23   HEARING OFFICER ORTH: Thank you.

24   I'll start your time.

25   ELEANOR SMITH: Okay. Good

1   afternoon, Chair and Commissioners. My name is

2   Eleanor Smith. I'm speaking on behalf of (Navajo),

3   which translates to sacred water speaks, in strong

4   support of the proposed bonding rule changes.

5   I live here in the San Juan Basin in the

6   Four Corners area in Shiprock, New Mexico, on the

7   Navajo Reservation. As you may know, we are -- we

8   live near two power plants, coal fired power plants

9   that have recently -- one has recently closed down,

10   and we have been littered with oil and gas wells

11   that have been abandoned, some of them for as long

12   as 100 years.

13   Our Navajo Nation was established by the

14   federal government as a mechanism to -- you know,

15   have a mechanism for them to approve oil and gas

16   leases. And so the earliest -- and this was back in

17   the 1920s. So not far from here in Carrillo, New

18   Mexico, we actually have abandoned oil wells that

19   have been there since the 1920s that have not been

20   cleaned up.

21   And for years in this San Juan Basin area

22   of the Four Corners, we have had the American Lung

23   Association give us a grade of an F, as in failing,

24   for decades, not only from the power plants, but

25   also because of the methane emissions from these

1 leaking oil and gas wells.

2   We need -- really, it's -- you know, I

3 can't stress how much we are a sacrifice zone for

4 the rest of the country. You know, we've been --

5 we're still designated as a sacrifice zone in this

6 area.

7   And we just need -- we would like for the

8 Commission to hold these companies accountable and

9 responsible for cleaning up their mess.

10   My husband, who has never smoked -- we're

11 in our 60s now, and he has been diagnosed with

12 chronic COPD, and he has never even smoked. So

13 there's -- and there's a high rate of asthma in this

14 area. A lot of our people have asthma. You know,

15 it's just -- we have chronic health conditions,

16 cancer.

17   So, you know, we would really like for the

18 Commission to do their job to hold these

19 corporations accountable, responsible, to make sure

20 that they have bonding in place to ensure that

21 there's enough bonding, not just minimal amounts,

22 but they need to have exceeding amounts to clean up

23 their messes.

24   And I just wanted also, if I have time,

25 share with you just the magnitude. This is from

1 Jerry Redfern's article back from a couple months

2 ago. It says, "Oil and Gas Forecast for New

3 Mexico's San Juan Basin: Going, Going," and this

4 is -- a "BLM report offers mixed outlook for oil and

5 gas production" in this area. And he predicted

6 that --

7   Or, "The older report predicted 3,200 new

8 oil and gas wells in the Bureau's Farmington

9 Division area over 30 years in its baseline

10 scenario. Records from the New Mexico Oil

11 Conservation Division, which tracks all oil and gas

12 development across the state, show 309 (sic) wells

13 drilled from 2018 to present. Adding that number to

14 the latest report's expected 1,200 new wells brings

15 a total to 1,519 wells, less than half the number

16 predicted seven years ago."

17   So -- and then, you know, now they're --

18 there's talk of more L&G drilling in this area.

19 So --

20   HEARING OFFICER ORTH: Okay. Please

21 wrap up.

22   ELEANOR SMITH: Okay. And so those

23 are the main points I wanted to make. Thank you.

24   HEARING OFFICER ORTH: Thank you very

25 much, Ms. Smith.

1   Is there anyone else on the platform who

2   would like to offer public comment during this

3   session? Our next session will be tomorrow morning

4   at 9:00.

5   Anyone else? Raise your virtual hand or

6   press star-5 to raise your hand if you're on the

7   platform.

8   No. All right. Thank you very much. We

9   will return to the technical case.

10   And, Mr. Tisdel, you indicated you had

11   questions of Mr. Garcia.

12   MR. TISDEL: Yes. Thank you, Madam

13   Hearing Officer.

14   EXAMINATION

15   BY MR. TISDEL:

16   Q.   And thank you, Mr. Garcia, for hanging in

17   there with us. I have just a few questions. My

18   name is Kyle Tisdel. I'm an attorney with the

19   Western Environmental Law Center and represent the

20   applicants in this case.

21   There's been some testimony and you've

22   been asked some questions already about the 2024

23   plugging data, and that had some three categories,

24   right? OCD had plugged 100 wells, there were 129

25   wells indicated as being forced plugged, and then

1 773 wells that are non-orphan, and those wells are,

2 I guess, plugged by operators; is that correct?

3   A.   Correct.

4   Q.   That makes fairly easy math, about 1,000

5 wells. So even as an attorney, I don't know that I

6 can screw that up too much, but if I do, please

7 correct me.

8   It sounded from your earlier testimony

9 that the forced plugging -- or the forced plugged

10 category was sort of a gray area. And that involved

11 third party plugging of those wells; is that right?

12   A.   Correct. The third party plugging them

13 kind of is a gray area on where those wells really

14 fit.

15   Q.   Yeah. Why might a third party be

16 motivated to plug a different operator's well?

17   A.   I'm not fully sure. All I know is the

18 operators I've worked with on these pluggings have

19 vastly different circumstances. So I'm not sure all

20 the reasons behind it. I just know they seem to be

21 broad.

22   Q.   Do those third-party operators have any

23 sort of predecessor relationship to that well at

24 all? Any sort of historical linkage to operating

25 that well?

1   A.   My understanding is the Land Office or BLM

2   have made that connection somehow, and that's why

3   the third-party operator is being discussed. Some

4   operators have told me it's just part of their lease

5   agreements. If they want to, you know, pursue other

6   leases, that it's part of obtaining leases. I'm not

7   an expert in that. That's just kind of what they

8   told me in, you know, meetings about getting the

9   sundries approved.

10   Q.   Okay. That's fair enough. Thank you. Is

11   it -- is it the State Land Office or OCD that is

12   reaching out to those third parties or are those

13   third parties availing themselves of the state

14   agencies?

15   A.   Not fully sure. OCD has never reached out

16   to a third party, to my knowledge, to ask them to

17   plug a well that they're not the operator of record

18   for. I'm not sure of State Land Office or BLM's

19   processes in going about that.

20   Q.   Okay. But it's clear from at least the

21   2024 data, that 773 of -- or approximately

22   77 percent, I guess, of the 1,000 wells that were

23   plugged in 2024, those were from operators, correct?

24   A.   Correct.

25   Q.   And the OCD plugged 100 of those, or

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1   10 percent of those wells, correct?

2   A.   Correct.

3   Q.   And then roughly 13 percent are in this

4   funny forced well category, correct?

5   A.   Correct.

6   Q.   And I heard you say that you were

7   available for listening to the testimony, the prior

8   testimony in this case, for some of it, but not all

9   of it; is that correct?

10   A.   Correct. I tried my best to be on, but

11   we've had other items arise in the background.

12   Q.   Fair enough. Were you around for any of

13   the testimony that regarded the percentage of

14   orphaned wells or the -- strike that.

15   Have you been around for any of the

16   testimony that spoke about the percentage of wells

17   plugged being done by operators versus OCD in this

18   case?

19   A.   Not entirely.

20   MR. HALL: Madam Hearing Officer,

21   this is beyond the scope of direct or any cross, so

22   I object.

23   HEARING OFFICER ORTH: Let's see.

24   Mr. Tisdel?

25   MR. TISDEL: Yeah, I mean, it's going

1   to go directly to the 2024 statistics that

2   Mr. Garcia has provided for in his direct testimony,

3   as well as testified to today.

4   HEARING OFFICER ORTH: All right.

5   Keep going.

6   A.   So I can proceed with an answer?

7   Q   (By Mr. Tisdel) You may, yes. Thank you,

8   Mr. Garcia.

9   A.   I will say I cannot say I've been around

10   for all parties' testimony. The only one I can say

11   I heard all testimony was Loren today, prior to me,

12   Mr. Diede. I heard his entire testimony and the

13   questions associated with it, but I cannot say I

14   heard any applicant's or any parties' opening.

15   Q.   Okay. Fair enough. But at least in 2024,

16   approximately 77 percent of the wells plugged in the

17   state were done by operators, correct?

18   A.   Correct.

19   Q.   And you also testified earlier about the

20   Master Orphan Spreadsheet, and that's a fairly new

21   spreadsheet that the -- that the Division has put

22   together, correct?

23   A.   Correct.

24   Q.   And how did you track orphan wells prior

25   to the advent of that spreadsheet?

1   A.   I gave the answer to Mr. Rankin. I would

2   have to defer to probably Brandon. Prior to that

3   Excel sheet, I wasn't involved in the project too

4   much. Me and the Excel sheet kind of came in

5   together, I would say. So it's been my incentive to

6   track it through MOS.

7   Q.   And is it -- has that spreadsheet just not

8   been around long enough for you to track any -- I

9   know you said earlier that that spreadsheet is a

10 living document, right? So information's being

11 added to that on a daily basis.

12   Has that -- over the course of that

13 spreadsheet being in place, have you been able to

14 discern any trends with the rate of orphaned wells

15 in the state?

16   A.   I don't think I've tied the Excel sheet to

17 any trend or used it to track any trends. More just

18 to ensure that our sundries are getting entered and

19 our plugging dates are being entered on the

20 engineering side.

21   Q.   Okay. Thank you, Mr. Garcia. One last

22 question, and I don't want to belabor the point on

23 Exhibit 16 at all, but the distinction between

24 pulling the data with the word "or" or "and," you

25 pulling it with "or" gave you a broader sample of

1   the impact of the number of marginal wells that

2   would be included; is that correct?

3   A.   Correct.

4   Q.   And so that would suggest a broader impact

5   on industry than perhaps the wording if you were to

6   use "and"; is that correct?

7   A.   I would agree with that, yes.

8   MR. TISDEL: No further questions.

9   HEARING OFFICER ORTH: All right.

10 Thank you, Mr. Tisdel.

11   Mr. Tremaine, do you have any redirect?

12   MR. HALL: No, Madame Hearing

13 Officer.

14   HEARING OFFICER ORTH: Mr. Hall. I'm

15 sorry.

16   MR. HALL: It's okay. I knew what

17 you meant. He's the boss.

18   HEARING OFFICER ORTH: Thank you.

19   Commissioner Ampomah, do you have any

20 questions for Mr. Garcia?

21   EXAMINATION

22 BY COMMISSIONER AMPOMAH:

23   Q.   Mr. Garcia, good afternoon.

24   A.   Good afternoon.

25   Q.   Thank you for your testimony. You know, I

1   don't have a lot of questions for you, but, you

2   know, I'll ask you: Based on your direct and then

3   also all the discussions that we've had, would you

4   like to change your testimony, especially on page --

5   on Exhibit 1, 004, the lines that was read which

6   would start from line number 12 to line number 15?

7   A.   One second while I'm pulling that up.

8   Are we discussing the definition of the

9   petition and the Excel code? Is that what we're

10 looking at?

11   Q.   Yeah. So starting from line 4, you said:

12 Looking at the data from 2024, it shows that based

13 on the petition -- based on the petition, that the

14 petitioner is seeking that the Commission should

15 enact OCD would have 33,221 wells deemed productive,

16 so that whole sentence up until no beneficial use.

17   Based on your explanations, would you want

18 to, more or less, amend this testimony?

19   A.   I don't know if I would amend it with

20 actual numbers. I will say the testimony is still

21 accurate with the mentality of the "or." I know we

22 discussed that extensively today.

23   My overall comment would remain. If it's

24 meant to be "and," these numbers would probably be

25 less included, there would be less marginal wells,

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1 less inactive wells. It would probably show less

2 data that would affect industry with this proposed

3 rule. As far as the exact numbers, I would have to

4 run code or relook at the code.

5   Q.   So, you know, this information is very

6 important to the Commission, because -- so when we

7 go back to your slides, number 4, you know, for the

8 Commission, we want to know how many wells are

9 really going to be impacted, at least from OCD's

10 perspective. You know, we've listened to the -- to

11 the applicant, and we do have a fair idea as to some

12 of the numbers.

13   But what you're showing here is, more or

14 less, extremely higher than what even the applicant

15 is showing. And you're saying that you don't

16 necessarily have to make any amendments to your

17 statement.

18   A.   Yeah, I mean, I more than can make changes

19 to code if the Commission would like to see it. I

20 would say -- I hate to defer a commissioner's

21 question, but I believe Brandon will testify to our

22 overall view. And our view of the rule has changed

23 potentially in his testimony, I believe, and I think

24 he would have better answers for that.

25   Q.   So deputy director will give us how many

1 wells specifically that will be impacted by the

2 petitioner's case; is that correct?

3   A.   I can't say for certain he will have a

4 well count, but I can rerun the well counts if the

5 Commission would like to see them.

6   MR. HALL: Commissioner, Mr. Garcia

7 can't answer that for his boss, but I can proffer

8 that we can make that available to the Commission.

9   COMMISSIONER AMPOMAH: I appreciate

10 it. Thank you for the clarification. I appreciate

11 that.

12   Q   (By Commissioner Ampomah) So let's go to

13 slide number 7. Let's go to slide number 9, slide

14 number 9 instead.

15   So on slide number 9, you're showing, you

16 know, the Rock Queen's Unit Number 043. And based

17 on what we are seeing, it sounds like this well went

18 down between 2002 and then came back in 2008.

19   Will this production profile support what

20 we are discussing about some kind of a discretion --

21 OCD having some kind of discretion and some

22 flexibility in categorizing these wells?

23   A.   I guess to clarify, too, we're talking

24 about the Rock Queen because it has low production

25 from 2000 to 2009 approximately.

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1   As far as does it -- the OCD's discretion

2   on the categories, I think it's hard for us to

3   justify all wells in any category. Each well is a

4   unique situation, and wells change. So they would

5   routinely be changing the categories. In my

6   understanding, the categories aren't set in stone.

7   So as this well's production changed, the well's

8   categories would also change with it.

9   Does that help answer your question? I'm

10   not sure if I actually got it.

11   Q.   Yeah. So you deal with a lot with the

12   data. So the direct question that I have is: Would

13   you support any sections to some of the work

14   categories as presented by the petitioner?

15   A.   I don't know if I have an overall view on

16   the exact categories that have been provided.

17   Really, this was just to kind of show that wells

18   have a changing life, an evolving life for BOEs and

19   day counts. I haven't testified anything about, I

20   guess, my opinions on the categories directly.

21   Are you asking me if I have an opinion on

22   the categories?

23   Q.   No. I'm going to save my questions for

24   deputy director.

25   COMMISSIONER AMPOMAH: So thank you

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1   so much, Mr. Garcia, for your testimony and do

2   appreciate your presence. Thank you.

3   JOHN GARCIA: Thank you.

4   HEARING OFFICER ORTH: Thank you.

5   Commissioner Bloom, do you have questions

6   of Mr. Garcia?

7   COMMISSIONER BLOOM: Thank you,

8   Madame Hearing Examiner. No, I believe we've

9   covered pretty well the issues with the Master

10 Orphan Spreadsheet. Looks like it was -- the effect

11 would be overexaggerated by using "or" instead of

12 "and." I think this has been covered sufficiently

13 today. And, you know, I have a good feel for what's

14 happening there.

15   So I have no questions.

16   Thank you, Mr. Garcia.

17   JOHN GARCIA: Thank you.

18   HEARING OFFICER ORTH: Thank you.

19   Chair Chang, do you have questions of

20 Mr. Garcia?

21   CHAIR CHANG: I do not.

22   HEARING OFFICER ORTH: All righty.

23 We are at about quarter of 5:00. I trust that our

24 next witness, let's see, is Ms. Romero. Is that

25 true?

 1   MR. TREMAINE: Yes, Madam Hearing

 2   Officer. Ms. Romero's direct I anticipate to take

 3   in excess of 30 minutes.

 4   HEARING OFFICER ORTH: Okay. Let's

 5   do that tomorrow morning, then.

 6   MR. TREMAINE: That sounds great.

 7   HEARING OFFICER ORTH: We'll take

 8   public comment at 9:00 and go to Ms. Romero.

 9   Is there anything else we can talk about

10   while we're together?

11   MR. CLOUTIER: Sorry, Madam Hearing

12   Officer, I think Mr. Rankin correctly raised the

13   issue of Mr. Powell. I don't know what else, but I

14   think -- let's just say I think some issues have

15   been kicked to Mr. Powell that appeared from written

16   direct testimony other witnesses were going to

17   handle. So I think on behalf of IPANM, at least,

18   I'm going to be asking that you consider more cross

19   time for Mr. Powell because he's going to be

20   carrying a lot more water than we thought.

21   HEARING OFFICER ORTH: All right.

22   Perhaps return to the hour originally proposed for

23   every witness?

24   MR. CLOUTIER: That would be

25   sufficient for us. Thank you, Your Honor.

 1   HEARING OFFICER ORTH: All right.

 2   Mr. Tremaine?

 3   MR. TREMAINE: I'm not sure what to

 4   say. I think if anyone's surprised that high level

 5   policy and implementation questions go to the deputy

 6   director, not lower technical staff, that takes me

 7   out of stride. I'm not sure how to respond to that.

 8   There's any number of questions I'd like

 9   to ask regarding data from petition opponents, put

10   the incident data into the record. So I have to

11   define my cross to what's in the record within the

12   time allotted. So my position is that they need to

13   conform with the agreed order.

14   HEARING OFFICER ORTH: All right. So

15   Ms. . . .

16   CHAIR CHANG: Madam Hearing Officer,

17   I think if we are observing a concerted effort to be

18   concise and brief, then -- and there really is --

19   when parties one at a time, that they really are

20   substantial questions left and parties have made a

21   concerted effort to be concise and brief, we might

22   be able to revisit the issue then. But I would hate

23   to extend time if people end up just asking

24   repetitive questions over and over. So perhaps you

25   can reserve that and just see how we get.

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1   MR. CLOUTIER: I appreciate that,

2 Chair Chang, and the -- Mr. Suazo, Mr. Rankin, and I

3 have been trying to coordinate our questioning so

4 that one of us is not replowing the ground of

5 another. I think there have been some -- a few

6 clarification questions, but we will try and

7 coordinate on that and see where we are.

8   HEARING OFFICER ORTH: All right.

9 Thank you all very much. See you tomorrow at 9:00.

10   (The proceedings concluded at 4:49 p.m.)

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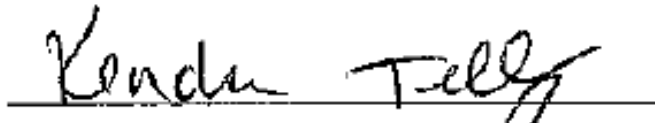
1   AFFIRMATION OF COMPLETION OF TRANSCRIPT

2

3   I, Kendra D. Tellez, DO HEREBY CERTIFY that on

4   the 23rd day of October, 2025, a hearing of the New

5   Mexico Oil Conservation Commission was taken before

6   me via video conference.

7   I FURTHER AFFIRM that I did report in

8   stenographic shorthand the proceedings as set forth

9   herein, and the foregoing is a true and correct

10   transcript of the proceedings to the best of my

11   ability.

12   I FURTHER affirm that I am neither employed by

13   nor related to any of the parties or attorneys in

14   this case, and that I have no interest in the final

15   disposition of this case in any court.

16   November 6, 2025

17

18   _____

19   KENDRA D. TELLEZ

      Veritext Legal Solutions

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